

February 20, 2007

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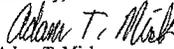
Re: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR LA'AU POINT  
(HRS 343 DEIS)

To all concerned,  
I respectfully submit these comments on the DEIS for La'au Point, (hereinafter EIS).

Some notes about my comments:

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

Sincerely,

  
Adam T. Mick

#### Access/Subsistence Access

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There sure are a lot of rules and “kapu” for fishing and hunting. (p. 119-122 CIA)

#### Alternatives

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

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

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

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

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

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

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

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

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

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

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

No La'au means the:

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

Basically the collapse of the local, Molokai economy. How dire! These predictions are nothing but veiled threats and “sticks” meant to instill fear in the Molokai community so that they will support the La'au development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### CC&Rs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Development and Environment**

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

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

Page 8 of the EIS states that “the project area [is] on only eight percent of the La’au parcel...[and] this keeps the remainder of La’au’s 6348-acre TMK parcel in open space.” This is a misleading statement. Indeed, in a contradicting statement on page 24, the EIS states that “the project area [is] 1432 acres.” This means the project area is actually 23% of the La’au parcel not 8%. Sure, the Ranch means only 8% of the lands will have private property lots with houses, but the public should realize that 23% of the La’au area will be developed, altered, or directly impacted in various ways.

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

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

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

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

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

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

#### **Flora**

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

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

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

How will dogs running loose along the shoreline affect the ‘ihi’ihilauakea and other plants?

How will you prevent dogs and/or people from tromping on the ‘ihi’ihilauakea and other plants?

What about the ‘ihi’ihilauakea “seedbank?” How will the bulldozing and clearing of land for lots and roads affect this seedbank, which lies mauka of the shoreline? Was the seedbank taken into account when planning setbacks and other zones?

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

### Fauna

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

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

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

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

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

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

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

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

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

### Land Trust

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

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

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

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

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

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

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

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

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

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

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

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

#### Light Pollution

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

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

#### Mitigation of Impacts versus "Offsetting" Impacts

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

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

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

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

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

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

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

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

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

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

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

For example:

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

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

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

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

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

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

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

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

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

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

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

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

#### Noise/Noise Pollution

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

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

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

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

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

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

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

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

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

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

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

### Social Impacts

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

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

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

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

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

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

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

- People were critical of the process undertaken to form the Plan... [and] said that the resulting Plan was very different from early discussions. They felt that much of the process was lip service and patronizing, and that 'they were going to do what they were going to do anyway.'
- Those involved in the ALDC process felt that their efforts and recommendations went unheeded. They cited the short time frame in which they were to produce their report, and felt that decisions were made without consideration of their input. One person's perspective was that the process employed manipulation, fear-based thinking and a hastened time frame.

Undesirable Carrot:

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

Unnecessary and gratuitous effort:

- The Plan was criticized for being unnecessary. It was noted that Molokai had successfully opposed other projects, and would continue to fight future undesirable projects.
- It was also felt that [the initial] land to be gifted [to the Land Trust] was 'just a bunch of cliffs.' [And for the rest of the Land Trust lands] people noted, 'The land is ours anyway. We may have to play cat and mouse games, but we go there anyway.'

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Change the demographics of Molokai forever
- Contribute to the increase in land values a property taxes on Molokai

And that having 200 millionaires will:

- Change the makeup of the Molokai community
- Lead to changes in the Hawaiian way of life
- Cause Molokai to no longer be “The Last Hawaiian Island”
- Bring in residents unfamiliar with the culture and way of life on Molokai
- Lead to cultural change

And that the community:

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

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

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

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

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

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

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

Ridiculous. Of the Cultural Impact Assessment’s 18 (only 18!) “informants”:

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

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

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

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

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

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

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

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

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

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

#### Representation of Community/EC

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

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

The Social Impact Assessment, page 62, states that "many will not attend public meetings because they dislike the antagonism and conflict." All the more reason to allow the public a chance to *vote* on the issue. Allow them a chance to participate in a democratic way that they can feel comfortable doing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Site Protection

The EIS plans on “preserving known archaeological sites.” All of La’au is a cultural site!

#### Shoreline Setbacks

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

#### Spiritual Quality of La’au Area

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

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

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

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

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

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

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

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

The EIS states that: La’au is “raw and untouched.” For God’s sakes, leave a few places in Hawai’i and our world that are raw and untouched, wild and natural. Leave some places alone, for there are not many left.

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

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

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

Page 107 of the CIA – community mana’o: “Once its developed, kiss it goodbye.”

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

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

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

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

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

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

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

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

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

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

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

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

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

### Threats

MPL in the EIS makes many “threats” if the La ‘au development is not approved:

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

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

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

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

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

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

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

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

### Visual Impact/Scenic Views

Consultant David Kimo Frankel, in his comments, suggested the EIS include a “visual impact analysis”:

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

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

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

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

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

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

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

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

#### Water

6 years ago the Department of Hawaiian Homelands (DHHL) requested 500,000 gpd  
The Ranch opposed the request  
CWRM has taken no action on request  
But the Ranch now wants 1 million gpd

Does anyone else see a problem with this?  
DHHL still hasn't got their water; they should get theirs first.  
Simple as that.

If that amount cannot be approved for DHHL, then certainly twice that amount cannot be approved for the Ranch either!

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

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

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

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

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

These have not been satisfactorily addressed by the EIS .

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

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

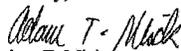
particular interest in this issue." So, again, you have to resolve the homestead claims first, and DHHL has no right to give away any of their water which is reserved for homesteaders.

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

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

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

Sincerely,

  
Adam T. Mick



November 1, 2007

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

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Mick:

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

**Access/Subsistence Access (pages 2-9)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** See response to #13 above.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** Comment noted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** See our responses to #16 above.

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

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

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

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

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

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

**Response:** See our response to #34 above.

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

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

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

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

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

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

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

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

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

#### **Alternatives (pages 9-14)**

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** Comment noted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** See response to #42 regarding alternatives.

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

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

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

**Response:** See response to #42 regarding alternatives analysis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**MPL's Intentions at the Commencement of the Planning Process**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** See response to #42 regarding alternatives.

**CC&Rs**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** See response to #47 regarding target buyers.

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

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

#### **Development and Environment**

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

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

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

*statement. Indeed, in a contradicting statement on page 24, the EIS states that "the project area [is] 1432 acres." This means the project area is actually 23% of the La'au parcel not 8%. Sure, the Ranch means only 8% of the lands will have private property lots with houses, but the public should realize that 23% of the La'au area will be developed, altered, or directly impacted in various ways. [¶]The above statement is also misleading because this 8% of the parcel stretches for 5.2 miles along the shoreline. The rest of the parcel is up mauka. The Ranch rejected alternatives to develop the mauka area instead and leave the shoreline alone because they claim they would not be able to get enough \$ per "view-shed lot." (p. 155)*

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

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

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

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

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

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

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

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

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

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

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

#### **Flora**

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

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

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

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

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

89. *How will dogs running loose along the shoreline affect the 'ihi'ihilauakea and other plants? How will you prevent dogs and/or people from tromping on the 'ihi'ihilauakea and other plants?*

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

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

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

#### Fauna

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Land Trust**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Light Pollution**

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

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

#### **Mitigation of Impacts versus "Offsetting" Impacts**

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

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

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

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

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

#### Access and Use of Cultural Sites

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

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

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

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

#### CC&Rs

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

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

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

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

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

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

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

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

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

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

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

**Response:** Comment noted.

#### Noise/Noise Pollution

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

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

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

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

#### **Social Impacts**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Representation of Community/EC**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** Comment noted.

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

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

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

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

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

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

**Response:** Comment noted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Site Protection**

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

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

**Shoreline Setbacks**

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

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

**Spiritual Quality of La'au Area**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** Comment noted.

#### Threats

164. *MPL in the EIS makes many "threats" if the La 'au development is not approved: The prospect of Ranch lands being split up and sold. (vii) The possibility of BIL selling Molokai Ranch as not*

economically viable, which, they say, is "what dictated the urgency of consensus [about the Plan]." (vii) But a project of this magnitude, and one with such widespread opposition and profound impacts, should not be urgent; it should be carefully thought out, not rushed through due to economic concerns. The Ranch's statement that "the Plan would only be viable as an integrated whole." (p.4) This is an 'All or Nothing' approach: 'No La'au = No Plan.' It is saying that the Ranch is unwilling to consider any real alternative, because that is not "the Plan." These threats/dire predictions are presented as inevitable consequences of the La'au development not being approved. Indeed, they claim that "the La'au Point project is crucial to the economic viability of the Plan," again effectively closing our the sincere consideration of alternatives. (p.4) [¶]Page 146 of the EIS makes more threats. It says that not doing La'au (the "no-action" alternative) would not generate the funds "required to renovate and re-open the Kaluako'i hotel...Without the increase in support for golf and the existing Lodge and Beach Village hotel operations, MPL could be forced to reduce operations and perhaps close those facilities. In addition, MPL could also be forced to reduce or eliminate other subsidized operations such as maintenance, nursery, gas station, and other services...significantly affect[ing] existing employment at Molokai Ranch and in Maunaloa Town...[This] would not sustain the Ranch for the future...[and] would eventually lead MPL to close down its Ranch operations...[and would have to] put the lands up for sale. Employment would have to be reduced, tourist expenditures would be lost, and local businesses in Maunaloa Town and elsewhere would be affected...[and] the losses in local jobs and probable business failures would also increase the need for County and State social services." My Goodness! Wow! What a threat! They are saying that Molokai can in no way survive without the Ranch, and the only way that the Ranch can survive is to develop La'au. They have created a scenario in which the only way to do what they want to do is to do what they want to do. No La'au means no hotel. No hotel means no jobs and businesses. And this means closure of the Ranch, sales of lands, collapse of the economy, and everyone on welfare. Ahhhhhhh! But this is all meant to instill fear, and fear is not a reason to approve La'au or any development. Molokai doesn't need a Big Brother - Molokai wants to be self-sufficient. Molokai would survive - and thrive - without the Ranch! [¶]Page 146 of the EIS states that while the "No Action" Alternative would allow the environments of La'au Point to remain untouched to the benefit of those opposing development, negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales...appear to have more far-reaching effects upon the economic and social fabric of the larger Molokai community." the Ranch makes such intense predictions of doom if they were to leave: No La'au means the: impending closure of the Ranch, and the unknown risk, of probable land sales" Basically the collapse of the local, Molokai economy. So dire! These predictions are threats, and they are meant to instill fear in the Molokai community so that they will support the La'au development. If the Ranch truly cared about the community they would not say things like this: that either La'au goes through...or else! [¶]Page 158 states: "Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant Community-Based Master Land Use Plan for Molokai Ranch. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time." Another threat. The Ranch is saying this is the "only" way. There are no alternatives to La'au besides closing down business and selling off the land. [¶]Page 157, sect 6.7 of the EIS states that "Postponing or delaying the La'au Point project for reasons, such as allowing the ALDC to find the necessary funds to purchase La'au Point, puts MPL in the positions of being unable to continue its ongoing operations on Molokai." Another threat: 'now or never - now or else the Ranch will have to leave.'

**Response:** We disagree with your conclusion that we made "threats." We disclosed the results from an expert's analysis provided in the economic and fiscal impacts report (Appendix J of the Draft EIS).

MPL's first obligation must be to its shareholders and its staff who are the main contributors to the company.

Without a viable company that is sustainable - in other words it has earnings that it is planned will continue - or it has the opportunity of a major one-time gain (like the sale of the property) it has no reason for being in existence.

MPL looked at alternatives on the basis of whether they created sustainable earnings by giving its current operations more chance of success and therefore keep current employees in their jobs and give new jobs to the community; whether they were cash positive and whether they met the wishes of the Master Plan; limiting water resources and limiting the number of new residents who came to buy land on the island.

All of the alternatives ever suggested (other than the buyout of La'au by a conservation buyer) did not meet the above criteria, had the very real possibility of failing financially and did not guarantee MPL would have enough funds to re-open the Kaluako'i Hotel at a cost of between \$30 million and \$35 million.

MPL takes its fiduciary duty to its shareholders and its staff seriously and will only contemplate those alternatives that are economically viable.

#### **Visual Impact/Scenic Views**

165. Consultant David Kimo Frankel, in his comments, suggested the EIS include a "visual impact analysis": a) With a structure at point x - where will it be seen from? (List all the places.) b) From point y - what will you be able to see of the development? Where is this in the EIS, if it was done at all? If it was not done, why not?

**Response:** See Figure 17 of the Draft EIS.

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

**Response:** The building requirements come from the Master Plan (Appendix A of the Draft EIS), and are based on building requirements for the Conservation District.

167. The EIS states on page 7 that "The existing landscape and views around La'au Point will change with the creation of the rural-residential community...[but] because...the project will only be on 8% of the entire parcel, potential impacts to scenic open space resources are not expected to be significant." I disagree. Seeing houses - even 1 house - is completely different in feeling than seeing land in its natural state and wild condition. You cannot quantify open space as a "resource" (e.g. "scenic open space resources"), for it is a matter of quality, not quantity. It is not the percentage of open space, it is the quality of that open space (i.e. no houses, nothing man-made or artificial). Natural open space in its natural condition. [¶]Although houses and house-lots will only be on "8% of the parcel" (about 400 acres) page 24, "the [total] project area [is] 1432 acres." (p. 24 EIS) This means the project area is actually 23% of the La'au parcel. This entire 1432 acres, and the view of it, will be altered...forever!

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

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

**Response:** Open space includes the cultural protection zones, expanded Conservation District areas, proposed parks, and common areas in the residential community.

169. *The CIA says that "the southwest shoreline from Kaupoa to Hale o Lono will be ringed by luxury residential homes." There is no trade-off that will offset this, or balance the destruction of the spiritual quality of the area (wilderness/natural open space) or the destruction of the scenic and uplifting view of nature in its natural state. Plans and measures will not do it!*

**Response:** Comment noted.

#### Water

170. *6 years ago the Department of Hawaiian Homelands (DHHL) requested 500,000 gpd. The Ranch opposed the request. CWRM has taken no action on request. But the Ranch now wants 1 million gpd. Does anyone else see a problem with this? DHHL still hasn't got their water; they should get theirs first. Simple as that. If that amount cannot be approved for DHHL, then certainly twice that amount cannot be approved for the Ranch either! [9]On page 80, sect. 4.9.2. the EIS states: "MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water." So, this indicates that the Ranch agrees with my statements above, that the water requested by the Ranch for the La'au development and other uses on the West End, cannot be approved until, and unless, DHHL gets their water first. Correct? [9]The EIS states the water issue is "unresolved." Therefore, the EIS cannot and should not be accepted or approved, or used to grant any permits or land-use changes, until it is resolved. Given the water situation on Molokai, and the January 2007 findings of the Molokai Water Group about the present state of affairs in regard to drinking water on Molokai, it may not be possible to resolve. Thus, this development cannot be given approval to proceed if the water issue is not figured out. The EIS/development cannot be approved on wishful thinking. It is too critical a situation/problem to approve on wishful thinking or simply gloss over – this is a basic need of survival – both for people and for agriculture. For the State to approve the development/EIS with this issue unresolved would be a breach of public trust and likely open the State to a flood of lawsuits. (No pun intended.)*

**Response:** When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1996, DHHL was a party in a contested case proceeding on Waiola o Molokai's application for a new well and water use permit in the Kamiloloa aquifer. In the Waiola contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waiola well, which was more than 3 miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to the bottom of its wells, thus the additional pumping by Waiola would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells.

Waiola/Molokai Ranch did not oppose DHHL's application, but sought to explore this contradiction that through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

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

**Response:** The EIS does not make reference to an "exchange." The Hawai'i supreme court remanded the Waiola water use permit case back to the Water Commission for further proceedings. MPL could ask that the proceedings be re-opened to give MPL the opportunity to address the issues the supreme court identified as requiring further evidence, namely, the impact on DHHL's reservation in the Kualapu'u aquifer and the impact on traditional and customary Native Hawaiian practices. On MPL's request, the Water Commission has not yet re-opened those proceedings.

172. *Page 130 of the Cultural Impact Assessment lists four major concerns regarding the Ranch's request for more water: Impact on Aquifer, Impact on Hawaiian Homesteaders, Keep Water within Ahupua'a, Impact on the Ocean. These have not been satisfactorily addressed by the EIS.*

**Response:** This was discussed in Section 4.9.2 of the Draft EIS. Chapter 8, p. 134 of the Cultural Impact Assessment outlines the proposed mitigation measures for the water plan. Appendix P, the water plan, provides information that addresses these concerns in more detail.

As a first step in finding solutions for the sustainable use of water on 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.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "DHHL's Future Water Needs."

Adam Mick  
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173. Community mana'o from page 132 of the CIA: "Hear that the Homesteaders don't have enough water, but when want to build a project like this, all of a sudden then get water. All of a sudden get water? Who are we kidding? This is water that is being diverted to something that won't benefit the island." [¶]The CIA states and asks on page 155: "There is also the critical issue of water. Is there enough to provide for all of the islands major uses and yet allow this development to draw out 1,000,000 gpd of brackish water from Kāalahale. The Hawaiian homesteaders have a special claim and particular interest in this issue." So, again, you have to resolve the homestead claims first, and DHHL has no right to give away any of their water which is reserved for homesteaders.

**Response:** The shortage of water available to Hawaiian Homesteaders is not due to a scarcity of water resources on Molokai. Instead, the lack of infrastructure has hampered DHHL's ability to meet the demands of its homesteaders. Since 1995 DHHL has had a reservation right to develop another 2.905 mgd of groundwater in the Kualapu'u aquifer. When DHHL requested that amount, it was anticipated that it would meet the domestic and agricultural water needs for DHHL lands in Ho'olehua and Kalama'ula. In 1996 DHHL proposed to pump some of that reservation amount out of its existing wells in Kualapu'u. Because there already were indications of localized upconing due to the close proximity of the two DHHL wells and the County well, Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. At the time, DHHL was not willing to consider a new well site.

To date, DHHL has not identified alternate well sites and thus, has not developed any of its 2.905 water reservation.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "DHHL's Future Water Needs."

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

**Response:** See our response to #172 above.

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

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**Response:** The Water Commission, before it issues any pump installation permit, requires that a pump test be conducted to determine the impacts before long-term pumping is permitted. Depending on the results of the pump test, the size of the pump may be modified or other changes made. By conducting a pump test before a permanent pump is installed, most of the risk that the well water will go salty can be avoided.

If, however, long-term pumping has a more adverse impact than anticipated on the aquifer or on other wells, adjustments to pumping, including, if necessary, shutting down the well, may be required.

By way of a standard condition imposed on all water use permits, the State Commission on Water Resource Management reserves the right to reduce the amount of water allocated for any of the following reasons:

- Protect the water sources (quantity or quality);
- Meet other legal obligations including correlative rights;
- Insure adequate conservation measures;
- Require efficiency of water uses;
- Reserve water for future uses;
- Meet legal obligations to DHHL;
- Carry out such other necessary and proper exercise of the Commission's powers.

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

**Response:** We acknowledge your comment. Through the Moloka'i Community Plan, Moloka'i residents have determined that the East End should remain relatively undeveloped and that development should be directed to the West End and Central Moloka'i. Implementation of this aspect of the Community Plan necessitates the movement of some water from one part of the island to another.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Adam Mick

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November 1, 2007

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Attachments:

Revised Section 4.3 (Trails and Access)  
Revised Section 2.3.6 (Covenants)  
Revised Section 3.6 (Flora)  
Revised Section 3.7 (Fauna)  
Revised Section 2.1.8 (Moloka'i Land Trust)  
Revised Section 4.9.2 (Water)

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

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To whom it may concern,

Aloha mai. My name is Ana Sibayan and I am a student at Molokai High School. We are doing a class response assignment on the Draft Environment Impact Statement. I have read pages 88 and 89 about the police and fire protection and how it will have an impact on the community if La'au is developed on.

It is stated on page 88 in the *Potential Impacts and Mitigation Measures* section that the La'au project may impact police protection do to the people and activity on and around the project. It also states that "La'au point is very remote and the response time for all emergency services is about 25 minutes." I feel that that statement about the emergency response is not true. Do that we only have one police department with only three police officers on duty for eight hours, it will take more then 25 minutes for emergency services to respond, especially if the location of the police departments location is far away from West end. If anything should happen at the West end it will eventually take time for the police officers to respond. Why is there going to be security services that will help to deter trespassing, loitering, and property crime and we can't go in there? Why do we have to park outside on either ends or walk to our destinations?

The fire protection is also going to have an impact on the community. It is stated on page 89 of the fire protection section that "the project area is about 25 to 35 minute response time from the Ho'olehua fire station and about 20 additional minutes from Kaunakakai" Why is it that on page 88 of the police section it is stated that it will only take 25 minutes for police to respond to the location at La'au? But in the fire section is it stated the same thing, that it will also take 25 minutes for the fire department to response from the Hoolehua location. Why does the fire department (which is closer to La'au then the Police station is) take the same amount of time as the police department (25 minutes) when the police department is father? Some one is wrong. The police department is about 10 miles farther then the Hoolehua fire department so wouldn't it take more time for the police to respond?

These are my concerns. I feel that the development on La'au will make a huge impact on Molokai because of so many things and changes. This is just some of the impact that is going to be done to Molokai if La'au is developed. Mahalo nui for taking the time to read my concerns.

Aloha and Mahalo.

Ana Sibayan

A handwritten signature in black ink, appearing to read 'Ana Sibayan', written over the printed name.

November 1, 2007

Ana Sibayan  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawaii'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Miss Sibayan:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Your comments deal with police and fire services.

1. *I feel that that statement about the emergency response is not true. Do that we only have one police department with only three police officers on duty for eight hours, it will take more then 25 minutes for emergency services to respond, especially if the location of the police departments location is far away for the police officers to respond.*

**Response:** We acknowledge your comment. The 25-minute response time is an estimate; we concur that emergency response time can take longer. Currently access to the area is via unimproved and dirt roads. As previously discussed in Section 4.10.3 of the Draft EIS, the access road will be paved, improving the road conditions, which in turn can reduce emergency response time. In addition, emergency response does not have to go all the way to Kaluako'i to access Lā'au Point. They can use the existing emergency access dirt road from Hale O Lono Harbor.

2. *Why is there going to be security services that will help deter trespassing, loitering, and property crime and we can't go there?*

**Response:** It is not uncommon for Homeowners' Associations to hire their own security services. Because security is on-site, it relieves pressure on police to have to patrol the area. However, Lā'au Point will not have a security service, but rather land managers to help enforce the rules that the Land Trust and the Community have developed in a Shoreline Access Management Plan.

3. *Why do we have to park outside on either ends or walk to our destinations?*

**Response:** The Lā'au Point roads will be accessible to the public. Although anyone can drive on the roads, parking will not be available on the roads nor will there be public access to the shoreline from within the community.

As previously discussed in Section 4.3 of the Draft EIS, the reason for only allowing public access at the two ends is that the community requested it to help preserve the area and to prevent too many people from depleting the subsistence (fish, opihi, etc.) resources. It will also help to

Ana Sibayan

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November 1, 2007

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protect the cultural resources and endangered plant by making it harder for people to access those preservation areas.

4. *Why does the fire department (which is closer to La'au than the Police station is) take the same amount of time as the police department (25 minutes) when the police department is farther? Some one is wrong. The police department is about 10 miles farther than the Hoolehua fire department so wouldn't it take more time for the police to respond?*

**Response:** See our response to #1 above. In addition, the difference in distance is not the determining factor in the timing. The fire department and fire trucks take longer to mobilize and cannot travel as quickly as the police.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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

Andra Morrow  
1867 Kaioo Dr. 406  
Honolulu, Hawaii 96815  
808-955-5727/andram@hawaii.edu  
February 22, 2007



November 1, 2007

Andra Morrow  
1867 Kaioo Drive 406  
Honolulu, Hawai'i 96815

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Morrow:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the project's impact on the environment and note your opinions about a lack of benefits and a lack of public support.

Because you did not specify the "impact on the environment, which has been documented by numerous agencies," we are unable to respond directly to this comment. We do note that the purpose of the EIS is to disclose the project's identifiable impacts to the natural and human environment, to determine their significance, and to propose mitigation wherever practicable.

We respectfully disagree with your comment that the project lacks benefits to the community. As discussed throughout the EIS, the objectives of the Lā'au Point project are rooted in MPL's desire to create a sustainable future for Moloka'i through implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). The goal of the Master Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Master Plan and the Lā'au Point project are to:

- Develop sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community.
- Secure the role of the community in the management of MPL's 60,000+ acres.
- Re-open the Kaluako'i Hotel and create in excess of 100 jobs.
- Protect cultural complexes and sites of historic significance on MPL lands.
- Protect environmentally valuable natural resources and agricultural land, pasture, and open space.
- Create a Land Trust with donated lands from MPL (see Section 2.1.8 of the EIS).
- Provide an endowment that serves as a continuous revenue stream for the Community Development Corporation (see Section 2.1.9 of the EIS).

We also disagree with your comment that the project lacks public support. This comment does not reflect the full breadth of input presented during the Master Plan planning process. We note that there are many Moloka'i residents who support the project. The Master Plan was created by participating community members that volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au

IPBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

I am writing in regard to the proposed development at Lā'au Point. My concern in the matter is directed toward the impact on the environment, which has been documented by numerous agencies, and the lack of benefit that has been shown to the community. Moreover, the complete lack of public support of the project.

Sincerely,

Andra Morrow

A handwritten signature in black ink, appearing to read 'A. Morrow', is written over the typed name 'Andra Morrow'.

Andra Morrow

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Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the comprehensive Master Plan document.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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

January 30, 2007



To whom it may concern,

Hi my name is Anuheha Naeole and I'm a senior at Molokai High School. For our science class we had an assignment on the Draft Environment Impact Statement. We were to choose a topic that we were interested in.

I've read pages 30-31. I understand that the people of Molokai have access to subsistence gathering. From reading these pages I understand that we may walk along the beach areas to gather the necessary resources that we need, but with the understanding that we are only able to park at the end of the residential community. After reading these pages I was wondering if it was possible for you to go a little deeper and answer these questions of mine.

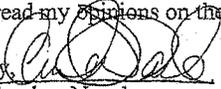
Pg. 30 How often is continuously when monitoring the water quality once a year, once a month, or every 5 years?

Pg. 30 How will the La'au Community be educated about the community of Molokai when they move here, classes, orientation or a booklet? And if booklets how do you know that they will read it?

How can we refer to the CC&R's when it isn't even finished yet for the community to see?

At this time I would like to thank you for all of your time and for taking the time to read my opinions on the Environmental Impact Statement Draft.

Sincerely,

  
Anuheha Naeole

November 1, 2007

Anuheha Naeole  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Miss Naeole:

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

1. Pg. 30 How often is continuously when monitoring the water quality once a year, once a month, or every 5 years?

**Response:** The Land Trust will monitor the coastal water quality several times a year. Water quality monitoring may be increased during times of excessive rainfall. The following statement has been added to Section 3.8 (Marine Environment) of the Final EIS:

Potential short-term impacts of construction on marine waters will be mitigated by implementation of State and County approved Best Management Practices to control drainage and mitigate erosion from grading for the duration of the construction period. Subsequent water monitoring activities will be conducted by a Council representing Homeowners and the Moloka'i Land Trust. These organizations will have management responsibility and enforcement authority over the Pu'u Hakina and Kamāka'ipō (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 of the cause is a violation of the law of the CC&Rs.

2. Pg. 30 How will the La'au Community be educated about the community of Molokai when they move here, classes, orientation or a booklet? And if booklets how do you know that they will read it?

**Response:** SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

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

Anuheha Naeole

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

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

3. *How can we refer to the CC&Rs when it isn't even finished yet for the community to see?*

**Response:** Section 2.3.6 of the Draft EIS summarizes agreed-upon covenants from the overall *Community-Based Master Land Use Plan for Molokai Ranch* (see Chapter 5 of Appendix A: pages 101-105). As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.3 (Trails and Access)

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

Jan.30.2007



To Whom It May Concern:

My name is Aolani Ahina a senior at Moloka'i High School. I am doing a class assignment on the Draft Environmental Impact Statement (EIS), where we had to choose a topic we were interested in, read it, and so a sort summary and ask questions if we had any.

My overall summary on my section that I choose which was the Executive Summary (pages 4-16) is that it wasn't really clear and they repeated a lot, which made it seem like they just wanted to take up space to make it longer. There was very little detail and sometimes it didn't even making sense. I have a few questions I would like to ask upon reading my section. Why aren't the CC&R's available to the community? Where are you getting the water? Will we the community or public be able to go through the road? Why or Why not? What is the chapter 226 HRS?

I really appreciate the time you took to read my thoughts and questions. Thank you for your time, and I hope that this not only benefits me, but also other as well.

MAHALO NUI LOA,

AOLANI AHINA  


November 1, 2007

Aolani Ahina  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Miss Ahina:

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

1. *My overall summary on my section that I chose which was the Executive Summary (pages 4-16) is that it wasn't really clear and they repeated a lot, which made it seem like they just wanted to take up space to make it longer. There was very little detail and sometimes it didn't even making sense.*

**Response:** The Executive Summary serves as an overview of the main points of the Draft EIS. Full, detailed discussions of topics are provided in the specific sections of the EIS.

2. *Why aren't the CC&Rs available to the community?*

**Response:** Generally, Conditions, Covenants & Restrictions (CC&Rs) for a project are completed after the EIS process. CC&Rs are deed restrictions, and therefore, provided to the buyer upon purchase of property in that specific residential community. CC&Rs are not generally public documents that need to be made available to the community.

Section 2.3.6 of the Draft EIS, however, summarizes agreed-upon covenants from the overall *Community-Based Master Land Use Plan for Molokai Ranch* (see Chapter 5 of Appendix A: pages 101-105). As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

3. *Where are you getting the water?*

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

4. *Will we the community or public be able to go through the road? Why or Why not?*

**Response:** The Lā'au Point roads will be open to the public and accessible by all. Although anyone can drive on the roads, parking will not be available on the roads nor will there be public access to the shoreline from the roads.

Access to the Lā'au Point area, and the reasons for restricting access in order to protect the subsistence resources, is discussed in Section 4.3 (Trails and Access) of the Draft EIS.

5. *What is the chapter 226 HRS?*

**Response:** Chapter 226, HRS is the Hawai'i State Planning Act, which set forth the Hawai'i State Plan that shall serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State; provide a basis for determining priorities and allocating limited resources, such as public funds, services, human resources, land, energy, water, and other resources; improve coordination of federal, state, and county plans, policies, programs, projects, and regulatory activities; and to establish a system for plan formulation and program coordination to provide for an integration of all major state, and county activities.

The sections of the Hawai'i State Plan directly applicable to Lā'au Point, along with a discussion of how the project conforms to the State Plan are included in Section 5.1.5 of the Draft EIS.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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

**ASUKA HIRABE**

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February 23, 2007

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**Molokai Properties Limited**

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 Attention: Peter Nicholas and John Sabas  
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**State Land Use Commission**

PO Box 2359  
 Honolulu, HI 96804  
 Attention: Anthony Ching  
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**Office of Environmental Quality Control**

235 S. Beretania St., Suite 702  
 Honolulu, HI 96813  
 Fax: (808) 586-4185

Dear Mr. Nicholas:

I am a student at University of Hawai'i at Manoa. I would like to thank you for an opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the proposed La'au Point development project on the island of Molokai, Hawai'i.

I have reviewed the DEIS and my comments are as follows:

1. Comment on the New Land Zoning

In DEIS, you have proposed substantial positive impacts that the La'au Point Project can bring to the Moloka'i community including the new land zoning and donation of land. The following is my comment on the subject;

a) Land Donation of 26,200 acres to the Moloka'i Land Trust

This portion of land will be owned and operated by the Land Trust. However, the Moloka'i Land Trust is not considered a part of the Moloka'i Community, being a self-perpetuating private organization that requires no community inputs. Moreover, the initial board of directors of the Land Trust has continuously denied the voting privileges to the Moloka'i Community regarding La'au Point Project, which clearly does not make this a contribution to Moloka'i community.

b) 24,950 acres put into permanent Agricultural and Open Space Easements

Of this portion, 10,560 acres will be zoned rural landscape and the other 14,390 acres will be zoned agricultural. However, this land will still remain under the ownership and operation of Moloka'i Ranch. Furthermore, 14,390 acres being agricultural zone is only a matter of formality and technicality. "The Plan" states that only 'farm dwellings' will be allowed in this agricultural zone; however, all of the large homes on the West are legally considered 'farm dwellings.'

2. Is La'au Point Really Essential to Re-open Kaluako'i Hotel?

From 2003 to 2006, Moloka'i Properties Limited (MPL) has sold more than \$25 million worth of properties in Kaluako'i, which the company originally purchased for \$9 million from Kuku'i Moloka'i, generating extremely high profitability given there still are properties yet to be sold as well as currently-closed hotel, existing golf course, restaurant sites, 5 future hotel sites, a future golf course site, and a large area that could possibly provide up to 500 additional homes. In addition, the company sold \$9 million in Maunaloa in the same period, contributing to nearly \$150 million overall profit of its parent company BIL International Limited (BIL) from 2004 to 2005. Nevertheless, MPL has reiterated that the sales of 200 2-acre La'au Point lots are essential to finance the \$30

million expense for renovations and reopening of Kaluako'i Hotel, pointing out that MPL incurs annual operating expense loss of \$3.7 million, totalling net loss of about \$31.6 million from 2001 to 2006, in addition to annual capital expenditures averaging over \$0.8 million. However, some states that this massive expense loss might be ascribed to the poor management of Moloka'i Lodge.

Maunaloa, once flourished with plantations and homes for the plantation workers, is now a dead town in the middle of nowhere. Neither beaches nor the main town, Kaunakakai, is close to the area. Moloka'i being the least touristy island, of all accessible Hawaiian Islands, with no travel agency or tourism bureau on site or a direct flight from outside Hawai'i, it requires extra efforts to attract tourists to the island. In this kind of challenging situation, it requires further efforts to attract those who did visit the island to their hotel over their rival hotels. However, having not many options available for the tourists (hotels, restaurants, golf courses, etc), it does not create much competition within the island. Having a brand-name usually helps attract tourists; nonetheless, even with a brand-name, Moloka'i Lodge (used to be owned by Sheraton) seems to have failed continuing their operation. Located in the middle of nowhere, Moloka'i Lodge's pricy rates (almost as expensive as Lodge at Koele in Lanai, which is owned by Four Seasons and is located about 5-minute drive range from the city centre) and exorbitant food at its restaurant apparently did not help the situation. Not showing the rates on its website might be one of the elements for customers to give up on staying at Moloka'i Lodge as major criteria for customers when choosing a place to stay often include rates, location, facilities & services provided.

Many traveller reviews indicate that Moloka'i Lodge's quality of service is below the average, food at the restaurant in the lodge does not meet the expectation considering the price, some of its facilities was not functioning, and some staff seemed somewhat ignorant of customers' needs. Employees' low motivation due to cheap wages as well as the fact that many of them have not experienced high-class services as there exist no other 4/5-star hotels in Moloka'i might have partly contributed to the poor quality of services. There was also a complaint reported to the Department of Commerce and Consumers Affairs about misleading advertisement by Moloka'i Ranch.

On the other hand, another hotel in Moloka'i, Hotel Moloka'i, seems to be running successfully. Hotel Moloka'i has more local, laid-back, Polynesian ambience, offers decent food for a cheaper price (where even locals sometimes eat at), and is located right in front of the beach in the main town, Kaunakakai. Moreover, they charge approximately a third to a half of what Moloka'i Lodge charges.

I believe, by strategically improving the management and operation, Moloka'i Lodge would still have a chance to be reactivated and enhance its profits. Brief areas for improvement in my analysis are as follows;

- a) Redefine company values and philosophy, and retrain the employees accordingly
- b) Encourage and motivate employees by raising their wage in order to achieve an eventual increase in quality of services
- c) Downsize operation of Moloka'i Lodge and lower the rates for the rooms
- d) Improve Moloka'i Beach Village and charge more (focusing more on profits from the Beach Village)
- e) Offer more options for cheaper eating places, and
- f) Improve the hotel website.

Reopening of Kaluako'i Hotel will be costly; however, with the kind of profits MPL and BIL in the past few years and by revitalizing and reactivating Moloka'i Lodge, I firmly believe that there would be ways to avoid sacrificing La'au Point for survival of MPL.

### 3. Impact on "The Way of Life" in Moloka'i

What the 'Master Plan' fails to take into account seems to be a long-term effect of how culture and the lifestyle of the inhabitants will be affected by La'au Point Project. Besides the currently concerned issues regarding the environment and infrastructure, one of the major critical aftermaths caused by the project would be the eventual gradual (but definite) changes in the characteristics of the island Moloka'i.

Moloka'i is known as the "Friendly Island" as well as the "Last Hawaiian Island," where life is simple, slow, and relaxed. Moloka'i is where traffic is caused when there are only three cars on the road because people tend to drive slowly. Moloka'i residents are members of a close-knit community that strive to live as one with nature and to maintain their self-sufficient, family-oriented, and traditional way of life as their kapuna once did. Many of them only work to supplement their subsistence efforts and/or to be able to afford to pay for other necessities. Hawai'i being the tourism capital of the United States, what makes Moloka'i special and perpetuates this island authentic and truly Hawaiian can be somewhat attributed to insufficiency of 'material things,' low degree of tourism, and therefore untouched, unspoiled, and undeveloped land.

Many residents of Moloka'i feel that Moloka'i is the best place to raise their children and also place a lot of importance in passing on their knowledge and skills needed for subsistence living as well as traditions and the way of life in Hawai'i from generation to generation. The reason why they feel that Moloka'i is the best place to raise their children is because there are relatively small influences from the outside world (or the capitalistic world), compared to the rest of the accessible islands of Hawai'i. Moloka'i consists of rather a homogenized society. If this project succeeds to continue, it will be the first time there are different classes on Moloka'i. The wealthy attract new, fancy, luxurious businesses to be catered to them, which are inaccessible to the lower financial class. Regardless of the residents' desire or determination to stay traditional,



with more 'material things' brought in to supply the millionaires it will more or less introduce the sense of materialism, or 'bleaching effect,' into the island, or more specifically schools where both original residents and children of millionaires will be attending, which is certainly a negative impact on education of the children of the island. In the worst case, driving the land prices to escalate, there can even be a situation where those who have lived in Moloka'i for generations can no longer afford to live there, just like what has already happened in Oahu, where 12,000-15,000 people are homeless, of which 17-42% is employed full-time.

Acceptance of "outsiders," especially the wealthy, will certainly dilute a unique set of values that have been established over 1500 years, not to mention additional 2500 years from first settlement of humans in Polynesia to their migration to Hawai'i. Short-term influences of the project might seem manageable or endurable now. However, a long-term effect that this project will most likely trigger can provoke irredeemable consequences over time. Many cultures are being, or have been lost, all around the world as a result of missionary, colonization, globalization, and so forth. This is your chance to save a culture, a culture with 4000 years of history that is absolutely fascinating. In DEIS, you have proposed substantial positive impacts that the La'au Point Project can bring into the Moloka'i community that would 'offset' the negative impacts. Do you truthfully agree that aforementioned negative impacts are worth making in order to earn quick cash? Do you truthfully agree that those positive impacts you've proposed really 'offset' aforementioned negative impacts in addition to impacts on the environment?

Should you have any questions, please contact me at [hirabe@hawaii.edu](mailto:hirabe@hawaii.edu).

Sincerely,

A handwritten signature in black ink, appearing to read 'Asuka Hirabe', written in a cursive style.

Asuka Hirabe

November 1, 2007

Asuka Hirabe  
2323A Seaview Avenue  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Hirabe:

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

**1. Comment on the New Land Zoning**

a) We acknowledge your comments about the Land Trust; however, we respectfully disagree. The Land Trust directors are community members that have volunteered several hundred hours of their time to educating themselves on the land trust model and working with consultants and experts in the land conservation field to create this community Land Trust.

b) The easement lands will remain under MPL ownership; however, the management and operation on the easement lands will be by the Land Trust. Farm dwellings on agricultural easement land will be accessory to agricultural activity.

**2. Is Lā'au Point Really Essential to Re-open Kaluako'i Hotel?**

We acknowledge your comments about re-opening Kaluako'i Hotel and the management of Moloka'i Lodge.

MPL has sold a considerable amount of property, mainly lots at Kaluako'i and Maunaloa and some agricultural land. As has been outlined in the Economics report (provided as Appendix J of the Draft EIS), accumulated cash deficits between 2001 and 2007 total \$42 million. Land sales in that period have enabled MPL to remain cash positive and not seek to debt fund its operations or seek funding from its parent.

MPL's parent will no longer fund MPL's operations. If MPL is unable to fund its own operations, MPL will be forced to sell its property piece meal over time to the highest bidders as this will obtain maximum cash returns. MPL would be unable to meet interest payments on debt funding and not have the necessary interest cover to give comfort to a bank. MPL can shut many of its loss making operations now. However the cost in terms of human turmoil may be unnecessary with an economic future that is proposed by the Master Plan. MPL and its staff believe it is operating the company in a fiduciary and proper manner for the benefit of its stakeholders.

As discussed in the Draft EIS, both the Lā'au Point project and the Kaluako'i Hotel renovation and re-opening are just two pieces of a comprehensive *Community-Based Master Land Use Plan for Molokai Ranch* (Plan). As stated in Section 2.1.7 of the Draft EIS, the objectives of the Lā'au Point project are rooted in our company's desire to create a sustainable future for Moloka'i and Molokai Ranch through the implementation of the Plan. The goal of the Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Plan are shared by the Lā'au Point project and include:

- Developing sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Molokai's water resources, by minimizing drinking (potable) water use.

Since the Lā'au Point project is the primary financial component to achieve the Plan's objectives, non-implementation of the project means that most, or all, of the Master Plan may not be realized.

The economic reality is that without the funds from the Lā'au Point development, MPL does not have an economic future, and certainly has no funds to re-open the Kaluako'i Hotel.

MPL has no debt and no borrowing capacity because it is operationally cash negative and would not meet any bank's requirements for interest cover on any debt funding to re-open the hotel.

MPL estimates that to re-open the Kaluako'i Hotel will, at 2007 costs, needs \$30 million and additional cash costs of up to \$5 million to fund initial losses before the hotel operation becomes cash positive.

Land sales will not fund the re-opening of the hotel as well as fund operational losses.

MPL has continued to make operational improvements at the Lodge and Beach Village, improving its losses from both operations from more than (\$2 million) in 2003/4 to (\$600,000) in 2006/7. MPL's Lodge and Beach Village staff are always looking to make operational improvements. However the outside world view of Moloka'i and its unfriendly attitude towards visitors is a major impediment to additional revenue opportunities at both tourism establishments.

### **3. Impact on "The Way of Life" in Moloka'i**

We note that your concerns regarding the lifestyle on Moloka'i were discussed in Section 4.8.3 (Community Character) and Appendix M (Social Impact Assessment) of the Draft EIS. We disagree with your statement that the Master Plan fails to take into account the culture and lifestyle of Moloka'i. On the contrary, the Master Plan reflects the efforts and values of hundreds of Moloka'i residents. In interviews conducted for the Social Impact Assessment, people felt that the Master Plan: 1) provides a reliable basis for community expectations; 2) allows for meaningful local control; 3) contains significant conservation and preservation measures; 4) allows for the protection and management of subsistence activities; and 5) will lead to the reopening of the Kaluako'i Hotel and upgrade of the Golf Course.

We agree with and appreciate your statements regarding the Moloka'i lifestyle. In Section 4.2.2 of the Social Impact Assessment (Appendix M), the "Moloka'i style" was described as being founded on Hawaiian values, and characteristics of this lifestyle included being laid back, respectful, helpful and accepting social interactions, and a tradition of survival.

Your expectation that this project will be "the first time there are different classes on Moloka'i" is incorrect, however. Moloka'i is not homogenous. Demographics indicate ethnic diversity and a diverse labor force. Economic diversity is suggested by the wide range of housing costs. Recent real estate transactions suggest that affluent people are continuing to buy expensive homes in East Moloka'i. Section 5.4.4 of the Social Impact Assessment notes that from January 2000 to May 2006, there were 83 real estate transactions, not including family transfers and other non-applicable transactions. The mean selling price for the total inventory, not including the highest and lowest values, was \$334,774. In contrast, the mean selling price of the 47 homes in Maunaloa, Kualapu'u and Kaunakakai was \$235,586. In short, Moloka'i already has a community that is mixed in many ways.

Further, the level of new population due to Lā'au Point is not significant to cause major social impact. As discussed in Section 5.1 of the Social Impact Assessment, the project permanent population at build-out is estimated at 174 persons, which is only two percent of the forecasted 2025 population. On the average Lā'au Point residents will make up three percent of the island 2025 population. Further, the new Lā'au Point residents will not be the only new Molokai residents. The residents in proposed new DHHL projects would account for 13 percent of the forecasted population in 2025.

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

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in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

In contrast to Maunaloa, the population of East Moloka'i nearly doubled from 2,574 in 1970 to 4,688 in 2000. Moloka'i families have been selling lands to persons from off-island, one-by-one, lot-by-lot. The cumulative impact of this unmanaged growth is that the prices of land, houses and the property taxes have risen beyond the reach of many of the upcoming generation raised on the island. Some of the newcomers are only seasonal residents, and rent out their homes as vacation rentals when they are away, which has changed the close-knit quality of neighborhoods. The demographic changes already witnessed in East Moloka'i have made the longtime residents of Moloka'i fearful of the proposed development of 200 new lots potentially priced at \$1million or higher. These fears provide fertile ground for opponents of the Master Plan and their campaign against development on the south and west shores of the island. It is especially appealing to the young generation and those who are not from Moloka'i. They are either too young or unfamiliar with Moloka'i before the plantations closed to remember the level of the population and related social and economic activity in Maunaloa town during that period.

Regarding your concern about escalating land prices, the Lā'au Point project is not expected to affect real property taxes. As discussed in Section 4.8.2 and Appendix L of the Draft EIS, assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself.

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

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

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We respectfully disagree with your viewpoint about the short and long-term effects of the project. The Master Plan and its implementation were not created just to "earn quick cash." It is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au Point project, and the Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span (see Section 2.4 of the Draft EIS). The Master Plan was created by participating community members that volunteered their time and efforts to plan a sustainable future for Moloka'i.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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

**BARBARA AND KEITH RASMUSSEN**

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VIA FACSIMILE 808-521-2279

February 22, 2007

Mr. John Sabas  
Moloka'i Properties Limited  
745 Fort Street Mail, Ste 600  
Honolulu, Hawaii 96813

Dear Mr. Sabas,

Re: La`au Point (HRS 343 DEIS)

I am a full time resident and property owner in the Papohaku Ranchlands and because of the potential negative impacts of the La`au Point development on the quality of my environment, I have reviewed the EIS and offer the following comments for consideration. My comments and questions are posed with the sincere desire for a thoughtful response.

**Access Road to La`au Point:** The proposed extension of Kaluakoi Road as the only access to the proposed development has the potential to be the most disruptive element of the project. Kaluakoi Road was constructed some twenty plus years ago, using sub-standard specifications, and has not been adequately maintained. Increased traffic of any magnitude particularly that associated with heavy construction equipment will severely deteriorate on already poor roadway. The project describes extension of the existing access road but does not indicate that improvements will be made to the access road other than within the La`au Point "community". While past discussion implies an improved Kaluakoi Road in total, no such commitment is apparent in the project plan.

Vehicular noise, while addressed as it would affect La`au Point which is uninhabited, has not been considered relative to the thoroughfare Papohaku Ranchlands will become and the adverse impact it will have on La`au Point's neighbors. The increased volume and character of vehicles that will access via Kaluakoi Road will present a significant disturbance to residents; with build out projected at 2023, that disturbance is long term. Project statements indicating noise impact would occur only during daylight hours is inaccurate; it is practice here where we live for contractors to arrive at sites at first light. Traffic would actually then be heaviest, and loudest, during early morning hours before daylight. In the rural areas accessed by Kaluakoi Road, the increased, continuous noise would be significantly disturbing.

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Residents routinely use Kaluakoi Road for walking, jogging, and biking...already dangerous activities given the combination of poorly maintained shoulder areas, inadequately designed road width, current traffic levels and excessive speed; an increase in traffic volume will adversely impact pedestrian safety. Speed limits are not observed and are not enforced because police do not regularly patrol the roads. The increase in traffic will exacerbate already unsafe, and largely ignored, conditions.

It is not clear why an alternative access was not developed using the existing Maunaloa Highway as a feeder to a new La`au Point access road. Where the highway presently ends at Maunaloa Town, one could extend the roadway onto the existing Hale O' Lono access road to a reasonable point where the road would turn toward the ocean into the La`au development. While it likely is more costly to develop a roadway in this way, the economic benefits to Maunaloa Town would offset those initial development costs. Taking the road through Kaluakoi does absolutely nothing to support the economic viability of the established businesses, which are struggling, in Maunaloa. While noise and traffic would increase, the increase would be isolated to non-residential, commercial streets that would benefit from the increased traffic. Development of the roadway beyond the town proper would affect no residential areas. It seems to have the least impact for the most benefit to the community.

**Public Safety:** I am appalled by the lack of a proposed public safety facility. The plan could require the developer to provide such a facility to address first responder emergencies. It does not. The logic escapes me...La`au would be only 30% occupied at build out and those residents are projected to be older adults...does that mean there is the potential for fewer medical emergencies? The La`au development opens access to shorelines and proposes two public parks. Does that not increase the public availability to the area thereby increasing the potential for recreational related emergencies? An increase in the population of any magnitude, along with the increased public access, increases the probability of traffic, health, life safety, and fire emergencies....the plan simply does not adequately provide for emergent situations involving life threatening events. While the project provides for an alternate emergency road and emergency access roads to the shoreline, the roads have no material effect on emergency response time. From a practical standpoint, the existing distance of the Moana Makani, Papohaku Ranchlands, Fairway Homes, and Kaluakoi Resort condominiums from the nearest fire station already poses a problem for homeowners and property insurance. Consider the added distance to the new development and its impact on securing insurance at any price.

**Water:** A clearly complicated and emotional issue, as it is in many states, and obtaining facts is a true challenge. The project proposes diverting a portion of Well 17, Kaluakoi water source, to La`au Point and restricting the use of Well 17 to potable water. The current Kaluakoi distribution would be extended to service La`au Point and "...when customer demand in Kaluakoi warrants, a looped connection from Maunaloa to La`au Point is proposed...which will then supply La`au Point and augment deliveries to Kaluakoi...". Is the proposed "loop" to be part of the initial phase of construction? If not, how would a determination be made as to customer demand and what is the projected time to construct such



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a loop for additional drinking water once that demand is determined? Can you clearly explain the proposal for obtaining and distributing irrigation water to existing customers in Kaluakoi? The EIS clearly centers on La`au and while the discussion of the Kakalahale Well describes irrigation water distribution, it is not clear that the infrastructure to distribute that water is in place or will be constructed and what, if any, time lag would be created in delivering irrigation water to developed lots in Kaluakoi.

Mandated conservation is critical to the long-term viability of not only La`au Point but to the State of Hawaii. In restructuring water rates, consider structuring rates to recognize commercial uses vis-à-vis residential rates. Transient populations in hotels and condominiums have no vested interest in properties and are most frequently the wasters of our resources. A water rate structure recognizing the inherent waste at commercial properties would support maintaining and improving the delivery system in a more equitable way. Individual properties or homeowners rates may also be tiered rates, but at a lower, residential rate. The privately owned water company can learn much by researching conservation methods and incentives employed in mainland states facing water conservation issues and population increase.

I do not believe that the foregoing comments will change the outcome of the final approval of the La`au Point development but perhaps something not previously considered is offered. I look forward to your response.

Sincerely,

 A handwritten signature in black ink that reads 'Barbara J. Rasmussen'.
 

Barbara J. Rasmussen

cc: Thomas S. Witten, ASLA  
 PBR Hawaii, fax 808-523-1402  
 Anthony Ching, Executive Officer  
 State Land Use Commission, fax 808-587-3822  
 Director, Office of Environmental Quality Control  
 State of Hawaii, fax 808-586-4186  
 Paul Mordasini, President  
 West Molokai Association  
 Papohaku Ranchlands Association

November 1, 2007

Barbara Rasmussen  
 P.O. Box 256  
 Maunaloa, Hawaii'i 96770

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mrs. Rasmussen:

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

**Access Road to Lā'au Point**

1. *The proposed extension of Kaluakoi Road as the only access to the proposed development has the potential to be the most disruptive element of the project. Kaluakoi Road was constructed some twenty plus years' ago, using sub-standard specifications, and has not been adequately maintained. Increased traffic of any magnitude particularly that associated with heavy construction equipment will severely deteriorate on already poor roadway. The project describes extension of the existing access road but does not indicate that improvements will be made to the access road other than within the La'au Point "community". While past discussion implies on improved Kaluakoi Road in total, no such commitment is apparent in the project plan.*

**Response:** As previously addressed in Section 4.4 (Roadways & Traffic) of the Draft EIS, roadways within Lā'au Point will be designed to County Standards and will have to be maintained to those same standards. Kaluako'i Road outside Lā'au Point would also have to be maintained and any damages as a result of construction traffic will be repaired.

2. *Vehicular noise, while addressed as it would affect La'au Point which is uninhabited, has not been considered relative to the thoroughfare Papohaku Ranchlands will become and the adverse impact it will have on La'au Point's neighbors. The increased volume and character of vehicles that will access via Kaluakoi Road will present a significant disturbance to residents; with build out projected at 2023, that disturbance is long term. Project statements indicating noise impact would occur only during daylight hours is inaccurate; it is practice here where we live for contractors to arrive at sites at first light. Traffic would actually then be heaviest and loudest, during early morning hours before daylight. In the rural areas accessed by Kaluakoi Road, the increased, continuous noise would be significantly disturbing.*

**Response:** As previously addressed in Section 4.4 (Roadways & Traffic) of the Draft EIS, relative to early morning construction activities, a construction management plan and/or conditions will limit the hours of construction. Construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures to minimize construction-related noise will comply with all Federal and State noise control regulations. Construction vehicles will also be equipped with mufflers.

3. Residents routinely use Kaluakoi Road for walking, jogging, and biking...already dangerous activities given the combination of poorly maintained shoulder areas, inadequately designed road width, current traffic levels and excessive speed; an increase in Traffic volume will adversely impact pedestrian safety. Speed limits are not observed and are not enforced because police do not regularly patrol the roads. The increase in traffic will exacerbate already unsafe, and largely ignored, conditions.

**Response:** To address your comment above in the Final EIS, the following statement will be added to Section 4.4 (Roadways & Traffic):

Relative to pedestrian and recreational activities along Kaluakoi Road, consideration will be given to providing sufficient shoulders along both sides that can be used by pedestrians and bicyclists.

4. It is not clear why an alternative access was not developed using the existing Maunaloa Highway as a feeder to a new La'au Point access road. Where the highway presently ends at Maunaloa Town, one could extend the roadway onto the existing Hale O Lono access road to a reasonable point where the road would turn toward the ocean into the La'au development. While it likely is more costly to develop a roadway in this way, the economic benefits to Maunaloa Town would offset those initial development costs. Taking the road through Kaluakoi does absolutely nothing to support the economic viability of the established businesses, which are struggling, in Maunaloa. While noise and traffic would increase, the increase would be isolated to non-residential, commercial streets that would benefit from the increased traffic. Development of the roadway beyond the town proper would affect no residential areas. It seems to have the least impact for the most benefit to the community.

**Response:** To address your comment above in the Final EIS, the following statement will be added to Section 4.4 (Roadways & Traffic):

Regarding an option of having the access road go directly from Maunaloa Town to Lā'au Point, this alternative was rejected because the remaining parcel area mauka of the Lā'au Point residential community will be open to subsistence hunting and the area is also designated for "Rural Landscape Reserve." An access road cutting through hunting lands would disrupt hunting there and spoil the landscape views from the Maunaloa Highway.

An access road from Maunaloa was not included in the plan in order to minimize the impacts. Construction of a new roadway typically has major impacts on drainage, flora, and fauna. In addition, extending the road from Kaluakoi meets community concerns affecting increased traffic and use of the area for subsistence activities and depletion of the resources.

#### **Public Safety**

5. I am appalled by the lack of a proposed public safety facility. The plan could require the developer to provide such a facility to address first responder emergencies. It does not. The logic escapes me...La'au would be only 30% occupied at build out and those residents are projected to be older adults...does that mean there is the potential for fewer medical emergencies? The La'au development opens access to shorelines and proposes two public parks. Does that not increase the public availability to the area thereby increasing the potential for recreational related emergencies? An increase in the population of any magnitude, along with the increased public access, increases the

probability of traffic, health, life safety, and tire emergencies. ...the plan simply does not adequately provide for emergent situations involving life threatening events. While the project provides for an alternate emergency road and emergency access roads to the shoreline, the roads have no material effect on emergency response time. From a practical standpoint the existing distance of the Moana Makani, Papohaku Ranchlands, Fairway Homes, and Kaluakoi Resort condominiums from the nearest fire station already poses a problem for homeowners and property insurance. Consider the added distance to the new development and its impact on securing insurance at any price.

**Response:** Currently, access to the area is via unimproved and dirt roads. Although previously addressed in Section 4.10.3 (Fire Protection) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

To provide increased fire protection at Lā'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the Lā'au Point Covenants, Conditions, and Restrictions (CC&Rs) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for Lā'au Point.

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluakoi and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluakoi to access Lā'au Point.

#### **Water**

6. A clearly complicated and emotional issue, as it is in many states, and obtaining facts is a true challenge. The project proposes diverting a portion of Well 17, Kaluakoi water source, to La'au Point and restricting the use of Well 17 to potable water. The current Kaluakoi distribution would be extended to service La'au Point and "...when customer demand in Kaluakoi warrants, a looped connection from Maunaloa to La'au Point is proposed...which will then supply La'au Point and augment deliveries to Kaluakoi... Is the proposed "loop" to be part of the initial phase of construction? If not, how would a determination be made as to customer demand and what is the projected time to construct such a loop for additional drinking water once that demand is determined? Can you clearly explain the proposal for obtaining and distributing irrigation water to existing customers in Kaluakoi? The EIS clearly centers on La'au and while the discussion of the Kakalahale Well describes irrigation water distribution, it is not clear that the infrastructure to distribute that water is in place or will be constructed and what, if any, time lag would be created in delivering irrigation water to developed lots in Kaluakoi.

**Response:** Although previously addressed in Section 4.9.2 (Water) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

The "loop" will not be built during the initial phase of construction. It will be added as demand warrants. Once the capacity of the existing line based on calculated demand, using accepted County standards, is reached, the loop will be constructed. Since potential build-out is gradual, it is estimated that construction will not be required for 5-10 years.

Barbara Rasmussen

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 4 of 4

7. *Mandated conservation is critical to the long-term viability of not only La'au Point but to the State of Hawaii. In restructuring water rates, consider structuring rates to recognize commercial uses vis-à-vis residential rates. Transient populations in hotels and condominiums have no vested interest in properties and are most frequently the wasters of our resources. A water rate structure recognizing the inherent waste at commercial properties would support maintaining and improving the delivery system in a more equitable way. Individual properties or homeowners rates may also be tiered rates, but at a lower, residential rate. The privately owned water company can learn much by researching conservation methods and incentives employed in mainland states facing water conservation issues and population increase.*

**Response:** We appreciate your thoughts on the role of water rates in affecting water conservation. As was noted in the Water Plan (see Appendix P of the Draft EIS), Moloka'i Public Utilities, Inc. (MPU), which operates the Kaluako'i water system, implemented a conservation rate that has had immediate measurable effect on decreasing water usage. As a regulated public utility, MPU's rates are subject to approval by the State Public Utilities Commission.

Water rates will be variable depending on the type (potable and non-potable) and the user. A structure will be developed that penalizes overuse and promotes conservation whether it is commercial or otherwise.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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

Blossom Brown  
2465 Ala Wai Blvd. #802  
Honolulu, HI 96815

February 23, 2007

 PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Port Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Thomas S. Witten,

I am a student at The University of Hawaii at Manoa. I am writing to you today in regards to the La'a Point Project. I am opposed to this project for many reasons. The main issue I will be addressing is the Cultural concerns of the residents of Moloka'i.

I am going to begin with saying that La'au point is culturally very important to the Hawaiian people. This land is one of the only areas in the Hawaiian Islands that have not been touched. There is a huge issue with the development of La'au point, because even most Moloka'i locals have never even seen La'au Point with which has such unique cultural qualities.

In Davianna McGregor's book "Living Hawaiian Culture" she speaks about her visit to Moloka'i and mentions some very interesting and significant information regarding cultural traits. In Davianna's book she spoke of her meetings with members of a group who protect the Hawaiian land. Davianna mentions a lot of political and economic change throughout the years on the island of Moloka'i, which is a major turning point for the Hawaiian's living on Moloka'i. Davianna worked with a task force to produce a random sample survey in the year 1993 on the Moloka'i community. The survey dealt with the extent at which Moloka'i residents felt survival activities were important. This led to focus groups with many fishermen, hunters and gatherers on the island particularly those in close to La'au Point, which ultimately led to Davianna's cultural impact study. This study shows the Moloka'i residents' commitment to community process and their community involvement. After the survey had been administered and the focus groups were called into action, Davianna and partner Jon Matsuoka came to the conclusion that most of the Native Hawaiian residents depended on survival methods like hunting and fishing to eat, which brings me to my point, if the fishing grounds are not kept private to the natives on the island than soon after their priceless land will be invaluable to them because the fish will be depleted for over fishing.

Also, mentioned in Davianna's book is that in the year 1998 Moloka'i was on a mission to boost their own economy. In order to do this the community and the government came to a joint resolution so that Moloka'i was offered 250,000 dollars per year for ten years. The grant was given, but the Hawaiians also wanted the government to respect their 'aina and nurture it. It is a well-known belief that Hawaiians Malma'aina their land, which means they care for the land and the land will care for them in return. Knowing that Moloka'i residents' culture is strong and the community wants what's best for all their land and perseverance of it, then it would be wrong to be accepting of the project that Moloka'i Properties Limited is proposing. Even though MPL is donating 26,000 acres of land out of the 65,000 they purchased, is not the focus. MPL is trying to win over some residents of the community with this offer, but at the same time MPL is also avoiding the real issue. Which is preserving the rest of the land, especially La'au Point. Since the 26,000 acres of land that they are preserving cannot be built on regardless, then this is their way of trying to get the best deal without thinking of the cultural impacts it has on the rest of the islands locals. The community right now is still actively trying to shape its own community and plan for their own future.

Under the Native Hawaiian view their cultural resources are to be nurtured since their resources are limited. Since most of the Moloka'i people trace their time on the island back to the distant past, they feel as though the island is an essential part of their inherited family. And since the Moloka'i people are very spiritual people their belief for centuries is that they have full and sovereign control of their land. Moloka'i is known as "the last Hawaiian island" and the community intends to keep it that way. In addition to preserving the land for the purpose of the Hawaiian people, it is also very well known, especially before western contact, that Moloka'i is the "land of plenty" because it has remained untouched, which gives the island the ability to grow and cultivate numerous amounts of crops. With Molokai's protected reefs, they have also gained a reputation for the fattest fish around. Their land is so untouched and productive that it gained popularity for these reasons. So by the development of these luxury homes on prime coastline where



the fish and reef are so plentiful, will end up depleting many resources and ruining the only untouched Hawaiian island left.

Understanding what taking too much from the land means, may help the people of MPL realize that most of the cultural beliefs are tied to spiritual ones. For example they believe that La'au Point is a "special place of spiritual mana and power" (Environmental Impact Statement for La'au Point, pg. 57) which deserves respect. Hawaiians have a lot respect for their land and the common belief is that all elements of life need to be balanced and if everything is not balanced then their whole system is not working properly. Basically, their idea is that you can share the land but not take too much from it. The people of MPL also need to realize that Hawaiians are hunters and fisherman and enjoy these activities. The coastline that MPL will be building on is prime locations for their activities and this will be taken away from the locals.

In the draft (Environmental Impact Statement for La'au Point, pg.'s 55-56) it states that community meeting were held to discuss al the cultural resource issues on Moloka'i.

The people who were interviewed said that "the project will spoil the experience of fishing in what is now isolated and a spiritual area (La'au Point)." The main concern of the community is that the La'au Point Project will greatly impact and wipe out their traditions of gathering and fishing. The fisherman and crab gatherers need silence in order to collect their crabs and fish.

A huge concern is that cultural sites will be abolished during the restructuring process of the land with MPLs project. The dunes hold burials and famous cultural sites, which might be destroyed. Even bigger of an issue are all the native plants, native species like the sea turtles and monk seal population that may deplete due to the development. These issues are extremely important and should be looked at as well.

Overall after the cultural impact assessment and after all the cultural meetings had occurred the end result was that no one in the community expressed any enthusiasm in regards to the project development. Furthermore, the new residents of this new community may not understand the Moloka'i lifestyle, which poses as a problem trying to integrate two very different lifestyles and cultures. The beautiful land at La'au Point should be kept untouched and remain special and respected. The natural resources need to flourish and the physical beauty of the land should be untainted.

Sincerely,

Blossom J. Brown

November 1, 2007

Blossom Brown  
2465 Ala Wai Boulevard, #802  
Honolulu, Hawai'i 96815

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Brown:

Thank you for fax dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments on cultural resources and Professor McGregor's research. Below, we respond to your concerns.

1. *I am going to began with saying that La'au point is culturally very important to the Hawaiian people. This land is one of the only areas in the Hawaiian Islands that have not been touched. There is a huge issue with the development of La'au point, because even most Moloka'i locals have never even seen La'au Point with which has such unique cultural qualities . . . if the fishing grounds are not kept private to the natives on the island than [sp] soon after their priceless land will be invaluable to them because the fish will be depleted for over fishing.*

**Response:** Given that the area proposed for development has been the private property of Molokai Ranch, the primary cultural practitioners of the area are current and former Molokai Ranch cowboys and employees, their 'ohana and longtime kama'āina residents of the Maunaloa community. The *Community-Based Master Land Use Plan for Molokai Ranch* (provided as Appendix A of the Draft EIS, and hereafter referred to as "Master Plan") outlines cultural principles and policies for the establishment and management of a Cultural Conservation and Subsistence Management Zone, including areas of the proposed Lā'au development. In addition, the Shoreline Access and Management Plan (to be provided in the Final EIS) provides for its implementation by a committee that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

The cultural impact assessment (Appendix F of the Draft EIS) provides details of the plan to protect subsistence fishing and gathering from p. 118 through 121. In addition, Access will be managed to protect subsistence resources as discussed in Chapter 5.2 - pp. 116 - 118.

2. *Since the 26,000 acres of land that they are preserving cannot be built on regardless, then this is their way of trying to get the best deal without thinking of the cultural impacts it has on the rest of the islands locals. The community right now is still actively trying to shape its own community and plan for their own future.*

**Response:** It is not true that the 26,200 acres of land that is being donated to the Moloka'i Land Trust is otherwise safe from development. Moreover, these lands are vulnerable to use for

commercial activities, such as for ecotourism, as they have been in the past. As previously addressed in Section 2.4 of the Draft EIS, the community was involved throughout a lengthy planning process involving 160 meetings. A broad cross section of 1,000 community members sat in on committee meetings in their area of interest. Meetings were announced, open to the public, and aired on public television (Akaku Channel 53).

We understand there is both a lack of trust for the Ranch and the sentiment that the Ranch should simply give title to the 26,200 acres and control over the 24,950 acres of agricultural and open space easements without any compromise expected of the community. However, we believe the Master Plan is a thoughtful, comprehensive, and reasonable compilation of many community members' visions for Moloka'i. Other than this particular project for Lā'au Point, other components of the Master Plan are supported by most members of the community (see Section 2.1.7 of the Draft EIS).

3. *The main concern of the community is that the La'au Point Project will greatly impact and wipe out their traditions of gathering and fishing. The fisherman and crab gatherers need silence in order to collect their crabs and fish.*

**Response:** We acknowledge your comments about the loss of subsistence; however, we respectfully disagree. As discussed in Section 2.3.7 of the Draft EIS, an agreement between MPL and the Moloka'i Land Trust/EC will ensure that the Lā'au Point project promotes the importance of maintaining subsistence activities in the Conservation District areas and other protected resource areas. The Shoreline Access Management Plan will be managed and enforced by the Land Trust.

Section 4.5 of the EIS addresses noise impacts and mitigation measures. Although there will be short-term construction-related noise during construction, construction activities will comply with all Federal and State noise control regulations, such as Chapter 11-46, HAR (Community Noise Control). Construction vehicles will also be equipped with mufflers. In addition, the development will occur at least 250 feet mauka of the shoreline. The distance and existing kiawe vegetation between the shoreline and the development area will provide a significant buffer zone for project noises.

Extraordinary measures will be taken by the Moloka'i Land Trust in cooperation with the homeowners, to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes, and resources.

During the planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The Cultural Impact Assessment (Appendix F of the Draft EIS) refers to the measures outlined in the Master Plan to protect subsistence fishing and gathering on pp. 113, 118 – 121. In addition, access will be managed to protect subsistence resources as discussed in section 5.2, pp. 116 - 118.

4. *A huge concern is that cultural sites will be abolished during the restructuring process of the land with MPL's project. The dunes hold burials and famous cultural sites, which might be destroyed. Even bigger of an issue are all the native plants, native species like the sea turtles and monk seal population that may deplete due to the development. These issues are extremely important and should be looked at as well.*

**Response:** As discussed in Section 2.3.1 (Protected Areas) of the Draft EIS, the roadways and residential lots avoid cultural and archaeological sites. The existing State Conservation District, which includes the Lā'au Point shoreline, will be expanded from 180 acres to 434 acres (an increase of 254 acres). The Moloka'i Land Trust will manage the Conservation District lands.

No dunes or endangered species habitats will be destroyed as a result of the residential development. As shown in Figure 12 of the Draft EIS, there are no dune lands in the project area. As discussed in Section 3.6 of the Draft EIS, the majority of the native plant communities are located in the sandy beach and rocky shoreline areas, where no development is proposed. In fact, the project proposes to increase the Conservation District by 254 acres along the shoreline and related natural resource areas. The Conservation District areas at Lā'au Point will be managed by the Land Trust to ensure appropriate protocol is established for the protection of rare and endangered species in the shoreline habitats.

In addition to the protection of habitats by the expanded Conservation District shoreline area, there will a large setback, as previously discussed in Section 2.3.1 (Protected Areas) of the Draft EIS. The lot boundaries will be set back at least 50 feet behind the current Conservation District, which is approximately 150 to 200 feet inland from the shoreline. Therefore, lots will be at least 250 feet from the designated shoreline. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet. With this large setback, as previously discussed in Section 3.7 (Fauna) of the Draft EIS, the endangered Hawaiian monk seal habitat will not be encroached upon by the project.

The Master Plan provides for the protection of all of the cultural sites during the construction process. During and after the construction phase access to the archaeological and cultural sites will be managed so as to protect the cultural integrity of the sites as well as to provide access to those who have a connection to and kuleana for the sites. As at present, access to most of the sites will be by foot rather than by vehicle in order to protect the sites. Residents will be educated about the cultural significance of the sites and the protocols which will protect the sites. The resource managers who will live on site will monitor and enforce the cultural guidelines and protocols. Native Hawaiian practitioners and kama'aina residents of the Kaluako'i ahupua'a will be consulted.

5. *Overall after the cultural impact assessment and after all the cultural meetings had occurred the end result was that no one in the community expressed any enthusiasm in regards to the project development. Furthermore, the new residents may not understand the Moloka'i lifestyle, which poses as a problem trying to integrate two very different lifestyles and cultures. The beautiful land at La'au Point should be kept untouched and remain special and respected. The natural resources need to flourish and the physical beauty of the land should be untainted.*

Ms. Blossom Brown  
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**Response:** The Cultural Impact Assessment concluded that although the overall Master Plan is not a perfect plan, it still "truly a grassroots community plan which represents a historic good faith effort on the part of Molokai Properties Limited and Ke Aupuni Lōkāhi-Moloka'i Enterprise Community to create sustainable economic solutions that will protect the cultural integrity of a unique Hawaiian island community. This monumental effort deserves serious reflection, deliberation and endorsement" (Appendix F: page 154).

In responding to your comment regarding the "beautiful land at Lā'au Point [that] should be kept untouched and remain special and respected," it is first important to note that Lā'au Point, itself, can be considered a significant cultural property. Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lae O Ka Lā'au is within the 51 acres owned by the federal government. This property will not be disturbed or developed on by the proposed project.

The west and south shorelines adjacent to Lā'au Point, Keawakalani on the southeast and Kamāka'ipō on the northwest, is where the proposed development is projected. According to the archaeological surveys and ethnographic documents, there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka'ipō as an important cultural and spiritual place.

Molokai Ranch has applied to the State Land Use Commission to re-district these areas from Agricultural to Conservation district in order to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā'au Point, notably at Kamāka'ipō, Kapukuwahine, and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

A Shoreline Access Management Plan, included in the Final EIS as an appendix, sets out management guidelines for the Lā'au shoreline area, which includes an expanded conservation district zone between the makai boundary of the proposed residential lots and the shoreline, and two parks at the culturally significant Kamāka'ipō Gulch and Pu'u Hakina areas. Access will be limited to foot travel in these areas to limit the amount of traffic and disturbance.

In addition, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. These cultural guidelines are provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

Further, as previously discussed in Section 2.3 (General Project Description) of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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

Ms. Blossom Brown  
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on lot owners. Lā'au Point will be unlike any other community in Hawai'i. Therefore, it is expected that Lā'au Point lot buyers will want to familiarize and integrate themselves into the Moloka'i lifestyle.

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

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

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



Thomas G. Witten, ASLA  
President  
PDR Hawaii  
1001 Bishop St.  
ASB Tower, Suite 600  
Honolulu, HI 96813

1/7/07

January 16, 2007

Bridget Mowat  
P.O. Box 315  
Kaunakakai, Hawaii 96748

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

Dear Ms. Mowat *aloha to budget*

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,

I am writing this letter to request an extension of the Lā'au Pt. environmental Impact statement.

I am particularly interested in this project and would like to review the report. The EIS is almost 1000 pg. and it was issued during the Christmas & New Yr. holiday.

I feel the time allotted is too short for me and other individuals to review and comment. I appreciate your attention on this matter.

Please respond regarding this very important matter

Mahalo,  
Bridget A Mowat  
PO Box 315  
Kaunakakai, HI

ptihkhi@hawaiiantel.net



1/9/07

THOMAS S WHITTEN

PLEASE GIVE US A 60 DAY  
EXTENSION OF THE LA'AU POINT EIS  
PUBLIC COMMENT PERIOD. IT WILL BE  
DEEPLY APPRECIATED.

BRYSON SANTIAGO  
The SANTIAGO CHANNA

January 16, 2007

Bryson Santiago  
c/o Walter Ritte  
P O Box 486  
Kaunakakai, HI 96748

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

Dear Mr. Santiago *Bryson*

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

State law (Chapter 343, HRS) requires a 45-day public comment period for Draft EISs. The original 45-day public comment period for the Lā'au Point Draft EIS is from December 23, 2006 to February 6, 2007.

The extension to February 23 will provide for a public comment period of 63 days.

We look forward to your comments on the Lā'au Point Draft EIS and your participation in this public review process.

Sincerely,

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

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

1-9-07  
Molokai

Thomas S. Witten ASLA, President  
PBR Hawaii  
1001 Bishop St  
ASB Tower Suite 650, Honolulu 96813

We are asking for a 60 day  
extension of the Lā'au Point EIS  
Public Comment Period.

We need this time in order to  
pursue our investigations of this  
situation.

Thank you so much for your  
cooperation.

Aloha

Carol Hinton

HC1-142  
Kaunakakai HI 96748  
808-533-5576



January 16, 2007

Carol Hinton  
HC1-142  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Hinton:

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

State law (Chapter 343, HRS) requires a 45-day public comment period for Draft EISs. The original 45-day public comment period for the Lā'au Point Draft EIS is from December 23, 2006 to February 6, 2007.

The extension to February 23 will provide for a public comment period of 63 days.

We look forward to your comments on the Lā'au Point Draft EIS and your participation in this public review process.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control



To Whom It May Concern:

Aloha! My name is Carrie-Anne Kaaui attending Molokai High School. This a letter in regards to La'au Point. This letter is an assignment for my Environmental Science class. We were to write about how we feel and ask a few questions on La'au Points development. We were also assigned to pick out an article about La'au Point, read it, and write a summary about what we read.

My thoughts about this plan doesn't sound good to me because there will be a lot of places and homesteads here on Molokai that will have to preserve water for La'au Point's development. I also thought that this was a scam because it's like telling people how to use their water when their not the one's paying for the water bills. I think that they should just leave La'au alone.

My article that I chose to read was about water. It talked a lot about where it goes and where water comes from. This article states that water that's not being used for the right thing is just a waste of water.

My questions that I have for you right now is: How can people survive without water if La'au Points development goes through? How long will this preserving water thing last if the development ever happens? Last question is Will this ever happen again?

Right now I would like to take this time to say thank you for going out of your way and reading this letter that I wrote.

Thank you once again,  
Mahalo and Aloha.

A handwritten signature in cursive script that reads 'Carrie Anne Kaaui'.

November 1, 2007

Carrie-Anne Kaaui  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Kaaui:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge comments regarding water.

There is no intent to deny any resident's use of water in order to supply water to the Lā'au Point development. Indeed, MPL has often reiterated its recognition of DHHL's priority rights to water.

MPL believes that there is ample ground and surface water to meet DHHL's and the County's needs while still supporting MPL's plans for all of its lands. MPL's Water Plan does not adversely affect either DHHL's or the County's ability to develop the water resources they need for future uses.

MPL has committed to using only existing sources, at currently permitted amounts, to meet all of the potable water needs for its current water customers and MPL's future developments proposed under the Master Land Use Plan. A new non-potable source is being proposed. Currently, permitted uses for potable water from Well 17 include more than 600,000 gpd for irrigation uses. When non-potable water from the Kākahale 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.

The Kākahale 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 Kākahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kākahale 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 Kākahale and DHHL/DWS well sites, namely Pu'u Kākahale and Pu'u Luahine, which are barriers to ground water flow.

The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the

Carrie-Anne Kaauwai  
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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, desalinization is another alternative source of water that becomes increasingly viable with technological advances. However, it is not yet economical because of the high energy uses of current systems.

To ensure water availability to all, MPL, DHHL, and Maui County DWS are working cooperatively to coordinate future water development plans with the assistance of the USGS. It is anticipated that by proper placement of wells, the needs of DHHL, the County and MPL for the foreseeable future can all be met at reasonable costs to the respective parties.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

Carrie-Anne Kaauwai  
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 3 of 3

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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Catherine Wharton  
46-144 Hihinama Street, Kaneohe Hawaii 'i 96744  
whartonc@hawaii.edu

February 21, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Messrs Nicholas, Witten and Sabas:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) that was prepared for La'au Point, West Moloka'i, County of Maui.

I write to you as a member of Kāko'o 'Ōiwi and as a resident of the state of Hawai'i to urge you to stop any further plans to develop along La'au Point. Developing along La'au Point would have a damaging affect on the marine life which inhabit the area, more specifically, the Hawaiian monk seal population.

The draft environmental impact statement prepared for La'au Point states on page 44 that, "Monk seals are known to visit deserted beaches, or beaches not heavily used by people." What makes La'au Point such a thriving habitat for the monk seals is that it is rarely visited by humans. Residential development along La'au Point would undoubtedly increase the population and the number of people using the beach for recreation, regardless of what type

of rules or regulations are planned to be enforced. This in turn would decimate the Hawaiian monk seal population.

The monk seal is only one of two mammals that are endemic to Hawai'i. Its population is estimated somewhere between 1,200 and 1,500 which classifies them as an endangered species. They are extremely sensitive to intervention by humans but they also "...are genetically tame and easily approached...Unfortunately, this trait has proven to be one of the major factors leading to the population decline of the species" (<http://www.earthtrust.org/wlcurric/seals.html>). The only way to protect the monk seals is to enjoy them from a distance and development along La'au Point would not give them the distance and solitude which they need to survive.

There are many laws associated with monk seals that were created in an effort to save the population. Although the plan to develop along La'au Point tries to work within these laws, I am not convinced that it is enough distance to leave the monk seals undisturbed. The lot line that is planned to be set back 250 feet from the designated shoreline (plus additional boundaries), doesn't take into account an increase in population and facilitated access to the beaches. A dramatic increase in the number of beach users would disturb the monk seal population and their habitat.

With an increase in people also comes an increase in litter and there is a high chance that run-off could enter the ocean during development and construction. There are many other factors not addressed that would also affect the monk seal population and their habitat, which simply cannot be fixed or solved by designating a specific lot line.

In addition to natural beauty and a thriving marine life, La'au Point has a rare population of endemic Hawaiian monk seals and it would be a shame if we lost them forever.

Sincerely,

*Catherine Wharton*

Catherine Wharton



November 1, 2007

Catherine Wharton  
46-144 Hilinama Street  
Kaneohe, Hawai'i 96744

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Wharton:

Thank you for letter dated February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments and concerns about the Hawaiian monk seal population.

We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding monk seals, Section 3.7 (Fauna) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

Catherine Wharton  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Peter Nicholas', written in a cursive style.

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



To whom it may concern,

My name is Chantey- Charlene Uahinui. I'm a 12<sup>th</sup> grade student at Molokai High School, enrolled in the environmental Science class. My assignment is to do research on the water limitation on Molokai if the development of La'au Point took place. My main concern is the water issue and how it'll affect the people of Molokai.

Molokai's water is supplied by an aquifer which means there's fresh water on the top than there's brackish in the center and salt water at the bottom. Molokai Ranch states that by developing La'au Point majority of the water will be taken from the center part of the aquifer which would be the brackish. I'm concern is that eventually as the brackish water decrease soon the salty water will reach the fresh water and the fresh water will soon be brackish.

Personally my main concern is the water. I know that water takes a while to reach the aquifer and by taking so much water from the aquifer to supply rich billionaires that shouldn't be the reason why Molokai people will have to suffer in the end with no water.

Thanks for taking the time to read my letter. I hope you understood the way I felt and why.

Sincerely,

A handwritten signature in black ink that reads 'Chantey-Charlene Uahinui'. The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Chantey - Charlene Uahinui

November 1, 2007

Chantey-Charlene Uahinui  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Uahinui:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge comments regarding water.

You have described a typical basal aquifer system. However, not all basal aquifers are typical. On the western side of Molokai, most of the basal aquifers do not have a potable water lens overlying the salt water with a brackish transition zone in between. Instead, brackish water is encountered at the uppermost layer of the lens. This is the situation found at the Kākalahale Well site. The Kākalahale Well was drilled in 1969 to provide drinking water to the Kaluako'i Resort. Encountering brackish, instead of potable, water was unexpected and indicates a hydrogeologic anomaly. Withdrawing brackish water from the Kākalahale Well will not result in a situation where upconing would contaminate a potable water lens.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in black ink that reads 'Peter Nicholas'. The signature is written in a cursive style with a large, sweeping initial 'P'.

Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

Chantey-Charlene Uahinui

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 2 of 2

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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RECEIVED  
FEB 22 2007

STATE OF HAWAII  
LAND USE COMMISSION

Chase will  
MHS student  
Period 7

To whom I may concern,

My name is Chase Will I live in Kalae and I am a part time mechanic and carpenter. I go to Molokai High School and I'm in the 11<sup>th</sup> grader and I'm writing from Kumu Mahinahou's period 7 Environmental Science class.

The reason I'm writing to is I just wanted to ask you a few questions about La'au point project because I'm a little curious and I want to hear the 2 sides of this story, I already heard the people who don't support it over the T.V, news paper and word of every body says about LA'AU. I want to here your opinion why you support.

Here the questions I wanted to ask you guys.

- What are you guys going to do if construction workers who stumble over or discover it discover any burial sites?
- Will you bring in workers from other islands or will you guys hire workers on Molokai to do the job?
- Will la'au bring more jobs to the community?
- If parks are built, will the ranch let local's camp or hang out there?
- If la'au is built can locals still fish and hunt there with out disturbing anybody's?

- Will local people able to by small pieces of land?
- The most important thing is will there able to be enough water for la'au point and the rest of the island?

Thank you for reading this letter and the questions, I don't know if you guys were asked these question before but thank you for taking time and reading it.

From Chase K. Will  
MHS School

2/1/07

Chase K. Will



November 1, 2007

Chase Will  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Chase:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments below.

1. *What are you guys going to do if construction workers who stumble over or discover it discover any burial sites?*

**Response:** As stated in the archaeological Burial Treatment plan of (Appendix E of the Draft EIS), construction will be planned to avoid any burials or suspected burials recorded in previous studies and during the supplemental road corridor survey. Therefore, it is very unlikely that any burials will be disturbed. Should it prove extremely difficult to plan around a possible burial, then (as a last resort) that feature may be tested to determine its actual function. If it is in fact a human burial, then it will be covered, and preserved in place. Human remains encountered during such a test will not be removed, photographed, or collected.

2. *Will you bring in workers from other islands or will you guys hire workers on Molokai to do the job?*

**Response:** Our first choice is to hire Moloka'i residents; however, if there are not enough Moloka'i residents available, we will have to hire from off-island.

3. *Will Lā'au bring more jobs to the community?*

**Response:** As discussed in Section 2.1.6 of the Draft EIS, the goals of EC Project #47: the community-based master land use plan for Molokai Ranch's lands, was to create new employment opportunities and affordable housing options for Moloka'i residents, as well as provide them with more control of their future.

As discussed in Section 4.8.4 of the Draft EIS, the re-opening of the Kaluako'i Hotel is crucial to revitalizing the Moloka'i tourism economy. Section 4.1.5 of the Plan (Appendix A in the Draft EIS) contains the recommended principles to guide tourism for Moloka'i. The subsequent *Moloka'i Responsible Tourism Initiative: A Community-Based Visitor Plan for Moloka'i* (EC Project #30) provided a five-year plan for sustainable, community-based tourism on Moloka'i. As discussed in these plans, the re-opening of Kaluako'i Hotel and the subsequent revitalization of the tourism industry will provide over 100 jobs for Moloka'i residents. The hotel will provide jobs directly at the hotel, and other small business opportunities will arise through outsourcing

Chase Will  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

various hotel functions such as laundry, gift shop, beach shack, spa, and visitor activities (tours, attractions).

4. *If parks are built, will the ranch let local's camp or hang out there?*

**Response:** The Shoreline Access Management Plan (SAMP), which has been included in the Final EIS as an appendix, sets forth rules and guidelines for the shoreline parks to be managed by the Land Trust. The SAMP states the following regarding camping:

1. Camping will only be allowed in areas set by the Council that will not impact the cultural or environmental resources of the Managed Area based upon carrying capacity, sanitation, sustainability of the available resources and seasonal variations.
2. Camping is allowed in the Managed Area at the discretion of Resource Manager.
3. Persons wishing to camp on the property will meet all of the requirements for general access and any additional requirements set by the Council or its designee.
4. Campers must sign in and out of the Managed Area.
5. Camping will be on weekends no earlier than Friday or earlier than Sunday, unless Friday or Monday are holidays.

5. *If Lā'au is built can locals still fish and hunt there with out disturbing anybody's?*

**Response:** Yes. As discussed in Section 2.3.7 of the Draft EIS, an agreement between MPL and the Moloka'i Land Trust/EC will ensure that the Lā'au Point project promotes the importance of maintaining subsistence activities, such as fishing and hunting, in the Conservation District areas and other protected resource areas. The Shoreline Access Management Plan will be managed and enforced by the Land Trust. Perpetual right to subsistence gathering will be noted on the land titles of the areas to be preserved. Protections to subsistence gathering will be specified in the Lā'au Point CC&Rs. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as allow the hiring of resource managers to protect the subsistence lifestyle.

Approximately 40,000 acres of Ranch land, previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the Community-Based Master Land Use Plan for Molokai Ranch for Open Space/Protective Easements. The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. As indicated in their CC&Rs, Lā'au Point buyers must accept that hunting occurs in the broader surrounding area.

6. *Will local people able to by small pieces of land?*

**Response:** The land will be available for sale to any qualified buyer; local people will be encouraged to buy land at Lā'au.

7. *The most important this is will there able to be enough water for Lā'au point and the rest of the island?*

**Response:** MPL believes that there is ample ground and surface water to meet current needs while still supporting MPL's plans for all of its lands. The total sustainable yield for groundwater resources on Moloka'i is 81 mgd. For planning purposes, the Moloka'i Water Working Group used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less than 10 mgd is currently used. Additionally, there are 36 perennial streams on Moloka'i, but surface water usage on Moloka'i amounts to an average of about 3 mgd. The issue on Moloka'i is not the lack of water resources but accessibility, as the bulk of the resources are on the eastern side of the island whereas development and large scale agriculture is on the western and central parts of the island.

Nevertheless, MPL is keenly aware that water is our most precious resource, and, therefore, has incorporated into its plans water system improvements to increase efficiencies and decrease system losses and aggressive water conservation strategies to minimize water demands.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

To MPL, PBR

Re: Comments pertaining to DEIS

From Cheryl PRITCHARD  
PO Box 1235  
Kaunakakai, HI 96748

My name Cheryl PRITCHARD is listed in the MPL EIS statement as a member of community participating in the 2 year discussions. From day one the process was bogus because water and Leai were off the table for discussion. In any community planning any where water should be the 1<sup>st</sup> on the list. Las Vegas and Los Angeles have drained the Colorado river from Mexico. The Colorado river no longer flows to the gulf, once the meter is turned on the development is in existence, detrimental effects occur. It is irresponsible to plan a community without consideration of water first. Since the discussion of water wasn't allowed from the start there is no validity in the process when the single source aquifer of Molokai is damaged to the point of no return no amount of hydrology experts arguing in court are going to bring it back.

Cheryl Pritchard



November 1, 2007

Cheryl Pritchard  
P.O. Box 1235  
Kaunakakai, Hawaii'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Pritchard:

Thank you for letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *From day one the process was bogus because water and Lā'au were off the table for discussion. In any community planning anywhere water should be the 1<sup>st</sup> on the list... It is irresponsible to plan a community without consideration of water first. Since the discussion of water wasn't allowed from the start there is no validity in the process when the single source aquifer of Molokai is damaged to the point of no return no amount of hydrology experts arguing in court are going to bring it back.*

**Response:** We acknowledge your comment, but respectfully disagree. On January 28 and 29, 2003, the Conservation Fund convened a meeting of all interested parties at Kulana 'Ōiwi. A process was agreed upon and Peter Nicholas outlined what MPL needed from that process to remain viable. At the time, during a discussion of the process, Peter Nicholas said that it was not much use discussing water or the Lā'au development unless the community agreed other major aspects of a Master Plan for the property. We note that this valid process was agreed upon by many of those people who now object to the process.

To reflect this information in the Final EIS, as well as to address other questions and concerns regarding the validity of the community-based planning process, Section 2.5 will be revised as shown on the attachment titled, "Revised Section 2.4 (Community Meetings and Involvement)."

As explained in Section 4.9.2 of the Draft EIS and Chapter 6 of the *Community-Based Master Land Use Plan for Molokai Ranch* (Appendix A of the Draft EIS), a key feature of the project's water plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the project.

In response to your comments regarding "the single source aquifer of Molokai," as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "Molokai's 'Sole Source Aquifer' Designation."

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Cheryl Pritchard  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachments:

Revised Section 2.4 (Community Meetings and Involvement)  
Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



Chris Cramer  
 <chris.cramer@maryknollscho  
 ol.org>  
 01/06/2007 11:14 PM

To luc@dbedt.hawaii.gov, repcarroll@Capitol.hawaii.gov,  
 senenglish@Capitol.hawaii.gov,  
 Governor.Lingle@hawaii.gov  
 cc jeannine@hawaii.rr.com, annmarie@hawaii.rr.com  
 bcc  
 Subject La'au Point



November 1, 2007

Chris Cramer  
 5307 #D Kalaniana'ole Highway  
 Honolulu, Hawaii'i 96821

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Cramer:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below we respond to your comments.

1. *"The Life of the Land is Perpetuated in Righteousness" means nothing if gated projects such as this are approved.*

**Response:** Lā'au Point will not be a gated community. This is clearly stated in on page 29 in Section 2.3.6 of the Draft EIS.

2. *This project is completely unsustainable. On an island with a water crisis, why should the little remaining water go for hundreds of luxury mansions?*

**Response:** As explained in Section 4.9.2 of the Draft EIS and Chapter 6 of the *Community-Based Master Land Use Plan for Molokai Ranch* (Appendix A of the Draft EIS; hereafter referred to as "Master Plan"), a key feature of the project's water plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the project.

MPL believes that there is ample ground and surface water to meet current needs while still supporting MPL's plans for all of its lands. The total sustainable yield for groundwater resources on Molokai is 81 mgd. For planning purposes, the Molokai Water Working Group used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less than 10 mgd is currently used. Additionally, there are 36 perennial streams on Molokai, but surface water usage on Molokai amounts to an average of about 3 mgd. The issue on Molokai is not the lack of water resources but accessibility, as the bulk of the resources are on the eastern side of the island whereas development and large scale agriculture is on the western and central parts of the island.

Nevertheless, MPL is keenly aware that water is our most precious resource, and, therefore, has incorporated into its plans water system improvements to increase efficiencies and decrease system losses and aggressive water conservation strategies to minimize water demands.

Land Use Commission  
 Department of Business, Economic Development & Tourism  
 State of Hawaii  
 P. O. Box 2359  
 Honolulu, Hawaii 96804-2359

Aloha Mr. Ching and Land Use Commission and Elected Officials,

I writing to express my strong opposition to the proposed development at La'au Point.  
<http://luc.state.hi.us/dockets/a06764molokai/a06764petition1.pdfcts>

This project is not only a complete breach of the public trust but it also violates the Land Use Commission's very motto. <http://luc.state.hi.us/>

- 1) "The Life of the Land is Perpetuated in Righteousness" means nothing if gated projects such as this are approved.
- 2) This project is completely unsustainable. On an island with a water crisis, why should the little remaining water go for hundreds of luxury mansions?
- 3) In contrast to the Land Use Commission Goals, This creates an Unaffordable and Non Liveable Community. Residents on Molokai flat out can not afford these million dollar mansions.
- 4) Putting hundreds of mansions in a beautiful wilderness area, home to numerous endangered species is unfathomable, especially in light of the fact that Molokai is a poor community and lacks the resources to fight this project.
- 5) Molokai residents rely on hunting and gathering in the area to feed their families. This will effectively be halted if this project goes through. Hunting between luxury mansions is not a workable plan.

I urge you to uphold current zoning laws that prohibit the proposed development.

Sincerely,

Chris Cramer  
[chris.cramer@maryknollschoool.org](mailto:chris.cramer@maryknollschoool.org)  
 5307 # D Kalaniana'ole Hwy.  
 Honolulu, Hawaii 96821

LAND USE COMMISSION  
 STATE OF HAWAII  
 2007 JAN -8 A 10:52

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

3. *In contrast to the Land Use Commission Goals, This created an Unaffordable and Non Livable Community. Residents on Molokai flat out can not afford these million dollar mansions.*

**Response:** As discussed in Section 2.1.9 of the Draft EIS, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the Moloka'i Community Development Corporation (CDC) for future affordable housing development. MPL will also reserve 200 acres around the towns of Kualapu'u and Maunaloa to be made available for community housing. To reflect the above information and further clarify the CDC funding sources from the proposed project, Section 2.1.9 of the Final EIS has been amended as shown:

In addition to land for housing, MPL will gift the CDC with the following assets that can be used for community development:

- A 5-acre parcel in central Kaunakakai zoned light industrial, which will be available for development in 2011 when the lease to the current lessee, the Junior Roping Club, expires.
- A 3.2-acre parcel adjacent to the Community College, which will be sold to the Maui Community College at market value. The proceeds from this sale would go to the CDC, which would add to the organization's funding for community projects such as construction of affordable housing.
- \$100,000 from the sale by MPL of a 5-acre site to the County for a new Kaunakakai Fire Station (contained within the 1,100 site above Kaunakakai).
- Endowment from the Lā'au Point project as a sustainable form of CDC funding, which will be structured as follows:
  - A An initial funding of the CDC arises from a net 5 percent of the sale revenue of all 200 lots in Lā'au Point. The value of this revenue is estimated to be \$10 million over five years.
  - A percentage, yet to be determined, of subsequent revenue when lot, or lot and house, is re-sold. Future and perpetual income for the CDC comes from second and subsequent sale of lots or lots and houses, as a percentage (half a percent) of all future net sale proceeds from sellers of Lā'au Point properties will be diverted for CDC use. This will provide the CDC with a perpetual income. This provision to allocate income from subsequent lot sales will be provided for in the CC&Rs in the form of a perpetual and unchangeable covenant (Master Plan Covenant). The CC&Rs will require the percentage fee to be paid to the CDC at closing directly out of escrow.

4. *Putting hundreds of mansions in a beautiful wilderness area, home to numerous endangered species is unfathomable, especially in light of the fact that Molokai is a poor community and lacks the resources to fight this project.*

**Response:** Sections 3.6 and 3.7 (pages 42-45) of the Draft EIS discuss the project's impacts and mitigation measures for flora and fauna, including native and endangered species. With this project, the coastal ecosystem and shoreline habitats will continue to be preserved by an

expansion of the Conservation District by 254 acres along the shoreline and related resource areas. This proposed expansion will provide for a total of 434 acres of the project area to be protected in the Conservation District. The Land Trust will be in charge of managing Lā'au Point's Conservation lands.

The residential lots are set back at least 250 feet from the designated shoreline or high water mark. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet.

5. *Molokai residents rely on hunting and gathering in the area to feed their families. This will effectively be halted if this project goes through. Hunting between luxury mansions is not a workable plan.*

**Response:** The area proposed for development has been privately owned since 1875 and access and hunting has been limited to the owners, shareholders, cowboys, employees of the Ranch and their families. The area projected for development is not an area where subsistence hunting is legal and hunting will not be allowed in the area proposed for development. The Master Plan provides for an inland deer fence to be installed in order to close off the area from the shoreline and inland to the deer fence to be cleared of all deer.

Approximately 40,000 acres of other Ranch land (not the area of proposed development), previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the Master Plan for Open Space/Protective Easements. The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. As indicated in their CC&Rs, Lā'au Point buyers must accept that hunting occurs in the broader surrounding area.

Also, as discussed in Sections 2.3.7 and 4.2 of the Draft EIS, the Master Plan recognizes Native Hawaiian subsistence rights, and protects for the community, the hunting and fishing resources of the island. The community will have more access to the Lā'au area for subsistence fishing than before.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Chris Cramer

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 4 of 4

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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Chris Grean  
#I 655 2591 Dole Street. Honolulu HI 96822  
[grean@hawaii.edu](mailto:grean@hawaii.edu)

February 22, 2007

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

Dear Mr. Nicholas:

I feel the proposed development for Lau Point is not in the best interest for the State of Hawaii and the people who live here. As a student of the University of Hawaii at Manoa I have been looking into the proposed development plan on Molokai in one of my classes and feel that the plan is not appropriate. I feel that development of such a pristine environmental landscape will ruin the natural beauty the area has to offer. I also feel that the environment will suffer from pollution created during this construction and after its completion. The native population of Monk seals will undoubtedly be affected by a development in the area and may effect the population and safety of these animals.

The issue of water usage is also a concern of mine. I do not believe a development would be part of a sustainable water usage program. Fresh water is a very important resource on the islands of Hawaii which many people need. Scarcity and over-use of this resource has an impact on everyone.

I appreciate the opportunity for allowing me to voice my opinion.

Sincerely,



Chris Grean

*Sandy file EIS  
Comments*

*cc-Max*

USF COMMISSION  
STATE OF HAWAII

2007 FEB 26 P 2: 55

*(late ASUC)*

*but postmarked 2/23*



November 1, 2007

Chris Grean  
#I 655 2591 Dole Street  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Grean:

Thank you for letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments and offer the following responses.

**Natural Beauty**

We note that the juxtaposition of natural beauty and expensive homes may be offensive for those who resent the presence of outsiders or structural development. On the other hand, existing residents may appreciate the ability to visit Lā'au Point, a previously inaccessible area, regardless of nearby uses.

We direct you to review the *Community-Based Master Land Use Plan for Molokai Ranch* provided as Appendix A in the Draft EIS. Extraordinary measures are incorporated into the Master Plan and project to buffer and protect the subsistence and cultural rural resources from negative impacts. These include:

- Upholding and assuring Native Hawaiian rights of access for cultural, subsistence and spiritual purposes.
- Creating sizeable conservation zones and buffer areas to protect the cultural sites and shoreline area.
- Limiting shoreline access to a foot trail.
- Ending commercial hunting so that Moloka'i Kama'āina can legally engage in subsistence hunting on Ranch lands.
- Hiring community cultural and natural resource managers who will work with the community to monitor every phase of the project, from clearing and grading, to construction and when the new homeowners move in.
- Orienting homeowners to appreciate and support the unique and special way of life on Moloka'i as the "Last Hawaiian Island."

The findings of the cultural and social impact assessments (provided as Appendix F and Appendix M of the Draft EIS) provide further rationale for proceeding with the project based on community input. People who were active in the formation of the Master Plan as well as non-participants felt that the Master Plan is a rare and unique opportunity which offers many benefits to the Moloka'i community. Given over three decades of conflicts between the community and Molokai Ranch, the Master Plan provides mutually beneficial results.

As recognized by both supporters and opponents of the Lā'au Point project, the Master Plan is not perfect but it represents a historic good faith effort on the part of MPL and the EC to create sustainable economic solution that will protect cultural integrity of a unique Hawaiian island community. More importantly, the Master Plan process set the stage for Moloka'i's future – a future in which self-determination by the island's residents is assured.

#### Pollution

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.

#### Monk Seals

Regarding your concerns about the 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.

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)."

#### Water

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.

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.

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 reviewing the Draft EIS. 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 4.9.2 (Water)

Chris Grean

SUBJECT: LĀ'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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Thomas Witten, Pres  
PBR Hawaii  
1001 Bishop St, St. 650  
Honolulu HI

Jan 2007

I am requesting a (60) day  
extension to respond to the  
Lā'au Point Development EIS.

Chuck  
Chuck Everhart  
426 Ala Malama  
Kaunakakai, HI



January 16, 2007

Chuck Everhart  
426 Ala Malama  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. Everhart:

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,

A handwritten signature in black ink, appearing to read 'John Sabas', is written over a horizontal line.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

**CLIFFORD O. BERMUDES**  
2204 KOMO MAI DRIVE PEARL CITY, HAWAII 96782  
(808) 723-4607 COB@HAWAII.EDU

February 21, 2007

PBR Hawaii  
Attention: Thomas Witten  
1001 Bishop St.  
ASB Tower, Suite 650  
Honolulu, Hawaii 96813

Dear Mr. Witten,

I am writing in regards to concerns I have with the planned development on La'au Point in the island of Moloka'i. I oppose the development for the following reasons: First, I oppose this development because it would compromise the habitat of the endangered Hawaiian Monk Seal. This particular species of animal frequents the beaches of La'au point is where development would force them into other areas which would not be suitable for them. This might result in the decline in their population and further endanger the species.

Secondly, I oppose the planned development because it would disrupt the nature of the landscape there which is presently conducive to fishing and other water activities. Also, different species of birds and plants, some of them also endangered, would be displaced as a result of development there. Development would permanently change the landscape where the pristine conditions there now would be lost forever.

Lastly, I oppose this development because I too share the general sentiments that the local population of Moloka'i have in this matter where they oppose the development for a myriad of reasons. It appears by the open forums held on this subject that the local population of Moloka'i have voiced that they are in opposition to this development where I join them in their opposition.

I urge you to take serious consideration of the aforementioned when making any further decisions regarding the progress of this development. Thank you for your time and attention. Aloha.

Sincerely,



Clifford O. Bermudes



November 1, 2007

Clifford Bermudes  
2204 Komo Mai Drive  
Pearl City, Hawai'i 96782

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Bermudes:

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. *First, I oppose this development because it would compromise the habitat of the endangered Hawaiian Monk Seal. This particular species of animal frequents the beaches of La'au Point is where development would force them into other areas which would not be suitable for them. This might result in the decline in their population and further endanger the species.*

**Response:** We acknowledge your concerns about the Hawaiian monk seal habitat. We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk

Mr. Clifford Bermudes  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

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)."

2. *Secondly, I oppose the planned development because it would disrupt the nature of the landscape there which is presently conducive to fishing and other water activities. Also, different species of birds and plants, some of them also endangered, would be displaced as a result of development there. Development would permanently change the landscape where the pristine conditions there now would be lost forever.*

**Response:** We acknowledge your comments. 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.

3. *Lastly, I oppose this development because I too share the general sentiments that the local population of Moloka'i have in this matter where they oppose the development for a myriad of reasons. It appears by the open forums held on this subject that the local population of Moloka'i have voiced that they are in opposition to this development where I join them in opposition.*

**Response:** We acknowledge your comments. We note that there is also a "local population of Moloka'i" who support the project. This project, and the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which the project is an integral part of, is the product of more than 150 community and special interest group meetings (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. The Master Plan was provided in its entirety as Appendix A in the Draft EIS.

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

Mr. Clifford Bermudes  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 3 of 3

Attachment: Revised Section 3.7 (Fauna)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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To whom it may concern,

Aloha, My name is Corey-lynn Remegio. I'm a senior at Molokai High School. I am writing on behalf of my 7<sup>th</sup> period Environmental Science class. I am writing this letter in concern of the wastewater that will take place if La'au Point were to be developed.

I read and understood the Draft Environmental Impact Statement page 83 (4.9.3) on Wastewater. I have questions to consider about the wastewater if La'au were to be developed and the water for future Hawaiian Homes development. The draft read that both Kaluako'I and Maunaloa Village has their own private individual wastewater system. How much wastewater is already being produced by both? The draft also states that it is anticipated that permanent residence will occupy up to 60 of the homes (30 percent). The wastewater has been anticipated to use up to 20,000 gallons per day. And with additional seasonal residents 80 percent occupancy the wastewater would than be 70,000 gallons per day. I personally feel that is way to much wastewater being produced for our island aside from the water that will be used for drinking and other usages.

Department of Hawaiian Homes lands has conserved water for future development on Hawaiian Homelands. Molokai Ranch promises not to use any of the conserved water from Hawaiian Homes. Molokai Ranch has anticipated that by

developing La'au Point the wastewater alone will be as much as 20,000 - 70,000 gallons per day. How will the future generations of Hawaiian Homes be promised that they are absolutely positive there will be enough water in the aquifer to supply the residence of La'au point so they won't have to tap into the water conserved for future Hawaiian Homelands development.

Molokai Ranch say's that the water they'll use for La'au point won't be the drinking water but the brackish water. Our water cycle is simple. There's the fresh on the top the brackish in the middle and the salty on the bottom if you take out the brackish soon the salt water will rise and meet the fresh water. Once that happen's the fresh will soon become the brackish.

I am a Hawaiian Homelands residence and I worry for the sake of my daughter and the many generations to come. The facts are clear there will be to much use of water to La'au Point to much waste for rich billionaires to use as leisure. I am 100 percent against the development of La'au Point. I understand that by developing La'au point it will bring job opportunities but those who think that way are only living for today and not the future. You'll be satisfied as long as the money last but when there's that need for water you can't go back and change your mind what's done is done. You can't buy water with the money you've made, it takes years to get fresh water and there will be a drought. Development to La'au



point will not benefit the people of Molokai in the future.

I understand that I'm just a student and I'd like to thank you for giving me the chance to voice my opinion by taking the time to read my letter. I hope the information I stated from the Environmental Impact Statement was accurate to the original copy. I also hope you understand my feelings about the development of La'au Point and how important water is for today's generation and the many more to come.

Mahalo, Corey-lynn K. Remegio

November 1, 2007

Corey-lynn K. Remegio  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Remegio:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *The draft read that both Kaluako'i and Maunaloa Village has their own private individual wastewater system. How much wastewater is already being produced by both?*

**Response:** The existing Kaluako'i and Maunaloa Village wastewater treatment facilities are separate and independent systems that will not be connected to the proposed Lā'au treatment facility.

2. *The draft also states that it is anticipated that permanent residence will occupy up to 60 of the homes (30 percent). The wastewater has been anticipated to use up to 20,000 gallons per day. And with additional seasonal residents 80 percent occupancy the wastewater would than be 70,000 gallons per day. I personally feel that is way to much wastewater being produced for our island aside from the water that will be used for drinking and other usages.*

**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 does not take water "from the water that will be used for drinking and other usages." Wastewater is only 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 used water into high clarity recycled water to be beneficially applied in grounds irrigation. In essence, the WWTP will produce 20,000 to 70,000 gallons of usable water daily; saving these amounts of potable or brackish water that otherwise must be drawn from the basal aquifer.

As previously discussed in Section 4.9.3 of the Draft EIS, 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 treatment systems that reclaim sewer water for beneficial non-potable uses protect our environment and conserve our vital water resources.

3. *Department of Hawaiian Homes lands has conserved water for future development on Hawaiian Homelands. Molokai Ranch promises not to use any of the conserved water from Hawaiian Homes. Molokai Ranch has anticipated that by developing La'au Point the wastewater alone will be as much as 20,000 - 70,000 gallons per day. How will the future generations of Hawaiian Homes be promised that they are absolutely positive there will be enough water in the aquifer to supply the residence of La'au point so they won't have to tap into the water conserved for future Hawaiian Homelands development.*

**Response:** We will not tap into DHHL's water reservation. We can only utilize what is permitted on our water allocation permit. In addition, 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 Kākahale 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.

In addition, please refer to 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 Kākahale Well" and "DHHL's Future Water Needs."

4. *Molokai Ranch says that the water they'll use for La'au point won't be the drinking water but the brackish water. Our water cycle is simple. There's the fresh on the top the brackish in the middle and the salty on the bottom if you take out the brackish soon the salt water will rise and meet the fresh water. Once that happens the fresh will soon become the brackish.*

**Response:** You have described a common, but not universal, basal aquifer system. In West Molokai, the basal aquifers do not have a potable water lens overlying the salt water with a brackish transition zone in between. Instead, brackish water is encountered at the uppermost layer of the lens.

This situation is also found at the Kākahale Well site. The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

Withdrawing brackish water from the Kākahale Well will not result in a situation where upconing would contaminate a potable water lens.

In addition, please refer to 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, "Explanation of Molokai Aquifer Systems Geology."

5. *I am a Hawaiian Homelands residence and I worry for the sake of my daughter and the many generations to come. The facts are clear there will be too much use of water to La'au Point to much waste for rich billionaires to use as leisure. I am 100 percent against the development of La'au Point. I understand that by developing La'au point it will bring job opportunities but those who think that way are only living for today and not the future. You'll be satisfied as long as the money last but when there's that need for water you can't go back and change your mind what's done is done. You can't buy water with the money you've made, it takes years to get fresh water and there will be a drought. Development to L.a'au point will not benefit the people of Molokai in the future.*

**Response:** We acknowledge your comments.

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

Thomas S. Witten  
PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
February 22, 2006

Dear Mr. Witten:

My name is Dale Gammie and I am currently a senior at the University of Hawai'i at Mānoa. I am originally from Maui and have been following the issues surrounding the Lā'au Point development on the southwest coast of Moloka'i. As far as I understand it, Moloka'i Ranch is attempting to change the land zoning from agriculture to urban so it can develop this strip of land into a resort residential community. The draft environmental impact statement addresses this development as well as the Land Trust. The two are very different and completely separate issues. The environmental impact statement should only deal with the Lā'au Point development – nothing else.

I am writing this letter as a way to express my opposition of the Lā'au Point development in West Moloka'i and its corresponding draft environmental impact statement. I am deeply disappointed with the way Moloka'i Ranch has pursued a development that would have such a huge impact on the environment in one of the last untouched locations in the State of Hawai'i. These changes in the environment are against the interests of the people of Moloka'i. There is overwhelming opposition from the community for this development. For these reasons, which will be elaborated on further, the development of Lā'au Point should be halted immediately and proceed no further.

The Lā'au Point development is a huge threat to this untouched environment. The coastal development of Lā'au Point could severely damage this ecosystem like many other resort areas in the State of Hawai'i. The non-point source pollution or polluted runoff presents one of the greatest threats to water quality in Hawai'i.<sup>i</sup> This would happen during the development of Lā'au Point and into the future as humans (who will most likely not be from Moloka'i with no real appreciation for the Native Hawaiian culture and the values) continue to pollute via trash and pesticides. Coastal development and runoff, coastal pollution, and tourism and recreation pose "high" levels of threat to coral reef ecosystems.<sup>ii</sup> Reef degradation is even greater in areas where there are no wetlands and nature has a reduced ability to filter nutrients and pollutants before they enter the waters. Even though landscaping may help with some runoff, the development and construction stage will do great harm.

The source of non-point source pollution can be sediments, toxins, floatables, and pathogens and is not limited just by runoff. Wind can pick up the sediment and floatables and carry them into the ocean just as well. Additional setback measures in the environmental impact statement will not protect against this. The direct consequence of this pollution is algae blooms, fish kills,

destroyed aquatic habitats and cloudy waters.<sup>iii</sup> The indirect consequence is a negative impact on the fishing and gathering subsistence practices by the people of Moloka'i.

Lā'au Point is home to different types of endangered species that could suffer greatly due to the development. One of these endangered species is the ihi' ihi fern (*Marsilea villosa*). In 1996, Department of Interior - U.S. Fish and Wildlife Service set forth a recovery plan that states there were just four naturally occurring populations of this fern, one of which was on the island of Moloka'i and more specifically Lā'au Point. The recovery plan specifically states that limiting factors to this species are "development, small population sizes, and trampling by humans."<sup>iv</sup> In fact, Moloka'i has 46 endangered plant species alone.<sup>v</sup> Just a few of these are located at Lā'au Point, but a map by the U.S. Fish and Wildlife Service highlights the southwest coastal area of Moloka'i an "important habitat for threatened and endangered plants."<sup>vi</sup>

The Hawaiian Monk Seal is the most endangered U.S. mammal and most commonly found in the Northwest Hawaiian Islands. However, a sizable population lives at Lā'au Point. The U.S. Fish and Wildlife Service notes, "Factors which threaten the persistence and recovery of monk seal populations include disturbance by human activities..."<sup>vii</sup> Thus, unless we are prepared to accept the nearly certain destruction of one of the last habitats of the Hawaiian Monk Seal, we must not allow the Lā'au Point development project to continue as planned.

One of the most valuable resources of Lā'au Point are the coastal waters. These waters have been referred to as an "ice box."<sup>viii</sup> The waters are pristine and home to a flourishing coral ecosystem. Lā'au Point is a vital source of subsistence with the abundant fishing and gathering available to the locals. It also serves as one of the only natural protection areas in the State of Hawai'i for such marine animals that are endangered like the Hawaiian Monk Seal. In fact, Hawai'i is considered to be the "endangered species capital of the world" and Lā'au Point happens to be home to many of these endangered species. Elevated sediment levels will kill off indigenous fish because they will not be able to adapt in this changed environment.

Moloka'i already has its fair share of pollution problems. The southern coastline has seen polluted runoff during heavy rains. This pollution comes from abandoned pineapple fields, cropland, pastures, highways, dirt roads, feral animal activity, range fires, and the town of Kaunakakai.<sup>ix</sup> TEC Inc., the national environmental and engineering firm that prepared the marine biology study, says, "It is likely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point project compared with existing conditions."<sup>x</sup> This is to say that since other areas have been damaged by sediment runoff and nonpoint pollution the development of Lā'au Point is okay because it will have less. Settling for "less" should not be acceptable for something that can be prevented all together.

It is nice that the draft environmental impact statement has measures to preserve inshore fishing and subsistence resources by establishing a fishing management zone and a no-commercial-take zone. It has also addressed the issue of sedimentation runoff by drainage control systems, regulation of fertilizers and pesticides, and revegetation for erosion control.<sup>xi</sup> However, it does not address the fact that wind uplifts these sediments as well and carries them into the coastal waters. This is something that is almost impossible to guard against. The noise of the development process will alienate the Hawaiian Monk Seal population. The mere presence of

humans in an area that has not had permanent human presence for hundreds of years will do harm to the Hawaiian Monk Seal population and coastal waters.

The Lā`au Point development would put human activity in an otherwise unpopulated and untouched area, leading to yet another polluted area on the island of Moloka`i and in the State of Hawai`i. Lā`au Point is too fragile and vulnerable to adapt to such a development. The affects would be devastating to the land, coastal waters, and living species.

Moloka`i is a relatively small island. The population there is a little over 7,000 people and the only Hawaiian island to have a Native Hawaiian majority.<sup>xii</sup> Not only do they value subsistence practices, but also the concepts of aloha `āina and mālama `āina which are to love and take care of the land. The people of Moloka`i want to make sure that this subsistence is sustainable. They practice these values everyday to ensure that their children and grandchildren will have these precious resources as well.

Moloka`i has been considered by its people as "the last Hawaiian island."<sup>xiii</sup> Molokai has been the slowest island to change in terms of western culture and economic development. The community heavily relies on Native Hawaiian cultural values and subsistence practices. In fact, 38% practice subsistence to supplement low incomes.<sup>xiv</sup> Besides the economic value from subsistence, it is a way to spread cultural knowledge from generation to generation. This is something that is very rarely found on any of the other islands, something that has been buried by development and western culture, but yet something that remains so special to the people of Moloka`i and the Native Hawaiian culture.

Subsistence allows the community to get together by sharing food and provides means for a healthy diet for a people who are ethnically prone to illnesses such as diabetes. The people of Moloka`i hunt, fish, gather, and farm as a means to get some of their food. This is their preferred way of life. In the pace of slow change, it is quite evident that tourism, development, and high prices are inconsistent with the preferred way of life.<sup>xv</sup>

The Lā`au Point development in West Moloka`i is home to many cultural historic sites, many of which are untouched. Toward the coast there are permanent settlements, fishing shrines, and various cultural artifacts. More inland there are agricultural fields, multi-room dwellings, and work areas. At the summit there are religious objects, more signs of previous habitation, and more agricultural sites.

At the beginning of the Lā`au project, it was said that the people of Moloka`i would have a say in the development. Since that has proven to be a deceitful tactic by Moloka`i Ranch and others involved in the development, it is still important to understand that the vast majority of Moloka`i residents are very strongly opposed to this development.

In the January 2007 Moloka`i Enterprise Community election, two challengers, Bridget Ann Mowat and Leila Stone, smashed incumbents, Colette Machado and Claud Sutcliffe, by a overwhelming 66%. The election was fueled with debate over the Lā`au Point development and attracted the biggest voter turnout (over 650% higher than last year's turnout) in the history of

these elections. The challengers clearly campaigned against the Lā`au point development showing that the community has an overwhelming strong opposition of the development.<sup>xvi</sup>

Dr. Davianna McGregor states that offshore reefs and oceans are impacted by pollution, erosion, and soil runoff from resorts, residential development and ranching in her recent book Nā Kua`āina. She also happens to be the writer of the cultural impact statement in the environmental impact statement where she has no mention of this. The Lā`au Point development would be detrimental to endangered species and water quality of Lā`au Point and its proximal areas. Damage has already been done to the other main islands with developed coastlines such as Kihei, Kaanapali, Poipu, Kapaa, Waikiki, Kailua, Kona, etc. Moloka`i cannot afford to be another victim of development. The Hawaiian Monk Seals cannot afford to be another victim of development. The ihi`ihi fern cannot afford to be another victim of development. The Moloka`i people cannot afford to be another victim of development.

The Lā`au Point development is a substantial threat to the natural and pristine environments of West Moloka`i. It serves a vital part in the subsistence culture that many people in the Moloka`i community participate in. It would be a disgrace to see such an untouched and pristine place be ruined in the wake of the Lā`au Point development. The new residents of the Lā`au Point development would have no appreciation or care for the values and culture of the Native Hawaiian people regardless of what type of minimal training they will be forced to sit through.

The loss of natural resources from the Lā`au Point development will far outweigh the economic benefits. After all, just about all of the economic benefit goes to Moloka`i Ranch, not the people of Moloka`i. In fact, it will hurt them even more as appraised land values will increase which will in turn raises property taxes. A better paying job is not worth giving up subsistence and the ability to live off the land. As Josh Pastrana, a resident of Moloka`i, says, "What exactly do they mean bring jobs to Maunaloa? Do they mean minimum wage jobs cleaning people's houses? Cleaning people's toilets? Because that is not my idea of opportunity."<sup>xvii</sup> It is not worth altering an entire way of life.

The people of Moloka`i are proud of their island and community. The Lā`au Point development completely goes against the wishes of the community. Do not allow this development to proceed any further. Keep Moloka`i the way it is. Moloka`i No Ka Heke.

Sincerely,

  
Dale Gammie

Encl. Notes  
cc: Peter Nicholas (MPL), Anthony Ching (State Land Use Commission), Office of Environmental Quality Control

Notes

<sup>i</sup> Hawaii State Department of Health. (2000).w "Hawaii's Implementation Plan for Polluted Runoff Control."

Retrieved February 2, 2007, from Hawaii State Department of Health Website:

<http://www.hawaii.gov/health/environmental/water/cleanwater/prc/implan-index.html>.

<sup>ii</sup> National Oceanic and Atmospheric Administration. (2006) "Ranking of Major Threats to Coral Reef Ecosystems by Region." Retrieved February 10, 2007, from NOAA Website:

<http://www.coris.noaa.gov/activities/actionstrategy/>.

<sup>iii</sup> Hawaii State Department of Health. (2000).w "Hawaii's Implementation Plan for Polluted Runoff Control."

<sup>iv</sup> Spear, Michael. "Recovery Plan for Marsilea Villosa." Retrieved February 10, 2007, from U.S. Fish and Wildlife Service Website: [http://ecos.fws.gov/docs/recovery\\_plans/1996/960418.pdf](http://ecos.fws.gov/docs/recovery_plans/1996/960418.pdf).

<sup>v</sup> U.S. Fish and Wildlife Service. "Critical Habitat for 46 Plant Species from Molokai." Retrieved February 10, 2007, from U.S. Fish and Wildlife Service Website:

<http://www.fws.gov/pacificislands/CHRules/molokai.reproposal.fs.pdf>.

<sup>vi</sup> U.S. Fish and Wildlife Service. "Threatened and Endangered Plants in the Pacific Islands: Kokia Cookei."

Retrieved February 10, 2007, from U.S. Fish and Wildlife Service Website:

[www.fws.gov/pacificislands/wesa/kokiaindex.html](http://www.fws.gov/pacificislands/wesa/kokiaindex.html).

<sup>vii</sup> U.S. Fish and Wildlife Service. "Threatened and Endangered Animals in the Pacific Islands: Hawaiian Monk Seal." Retrieved February 10, 2007, from U.S. Fish and Wildlife Service Website:

<http://www.fws.gov/pacificislands/wesa/monkhi.html>.

<sup>viii</sup> Ullman, B. (2007). Breaking Point: Moloka'i Activists Occupy Proposed Subdivision Site. *Earth First*, 27(2), 12-13.

<sup>ix</sup> Ibid.

<sup>x</sup> The Molokai Dispatch. "MPL Press Release: La'au Point EIS Addresses Ocean Environment Concerns."

Retrieved February 15, 2007, from The Molokai Dispatch Website:

<sup>xi</sup> The Molokai Dispatch. "MPL Press Release: La'au Point EIS Addresses Ocean Environment Concerns."

<sup>xii</sup> State of Hawaii. "2004 State of Hawaii Data Book." Retrieved February 9, 2007, from Department of Business, Economic Development, and Tourism Website: <http://www.hawaii.gov/dbedt/info/economic/databook/db2004/>.

<sup>xiii</sup> McGregor, D. (2007). *Nā Kua ʻāina*. Honolulu: University of Hawai'i Press.

<sup>xiv</sup> Ibid.

<sup>xv</sup> Ibid.

<sup>xvi</sup> Bencze, Adam. "Save La'au Candidates Voted In." Retrieved February 13, 2007, from The Molokai Dispatch Website: <http://www.themolokaidispatch.com/node/392>.

<sup>xvii</sup> Ullman, B. (2007). Breaking Point: Moloka'i Activists Occupy Proposed Subdivision Site. *Earth First*, 27(2), 12-13.



November 1, 2007

Dale Gammie  
3138 Waialae Avenue, #916  
Honolulu, Hawai'i 96816

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Gammie:

Thank you for letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your concerns.

1. *As far as I understand it, Moloka'i Ranch is attempting to change the land zoning from agriculture to urban so it can develop this strip of land into a resort residential community. The draft environmental impact statement addresses this development as well as the Land Trust. The two are very different and completely separate issues. The environmental impact statement should only deal with the La'au Point development -- nothing else.*

**Response:** Your statements are incorrect. No land is being changed to Urban. We are requesting 850 acres be changed from Agricultural to Rural, 254 acres from Agricultural to Conservation, and 9 acres from Conservation to Rural. This is stated in Section 2.3.2 (Petition Area) of the Draft EIS.

The Lā'au Point project is one of the elements of in the Master Plan. Successful implementation of the Master Plan depends on the Lā'au Point project. 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 Boundary Amendment Petition on Lā'au Point before the Land Use Commission, if approved, would not represent the LUC's approval of the Master Plan.

2. *I am writing this letter as a way to express my opposition of the La'au Point development in West Moloka'i and its corresponding draft environmental impact statement. I am deeply disappointed with the way Molokai Ranch has pursued a development that would have such a huge impact on the environment in one of the last untouched locations in the State of Hawai'i. These changes in the environment are against the interests of the people of Moloka'i. There is overwhelming opposition from the community for this development. For these reasons, which will be elaborated on further, the development of Lā'au Point should be halted immediately and proceed no further.*

**Response:** We disagree with your opinion. 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. Implementation of the Master Plan will place over 50,000 acres into permanent protection from development. This does not go "against the interests of the people of Moloka'i."

Section 6.1 of Draft EIS provided discussion of a "no action" alternative, meaning the same thing as not proceeding forward with the project, as you suggest. The Draft EIS analysis concluded that "no action" would lead to greater overall impacts on cultural sites; natural resources utilized for cultural, subsistence and spiritual purposes; water resources; and the overall Hawaiian way of life on Moloka'i. This scenario would result in uncontrolled growth and unmonitored utilization of lands and natural resources. The "no action" alternative which opponents advocate would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "No Action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for Moloka'i.

3. *The Laau Point development is a huge threat to this untouched environment. The coastal development of La'au Point could severely damage this ecosystem like many other resort areas in the State of Hawaii. The non-point source pollution or polluted runoff presents one of the greatest threats to water quality in Hawaii. This would happen during the development of La'au Point and into the future as humans (who will most likely not be from Moloka'i with no real appreciation for the Native Hawaiian culture and the values) continue to pollute via trash and pesticides. Coastal development and runoff, coastal pollution, and tourism and recreation pose "high" levels of threat to coral reef ecosystems. Reef degradation is even greater in areas where there are no wetlands and nature has a reduced ability to filter nutrients and pollutants before they enter the waters. Even though landscaping may help with some runoff, the development and construction stage will do great harm.*

**Response:** As previously discussed in Section 2.3 of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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. It is expected that

Lā'au Point residents will not be they type of people that "continue to pollute via trash and pesticides."

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.

4. *The source of non-point source pollution can be sediments, toxins, floatables, and pathogens and is not limited just by runoff. Wind can pick up the sediment and floatables and carry them into the ocean just as well. Additional setback measures in the environmental impact statement will not protect against this. The direct consequence of this pollution is algae blooms, fish kills, destroyed aquatic habitats and cloudy waters. The indirect consequence is a negative impact on the fishing and gathering subsistence practices by the people of Moloka'i.*

**Response:** As stated in #3 above, 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.

5. *Lā'au Point is home to different types of endangered species that could suffer greatly due to the development. One of these endangered species is the ihi'ihī fern (marsilea villosa). In 1996, Department of Interior - U.S. Fish and Wildlife Service set forth a recovery plan that states there were just four naturally occurring populations of this fern, one of which was on the island of Moloka'i and more specifically Lā'au Point. The recovery plan specifically states that limiting factors to this species are "development small population sizes, and trampling by humans." In fact, Moloka'i has 46 endangered plant species alone." Just a few of these are located at La'au Point, but a map by the U.S. Fish and Wildlife Service highlights the southwest coastal area of Moloka'i an "important habitat for threatened and endangered plants."*

**Response:** We acknowledge the research you cited; however, the 1996 recovery plan map does not directly specify the southwest coastal area of Moloka'i as an "important habitat for threatened and endangered plants" as you cited. The 1996 recovery plan does indicate that an 'ihi'ihīlauakea (*Marsilea villosa*) population is known to occur at Kamāka'ipō. We confirm that ihi'ihī has been found around Kamāka'ipō Gulch. This area is proposed to be redistricted 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; this plan, called the Shoreline Access Management Plan, is further discussed in our response to #6 below.

We did locate the other research you cited regarding the 46 endangered plant species on Molokai. These 46 species are indicated on a USFWS map (retrieved from <<http://www.fws.gov/pacificislands/CHRules/molokai.reproposal.fs.pdf>>). We note that this map does not propose Lā'au Point as a "critical habitat." According to the USFWS map, the proposed critical habitat areas are located along the northern coastline and East end of Moloka'i. In fact, the final rule from the USFWS does not designate any "critical habitat" for *Marsilea villosa* on the island of Moloka'i.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding 'ihi'ihilauakea (*Marsilea villosa*) in the Final EIS, Section 3.6 (Flora) will be revised as shown on the attachment entitled, "Revised Section 3.6 (Flora)."

6. *The Hawaiian Monk Seal is the most endangered U.S. mammal and most commonly found in the Northwest Hawaiian Islands. However, a sizable population lives at Lā'au Point. The U.S. Fish and Wildlife Service notes, "Factors which threaten the persistence and recovery of monk seal populations include disturbance by human activities..." Thus, unless we are prepared to accept the nearly certain destruction of one of the last habitats of the Hawaiian Monk Seal, we must not allow the Lā'au Point development project to continue as planned.*

**Response:** The statements "...a sizable population lives at Lā'au Point." and "...nearly certain destruction of one of the last habitats of the Hawaiian Monk Seal" are unsupported dramatic hyperbole. We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding monk seals, Section 3.7 (Fauna) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)." The SAMP has been included as an appendix to the Final EIS.

7. *One of the most valuable resources of Lā'au Point are the coastal waters. These waters have been referred to as an "ice box." The waters are pristine and home to a flourishing coral ecosystem. Lā'au Point is a vital source of subsistence with the abundant fishing and gathering available to the locals. It also serves as one of the only natural protection areas in the State of Hawai'i for such marine animals that are endangered like the Hawaiian Monk Seal. In fact, Hawai'i is considered to be the "endangered species capital of the world" and Lā'au Point happens to be home to many of these endangered species. Elevated sediment levels will kill off indigenous fish because they will not be able to adapt in this changed environment.*

**Response:** Section 3.8 of the Draft EIS provided discussion of the marine environment. We note that generally, where there is abundant fishing and gathering, the area is not described as "pristine." The baseline marine biological survey indicates that the area is not particularly unique or sensitive.

Regarding your comments about protection of the Hawaiian monk seal, please see our response to #6 above.

With regard to the elevated sediment levels, first, the resident ecosystem is accustomed to episodic inundations of sediment-laden "red water." Second, the proposed action will reduce sediment delivery to the ocean, not increase it. This is discussed in Section 3.8 of the Draft EIS.

8. *Moloka'i already has its fair share of pollution problems. The southern coastline has seen polluted runoff during heavy rains. This pollution comes from abandoned pineapple fields, cropland, pastures, highways, dirt roads, feral animal activity, range fires, and the town of Kaunakakai. TEC Inc., the national environmental and engineering firm that prepared the marine biology study, says, "It is likely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point project compared with existing conditions." This is to say that since other areas have been damaged by sediment runoff and nonpoint pollution the development of Lā'au Point is okay because it will have less. Settling for "less" should not be acceptable for something that can be prevented all together.*

**Response:** We acknowledge your comments; however, we note that you misinterpret the quoted statement. The comparison of sediment delivery is not between Lā'au Point and other areas, but rather between Lā'au Point before and after implementation of erosion controls.

9. *It is nice that the draft environmental impact statement has measures to preserve inshore fishing and subsistence resources by establishing a fishing management zone and a no-commercial-take zone. It has also addressed the issue of sedimentation runoff by drainage control systems, regulation of fertilizers and pesticides, and revegetation for erosion control. However, it does not address the fact that wind uplifts these sediments as well and carries them into the coastal waters. This is something that is almost impossible to guard against. The noise of the development process will alienate the Hawaiian Monk Seal population. The mere presence of humans in an area that has not had permanent human presence for hundreds of years will do harm to the Hawaiian Monk Seal population and coastal waters.*

**Response:** As stated in Section 3.3 of the Draft EIS, all construction activities will comply with the provisions of Chapter 11-60.1, Hawaii Administrative Rules, and Section 11-60.1-33 on fugitive dust.

As stated in Section 4.5 of the Draft EIS, construction activities will also comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures will be employed to minimize construction-related noise and comply with all Federal and State noise control regulations. The substantial setback from the shoreline (250 to 1,000 feet) will also provide mitigation for potential noise impacts caused by the development process.

Your claims that noise will alienate monk seals and that the "mere presence of humans" will harm the monk seals are unsupported. Monk seals have been sighted on all the main Hawaiian Islands, even at developed shoreline areas with noise and human presence such as Waikiki on O'ahu and Poi'pū on Kaua'i.

10. *The Lā'au Point development would put human activity in an otherwise unpopulated and untouched area, leading to yet another polluted area on the island of Moloka'i and in the State of Hawaii. Lā'au Point is too fragile and vulnerable to adapt to such a development. The effects would be devastating to the land, coastal waters, and living species.*

**Response:** Comment noted. See our response to #2 above regarding the "no action" alternative.

11. *Moloka'i is a relatively small island. The population there is a little over 7,000 people and the only Hawaiian island to have a Native Hawaiian majority. Not only do they value subsistence practices, but also the concepts of aloha 'āina and mālama 'āina which are to love and take care of the land. The people of Moloka'i want to make sure that this subsistence is sustainable. They practice these values everyday to ensure that their children and grandchildren will have these precious resources as well.*

**Response:** We concur that subsistence activities are valued on Moloka'i. 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 will be managed and enforced by the Land Trust.

Given that the area proposed for development has been the private property of Molokai Ranch, the primary cultural practitioners of the area are current and former Molokai Ranch cowboys and employees, their 'ohana and longtime kama'āina residents of the Maunaloa community. The Master Plan outlines cultural principles and policies for the establishment and management of a Cultural Protection and Subsistence Management Zone, including areas of the proposed Lā'au development. Extraordinary measures will be taken by the Moloka'i Land Trust in cooperation with the homeowners to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes, and resources.

The Shoreline Access and Management Plan provides for its implementation and further development by a committee that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

During the community-based planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The Cultural Impact Assessment (provided as Appendix F of the Draft EIS) refers to the measures outlined in the Master Plan to protect subsistence fishing on page 113 and referred to above. Details of the plan to protect subsistence fishing and gathering were provided on pages 118 through 121. In addition, access will be managed to protect subsistence resources as discussed on pages 116 - 118.

Additionally, the CC&Rs and shoreline access management plan for the project will include measures to restrict access to foot only between Dixie Maru and Hale O Lono in order to conserve resources, with an acknowledgement of Native Hawaiian gathering rights as defined by law for subsistence purposes, in a designated subsistence management area.

The project's CC&Rs reflect the community-driven shoreline access management plan, which outlines the guidelines to monitor and enforce protection of the cultural and natural resources in the area proposed for development. The SAMP has been included as an appendix to the Final EIS.

12. *Moloka'i has been considered by its people as "the last Hawaiian island." Molokai has been the slowest island to change in terms of western culture and economic development. The community heavily relies on Native Hawaiian cultural values and subsistence practices. In fact, 38% practice subsistence to supplement low incomes." Besides the economic value from subsistence, it is a way to spread cultural knowledge from generation to generation. This is something that is very rarely found on any of the other islands, something that has been buried by development and western culture, but yet something that remains so special to the people of Moloka'i and the Native Hawaiian culture.*

**Response:** We concur that Moloka'i is considered the "last Hawaiian island." We note that the Master Plan ensures Moloka'i's continued status as "the last Hawaiian island." See our response to #2 above.

13. *Subsistence allows the community to get together by sharing food and provides means for a healthy diet for a people who are ethnically prone to illnesses such as diabetes. The people of Moloka'i hunt, fish, gather, and farm as a means to get some of their food. This is their preferred way of life. In the pace of slow change, it is quite evident that tourism, development, and high prices are inconsistent with the preferred way of life.*

**Response:** We concur. See our response to #11 above regarding how the project promotes the importance of maintaining subsistence activities.

14. *The Lā'au Point development in West Moloka'i is home to many cultural historic sites, many of which are untouched. Toward the coast there are permanent settlements, fishing shrines, and various*

*cultural artifacts. More inland there are agricultural fields, multi-room dwellings, and work areas. At the summit there are religious objects, more signs of previous habitation, and more agricultural sites.*

**Response:** We acknowledge your comments. The archaeological and historic cultural resources are discussed in detail in Sections 4.1 and 4.2, and Appendices E and F of the Draft EIS.

15. *At the beginning of the La'au project, it was said that the people of Moloka'i would have a say in the development. Since that has proven to be a deceitful tactic by Moloka'i Ranch and others involved in the development, it is still important to understand that the vast majority of Moloka'i residents are very strongly opposed to this development.*

**Response:** We strongly disagree with your statements. The EC conducted the lengthy community-based process (see Section 2.1.6 of the Draft EIS). There was nothing deceitful about it by the EC or MPL. All meetings were public and the vote was televised.

First, the Master Plan reflects the efforts and values of hundreds of Moloka'i residents. The process of coming up with the Master Plan was transparent and open to anyone who was interested in participating. Further, in interviews conducted for the Social Impact Assessment (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 Social Impact Assessment (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.

16. *In the January 2007 Moloka'i Enterprise Community election, two challengers, Bridget Ann Mowat and Leila Stone, smashed incumbents, Colette Machado and Claud Sutcliffe, by a overwhelming 66%. The election was fueled with debate over the La'au Point development and attracted the biggest voter turnout (over 650% higher than last year's turnout) in the history of these elections. The challengers clearly campaigned against the Lā'au point development showing that the community has an overwhelming strong opposition of the development.*

**Response:** We disagree with your conclusion that the election results directly correlate with this project. The election held on January 31, 2007 was for two board members the Molokai Enterprise Community (EC) Governance Board. While some candidates ran on platforms that

included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015). Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for the Board of Directors that has no such regulatory power.

17. *Dr. Davianna McGregor states that offshore reefs and oceans are impacted by pollution, erosion, and soil runoff from resorts, residential development and ranching in her recent book Nā Kua'āina. She also happens to be the writer of the cultural impact statement in the environmental impact statement where she has no mention of this. The La'au Point development would be detrimental to endangered species and water quality of La'au Point and its proximal areas. Damage has already been done to the other main islands with developed coastlines such as Kihei, Kaanapali, Poipu, Kapaa, Waikiki, Kailua, Kona, etc. Moloka'i cannot afford to be another victim of development. The Hawaiian Monk Seals cannot afford to be another victim of development. The ihi'ihī fern cannot afford to be another victim of development. The Moloka'i people cannot afford to be another victim of development.*

**Response:** The reference by Dr. McGregor in her book, *Nā Kua'āina: Living Hawaiian Culture*, is primarily to uncontrolled and unmonitored developments which occurred on O'ahu. While there is the potential for the same problem to occur with unmonitored, uncontrolled development on Moloka'i, the planned rural residential development along the west and south coastal areas adjacent to Lā'au Point will include strict measures, conditions, covenants and restrictions to prevent pollution, erosion and soil runoff. These are addressed in Draft EIS Appendices D, N, O, Q, and the CC&Rs (Section 2.3.6 of the Draft EIS).

18. *The Lā'au Point development is a substantial threat to the natural and pristine environments of West Moloka'i. It serves a vital part in the subsistence culture that many people in the Moloka'i community participate in. It would be a disgrace to see such an untouched and pristine place be ruined in the wake of the Lā'au Point development. The new residents of the Lā'au Point development would have no appreciation or care for the values and culture of the Native Hawaiian people regardless of what type of minimal training they will be forced to sit through.*

**Response:** See our response #3 above regarding the target market for Lā'au Point residents. Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

19. *The loss of natural resources from the Lā'au Point development will far outweigh the economic benefits. After all, just about all of the economic benefit goes to Moloka'i Ranch, not the people of Moloka'i. In fact, it will hurt them even more as appraised land values will increase which will in turn raises property taxes. A better paying job is not worth giving up subsistence and the ability to live off the land. As Josh Pastrana, a resident of Moloka'i, says, "What exactly do they mean bring jobs to Maunaloa? Do they mean minimum wage jobs cleaning people's houses? Cleaning people's toilets? Because that is not my idea of opportunity." It is not worth altering an entire way of life.*

**Response:** We respectfully disagree with your comment. As discussed in Section 2.1.6 of the Draft EIS, the goals of EC Project #47, which created the Master Plan, was to create new employment opportunities and affordable housing options for Moloka'i residents, as well as provide them with more control of their future.

Implementation of the Master Plan will provide Moloka'i residents employment in current Ranch operations, as well as new jobs in the construction, maintenance, and service industries at prevailing wages.

As discussed in Section 4.8.4 of the Draft EIS, the re-opening of the Kaluako'i Hotel is crucial to revitalizing the Moloka'i tourism economy. Section 4.1.5 of the Master Plan (Appendix A in the Draft EIS) contains the recommended principles to guide tourism for Moloka'i. The subsequent *Moloka'i Responsible Tourism Initiative: A Community-Based Visitor Plan for Moloka'i* (EC Project #30) provided a five-year plan for sustainable, community-based tourism on Moloka'i. As discussed in these plans, the re-opening of Kaluako'i Hotel and the subsequent revitalization of the tourism industry will provide over 100 stable jobs for Moloka'i residents. To reflect the above information in the Final EIS, and address other questions and concerns received regarding jobs, Section 4.8.4 has been revised to include the following clarification:

Proceeds from the sale of the Lā'au Point lots will fund the renovations and upgrading of the Kaluako'i Hotel and Golf Course. These facilities are crucial to revitalizing the Moloka'i tourism economy and are projected to provide over 100 jobs for Moloka'i residents. 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. However, the direct impact of Lā'au Point on tourism will be limited since no vacation rentals are allowed under the Lā'au Point CC&Rs.

MPL is now totally managed on the island by members of the community, with many Native Hawaiians in key roles. Over the past five years there has been a conscious effort to promote local people into management positions within the Molokai Ranch Lodge and Beach Village. Local people, including a majority of Native Hawaiians, now hold all key management positions at the hotels and within the MPL management structure for maintenance and other on-island activities. Those individuals will form the core nucleus of the future management team in other MPL enterprises such as the Kaluako'i Hotel.

Regarding specific new jobs created by the Lā'au Point project, these jobs will be a mix of construction, maintenance, and service jobs at prevailing wages. Some will be short-term, depending on the length of time for full build-out, and some will be permanent and long-term. Many jobs will be contracted, therefore, for the contracted jobs during construction or after build-out, MPL will not be providing direct training and employment opportunities. Several positions also will be available for the operation and maintenance of the wastewater treatment plant. As mentioned above there will also be jobs re-created upon the re-opening of the Kaluako'i Hotel.

Regarding your concern about increasing property taxes, the Lā'au Point project is not expected to affect real property taxes. As discussed in Section 4.8.2 and Appendix L of the Draft EIS, assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself.

Mr. Dale Gammie  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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

Attachments:

Revised Section 3.6 (Flora)  
Revised Section 3.7 (Fauna)  
Revised Section 4.3 (Trails and Access)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

RECEIVED

FEB 20 2007

PBR HAWAII



February 12, 2007

State Land Use Commission  
P.O. Box 21359  
Honolulu, HI 96804

Dear Commissioners:

In my previous letter to State Land Use Commission, dated 5/26/06, I registered my intention to intervene in proceedings on Molokai Properties, Ltd. request to reclassify lands at La'au Point for residential development.

This land reclassification would allow residential development too large in scope to be folded into the community. Molokai is trying to hold to an Hawaiian lifestyle that has been trampled by progress elsewhere in the island chain. Another 200 high dollar estates (most of which will be purchased by mainlanders, many of which will be purchased on speculation and very likely none of which will be purchased by current Molokai Hawaiian residents) will have major and irreversible physical, fiscal and cultural impact. Physical impact? Water usage is a major consideration. Traffic, beach access, fishing and gathering, inadvertent disturbance of burial sites are just a few others. Fiscal impact? Property taxes will continue the uphill climb. Molokai property owners will have to deal with ever higher tax bills forcing many to sell their lands or lose them to taxes. Tax revenues will continue to disappear into Maui County coffers. Cultural impact? An infusion of 200 wealthy landowners is not likely to be absorbed into the Hawaiian community anytime soon. Not to mention the continuing divergence of income levels which tends to further divide the community.

The Enterprise Community leadership election on January 31, 2007 clearly demonstrates community opposition to past EC support of La'au development. A zoning change would ignore the voice of community opposition made clear by the recent EC leadership election and by displays of solidarity against La'au development demonstrated by meetings, forums, and other organized community events.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Darlene Toth'.

Darlene Toth  
Box 215, Maunaloa, HI 96770

cc:

PBR Hawaii, 1001 Bishop Street, ASB Tower, Ste 650, Honolulu, HI 96813  
Office of Environmental Quality Control, 235 S. Beretania Street, Ste 702, Honolulu, HI 96813  
Maui County Planning Department, 250 South High Street, Wailuku, HI 96793

November 1, 2007

Darlene Toth  
Box 215  
Maunaloa, Hawai'i 96770

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Toth:

Thank you for your letter dated February 12, 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](http://luc.state.hi.us/docs/luc_rules.pdf)>.

**Physical impact**

The issues you cite were previously addressed in the following sections and appendices of the Draft EIS: Water, Section 4.9.2 and Appendix P; Traffic, Section 4.4 and Appendix G; beach access, Section 4.3; fishing and gathering, Sections 2.3.7 and 4.2, and Appendices A and F; and burial sites, Section 4.1 and Appendix E.

**Fiscal impact**

As discussed in Section 4.8.2 of the Draft EIS, there have been concerns raised regarding the potential impact of Lā'au Point on increased property taxes for other Moloka'i homeowners. The Hallstrom Group, Inc., examined potential increases to real property tax on existing properties in the areas of Maunaloa, Kualapu'u, Kaunakakai, and beyond as a result of the Lā'au Point project. Appendix L contains the Hallstrom Group's comments.

According to the Hallstrom Group (2006), assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. Of particular note has been the historic lack of "cause and effect" between changes in market prices in Kaluako'i and assessed values elsewhere on the island.

The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself. Secondary impacts, if any, might only be potentially possible among the makai portions of the Kaluako'i lots; however, even this

Ms. Darlene Toth  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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inventory already has an established data set of its own comparable market activity. In addition, the 55,000+ acres of protective lands of the Land Trust and easements will isolate and distinguish Lā'au Point from the rest of Moloka'i. Changes in assessments are the result of comparable market transactions, fueled by new economic activity or a scarce amenity; Lā'au Point is not a comparable to the existing real estate.

Only to the extent there is new worker in-migration to the island to support or sustain the development and its residents, could there be some modest indirect impact on selected real estate activity and prices. Offsetting this is the moratorium on further MPL land development as a result of the Land Trust and easements, which will reinforce the status quo and limit further development.

#### **Cultural impact**

As discussed in Section 4.8.3 of the Draft EIS, social impacts of Lā'au Point have been related to expectations and preconceptions of other social groups. There is a tendency to expect certain behavior and values of people who are different. Race and gender have culturally and historically been the bases for expectations. Economic class differences also elicit preconceptions, as do age, religion, politics, occupation and lifestyle. The bases for these expectations vary, including cultural mores, the media, experience, parents, authority, etc.

Interestingly, the Lā'au Point project is not adding a new element (affluent people) to Moloka'i's social environment. East Moloka'i, in particular, has been experiencing affluent people buying homes. Interaction between existing residents and affluent newcomers is therefore already occurring. From accounts in interviews and meetings, Moloka'i Style is still persistent and resilient in spite of these new residents (refer to Appendix M of the Draft EIS).

To mitigate potential social conflicts due to economic disparities between the existing and new residents, there needs to be social integration on a regional level. Newcomers will be informed of and sensitized to local values and lifestyle through a CC&R requirement that they attend education classes that will be with kūpuna who would be working with the Land Trust. The Land Trust will further enlist the support of existing residents to help the new homeowners assimilate into the community through Hawaiian spiritual, cultural, and Moloka'i lifestyle education. Interactions between new Lā'au Point residents and existing residents can be positive if both parties are respectful and appreciate each other's right to enjoy Lā'au Point.

#### **EC Election**

Regarding your remark about the EC election, 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 formal mandate for the Lā'au Point project. The election held on January 31, 2007 was for two board members the EC Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support

Ms. Darlene Toth  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015). Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for Board Directors that have no such regulatory power.

Without knowing specifically what the "other forums and events" were as referenced in your letter, it is extremely difficult to respond. MPL can say, however, that the community meetings and focus groups organized around the Cultural and Social Impact Statements and Water plan meetings were designed to gather community members' concerns with the proposed development, so they could be documented and addressed in the EIS. These meetings were never intended to be rallies for Master Plan supporters.

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

Ms. Darlene Toth

SUBJECT: LĀ'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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La'au Point Draft Environmental Impact Statement

Comments From DeGray Vanderbilt , Box 1348, Kaunakakai, Molokai, Hawaii 96748  
Telephone (808) 283-8171

E-mailed to Molokai Properties Limited, the state Land Use Commission, OEQC and  
PBR Hawaii on February 23, 2007

Please disregard the numbers on the comments.

For the ease of decision makers and others relying on the Final Environmental Impact  
Statement as an important informational tool, please provide MPL's responses directly  
after each comment. Thank you  
Background Section Page vii:

DEIS Text: Out of those discussions grew a partnership of the Enterprise Community and  
MPL to create a visionary plan for Molokai Ranch's 60,000+ acres that would reflect the kind of  
community the residents desired.

**Comment 1: During the process sponsored by the MPL/EC partnership to create a  
"visionary plan" what message was MPL receiving relative to La'au Point luxury home  
residential subdivision proposed along the undeveloped shoreline of La'au Point.**

DEIS Text: More than 1,000 Molokai resident's participated in the planning process, which  
involved impassioned debate, critical thinking and soul-searching.

Comment 1A: How many of the more than 1,000 Molokai residents participated to the point  
that they were involved in "impassioned debate, critical thinking and soul searching"?

DEIS Text: The prospect of Molokai Ranch lands being split up and sold, or parent company  
Brierly Investments Limited (BIL) selling MPL because it would never be economically viable,  
and the community facing the resultant prospect of never again being able to have the  
opportunity of planning its future, made the urgency of reaching consensus on the Plan of  
critical importance to both the Molokai EC and MPL.

**Comment 2: Describe what has to happen, and within what time frame, for BIL to "be  
economically viable" on a sustained basis so that it does not have to consider splitting  
up and selling Molokai Ranch lands.**

**Comment 3: What assurances, if any, has BIL provided the community that it will not  
split up and sell all or a portion of its lands if the Master Plan is approved with its La'au  
Point development component?:**

**Comment 4: Was a "consensus" ever reached on the Plan, and if so please describe  
what was determined to be a consensus (i.e 100%, 75%, 50%, etc.) and who are parties  
that reached said consensus?**

DEIS Text: This Environmental Impact Statement (EIS) is one component of the  
implementation of an integrated *Community-Based Master Land Use Plan for Molokai Ranch.*  
Because this La'au Point EIS cannot be viewed in isolation, the entire Plan has been included  
as Appendix A.

**Comment 5: Having stated the above, does MPL feel the all information contained in  
the DEIS and its Appendixes (including Appendix A) is subject to public comment? If  
not, please explain what portions of the DEIS, MPL would deem inappropriate for public  
comment thereby soliciting the following response from MPL, which was often  
employed by MPL in responding to comments it received on the EISPN: "The comment  
is relevant to the EIS for La'au Point: therefore discussion of this topic in the EIS is not  
warranted"**

DEIS Text: This comprehensive land-planning process, certainly the most unique ever to have  
taken place in Hawaii, will hopefully lead to reconciliation of families that have been separated  
by controversy for more than a decade.

**Comment 6: What is the "controversy" that has separated families for more than a decade, and  
how many families does MPL estimated are today suffering from being separated from their  
family members because of the referenced "Controversy"?**

**Comment 6A: Is the "controversy" mentioned in 6 above, which has separated families for more  
than a decade the same as the "conflicts" between the Ranch and the community that have  
spanned more than 3 decades that is mentioned on Page 13 of the DEIS?**

**Page 4 DEIS**

DEIS Text: The La'au Point project proposes 200 two-acre rural-residential lots.

**Comment 7: Based on the current Plan, how many potential dwelling units could be developed on  
each of the 200 two-acre rural-residential lots?**

**Page 17 DEIS**

DEIS Text: In the early 1970s, Molokai Ranch, then owned by the Cooke family, entered into a  
partnership with Louisiana Land and Exploration Company for the development of the  
Kaluako'i Hotel and Resort. It subsequently sold its interest in the undertaking and later tried to  
diversify into mainland commercial property. After initial success, the cash requirements of  
these investments led to the eventual sale of Molokai Ranch stock to Brierly Investments  
Limited (later to become BIL International Limited), who became its sole stockholder in 1987.  
At that time, Molokai Ranch consisted of approximately 52,000 acres. The Kaluako'i Hotel,  
under separate ownership, closed in 2000. In October 2001, BIL International, on behalf of  
Molokai Ranch, re-acquired 6,300 acres on the southwest corner of Moloka'i previously known  
as the Alpha parcel. In December 2001, Molokai Ranch acquired the land holdings of Kukui

(Molokai), Inc., that included the abandoned Kaluako'i Hotel, the Kaluako'i Golf Course, and the undeveloped lands of the resort area.

The following are comments MPL received on the EISPN on the sales history of the La'au Point parcel and or Kaluakoi resort and MPL's related responses:

EISPN Comment: It is alleged that LL&E secured ownership of the approximate 7,000 acre Luau Point parcel from Molokai Ranch by agreeing to a request by Molokai Ranch that LL&E pay off a debt it owed to Molokai Ranch in connection with the Kaluakoi Resort purchase early. Please explain the specifics of how LL&E acquired ownership of the Luau Point parcel.

**Ranch response: Louisiana Land and Exploration Company is mentioned in the EISPN as part of the detailed land use history of Molokai Ranch property. Louisiana Land and Exploration Company is no longer involved with Molokai Ranch or any of its associated companies. Therefore details regarding Louisiana Land and Exploration Company's past involvements, sales, debts, or percentage of interests are not related to the current Luau Point project and not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted.**

Other related EISPN Comments:

How did Kukui (Molokai) Inc. acquire the Kaluakoi Resort properties?

How much did Kukui (Molokai) pay for the Kaluakoi Resort properties?

How much did Molokai pay Kukui (Molokai) for the Kaluakoi Resort properties?

**Ranch response to all three above comments: Details regarding how Kukui (Molokai) Inc., acquired the Kaluakoi Resort or sales price are not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted.**

**NOTATION:** It seems that Davianna McGregor, who prepared the Cultural Impact Assessment for MPL's DEIS felt information regarding the real estate sales history of the La'au Point parcel and the Kaluakoi resort properties was relevant to the EIS and topics worth including in her report that was paid for by MPL and approved for inclusion in the DEIS by Ranch CEO Peter Nicholas. Some of her information appears accurate and other portions of her the data she presented on the real estate history is not accurate and conflicts even with statements made by MPL on Page 17 of the DEIS.

In order provide accurate, instead of piecemeal data, and to avoid burdening the reader of the Final EIS from having to excessively, cross-reference and in order to provide decision makers with the actual factual data involved with the aforementioned real estate topics, please respond to the following:

**Comment 8: When in the 1970s did Molokai Ranch enter into a partnership with Louisiana Land and Exploration (LLE) for the Kaluakoi Resort property and how many acres of property was involved with that partnership?**

**Comment 9: What was the amount of monetary compensation Molokai Ranch received from LLE to enter into the partnership agreement (i.e. up front cash, promissory note, etc.)**

**Comment 10: Did the original Molokai Ranch/LLE partnership agreement include the La'au Point parcel?**

**Comment 10A: If the La'au parcel was not part of the original Ranch/LLE partnership agreement, how did LLE gain ownership control of the La'au Point parcel? (Note: It has been reported that Molokai Ranch deeded over the 6,300 to 7,000 acre La'au Point parcel in return for LLE paying of a promissory note early that it had given the Ranch as part of the original partnership deal Molokai Ranch and LLE entered into).**

**Comment 11: On Page 54 of Appendix J, Ms. McGregor states that the Ranch sold the La'au Point parcel to an individual investor from Las Vegas for \$21 million. Is this an accurate statement? ( It is reported that LLE, not the ranch, sold the La'au parcel to a Trust in Las Vegas for \$21 million). Please clarify the transaction that led to the Las Vegas individual owning La'au Point.**

**Comment 12: What was the name of the Las Vegas purchaser, and was the buyer connected in any way with MPL or any of MPL's affiliated companies?**

**Comment 13: Ms. McGregor states in the DEIS (page 54) that "within a week this investor (from Las Vegas) sold the lands (La'au Point parcel) to Alpha USA for \$35 million." Is this an accurate statement?**

**Comment 14: Who owned Alpha USA, a US company or foreign company?**

**Comment 15: What is the name of the company that owned Alpha USA?**

**Comment 16: What is the relevance of Ms. McGregor including the detail that,"Alpha USA hired Henry Ayau as its representative, and Walter Ritte as a consultant?**

**Comment 17: Was Mr. Ritte was a paid consultant? If so, what was his compensation?**

**Comment 18: What is the information source Ms. McGregor relied on to determine that Mr. Ritte was a "hired" consultant of Alpha USA?**

**Comment 19: Did MPL consult with Mr. Ritte during the process in which the Master Land Use Plan for Molokai Ranch was being prepared?**

**Comment 20: Was Mr. Ritte paid by MPL for the time he spent consulting with MPL?**

Comment 21: Has Mr. Ritte ever served as a paid consultant for Molokai Ranch/MPL since Peter Nicholas became CEO?

Comment 22: On the acknowledgement section of Appendix A Walter Ritte and Davianna McGregor are listed as members of the Land Use Committee (LUC) that recommended approval of the Master Land Use Plan for Molokai Ranch to the Molokai Enterprise Community Board. How did Ms. McGregor and Mr. Ritte vote on the LUC recommendation (i.e. yes, no or abstain)?

Comment 23: Since the LUC vote to recommend approval of the Ranch Master Plan, has Ms. McGregor received any compensation as a hired consultant?

Comment 24: How much did Alpha USA sell the La'au Point parcel for, and how many acres were involved in the sale? (Note: It was reported that Alpha sold the La'au parcel for \$6,000,000.)

Comment 25: What was the name of the company that purchased the La'au parcel from Alpha USA, and what was the relationship of that company to Molokai Ranch or any of the Ranch's affiliated companies?

Comment 26: When did MPL/Molokai Ranch finally re-acquire the La'au parcel and what was the purchase price and number of acres involved in the sale?

Comment 27 On page 17 of the DEIS it mentions, "In December 2001, Molokai Ranch acquired the land holdings of Kukui (Molokai), Inc. that included the abandoned Kaluakoi hotel, the Kaluakoi golf course, and the undeveloped lands of the resort area" What did Molokai Ranch pay Kukui (Molokai) for its land holdings at the Kaluakoi resort and how many acers were involved with the sale?

Comment 28: What was the name of the company that owned Kukui (Molokai), Inc, and was that company as US or foreign company?

Comment 29: Who did Kukui (Molokai) purchase the Kaluakoi resort from and what was the price Kukui (Molokai) paid?

Comment 30: Please provide a breakdown of the lands at the Kalukoi resort purchased by Molokai Ranch on December 2001 with the approximate number of acres in each purchase component listed below:

Kaluakoi hotel

Kalukoi golf course

Lands north of the Kaluakoi hotel that include several hotel, condominium and residential sites, as well as, a major commercial site as noted in the Molokai Community Plan

Papohaku Ranchland residential lots (total lots and approximate total acerage)

Moana Makani residential lots (total lots and approximate total acerage)  
Other

Comment 31 : What is gross total of real estate sales realized from its resort properties since acquiring the property in December 2001 up until February 23, 2007?

Comment 32: How many Papohaku Ranchland lots does MPL still own as of February 23, 2007 and what is the estimated market value of those holdings?

Comment 33: On page 17 of the DEIS it states, "In 1987 Brierly Investments Limited (later to become BIL International Limited) became sole stockholder of Molokai Ranch and the Ranch consisted of approximately 52,000 acres." Since 1987 how much gross sales has BIL realized from selling portions its 52,000 acres and how many total acres have been involved in those sales?

Comment 34: In Section 11 of the DEIS, MPL was asked to explain a statement by its parent company that "the Molokai Properties operation managed to remain cash positive during the 2004/2005 financial year.." MPL did not respond to the specific comment. Please provide the explanation requested above in light of the fact that MPL claims in the EISPN it continues to have a large "cash deficit" each year.

Section 2.0 of DEIS PROJECT DESCRIPTION (pages 15 to 35)

Section 2.1.7

DEIS Text: Meeting the community's desire to renovate and re-open the 152-room Kaluako'i Hotel (which was closed in 2001) and upgrade the Kaluako'i Golf Course, which is estimated to cost in excess of \$30 million.

Comment 35: What is the most current cost of renovating the hotel and when was that determined?

Comment 36: What is the most current cost of upgrading the golf course and when was that determined?

DEIS Text: The re-opening of the hotel was a primary focus of the Plan. Funding for the Kaluako'i Hotel and Golf Course renovations will come from sales of the La'au Point rural-residential lots. An application for a Special Management Area permit to renovate and re-open the Kaluako'i Hotel has been filed with the Maui County.

Comment 37: What entitlements or other actions have to occur before MPL is able to have the funding available from lot sales to apply to the renovation of the hotel?

Comment 38: MPL has stated that the hotel will not be re-opened unless the La'au project is approved? Is MPL anticipating that the Molokai Planning Commission will begin processing the SMA permit for the hotel prior to having a decision on the La'au

project from the Land Use Commission (boundary amendment) or the Maui County Council (community plan amendment and zoning change)? If so, what is MPL's rationale for assuming the Molokai Planning Commission would take the time to process the hotel renovation project when MPL is not willing to assure the Commission that it will move forward expeditiously with the project if the Commission approves it?

DEIS Text: Having the funds for its current tourism and agricultural operations, ensuring the continued employment of its current staff, MPL is currently cash negative from its operations by approximately \$3.8 million annually and is supported by its parent company BIL International Limited.

**Comment 40:** How many does MPL employee respectively in its current tourism and ag operations, and how much does the salaries of these employees represent of the \$3.8 million dollar annual loss.

**Comment 41:** What is the source of funds MPL is anticipating to fund current tourism and ag operations and what is the respective cost annually to fund each of these MPL operations?

**Comment 42:** Please provide a breakdown of what operational and other expenses that make up MPL \$3.8 million annual deficit.

DEIS Text: Actively promoting the protection and enhancement of subsistence, an important element of life on Molokai, that includes ensuring access to the shoreline across the property for subsistence gathering. Access to areas that have been closed to the community for generations will be opened for walking access, and the perpetual right to subsistence gathering will be noted on the titles of all access areas.

**Comment 43:** If the La'au shoreline area has been closed to the community for generations, how will opening it up lead to the enhancement and protection of subsistence resources?

**Comment 44:** Describe the lands that make up the "access areas"

**Comment 45:** Will the owners of the residential lots and their guests and or caretakers be required to use the same "access areas" to access the La'au shoreline resources, or will they be allowed to access the shoreline from their respective residential lots?

DEIS TEXT: Gifted land and other income streams or revenue sources, with an appraised value of more than \$50 million, to Molokai Land Trust and to Molokai Community Development Corporation (see Sections 2.1.8 and 2.1.9). The lands to be gifted contain a vast array of cultural and archaeological, subsistence, environmental, agricultural, recreational, and economic-based resources.

**Comment 46:** What is the difference between an "income stream" and a "revenue source"?

**Comment 47:** What is the amount of acreage that valued at \$50 million and what is the source of that evaluation.

**Comment 48:** What are the current property taxes on the gifted lands valued at \$50 million?

**Comment 49:** What water resources, if any, are available on the gifted lands?

DEIS Text: Preventing development on more than 55,000 acres (85 percent) of its property in perpetuity, thereby protecting the rural agricultural and open space nature of the island through: Land Trust donations (26,200 acres); protective Agricultural/Rural Landscape Reserve easements (24,950 acres); existing easements to other entities, i.e. Molokai Forest Reserve and Kamakou Reserve (4,040 acres); and La'au Point Cultural Protection Zones and Conservation lands (434 acres). The Molokai Land Trust (see Section 2.1.8) will assume ownership and management of the donated land that is to be preserved. The easement lands will remain in MPL ownership; however, they will be covenanted with restrictive easements enforceable by the Molokai Land Trust (see Proposed Ownership Map in Appendix A, p. 11). These restrictive easements designated as either Open Space Conservation, Rural Landscape Reserve, or Agriculture District easements will effectively remove development opportunities from these lands and result in "lost revenue opportunity cost" of more than \$25 million to MPL.

**Comment 50:** If development will be prevented on the 24,950 acres of easement lands, why does MPL desire to maintain ownership of these lands?

**Comment 51:** To assure the community that future development will be prevented on the easement lands, why doesn't MPL put a deed restriction on these lands preventing future development such as "farm dwellings" that are currently being developed on agriculture lands at the Kaluakoi resort?

**Comment 52:** Please provide in the Final EIS a copy of the restrictive/covenant easement agreements applicable to the conservation, rural landscape reserve and agricultural lands, as well as, the agreement governing the Land Trust and the La'au Point Cultural Protection Zones and Conservation lands.

**Comment 53:** Please define the development opportunities that make up "lost revenue opportunity cost" resulting from applying the easement agreements, and how the value of these lost opportunities was determined?

DEIS Text: Protecting subsistence through a future application to the State to establish a subsistence fishing zone from the coast to the outer edge of the reef or where there is no reef, out to a quarter-mile from the shoreline along the 40-mile perimeter of the property.

**Comment 54:** Has MPL applied to the State to establish the subsistence fishing zone noted above and on Page 19 of the DEIS? If not, when does MPL anticipate submitting an application?

**Comment 55:** Please explain the process required to establish the subsistence zone as defined by MPL, and an estimate of how long it will take to secure the needed approvals for such a zone.

## 6.0 ALTERNATIVES TO THE PROPOSED ACTION

DEIS TEXT: Criteria for Evaluating Alternatives – Alternatives to the La'au Point project were evaluated against the project objectives along with MPL's criteria of achieving economic viability while minimizing potential adverse environmental, social, and cultural impacts. These included: Reasonable financial returns must be generated from the funds invested.

**Comment:** Please explain what MPL considers a "reasonable financial return" on funds invested, and what is MPL's formula for calculating its return on invested funds.

**Comment:** In calculating a financial return on invested funds what discount rate does MPL use to determine the present value of future cash flows?

DEIS Text: 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.

**Comment:** How many proposed alternatives did MPL analyze using its financial model?

**Comment:** Please explain the different "financial models" used by MPL.

**Comment:** Did MPL employ any discounted cash flow analyses in its financial modeling?

**Comment:** Were any of the 10 proposed alternatives presented to the Land Use Committee in April 2005 proposed by MPL? If not, did MPL evaluate any other alternatives?

**Comment:** At which of its meeting(s) did the LUC discuss the report MPL prepared on alternative developments, and were written minutes prepared to document discussions at those meeting(s).

**Comment:** Did the LUC ask MPL for any follow-up information on the 10 alternatives the LUC reviewed?

**Comment:** The LUC evaluated the 10 alternatives in April 2005, when did the EC evaluate the 10 alternatives?

DEIS Text: In summary, all alternatives proposed were evaluated against the project objectives and not selected over the proposed La'au Point project (detailed in Section 2.3) for the following primary reasons. The alternative plans:

- Did not produce the revenue and returns necessary to fund the re-opening of the Kalakos Hotel and support the future viability of Molokai Properties Limited.
- Were not viable economically as stand alone projects.
- Would require vastly increased safe drinking (potable) and non-drinking (non-potable) water use that could not be supported by the Land Use Committee or the EC.
- Proposed increases of up to 1,000 units which increased the resident population to levels that were unacceptable to the Land Use Committee and the EC.

**Comment:** What amount of "revenue" is necessary to re-open the Kaluakoi hotel?

**Comment:** What amount of "returns" is required to support the future viability of MPL?

**Comment:** Explain the components that make a project "viable economically as a sand alone project.

**Comment:** When evaluating alternatives that included residential development, did MPL apply the same water use assumptions for each residential lot as it assumed for the each lot in the La'au Point development? If not, why were different assumption employed in analyzing alternatives?

**Comment:** What criteria did the Land Use Committee and/or the EC establish for MPL to use in its evaluation of alternatives?

### 6.1 "NO ACTION" ALTERNATIVE

DEIS Text: The "no action" alternative would also not generate the \$30 million+ required to renovate and re-open the Kaluakoi Hotel. MPL is currently seeking a Special Management Area permit in anticipation that the La'au Point project will receive approval. Unless MPL begins the preliminary design work on the hotel now, it could be at least two years after regulatory approvals for La'au Point that the hotel is re-opened. Doing the necessary preliminary work on the hotel now means an earlier re-opening.

**Comment:** What assurances and/or information, if any, allow MPL to anticipate that the La'au Point project "will receive approval".

**Comment:** How does MPL rate the Molokai community's support for the La'au Point project?

Comment: Describe the "preliminary design work on the hotel" that MPL needs to start now, and an estimate of how long it will take to complete this work?

Comment: What percentage, if any, of the "design work on the hotel" has MPL completed as of February 23, 2007?

Comment: Assuming no contested case, how long does MPL estimate it will take to receive its SMA Permit approvals for the Kalakos Hotel?

Comment: Assuming no contested case, how long does MPL estimate it will take to receive its SMA Permit associated with the La'au Point project?

Comment: In the DEIS Text above, MPL states that "it could be at least two years after regulatory approvals for La'au Point that the hotel is re-opened. Please explain specifically what would take "at least two years" to accomplish before the Hotel could be re-opened?

DEIS Text: Finally, the "no action" alternative would deny the State, County, and general public of the potential public benefits associated with the La'au Point project. Some of these benefits include:

- \$246 million in total development and construction investment.
- 1,350 person years of construction-related employment over project build-out (a "person year" is the amount of time a person can work in one year).
- \$17.7 million in construction-related taxes.
- \$1.3 million in annual real estate tax revenues at the end of the lot sales period in 2012; tax revenues will increase at a rate of \$90,000 each year until it reaches \$2.1 million at full build-out.
- Other County tax revenue (fuel tax, utility tax, license fee, permits, state/federal grants), which is estimated to reach \$1.6 million annually after full build-out.
- Annual state revenues from taxes on residents and their expenditures of \$276,000 at the end of lot sales in 2012; climbing to \$1.3 million by 2023.
- Annual expenditures on Molokai at build-out of about \$4.4 million, which represents about \$22,000 in on-island spending per residence.
- Support of 60 on-going jobs upon full build-out in 2023 through resident spending and the La'au Point homeowners' association.
- Five percent of land sales going to support the Land Trust; this commitment is estimated to provide over \$10.2 million for the on-going operations related to the preservation and enhancement of the dedicated lands.

#### COMMENTS ON THE ABOVE DATA POINTS:

Comment: Please explain the specific components that make up the \$246 million in total development and construction investment.

Comment: Is the person years total for construction related employment include the buildout of the projects proposed dwelling units?

Comment: What are the percentage taxes applied and what is the gross construction related total dollars the taxes are applied to?

Comment: Is MPL assuming that the average value of the 200 lots that property taxes are calculated on is \$1,300,000 in 2012, and that full-buildout the average value of the 200 lots with dwelling unit(s) that property taxes are calculated on is \$2,600,000? If not what is, please explain how the tax amounts were calculated.

Comment: Please provide a breakdown of the revenue sources by category of County tax revenues that will total \$1,600,000 annually. Will the County continue to receive the \$1,600,000 in annual tax revenues in subsequent years following full-buildout of the project?

Comment: What does "full-buildout: assume, development of all 200 lots with one residential dwelling?...with two residential dwellings on each lot....or other?

Comment: As with the County tax revenues, please provide a line item breakdown of the various state taxes revenues that make up the \$276,000 and \$1,300,000 in 2023. What assumption is made on the amount of tax revenues the state will realize each year after 2023?

Comment: Please provide a breakdown of the amounts in each on-island expenditure categories that contributes to the \$4.4 million total. How many residents has MPL assumed would be contributing to the \$4.4 million annual on-island expenditure total?

Comment: Please describe the nature of the 60 full-time jobs referenced in the project benefits chart.

Comment: The \$10.2 from land sales going to support the Land Trust works out to be 5% of \$204 million in land sales. In the DEIS, MPL notes that the 5% is based on a net lot sales figure. The \$204 net sales is a product of what gross sales figure? Please explain the type of expenses that are netted from gross sales to reach the \$204 net number that the 5% is applied to.

Comment: In comparing each of the alternative developments to La'au did MPL evaluate what the State, County and general public would be denied if a particular proposed alternative was not implemented? If so, please provide a copy of each of these evaluations.

Comment: Did MPL evaluate what benefits the State, County and general public will realize if MPL develops the undeveloped sites its owns at the Kaluakoi resort that are designated in our community plan (approved by the community and adopted into law), which six several hotel sites, three condo sites, a couple of commercial sites, a second

golf course and single-family and rural sites that be could potentially developed into four times as many residential lots as are being proposed at La'au? If so, please provide a copy of that evaluation.

### 6.2 BULK OR "PIECE-MEAL" SALE OF OTHER MPL LAND INVENTORY ALTERNATIVES

**Comment:** As of February 23, 2007, how many Papohaku Ranchland lots are still owned by Kaluakoi LLC and what is the estimated total market value of these lots based on recent sales involving Papohaku lots.

**Comment:** MPL said that an appraisal has recently been done to determine the value of its 101 parcels. What was the appraised value of these parcels and what assumptions were made in determining the appraised value?

**Comment:** In the future, will MPL have the option to sell the 24,950 acres or rural and Ag lands that MPL proposes to protect through easement agreements?

**Comment:** How many of MPL's 101 lots would remain available for sale after transferring lands to the CDC and/or Molokai Land Trust, and what is the appraised sale value of those remaining lots as set forth in the recent appraisal report done on these lands?

**Comment:** Is there any restriction on the Land Trust or CDC selling lands that MPL deeds to them?

**Comment:** What assurances, if any, has the Molokai community received from MPL's parent company, BIL Investment Limited, or The Guocco Group, that MPL will not continue sell off its remaining parcels if La'au is approved?

### 6.3 AGRICULTURAL SUBDIVISION ALTERNATIVE

As previously discussed in Section 3.3, the soils of the parcel have severe limitations for cultivation. Therefore, the only feasible agricultural activity that could prosper on this parcel would be grazing, which has proven to not be economically sustainable for Molokai Ranch.

**Comment:** In the DEIS, MPL claims to be in the Ranching business. Is the ranching business "economically sustainable" for MPL.

DEIS Text: ....it is questionable as to whether there would be a market for agricultural lots in West Molokai. Unlike the La'au Point project, which would subdivide and sell 400 acres (200 lots) to private landowners, the agricultural lot subdivision alternative would involve selling 6,348 acres to farmers in direct competition with more suitable agricultural lands elsewhere throughout Molokai and the State.

**Comment:** There are numerous existing agricultural lots at the Kaluakoi Resort on West Molokai that are currently being sold at close to \$2 million, One 5-acre ag lot at the

resort with a "farm dwelling" on it is on the market for \$6.8 million. Are these agricultural subdivision lots being sold to farmers?

**Comment:** What "direct competition" do the owners of the 300 plus agricultural subdivision lots on West Molokai at the Kalakos Resort have with products grown on agricultural lands elsewhere on Molokai and in the State?

### 6.4 OTHER MPL LAND DEVELOPMENT ALTERNATIVES

DEIS Text:

Table 7. Summary of Other MPL Land Development Alternatives

	Alternative	# of Lots/Units	Approx. Land area (acres)	Estimated Water use per lot/unit (gals/day)	Estimated Total Water Use (gals/day)	Estimated Population impact per lot	Total Population	Estimated Financial Return (total dollars)
1	Maunaloa to La'au - 25-acre lots	175	4,650	3,000	525,000	2	350	\$4,336,000
2	Maunaloa to La'au - 10-acre lots	420	4,350	3,000	1,260,000	2	840	\$15,731,000
3	Maunaloa to La'au - 2-acre lots	600	1,450	3,000	1,800,000	2	1,200	\$6,455,000
4	Maunaloa Ag	27	700	3,000	81,000	2	54	\$2,613,000
5	Kaunakakai Ag	70	1,800	3,000	210,000	2	140	\$1,974,000
6	Kualapuu	40	7	500	20,000	4	160	(\$92,000)
7	Kaluakoi Rural #1	500	300 125	1,000/unit potable 2,000/acre nonpot	500,000 potable 250,000 nonpotable	2	1,000	\$0
8	Kaluakoi Rural #2	800	720 180	1,000/unit potable 2,000/acre nonpotable	800,000 potable 360,000 nonpotable	2	1,600	\$36,752,000
9	Kaluakoi Resort Condo	1,000	92.75	560/unit potable 2,000/acre nonpotable	560,000 potable 185,500 nonpotable	1.5	1,500	\$38,000,000

**Comment:** Please include the corresponding figures from the above chart to the La'au Point development.

**DEIS Text:** MPL also examined DeGray Vanderbilt's La'au Point alternative (the Kaluakoi Rural Subdivision and Golf Course) to make sure MPL had looked at every aspect.

**Comment:** Did DeGray Vanderbilt make his proposal to MPL in writing? If not, how did MPL hear about the proposed alternative MPL identifies with him?

**Comment:** Did Vanderbilt propose 500 lots be used in the model? Is there enough rural lands designated in community plan in the area of the proposed alternative to develop 500 rural

**Comment:** In developing the financial model for Vanderbilt's proposed alternative, did MPL consult with Vanderbilt at all?

**Comment:** Did MPL provide Vanderbilt with any of the detailed findings relative to its feasibility study on the viability of his proposed alternative?

**Comment:** Do the revenue figures associated with the evaluations of the proposed alternatives in Section 6.0 reflect accurately what property is currently selling for on the West end. If not, would current real estate values make any or all of the proposed alternatives a viable option to the La'au Point development, especially if MPL went with an alternative that did not require a State Boundary Amendment, County Zoning

#### 6.4.1 MAUNALOA TOWARDS LA'AU POINT

**DEIS Text:** Professor Luciano Minerbi from the University of Hawai'i's Urban and Regional Planning Department recommended that MPL look at a development area below Maunaloa town extending toward Lāyau Point but staying a minimum of a mile from the shoreline.

**Comment:** Did Professor Minerbi qualify his recommendation to MPL in any way?

**Comment:** What assumptions, if any did Professor Minerbi suggest be used to evaluate the three alternatives in Section 6.4.1?

#### 6.4.1 25-acre Minimum lot size alternative

**DEIS Text:**

(a)	Revenue per lot:	\$450,000
(b)	Total Revenue:	\$72,450,000
(c)	Cost to Develop:	\$68,114,000
(d)	Financial Return:	\$4,336,000

(e)	Water Use:	525,000 gallons/day
(f)	Population increase:	350
(g)	Land Requirement:	4,650 acres

**Comment:** Would all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** How did MPL calculate the \$72,450,000 total revenue?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 68,114,000

**Comment:** The \$4,336,000 return is based on what amount of invested funds. reasonable returns on the funds invested. Therefore, this alternative was rejected.

**Comment:** What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.

**Comment:** What are components that make up the total land requirement of 4,650 acres (i.e. roads, waste water plant, lots, etc?)

**DEIS Text:** Agricultural lots are often marketed to farmers desiring to cultivate diversified crops. The economic feasibility and market demand of this alternative is questionable due to the lack of infrastructure and high cost of front-end investment needed.

**Comment:** How many of the several hundred agricultural lots within the Kalakos resort have been marketed to farmers who are actively involved in the cultivation of diversified crops?

**Comment:** What infrastructure is lacking and is the lacking infrastructure existing in the area proposed for the La'au Point development?

**Comment:** How much is the high cost of front-end investment needed an how does this compare to the high cost front-end investment needed for the La'au Point development?

#### 6.4.1 10-acre Minimum lot size

**DEIS Text:** Located in the same geographic area as the project above, this project contemplates a Community Plan Amendment to create higher densities and greater net revenues. This model contains 420 units.

(a)	Revenue per lot:	\$275,000
(b)	Total Revenue:	\$115,500,000

(c)	Cost to Develop:	\$99,769,000
(d)	Financial Return:	\$15,731,000
(e)	Water Use:	1,260,000 gallons/day
(f)	Population increase:	840
(g)	Land Requirement:	4,350 acres

(d)	Financial Return:	\$ 6,445,000
(e)	Water Use:	1,800,000 gallons/day
(f)	Population increase:	1,200
(g)	Land Requirement:	1,450 acres

**Comment:** Would all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 99,769,000

**Comment:** The \$15,731,000 return is based on what amount of invested funds.

**Comment:** What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.

**Comment:** What are components that make up the total land requirement of 4,350 acres (i.e. roads, waste water plant, lots, etc?)

DEIS Text: Although this alternative creates a high profit return, this alternative's proposed water use is not available to the company, more land is required, and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**Comment:** Why is more water usage for each lot assumed for this alternative than for the La'au Point proposed development?

**Comment:** Who conceived what the community would find an acceptable increase in population and what is conceived as the maximum acceptable population increase the community would accept.

**Comment:** How does the population increase for this alternative comparable to the population increase projected for the La'au Point development?

**2-Acre Minimum Lot Size** – DEIS Text: Smaller lots are preferable for small-scale diversified agricultural operations. Like the concept above, a Community Plan amendment to allow minimum 2-acre lot size is also contemplated with this scheme. This project of 600 sites, would have a much smaller footprint than the two alternatives above, but would have considerably greater population and water impacts.

(a)	Revenue per lot:	\$200,000
(b)	Total Revenue:	\$120,000,000
(c)	Cost to Develop:	\$113,545,000

**Comment:** Will all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 113,545,000?

**Comment:** The \$6,445,000 return is based on what amount of invested funds.

**Comment:** What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.

**Comment:** What are components that make up the total land requirement of 1,450 acres (i.e. roads, waste water plant, lots, etc?)

DEIS Text: This alternative does not generate reasonable returns on the funds invested, proposed water use is not available to the company, more land is required, and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**Comment:** Why is more water usage for each 2-acre lot assumed for this alternative than for the 2-acre lots in the proposed La'au Point development?

**Comment:** What was the percentage rate of return on funds invested?

**Comment:** What would have been a reasonable return on invested funds?

#### 6.4.2 Maunaloa Agricultural Subdivision

DEIS Text: This alternative would utilize the best 700 acres of pasture land just above Maunaloa to create a 25-acre agricultural lot subdivision. This development would provide 27 lots and infrastructure demands were relatively low.

(a)	Revenue per lot:	\$500,000
(b)	Total Revenue:	\$13,500,000
(c)	Cost to Develop:	\$10,887,500
(d)	Financial Return:	\$2,612,500
(e)	Water Use:	81,000 gallons/day
(f)	Population increase:	54 people
(g)	Land Requirement:	700 acres

**Comment:** Will all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$10,887,500?

**Comment:** The \$2,612,500 return is based on what amount of invested funds.

**Comment:** What assumptions did MPL use to determine water usage of 3,000 gpd on the 25-acre lots, and how is the 3,000 divided between potable and non-potable water.

**Comment:** What are components that make up the total land requirement of 700 acres (i.e. roads, waste water plant, lots, etc?)

DEIS Text: This alternative does not generate reasonable returns on the funds invested. Therefore, this alternative was rejected.

**Comment:** What was the percentage rate of return on funds invested?

**Comment:** What would have been a reasonable return on invested funds?

#### 6.4.3 Kaunakakai Agricultural Subdivision

This alternative would develop the existing cornfields below Manila Camp and all the land directly above Manila Camp up to about the 1500-foot elevation. Consistent with the Molokai Community Plan's 25-acre minimum agricultural lot size, the lots would require 1,800 acres, creating 70 lots – 2 suitable for diversified agriculture and 68 pasture lots. As the cornfields are an existing agricultural water use, that water use is not included in the summary below:

(a)	Revenue per lot:	\$475,000 - \$625,000
(b)	Total Revenue:	\$33,980,000
(c)	Cost to Develop:	\$32,006,000
(d)	Financial Return:	\$1,974,000
(e)	Water Use:	210,000 gallons/day
(f)	Population increase:	140 people
(g)	Land Requirement:	1,800 acres

**Comment:** Will all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$32,006,000?

**Comment:** The \$1,974,000 return is based on what amount of invested funds.

**Comment:** What assumptions did MPL use to determine water usage of 3,000 gpd on the lots, and how is the 3,000 divided between potable and non-potable water.

**Comment:** What are components that make up the total land requirement of 1,800 acres (i.e. roads, waste water plant, lots, etc?)

DEIS Text: This alternative does not generate reasonable returns on the funds invested, proposed water use is not available to the company, and more land is required. Therefore, this alternative was rejected.

**Comment:** What was the percentage rate of return on funds invested?

**Comment:** What would have been a reasonable return on invested funds?

#### 6.4.4 Kualapuu Residential Subdivision

Conceived as an affordable housing project adjacent to the existing town and the Kalae Highway, the project would be able to benefit from existing infrastructure to reduce costs to some degree. This initial increment was sized at 40 lots.

(a)	Revenue per lot:	\$60,000
(b)	Total Revenue:	\$2,400,000
(c)	Cost to Develop:	\$2,492,000
(d)	Financial Return:	(\$92,000) loss
(e)	Water Use:	20,000 gallons/day
(f)	Population increase:	160
(g)	Land Requirement:	7 acres

**Comment:** Will all lots have ocean views?

**Comment:** What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

**Comment:** How large are the lots?

**Comment:** What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$2,492,000?

**Comment: What assumptions did MPL use to determine water usage of 500 gpd on the lots, and how is the 500 divided between potable and non-potable water.**

**Comment: What are components that make up the total land requirement of 7 acres (i.e. roads, waste water plant, lots, etc?)**

DEIS Text: This alternative results in a financial loss. Therefore, this alternative was rejected.

#### 6.4.5 Kaluakoi Rural Subdivision and Golf Course

DEIS Text: This concept looked at 500 half-acres designated for rural lot development in conjunction with a new 18-hole golf course. About half of the lots would have golf course frontage, while the remainder would have ocean views.

(a)	Revenue per lot:	\$245,000
(b)	Total Revenue:	\$122,256,000
(c)	Cost to Develop:	\$122,259,000
(d)	Financial Return:	Breakeven
(e)	Water Use:	750,000 gallons/day
(f)	Population increase:	1,000
(g)	Land Requirement:	425 acres

**Comment: Will all lots have ocean views?**

**Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?**

**Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$122,259,000?**

**Comment: The "breakeven" return is based on what amount of invested funds.**

**Comment: What assumptions did MPL use to determine water usage of 1,500 gpd on the 25-acre lots, and how is the 1,500 divided between potable and non-potable water.**

**Comment: What are components that make up the total land requirement of 425 acres (i.e. roads, waste water plant, lots, etc?)**

DEIS Text: This concept replicated a previous land use plan concept that provided 800 three-quarter acre lots planned around 27 holes of golf. As would be expected, the population and water impacts are considerable. However, the financial contribution from this project is disappointing.

(a)	Revenue per lot:	
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(1)	Golf Course frontage:	\$300,000
(2)	View Lots:	\$200,000
(b)	Total Revenue:	\$200,500,000
(c)	Cost to Develop:	\$163,748,000
(d)	Financial Return:	\$36,752,000
(e)	Water Use:	1,160,000 gallons/day
(f)	Population increase:	1,600
(g)	Land Requirement:	900 acres

**Comment: Will all lots have ocean views?**

**Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?**

**Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$163,748,000?**

**Comment: The \$36,752,000 return is based on what amount of invested funds.**

**Comment: What assumptions did MPL use to determine water usage of 1,450 gpd on the 25-acre lots, and how is the 1,450 divided between potable and non-potable water.**

**Comment: What are components that make up the total land requirement of 900 acres (i.e. roads, waste water plant, lots, etc?)**

DEIS Text: This alternative's proposed water use is not available to the company and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**Comment: Was the financial return suitable?**

#### Kaluakoi Resort Condo Units

For this analysis MPL assumed that 1,000 units might determine a return that was feasible. Two-bedroom, 1,200 square foot units were assumed. It was also presumed that MPL would need to build the units with an investor/partner due to the enormous financial requirements of this development.

(a)	Revenue per unit:	\$500,000
(b)	Total Revenue:	\$500,000,000
(c)	Cost to Develop:	\$462,000,000
(d)	Financial Return:	\$ 38,000,000
(e)	Water Use:	745,000 gallons/day
(f)	Population increase:	1,500
(g)	Land Requirement:	92.75 acres

Comment: Will all lots have ocean views?

Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?

Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 462,000,000?

Comment: The \$38,000,000 return is based on what amount of invested funds.

Comment: What assumptions did MPL use to determine water usage of 745 gpd per unit ?

Comment: What are components that make up the total land requirement of 92.75 acres

This alternative increases population beyond what was conceived as acceptable to the community and has water requirements beyond what's available the company. Therefore, this alternative was rejected.

Comment: What was the rate of return on invested funds, and was this an acceptable return.

Comment: Did MPL run the alternative assuming a timesharing project? If not, why not.

DEIS Text: In all of the development alternatives evaluated below, the following has not been factored in, but would undoubtedly substantially reduce returns to the developer:

- The cost of capital or funding costs to develop.
- A percentage of lot sale revenue assigned to the Land Trust.
- The impact of delays in the regulatory permitting process, which can be significant.
- Sales momentum, the time taken to sell once developed, in other words the "time value of money" or net present value of future cash flows.

Comment: What is the preliminary estimate of the cost of capital and the funding costs associated with the La'au Point development? Have these costs been included in the \$88,150,000 "preliminary costs" projected for the La'au Point development shown in Table 3 on page 35 of the DEIS?

Comment: What amount, if any, did MPL include for "sales revenue assigned to the Land Trust" in its \$88,150,000 project cost figure?

Comment: Did MPL factor in any cost factor for delays in the regulatory permitting process into its \$88,150,000 project cost figure?

Comment: If MPL were to factor in a "net present value of future cash flows" into evaluating alternatives, what percentage discount rate would MPL apply?

Comment: In the land value appraisal, which was recently done for MPL's land holdings, was a "value of money" or "discount rate used to value future cash flows" used? If so, what was that rate and what was the rationale for applying that specific rate?

DEIS Text from Page 35:

La'au Point Preliminary Project Costs:

Infrastructure and Development		\$17,730,000
Amenities		\$2,350,000
Onsite (roadways, housepads, water systems, etc.)		\$39,234,000
Design & Contingencies, Other Costs		\$12,683,000
Maintenance, Operations, and Management		\$16,153,000
<b>Total Project Development Costs</b>	<b>-</b>	<b>\$88,150,000</b>

Comment: To better understand the "Cost to Develop" the La'au Point project in relationship to the "Cost to Develop" figures MPL has depicted for the various alternative projects it evaluated, it is important to fully understand the components that make up the \$88,150,000 project cost for La'au Point development. Therefore, please provide the following explanations of the cost items shown on page 35 of the DEIS:

Comment: What are the specific line item costs associated with the "Infrastructure and Development" total cost of \$17,730,000

Comment: What are the specific line item costs associated with the "Amenities" total cost of 2,350,000

Comment: What are the specific line item costs associated with the Onsite (roadways, housepads, water systems, etc.) total cost of \$39,234,000

Comment: What are the specific line items costs associated with the Design & Contingencies, Other Costs" total cost of \$12,683,000

Comment: What are the specific line item costs associated with the "Maintenance, Operations, and Management" total cost of \$ 16,153,000

Comment: What is the gross sales MPL is anticipating from the 200 La'au Point lots sold over the projected 5-year sales period.

Comment: What is the estimated amount of the gross sales total that MPL will apply the 5% due to the CDC as an endowment?

SECTION 11 OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT ENTITLED :  
COMMENTS ON THE ENVIRONMENTALK IMPACT STATEMENT PREPARATION NOTICE  
AND RESPONSE

In cases where comments were not responded to because MPL felt they were not relevant to the EIS process or for other reasons, those substantive comments have been restated below to solicit an adequate response.

In cases where MPL provided only a partial response to substantive comments, a follow-up comments have been included to solicit an adequate response.

In cases where an MPL response makes it seem as though MPL may not have understood the substantive comment, the comment has been re-written to solicit an adequate response.

The sections of the EISPN which the comments relate to are noted with the restated comments.

## 1.0 COMMENTS ON THE PETITION FOR LAND USE BOUNDARY AMENDMENT

### Page 2:

How many Molokai Ranch staff members are assigned to tourism operations and how many to agricultural operations?

### Page 6:

Re: Development Timetable: When does MPL anticipate it will begin realizing sale proceeds from the La'au Point luxury house subdivision?

### Comments on Page v :

What specific Molokai development plans between 1990 and 2003 met with strong community opposition because the ranch did not consult with the community on its development plans?

How would Molokai Ranch rate the community opposition to the propose luxury residential subdivision being proposed for development at La'au Point?

When did MPL purchase Kaluakoi Hotel, Kaluakoi Golf Course and surrounding land?

Who did Molokai Ranch purchase these properties from?

What was the purchase price?

How many acres surrounding the Kaluakoi Hotel and Golf Course did Molokai Ranch purchase?

Please list the various parcels included in the "surrounding lands" purchased at the what is known as the Kaluakoi resort, and provide the current state zoning designation, the current county zoning designation, the current community plan designation, the parcel size and the potential development density of each parcel assuming county zoning is secured for each parcel that allows for maximum densities consistent with the land use designations in the current community plan (i.e. multi-family, hotel, single family, commercial, rural, open space, etc.

The 339-page EISPN document references the Maui County General Plan and the Molokai Community Plan often. Please include a copy of these plans in the Draft EIS document. (Note: it would be helpful to decision makers to have the pages from these documents that set forth the themes, goals, objectives and policies, so that they are able to determine if MPL adequately comments on all provisions in those documents that MPL's project is consistent with, as well as, the provisions in these documents that the MPL's project may not be consistent with.)

Why did Molokai Ranch purchase the abovementioned properties surrounding the Kaluakoi Hotel and Golf Course, Molokai Ranch, when at the time of the purchase Molokai ranch was emphasizing to the community its financial hardships?

What are the total sales proceeds Molokai Ranch has accumulated from the sale of parcels that were part of the purchase of the lands within the existing Kaluakoi resort?

Is Molokai Ranch planning sell off these designated development properties in the future or be a partner in the developments over the long haul to insure that the integrity is upheld for of a "visionary plan for Molokai Ranch's 60,000+ acres that would reflect the kind of community the residents desired."

**What development standards (i.e. timing, water use, densities, extent of Molokai Ranch's participation, , if any, did the Land Use Committee or the Enterprise Community Board consider for the future development of the Kaluakoi resort parcels purchased by Molokai Ranch prior to their respective adoption of the Master Land Use Plan as noted on Page 7 of the EISPN.**

Since its purchase of all of the aforementioned parcels designated for future development in the Molokai Community Plan, what efforts has Molokai Ranch made to develop these many residential , multi-family , hotel and commercial income generating development projects that could be alternative revenue producing projects that are alternatives to the La'au Point development?

**Comments on Page 5 of Exhibit 1**

The La'au Point coastal area currently serves as a haven for the endangered monk seal. How will the development of up to 400 dwelling units along the shoreline area of La'au enhance the "unspoiled coastal environment" in which the monk seal population currently thrives?

What is the current population of "the small town of Maunaloa"?

How many total residential lots exist in Maunaloa Town?

How many of these residential lots have homes developed on them?

What is the projected population of Maunaloa Town if all the currently available lots are developed?

How many of the 150 people the Ranch employs are a) full-time, b) part-time, c) on-call and d) casual hire employees.

Explain how the terminology used on page 5 that "MPL" has a cash deficit of \$3.7 million per annum" relates to the statement from in the BIL International Limited (BIL) Report for 2005 that is included as Exhibit 3 of the EISPN document package which states: "The Molokai Properties operation managed to remain cash positive during the 2004/2005 financial year...."

Please provide a line item breakdown of Molokai Ranch's operating components that make up the Ranch's "cash deficit of \$3.7 million per annum", and explain how the Ranch's Master Land Use Plan will specifically address the Ranch's annual cash flow deficit for each operation.

How will the Master Land Use Plan specifically assure an economic future for Molokai Ranch's employees?

Please provide an explanation of the relationship between MPL, Molokai Ranch and BIL and any other entity that may be in the corporate relationship chain between Molokai Ranch and BIL International and provide a copy of the Board of Directors of each entity.

What percentage of BIL's "audited equity of US\$1 billion" does BIL's holdings on Molokai represent?

When was Kolo Wharf abandoned, and what is the relevance of referencing this abandoned development project in the EISPN?

Are there any other abandoned developments along the "shores south of Maunaloa"? If so, please provide an explanation of those developments.

Since BIL (formerly Brierly Investments) assumed ownership of Molokai Ranch have there been any other proposed developments along the "shores south of Maunaloa"? If so, please provide an explanation of those developments.

## 2.0 COMMENTS ON PAGE 7 OF EXHIBIT 1

What business was the Louisiana Land and Exploration Company (LL&E) in and what resort development experience did LL&E have prior to entering into its partnership with Molokai Ranch?

What was the partnership interest of LL&E and how much did LL&E pay for its percentage interest?

Who did Molokai Ranch "subsequently sell its interest in the undertaking" to, and what was the price the ranch received for its interest?

It is alleged that LL&E secured ownership of the approximate 7,000 acre La'au Point parcel from Molokai Ranch by agreeing to a request by Molokai Ranch that LL&E pay off a debt it owed to Molokai Ranch in connection with the Kaluakoi Resort purchase early. Please explain the specifics of how LL&E acquired ownership of the La'au Point parcel.

How did Kukui (Molokai) Inc. acquire the Kaluakoi Resort properties?

How much did Kukui (Molokai) pay for the Kaluakoi Resort properties?

How much did Molokai pay Kukui (Molokai) for the Kaluakoi Resort properties?

Molokai Ranch joined "with over 1,000 community participants" to discuss the Master Land Use Plan. How many more than 1,000 participants were there?

Did the "over 1,000 community participants" consist of over 1,000 different participants? If not, how many "different" participants were involved in discussing the Master Land Use Plan?

Please provide a copy of any plans the ALDC submitted "for alternatives to development at La'au Point".

Please provide a list of all the Land Use Committee members showing which members voted for, which members voted against, which members abstained from voting, and which members did not vote for the adoption of segments of the Master Land Use Plan at the Committee's meeting of August 1, 2005.

How were people chosen to be on the Land Use Committee?

Was it open to all Molokai residents who asked for representation on the Committee?

How many meetings did the Land Use Committee have?

Please provide a list of members' attendance at the Land Use Committee meetings.

Why didn't the Land Use Committee adopt all segments of the Master Land Use Plan?

Please provide a list of all the EC Board members and note, which Board members voted to adopt the Master Land Use Plan, who on the EC Board voted against adopted the Plan and who did not vote.

The Molokai community has been advised that Department of Hawaiian Home Lands (DHHL) Commission and the Board of Trustees for the Office of Hawaiian Affairs have all indicated their endorsement of the "Community-Based Master Land Use Plan for Molokai Ranch". Please provide as part of the Draft EIS evidence of their respective support and a copy of the minutes of any meetings at which the support of the Ranch's Land Use Master Plan was discussed and/or approved by the DHHL Commission and the OHA Trustees

#### Comments of Page 8 of Exhibit 1.

How was the Molokai Enterprise Community mandated as the organization "representing the Molokai community"?

How many potential dwelling units could be developed in the La'au Point community?

Based on projected timetables when does Molokai Ranch anticipate receiving La'au Point lot sale proceeds that "are crucial to funding of the Kaluakoi Hotel renovations and Golf Course Upgrades"?

Who will provide the guarantees for the lot development construction funding Molokai ranch, BIL International or an investment partner? **MPL Response:** MPL will be responsible for lot development construction funding. **Follow-up questions:** Will the construction loan be made to MPL. If so, what is the collateral for MPL's Loan, MPL's credit or pre-sold La'au Point lots or some other form of collateral? Will the construction money be provided to MPL by its parent company or other affiliated company?

Please provide a list of Molokai Ranch's current tourism operations, the profit or loss ("cash negative") from each operation, the amount of funding anticipated to be applied to each operation from the sale of the La'au Point lots, the current staff assigned to each operation, and how the funding from the La'au Point sales will result in "ensure the continued employment for Molokai Ranch's current staff."

Please provide a list of Molokai Ranch's current agricultural operations, the profit or loss ("cash negative") from each operation, the amount of funding anticipated to be applied to each operation from the sale of the La'au Point lots, the current staff assigned to each operation and how the funding from the La'au Point sales will result in "ensure the continued employment for Molokai ranch's current staff."

Please explain the amount of financial support BIL provided to its Molokai operations during 2003, 2004 and 2005.

Please explain how Molokai Ranch is legally able to close walking access along the shoreline of its La'au Point parcel to Molokai residents for subsistence gathering. **Follow-up question:** Today, without any La'au Point project and/or Master Land Use Plan, is there anything that would restrict a Molokai resident (Hawaiian or non-Hawaiian) from walking along the shoreline from Kaupoa Camp to La'au Point and on to Hale O Lono harbor for purposes of a) subsistence gathering/fishing?

Please provide a breakdown of the value for each land, income stream and revenues source which total more than \$50 million being gifted to the Molokai Land Trust and the Molokai Community Development Corporation.

Please provide a summary of the specific development opportunities, which result in a total of "lost revenue opportunity costs" of more than \$25 million as a result of restrictive easements applied to certain Molokai Ranch lands.

### 3.0 COMMENTS ON PAGE 9 OF EXHIBIT 1

Who will manage the Land Trust operations and how will those in charge of the Land Trust be selected? **MPL Response:** The Land Trust is a community-based land steward organization, not related to MPL. Therefore, we are unable to respond on their behalf. **Follow-up comments:** How has MPL been assisting in the development of the entity that will be the Land Trust referenced in the DEIS? Based on MPL's current knowledge of the Land Trust organization being formed, how will those managing the Land Trust be selected?

What was the name of the golf course development planned by previous Ranch management in the Naiwa area, and to what extent was the Ranch going to be

Who will run the Community Development Corporation (CDC) and how will those in charge of the CDC be selected? **Ranch response:** The CDC will be an independent entity from MPL. Therefore, we are unable to respond on the CDC's behalf. **Follow-up question:** How has MPL been assisting in the development of the entity that will be the Land Trust referenced in the DEIS? Based on MPL's current knowledge of the Land Trust organization being formed, how will those managing the Land Trust be selected?

What standards have been established for the development of affordable housing? **Follow-up question:** What standards and/or guidelines (minimum lot size, dwelling units size, quality of building materials etc.) did the Land Use Committee or the EC discuss and/or agree on before recommending approval or approving the Master Land Use Plan, which includes the La'au Point project?

What does Molokai Ranch feel is the range of home sale prices that is affordable to Molokai's working families? **Ranch response:** Sales prices for the affordable homes have not been determined, but are expected to be based on a percentage of the median income for Molokai as established annually by the federal Department of Housing and Urban

Development (HUD). Follow-up question: Affordable homes (up to 4-bedroom, 2 bath) are being built on homestead lands for under \$70,000 and most, if not all of these homes are being purchased by Molokai workforce families earning less than \$30,000 annually. During the Master Planning process did MPL, members of the LUC and/or the EC Board members discuss and/or approve any policy statements to ensure that affordable homeownership opportunities would be available to this wage-earning segment of Molokai's workforce community?

### 3.1 COMMENTS ON PAGE 10 OF EXHIBIT 1

MPL will "put aside 200 acres for affordable housing around the towns of Kualapuu and Maunaloa." What does "put aside" mean? Ranch response: MPL will also reserve 200 acres around the towns of Kualapuu and Maunaloa to be made available for community housing. Although MPL will retain ownership of these reserved lands, development decisions and timing will be made by the community via the CDC and not by MPL. Follow-up comments: CDC's development decision regarding the development of community housing would have to factor in affordability. Having said this, who would determine what price the land that has been "put aside" by MPL (but still owned by MPL) on which any proposed affordable housing would be built?

How will the community be assured that these lands will be available in perpetuity for affordable housing?

What process will be used by the community to determine the future expansion of these towns?

On Page 10 is the statement, "In addition to land for housing, MPL will gift the CDC with the following.....". Does MPL intend to gift the land for housing around Maunaloa and Kualapuu like it did for affordable housing lands around Kaunakakai? If not, why not? Ranch response: MPL will only be gifting the land in Kaunakakai. The lands around Kualapuu and Maunaloa will be made available for affordable housing to be decided and managed by the CDC; however, MPL will retain ownership of the lands. Follow-up comment: What is the rationale for MPL gifting the lands around Kaunakakai for affordable housing and not gifting the lands around Maunaloa and Kualapuu for affordable housing? Was this issue discussed and decided on by the Land Use Committee members and/or the EC Board?

In 2001, the Molokai Community Plan sent to the County Council for approval called for the 5-acre parcel in Kaunakakai to become the permanent home of the Junior Roping Club. The Ranch objected to what the community wanted. What were the reasons the Ranch objected to the parcel being dedicated to the use of the Junior Roping Club?

The EISP states that the 3.2-acre parcel being gifted to the CDC "will be sold to the Maui Community College at market value". Based on recent appraisals of this parcel of property, what does the Ranch estimate the "market value" of this parcel is today?

Is the CDC required to sell the 3.2 acres to the college at "market value"?

Ranch response to above two comments: The CDC and MPL will obtain an independent valuation of the parcel when Maui Community College wishes to acquire the parcel. MPL has made no requirements on the sale price to the CDC. Follow-up comment: If the CDC is separate and unaffiliated with MPL, why is MPOL involved in obtaining an "independent valuation" for the 3.2 acre parcel it gifted to the CDC? If the CDC should elect to gift the 3.2 acre parcel to MCC, does MPL have any say in the matter?

It appears that MPL is projecting that the sales of the La'au Point lots will be over a 5-year period. What is the average sale price of the lots MPL projects receiving over the five-year sale period? Ranch response: Follow-up comment: What is MPL anticipating gross sales revenue will be on the original sales over the proposed 5-year sales period?

In the statement "a net 5 percent of the sale revenue", explain what components go into determining the "net". What is the delay in determining what the percentage the CDC will receive from lot and/or house resales? Ranch response to two comments: All agents' fees and other taxes will be deducted from the sale price before the 5 percent is calculated. The percentage from re-sales has yet to be negotiated with the CDC following determination of the entitlements. Follow-up comments: Please identify the "other taxes" and percentage of those "other taxes" and the "agent's fees" and percentage of the "agent's fees". Who decided that 5 percent on original sales was the appropriate amount to go to the CDC? If the "determination of the entitlements" was not a factor in deciding on the 5% figure to CDC on original sales, why is the entitlement issue a factor in agreeing on a percentage of the resale prices that would go to the CDC?

3.2 PLEASE PROVIDE A DRAFT OF THE PROPOSED CCR'S. FOLLOW-UP COMMENT: PLEASE PROVIDE A THE FINAL CCR DOCUMENT THAT CONTAINS THE PROVISIONS THAT THE LUC UNDERSTOOD WOULD BE INCLUDED IN THE FINAL CCRS INCLUDING A PROVISION THAT THE CCR'S COULD NEVER BE CHANGED.

3.3

### 3.4 COMMENTS ON PAGE 11 OF EXHIBIT 1

Please explain the format of the "entity" that will have jurisdiction over the 451 acres of Conservation District lands, and explain how the "shared responsibility" will translate to any decision making process? Ranch response: The Conservation District areas to be protected (approximately 434 acres) within the Lā'au Point project will be the subject of an easement held by the Molokai Land Trust. These protected lands will be part of an entity that is controlled jointly by Lā'au Point homeowners and the Land Trust. Follow-

**up comments:** Please provide a copy of the "easement" agreement in the FEIS. If there is a difference of opinion between the Land Trust and the La'au Point homeowners in how the Conservation District lands are to be controlled, who prevails? Will the community have any input into decisions on how the Conservation District areas will be managed?

Please provide a copy of the document explaining the specifics of the relationship between the Land Trust and the La'au Point homeowners relative to managing the 451-acre Conservation District lands. **Ranch response:** Such a document has not been created yet; it is pending entitlement approval for the La'au Point project; therefore governing rules for decision-making have not been established. **Follow-up comments:** Did the EC's Land Use Committee or the EC Board discuss and agree on any guidelines governing management goals for the Conservation District goals? If so, please provide a copy of these guidelines.

If the Land Trust and the La'au Point homeowners have a difference of opinion management strategies in the Conservation District, will the Land Trust be the final authority? **Follow-up comment:** Will the Land Trust be the final authority if there is a disputed with the La'au Point homeowners over how to manage the Conservation District lands?

#### Comments on Page 12 Exhibit 1

What specific measures will be employed to "maintain" the "subsistence activities" are currently being practiced in the Conservation District areas?

What "subsistence activities" are currently being practiced from the "Conservation District lands in the La'au Point area?

#### Comments on Page 13 Exhibit 1

Based on current plans, how many dwelling in total could potential be developed on the 400 acres of "Rural-Residential lots referenced in Table 1? **Ranch response:** La'au Point will contain 200 single-family rural-residential lots. **Follow-up comment:** Based on the zoning MPL is seeking for the La'au Point residential lots, how many dwelling units are permitted to be built on each lot?

The Molokai Community Plan talks about a minimum 40-acre Park in the area just west of Hale O Lono Harbor. How does the applicant view this park development in the scheme of the overall development at La'au Point?

What access rights currently exist for the "people of Molokai" to and along the approximate 5.2 miles of undeveloped shoreline from Hale O Lono harbor to Kaupoa Beach, which borders the proposed development of a 400-unit oceanfront, luxury, second-home development? **Ranch response:** Currently, a subsistence committee comprising of senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access

by Ranch employees. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees' committee. They are limited to two or three vehicles and ten adults. ATV's and motorcycles are not allowed. Families can go only once a month to give everyone a chance. Gathering is allowed for parties, and there is a three-gallon limit on opihi. **Follow-up comment:** Who else in the Molokai community, other than Molokai ranch employees, is able to access the undeveloped shorelines surrounding La'au Point? Is MPL able to restrict any member of the Molokai community from lateral access along the La'au Point shorelines areas? If so, explain how MPL is able to enforce such a restriction.

What access restrictions, if any, will apply to the La'au Point homeowners and their guests and friends and caretakers? **Ranch response:** Increased public access to the shoreline and other coastal resources has the potential to damage the natural environment and diminish the uniqueness of the coast. Therefore, to protect the natural resources of the shoreline, a shoreline access management plan for the area will be implemented which addresses maintenance and resource management for the area. As previously discussed, the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners' association. **Follow-up comment:** Please provide a copy of the shoreline management plan in the FEIS. Will lot owners, their guests, caretakers and friends be able to access the shoreline directly from their respective lots, or will they have to go to one of the two designated public access areas?

What specific access rights to and along the currently undeveloped La'au point area shoreline exist under the law for Native Hawaiians? What is the applicant's understanding of who qualifies as a "Native Hawaiian" as far as having access rights currently under the law to the La'au Point shoreline area? **Ranch response:** MPL recognizes all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes by descendants of Native Hawaiians. **Follow-up comment:** Are there any restrictions enforceable by MPL against Native Hawaiians freely accessing the La'au Point area for subsistence, cultural and religious practices customarily and traditionally exercised in the La'au Point area. If so, please define these enforceable restrictions.

What will be the penalties, if any, for anyone violating the aforementioned "other protections" in the CCR's or the "strict access measures that will insure that the resources are not depleted". **Ranch response:** Penalties, if any, may be addressed in the shoreline access management plan. **Follow-up comment:** Please provide a copy of the shoreline access management plan with the FEIS. If there are no penalties or enforcement how will the shoreline access management plan be effective?

#### Comments on Page 18 Exhibit 1

Why were "ranching activities" halted in the La'au Point community site in 2000? **Ranch response:** No ranching activities currently exist on parcel since MPL's purchase. We cannot respond to questions regarding previous owners' activities. **Follow-up**

comment: Please check with Ranch cowboys (i.e Jimmy Duvauchelle) to find out why the the “ranching activities” were halted at La’au Point in 2000.

### 3.5 COMMENTS ON PAGE 20 EXHIBIT 1

Does the applicant have any evidence, other the results of a “recent field survey”, to determine the frequency of the Monk seals’ presence along the undeveloped La’au Point shoreline between Hale O Lono harbor and Kaupoa Beach? Is there any time of the year when Monk seals frequent the La’au Point shoreline areas more than other times of the year? Ranch response to the two above comments: The Fauna Survey (to be included as an appendix of the Draft EIS) reports that two endangered Hawaiian Monk Seals (*Monachus schauinslandi*) were observed resting on Sam Wights Beach north of La’au Point. Follow-up comment: Please provide an adequate response that addresses the specific comments.

### 3.6 COMMENTS ON PAGE 21 EXHIBIT 1

How does the applicant explain the fact that the amount of fish resources in the La’au Point area, which is subject to restricted public access, is 42% lower than fish populations in open access areas statewide? How will fish populations improve by opening the area to the development of up to 400 dwelling units and the development of more convenient public access routes complete with bathrooms and other amenities, which will result in more people utilizing the La’au Point shoreline area? Ranch response to the two above comments: Traditionally, La’au Point was not a place that was fished on a regular basis because it is isolated and difficult to reach. However, the increased use of boats on Molokai and Oahu has changed this. People interviewed for the cultural impact assessment (to be included as an appendix of the Draft EIS) noted that the resources have declined in the area with heavy seasonal harvesting by boaters from Oahu and the opening of Hale O Lono Harbor and Kaluakoi as closer launching points to La’au Point for Molokai boaters. The *Community-Based Master Land Use Plan for Molokai Ranch* proposes the establishment a subsistence fishing zone, which will require special legislation to be enacted by the State legislature. The zone would encompass the areas stretching from the shoreline to the outer edge of the reef on the Southern coast, and where there is no reef on the western shoreline, out a quarter-mile from the shoreline along the 40-mile perimeter of MPL’s coastline property. The subsistence fishing zone for La’au would be modeled after the Hui Malama O Mo’omomi Subsistence Fishing Zone which has proven to be successful in protecting the coastal resources at Mo’omomi.

#### Comments on Page 24 Exhibit 1

What “community access” to the La’au Point shoreline area exists currently for “cultural practices”, and how will the current access be “improved” other than development of paved roads and parking. Ranch response: Currently, a subsistence committee comprising of

senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access by Ranch employees. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees’ committee. They are limited to two or three vehicles and ten adults. ATV’s and motorcycles are not allowed. Families can go only once a month to give everyone a chance. Gathering is allowed for parties, and there is a three-gallon limit on opihi. Follow-up comment: The response does not adequately address the comment.

In addition to “ensuring the community has access to the subsistence resources” via a planned “public coastal trail”, won’t the subsistence resources also be open to in-state and out-of-state visitors to Molokai? Ranch response: Increased public access to the shoreline and other coastal resources has the potential to damage the natural environment and diminish the uniqueness of the coast. Therefore, to protect the natural resources of the shoreline, a shoreline access management plan for the area will be implemented which addresses maintenance and resource management for the area. As previously discussed, the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners’ association. Follow-up comment: What enforceable provisions are proposed for the shoreline access management plan that will stop any one (local Molokai resident, off-island, in-state resident or out-of-state visitor) from ignoring the plan and simply accessing the subsistence resources in the La’au Point area by walking laterally along the shoreline?

Who in the Molokai community is currently limited from access the La’au Point shoreline area if they wanted to go there for recreation, subsistence and/or cultural activities? Follow-up comment: In adequate response, unless the response is that everyone in the Molokai community, accept Molokai ranch employees, is currently limited from access the La’au Point shoreline area to enjoy recreation, subsistence and/or cultural activities?

Does the applicant equate easier access for all members of the public (visitors as well as Molokai residents) to the La’au Point shoreline via paved roads and paved parking lots will improve the “fish populations” and/or the traditional practices of the descendants of Native Hawaiians? Ranch response: Traditionally, La’au Point was not a place that was fished on a regular basis because it is isolated and difficult to reach. However, the increased use of boats on Molokai and Oahu has changed this. People interviewed for the cultural impact assessment (to be included as an appendix of the Draft EIS) noted that the resources have declined in the area with heavy seasonal harvesting by boaters from Oahu and the opening of Hale O Lono Harbor and Kaluakoi as closer launching points to La’au Point for Molokai boaters. The *Community-Based Master Land Use Plan for Molokai Ranch* proposes the establishment a subsistence fishing zone, which will require special legislation to be enacted by the State legislature. Follow-up comment: What is the status of establishing special legislation for the proposed subsistence fishing zone for La’au , and who has the responsibility to move that legislation through?

### 3.7 COMMENTS ON PAGE 26 EXHIBIT 1

In 2001 the EISPN states the population of West Molokai was 2,569 people. What is the population today? Not counting the 400 potential homes from the La'au Point luxury residential subdivision development, what does the applicant estimate the population on the West End would be if the Kaluakoi Resort and the Maunaloa Town are build out in accordance with the land use intentions set forth in the current Molokai community plan? **Follow-up comment: MPL's response did not address the comment.**

### 3.8 COMMENTS ON PAGE 27 EXHIBIT 1

On Page 26 it states that the "community can plan its own affordable housing in Kaunakakai without recourse to MPL" (emphasis added). What recourse is there to MPL before the community can plan the development of affordable housing in Kualapuu or Maunaloa. **Comment re-stated: What does "without recourse to MPL" mean, and would the same condition of no recourse to MPL apply as the community plans its own affordable housing in Maunalo and Kualapu'u?**

Does the applicant feel that the Community supports the development of the 100-acres to be set aside in Kualapuu and Maunaloa, and portions of the 1,000 acres donated around Kaunakakai for affordable housing as needed as needed to supply affordable homes for Molokai's working families that would qualify for affordable housing (i.e. teachers, Ranch employee's, county and state workers, policemen, firemen, retail employees, agricultural workers, hotel and visitor industry employees, etc.)? Ranch response:

What does Molokai Ranch consider to be "reasonable prices" that the 100-acres around each of the towns of Kualapuu and Maunaloa can be reserved for "to ensure the development of these (lands) for future affordable housing"? Ranch response: MPL has no estimate currently of the prices it is likely to negotiate with the CDC for the use of those lands, but the prices will be at levels that can make homes more affordable on these lands than other similar lands. **Follow-up comments: MPL's response is inadequate and vague. What does MPL consider "similar lands" and what does MPL estimate the value of these "similar lands" (house lots) are in today's market? Who made the decisions to have donate lands for affordable housing in Kaunakakai and not have the lands donated in Maunaloa and Kualapuu?**

#### Comments on Page 28 Exhibit 1

Please provide in the Draft EIS a summary verifying the different operations that are contributing to MPL's "operational cash deficit of \$3.7 million per annum. Specifically, how will the Community-Based Master Land Use Plan cure MPL's "operational cash deficit of \$3.7 million per annum"? **Ranch response (referred to response on an earlier comment): According to the Economic and Fiscal Impacts Report (to be included as an appendix to the Draft EIS), the net loss from operations in 2001 to 2006 has been approximately \$31.6 million. Whereas often painful cost cutting has reduced operating losses from**

**\$8.6 million in 2001 to a range of \$3.6 to \$3.8 million in the last three years, the increasing costs of water, energy, and insurance make it difficult to expect profitable operations in the future. In addition to operating losses, annual capital expenditures are another drain on cash flow, averaging over \$800,000 per year over the past five years. Taken in total, MPL has subsidized the continuing operations and upkeep of Molokai Ranch to \$4.7 million to \$10.2 million per year. The cumulative subsidy over the past six years has been \$36.9 million. Follow-up comment: The response does not address the specifics of the comment. Please provide an adequate response.**

Please provide a breakdown by parcel indicating the "value of the donated land" or "the "potential lost-opportunity cost of developing land" that totals more than \$75 million dollars. What is the source used to determine the aforementioned \$75 million dollar value? **Ranch response: Values were determined from information provided by real estate appraisal company The Hallstrom Group in a property valuation report. These values are subject to change and not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted. Follow-up comments: Please provide a breakdown of the parcels requested and the appraised value of each parcel. Where identify in the FEIS, where a copy of The Hallstrom Group appraisal report can be obtained by members of the Molokai community.**

#### Comments on Page 29

What is the saline content of the brackish Kakalahale well and when was this data gathered? **Follow-up comments: When was the data indicated 500 ppm chlorides gathered and what was the source of the data (i.e. pump test?). Assuming 500 ppm chlorides, what would be the cost per 1000 gallons be to desalinate the Kakalahale well water to drinking water standards?**

The EISPN does not mention anything about the Ranch's potential water source from the Pala'au Shrimp Farm. Is Molokai ranch still planning to employ this source of water in its future development plans if needed? How much water is available from this source? What is the saline content of this water? Is there any requirement to go to the COWRM for any kind of permit for MPL to transport water from the Pala'au Shrimp Farm area to service irrigation needs in another area of the island where future development takes. **Follow-up comment: If water were transported from Pala'au by MPL to the Kaluakoi resort for use on a golf course would such a use require any type of permit from the state Water Commission? MPL has a permit to pump over 800,000 gpd from the Pala'au Shrimp Farm well, yet anticipates only 500,000 gpd will be available for other uses. What happens to the unaccounted for 300,000 gpd? Did Molokai Ranch or MPL ever have plans to pipe brackish water from the Pala'au Shrimp Farm to the West end for use on a golf course? If so, please explain the circumstances and how the water was to be transported to the West end for use on the golf course.**

What transmission alternatives for the Kakalahale well water is MPL evaluating? **MPL response: MPL has indicated that it will seek to use existing pipeline easements across**

DHHL's Ho'olehua lands for the transmission of Kāalahale water. When Kāalahale Well use is permitted, MPL will not transmit brackish water from the well to the West End using the Molokai Irrigation System (MIS) system. **Follow-up comments:** Who within DHHL (has the authority to approve the transmission of Kāalahale water across DHHL lands? Who is MPL negotiating with for the transmission approval, and what is the status of those approvals? What alternatives, if any, does MPL have for transmitting Kāalahale water to the West end if transmission across DHHL lands is not approved? Does pipeline size have anything to do with DHHL approval for transmission of Kāalahale water across its lands? If so, please explain.

The EISPN states that MPL "will also make its excess potable water capacity available for use of communities outside its property". Please explain the specifics of this general statement? What is the potential amount of "excess potable water" that MPL may have available for use by others in the community and from what source(s) would the excess come from? Is the availability of the "excess potable water" envisioned by MPL, contingent on not further impacting the integrity of other water sources in order to generate the MPL's excess water capacity? **MPL responses to the above three comments:** MPL has offered to make the excess safe drinking (potable) water capacity available from Well 17 for the use of communities outside its property, if, as proposed in the Water Plan, water from Well 17 is freed up from existing irrigation uses. The amount of water available for use of communities outside of MPL's property has not been determined. **Follow-up comments:** In a recent promotional brochure sent by MPL to all Molokai residents, MPL made the following statements (follow-up comment following each statement) regarding water and its use: 1) The DHHL-approved allocation of 2.9 mgpd from the Kualapu'u aquifer is preserved forever for homesteaders – **Follow-up comment:** How does the preservation of DHHL's water allocation effected one way or the other by the development of the La'au Point project? , 2) Molokai Properties has offered the County and DHHL use of up to 500,000 gpd from Well 17, eliminating the need for DHHL and the County to spend up to \$8 million in new infrastructure costs - **Follow-up comment:** It is assumed that the 500,000 is additional water pumped from Well 17 over and above MPL's current allocation/use of approximately 1,000,000 gpd.. Based on this assumption and assuming MPL is confident that an additional 500,000 gpd can be pumped from Well 17, why doesn't MPL use this additional water from its Well 17 for its own needs instead of giving it to other water users? Please describe the infrastructure components that cost \$8 million. 3) The Plan proposes never using any more drinking water, only brackish water that homesteaders don't want to use on their land because it is too salty — **Follow-up comment:** If 1,000,000 gpd of Kāalahale water was mixed with 1,000,000 of surface water, what would the chloride count be in the blended water (approximately), and would homesteaders be willing to use this blended water on their lands? 4) MPL has stated that it does not need any more drinking water than 2.5 mgpd currently proposed in the Plan. Well 17 will account for one million gpd of existing drinking water, 500,000 gpd would come from the Ranch's mountain system, and an application would be filed to bring 1 million gpd of brackish water from the Kāalahale well. — **Follow-up comment:** If MPL maintains the 500,000 gpd from its Well 17 that it was going to give away to DHHL and/or the County of Maui this will give MPL 1.5 mgpd from Well 17. Add to this to the 500,000 gpd of water from its mountain system, and the 500,000 gpd MPI claims is available from its Pala'au well

source, and that gives MPL a total of 2.5 mgpd of water without having to re-open the Kāalahale well. So why is MPL pursuing the re-opening of the Kāalahale Well, if it already has available to it, the 2.5 mgpd it needs to sustain the Plan?

What is the status of the "Waiola Well application"? **MPL response:** The Waiola o Molokai water use permit was remanded by the Supreme Court. Many of the issues raised in the Waiola Well case were resolved by the Water Commission and affirmed by the Supreme Court. **Follow-up comment:** What issues were not resolved by the Water Commission and affirmed by the Supreme Court?

Isaac Hall is one of two attorneys listed in the EISPN as representing MPL. Has Mr. Hall ever represented any Molokai individuals or community groups against the Molokai Ranch and/or MPL over development or water issues? If so, please provide a list of the actions Mr. Hall has taken on against the Ranch on behalf of community members. **MPL response:** Details regarding Mr. Hall's previous clients are not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted.

What are the current water rates applicable to Kaluakoi residents and how will these rates be restructured in the future? **Follow-up comment:** MPL is talking about a conservation rate in the near future of approximately \$6.50 per 1000 gallons used over 1,000 gpd for users served by MPI's water utility company. How does this rate compare to the cost of desalinization of sea water?

What is average monthly water usage in 1000 gallon per day for residents of the Papohaku Ranchlands residential subdivision? What is the average usage of residents in Maunaloa Town? **MPL response to the above two comments:** Papohaku Ranchlands and Maunaloa Town are not part of the La'au Point project, and therefore, discussion of this topic in the EIS is not warranted. **Follow-up comment:** Please provide an adequate response.

#### Comments on Page 33 Exhibit 1

What is the status of a park of a proposed park consisting of approximately 40-acres in the area of Hale O Lono harbor? Would this 40-acre park be in addition to the 16.5-acre park near Hale O Lono that is part of the La'au Point development? **Ranch response:** MPL has not proposed or referred to a 40-acre park at Hale o Lono Harbor in regard to the La'au Point project. The Lāyau Point project will include two public parks (totaling approximately 17 acres), one by Kamākaipō Gulch (1.0 acres) on the west end of the community, and the other (16.0 acres) near Hale O Lono Harbor at the south end. This 17-acre total exceeds the 2.26 acres of parks required for a 200-lot development under the County's subdivision requirements (MCC Sec. 18.16.320). **Follow-up comment:** Is MPL aware of the 40-acre public park proposed for the Hale O Lono area?

#### 3.9 COMMENTS ON PAGE 37 EXHIBIT 1

In order for those members of the public, as well as decision makers, who are reading the Draft EIS to be fully informed about the policies, goals and objectives of the Maui County General Plan and the Molokai Community Plan may or may not "conform to", please attach a full copy of these important community planning documents that have been adopted into law by ordinance to the Draft EIS.

### 3.10 COMMENTS ON PAGE 39 EXHIBIT 1

There was also a plan for the development of a major timeshare project on lands already zoned for such development within the Kaluakoi Resort. Timeshare is the rage today with developers so much so that developers/landowners are converting existing hotels or demolishing profitable hotels to make way for bigger timeshare developments. Please provide the details of the timeshare alternative that MPL said it did for the timeshare alternative.

**Follow-up comment:** If a timeshare project generated the same net project profits for MPL as the proposed La'au development, would MPL consider the timeshare project as an alternative to developing at La'au Point? If not, why not?

Comments on page 13 of Appendix A to the EISPN

Section 1.8.1: What mandate from the Community did Ke Apuni Lokahi (KAL) have to be the community's representative in developing a Master Land Use Plan for Molokai ranch lands?

Page 40 Section 3.6

What is the status of the camping facilities at Kolo Camp and Paniolo Camp that operated similar to Kaupoa Camp? **Ranch response:** Details regarding Kolo Camp and Paniolo Camp are not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted.

Page 41 Section 3.7.4

MPL has indicated that it would be seeking an investor to provide the necessary financial strength to fund the reopening of the Kaluakoi Hotel. What is the status of MPL's search for an investor? **Ranch response:** What amount of money or loan guarantees is MPL looking for an investor to provide. For the investors funding commitment, what will MPL offer an investor as far as participation in the La'au Point development profits or future profits from other MPL "development" lands? **Ranch response to the above three comments:** Details regarding investors for Kaluakoi Hotel are not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted. **Follow-up comments:** MPL's CEO advised the EC's Land Use Committee on more than one occasion that it was seeking an investor to fund the investment needed to re-open the Kaluakoi Hotel and that the La'au Point project was needed to give the investor comfort that there would be revenues coming in to provide a return on investment. MPL's Peter Nicholas even distributed a letter to the members of the Land Use Committee stating that MPL was looking for an investor who

saw more in Molokai than just dollars. Is MPL still seeking an investor? If so, please respond to the above comments adequately.

Page 41 Section 3.7.5

How many of the Papohaku Ranchland lots have currently been built on. How many potential swellings can be developed on the 272 Papohaku lots? Recently, the County of Maui approved one of the Papohaku lot owners to subdivide his 6-acre lot into two lots, each about 3 acres. What is the potential number of additional lots that could be created within the Papohaku Ranchlands residential subdivision if all the lot owners to subdivide their properties? How many lots are in the Moana Makani Residential subdivision and how many additional lots could be created if all the lot owners to subdivide their lots to the maximum extent allowable under the law? **MPL response:** Speculation on other residential subdivisions is unpredictable, the DEIS will include discussion regarding relative cumulative impacts. **Follow-up comment:** The information solicited from the above three comments is important for determining development potential in relation to available water sources, please provide constructive responses to the comments.

Page 53 Section 4.1.1

By what authority will MPL, the La'au Point community property owners or members of the Molokai community be able to enforce the subsistence fishing activities described on Pages 61 and 62?

Page 66 Section 4.1.4

How many acres of land suitable for agricultural production currently are not in production but need protection? How much water will be needed to make these lands productive and what is the source of the water needed? **MPL response:** We do not have a response to this question. **Re-stated comment:** MPL claims that 14,390 acres of agricultural land are proposed to be protected under the Master Plan via easements so they are available for future agricultural production. How much water will be needed to make these lands productive and what is the source of the water needed?

Page 70: What is MPL's plan to work with the Molokai community's unique effort to establish Kaunakakai "as a special destination area for residents and visitors alike" as noted in the Molokai Community Plan for the property located makai of Kamehameha Highway between the highway and Kaunakakai harbor? **Ranch response:** The development of Kaunakakai is not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted. **Follow-up comment—** MPL CEO Peter Nicholas during a videotaped Land Use Committee meeting said that he would not sell any of MPL's lands in Kaunakakai makai of Kamehameha Highway until the community had worked out a Master Plan for the area. Can this promise from Mr. Nicholas still be counted on by the community?

Page 71: Please define a "put option". **Ranch response:** An option for securities or shares that can be "put" to other shareholders at a specified time or under specified circumstances. **Follow-up comments:** MPL proposes a put option on the Kaluakoi

Hotel. Who would the put option go to? How will the put option price be determined?  
Please provide a copy of the "put option" agreement with the FEIS.

### 3.11 PAGE 85 SECTION 5.1.3

Based on the "appropriate activities" envisioned for the Rural Landscape Reserve please provide an example in which residential development would be warranted?

**Ranch response:** Rural Landscape Reserves will preserve large open space landscapes throughout La'au Point. Buildings or structures will not be allowed in Rural Landscape Reserves. **Follow-up comment:** MPL response seems to conflict with Appendix A of the DEIS, which states that residential use will be permitted in certain circumstances on Rural Landscape Reserve lands. Please clear up the discrepancy.

Page 138:

When does MPL plan to have an investor on board? Has MPL approached any investors? Is there any investor interest? **Ranch response:** Detailed investor information is not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted. **Follow-up comment:** Does MPL need another entity to provide investment funds to fund the re-opening of the Kaluakoi Hotel?



November 1, 2007

DeGray Vanderbilt  
Box 1348  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Vanderbilt:

Thank you for your letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

**Background Section Page vii**

1. *Comment 1: During the process sponsored by the MPL/EC partnership to create a "visionary plan" what message was MPL receiving relative to La'au Point luxury home residential subdivision proposed along the undeveloped shoreline of La'au Point.*  
*Comment 1A: How many of the more than 1,000 Molokai residents participated to the point that they were involved in "impassioned debate, critical thinking and soul searching"?*

**Response:** The message MPL received during the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) process was that the Lā'au Point development would be controversial as every other development has been in Moloka'i's history. For this reason, and at the wish of those who participated in the planning process, it was decided that the project should go through a very public review process with a State Land Use District Boundary Amendment petition, County zone change application, Community Plan Amendment, and the Special Management Area permit approvals.

Based on attendance sheets and other documents, MPL estimates that there were approximately 1,000 participants in the master planning process. MPL makes this assertion in good faith. It is possible that attendance sheets for the many meetings held during the community planning process have several individuals listed more than once, or errors were made in counting the attendees; however, the variance in total number of participants is minimal.

The participants who took part in the committee discussions are named in the Master Plan, which was included as Appendix A of the Draft EIS. Section 2.4 of the Draft EIS entitled "Community Meetings and Involvement" details all the meetings and timetables for these discussions.

Again, it is stressed all meetings were open to the public and participation from the entire island was encouraged.

2. *Comment 2: Describe what has to happen, and within what time frame, for BIL to "be economically viable" on a sustained basis so that it does not have to consider splitting up and selling Molokai Ranch lands.*

**Response:** MPL has no other alternative for economic survival than the plans set forth in the Master Plan, which was determined over a three-year community-based process under Enterprise Community (EC) guidance. Without this Master Plan, the aspects discussed in the "no action" alternative (see Section 6.1 of the Draft EIS) would occur. MPL would sell its entire property piece-meal over time to obtain the highest prices.

3. *Comment 3: What assurances, if any, has BIL provided the community that it will not split up and sell all or a portion of its lands if the Master Plan is approved with its La'au Point development component?*

**Response:** Pending Lā'au Point entitlements, the complete implementation of the Master Plan will place 85 percent of Ranch lands in protection from future development. The legal agreements to be signed conveying the land donations and easements provide assurance.

4. *Comment 4: Was a "consensus" ever reached on the Plan, and if so please describe what was determined to be a consensus (i.e. 100%, 75%, 50%, etc.) and who are parties that reached said consensus?*

**Response:** A 70 percent support vote on the Master Plan and the Lā'au Point project was given by the Land Use Committee and subsequently the EC Governance Board.

5. *Comment 5: Having stated the above, does MPL feel the all information contained in the DEIS and its Appendices (including Appendix A) is subject to public comment? If not, please explain what portions of the DEIS. MPL would deem inappropriate for public comment thereby soliciting the following response from MPL, which was often employed by MPL in responding to comments it received on the EISPN: "The comment is irrelevant to the EIS for La'au Point: therefore discussion of this topic in the EIS is not warranted"*

**Response:** Points regarding the environmental impacts disclosed in the EIS, including appendices, are subject to public comment. The EIS process is intended to disclose a proposed action, impacts from that action, and mitigation measures to reduce and eliminate adverse environmental impacts created by the action. Therefore, for example, questions arising in relation to previous actions of MPL's predecessors are unrelated to the proposed action and not within the scope of this EIS.

6. *Comment 6: What is the "controversy" that has separated families for more than a decade, and how many families does MPL estimate are today suffering from being separated from their family members because of the referenced "Controversy"?*  
*Comment 6A: Is the "controversy" mentioned in 6 above, which has separated families for more than a decade the same as the "conflicts" between the Ranch and the community that have spanned more than 3 decades that is mentioned on Page 13 of the DEIS?*

**Response:** The controversies that separated families for decades include MPL decisions to initiate previous developments, such as the redevelopment of Maunaloa town, without first seeking the community's input on such decisions. These actions divided families, even MPL employees' families, who believed MPL should have discussed its plans with the community before making decisions.

For the Master Plan and its proposed Lā'au Point project, MPL sought community input over three years, which is unprecedented by developers throughout the State of Hawai'i. The Master Plan has reconciled the controversy that MPL in the past had not consulted with the community. In general, the families of MPL employees are united in their support for the Master Plan because they realize the lengths MPL went into seeking community input.

**Page 4 DEIS**

7. *Comment 7: Based on the current Plan, how many potential dwelling units could be developed on each of the 200 two-acre rural-residential lots?*

**Response:** Based on the current plan, there could be a maximum of 400 dwelling units (200 residences plus 200 'ohana units), which is permitted under current county ordinances that allow a family 'ohana unit on properties. However, the Master Plan and Lā'au Point covenants are specific in that the total building size must not exceed 5,000 square feet, so if residents want an 'ohana dwelling (which would be subject to approval by the homeowners' design review committee), then both dwellings together could not exceed a total of 5,000 square feet.

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*Notation: It seems that Davianna McGregor, who prepared the Cultural Impact Assessment for MPL's DEIS felt information regarding the real estate sales history of the La'au Point parcel and the Kaluakoi resort properties was relevant to the EIS and topics worth including in her report that was paid for by MPL and approved for inclusion in the DEIS by Ranch CEO Peter Nicholas. Some of her information appears accurate and other portions of her the data she presented on the real estate history is not accurate and conflicts even with statements made by MPL on Page 17 of the DEIS.*

**Response:** Professor McGregor included a history of the change in land ownership of the Kaluako'i ahupua'a, which is relevant. However the financial details of the sales transactions are not relevant to the EIS. Her information is based upon oral history interviews. Professor McGregor made her own decisions about what to include in the Cultural Impact Assessment, without any interference from Ranch CEO Peter Nicholas.

8. *Comment 8: When in the 1970s did Molokai Ranch enter into a partnership with Louisiana Land and Exploration (LLE) for the Kaluakoi Resort property and how many acres of property was involved with that partnership?*

**Response:** MPL did not enter into a partnership with LL&E for the Kaluako'i land. You are referring to MPL's predecessor owner of Molokai Ranch. Regardless, as previously addressed in response #5 above, details of predecessors' actions are not relevant to this EIS, and MPL has no knowledge of transactions its predecessors completed.

9. *Comment 9: What was the amount of monetary compensation Molokai Ranch received from LLE to enter into the partnership agreement (i.e. up front cash, promissory note, etc.)*

**Response:** MPL is unaware of any financial arrangement its predecessor made with any party. Regardless, these companies no longer hold an interest in the parcel, and therefore, comments regarding them are not relevant to the outcome of this project or to the scope of the EIS.

10. *Comment 10: Did the original Molokai Ranch/LLE partnership agreement include the La'au Point parcel? Comment 10A: If the La'au parcel was not part of the original Ranch/LLE partnership agreement, how did LLE gain ownership control of the La'au Point parcel? (Note: It has been reported that Molokai Ranch deeded over the 6,300 to 7,000 acre La'au Point parcel in return for LLE paying of a promissory note early that it had given the Ranch as part of the original partnership deal Molokai Ranch and LLE entered into).*

**Response:** As previously addressed in responses above, details of predecessors' actions are not relevant to this EIS.

11. *Comment 11: On Page 54 of Appendix J, Ms. McGregor states that the Ranch sold the La'au Point parcel to an individual investor from Las Vegas for \$21 million. Is this an accurate statement? (It is reported that LLE, not the ranch, sold the La'au parcel to a Trust in Las Vegas for \$21 million). Please clarify the transaction that led to the Las Vegas individual owning La'au Point.*
12. *Comment 12: What was the name of the Las Vegas purchaser, and was the buyer connected in any way with MPL or any of MPL's affiliated companies?*
13. *Comment 13: Ms. McGregor states in the DEIS (page 54) that "within a week this investor (from Las Vegas) sold the lands (La'au Point parcel) to Alpha USA for \$35 million." Is this an accurate statement?*

**Response:** MPL is unable to verify any information about its predecessors' financial arrangements or financial arrangements made by previous owners of property it acquired. Regardless, the Las Vegas purchaser no longer holds an interest in the parcel, and therefore, comments regarding this person are not relevant to the outcome of this project or the scope of the EIS.

Please note that Professor McGregor included information from an oral history account of the chain of land ownership of the area proposed for development. The details you are requesting here were not provided in the oral history accounts.

14. *Comment 14: Who owned Alpha USA, a US company or foreign company?*
15. *Comment 15: What is the name of the company that owned Alpha USA?*

**Response:** MPL is unaware of any financial arrangement made by its predecessor. Regardless, Alpha USA no longer holds an interest in the parcel, and therefore, comments regarding this company are not relevant to the outcome of this project or to the scope of the EIS.

16. *Comment 16: What is the relevance of Ms. McGregor including the detail that, "Alpha USA hired Henry Ayau as its representative, and Walter Ritte as a consultant?"*

**Response:** Professor McGregor was provided this information during an interview. The relevance of including this detail is that Alpha USA worked with members of the Moloka'i community to design a plan for the same land that is currently being proposed for development. That plan would have led to more intense development of the Lā'au parcel than is currently being proposed.

17. *Comment 17: Was Mr. Ritte was a paid consultant? If so, what was his compensation?*
18. *Comment 18: What is the information source Ms. McGregor relied on to determine that Mr. Ritte was a "hired" consultant of Alpha USA?*

**Response:** The information was provided in an oral history interview and whether Mr. Ritte was paid or not was not shared, nor is it relevant to this EIS.

19. *Comment 19: Did MPL consult with Mr. Ritte during the process in which the Master Land Use Plan for Molokai Ranch was being prepared?*

**Response:** Mr. Ritte participated during the planning process for the Community-Based Master Land Use Plan for Molokai Ranch. MPL had a continuing dialogue with Mr. Ritte and many other participants during the Master Plan process.

20. *Comment 20: Was Mr. Ritte paid by MPL for the time he spent consulting with MPL?*
21. *Comment 21: Has Mr. Ritte ever served as a paid consultant for Molokai Ranch/MPL since Peter Nicholas became CEO?*

**Response:** Since Peter Nicholas was appointed CEO of Molokai Properties Limited in 2002, Mr. Ritte has never been a paid consultant to MPL and has never received any funds for payment of any services from MPL.

22. *Comment 22: On the acknowledgement section of Appendix A Walter Ritte and Davianna McGregor are listed as members of the Land Use Committee (LUC) that recommended approval of the Master Land Use Plan for Molokai Ranch to the Molokai Enterprise Community Board. How did Ms. McGregor and Mr. Ritte vote on the LUC recommendation (i.e. yes, no or abstain)?*

**Response:** Mr. Ritte voted "no" on the vote to include the Lā'au development in the Master Plan, and he voted "no" on the overall Master Plan. Professor McGregor abstained on the inclusion of the Lā'au development in the Master Plan, and she voted "yes" on the overall Master Plan.

23. *Comment 23: Since the LUC vote to recommend approval of the Ranch Master Plan, has Ms. McGregor received any compensation as a hired consultant?*

**Response:** Professor McGregor conducted the cultural impact assessment for the Lā'au Point project (provided as Appendix F in the Draft EIS). She was asked by MPL to conduct the assessment as she was the best qualified person to undertake the study and had abstained from voting on the project.

MPL did not pay Professor McGregor for her report; instead her fees were donated, at her request, to the Moloka'i Land Trust.

24. *Comment 24: How much did Alpha USA sell the La'au Point parcel for, and how many acres were involved in the sale? (Note: It was reported that Alpha sold the La'au parcel for \$6,000,000.)*
25. *Comment 25: What was the name of the company that purchased the La'au parcel from Alpha USA, and what was the relationship of that company to Molokai Ranch or any of the Ranch's affiliated companies?*

**Response:** The company that purchased the Lā'au parcel (6,348 acres) from Alpha USA was Molokai Acquisition LLC, a subsidiary of MPL. The price that was paid for the parcel is proprietary information.

26. *Comment 26: When did MPL/Molokai Ranch finally re-acquire the La'au parcel and what was the purchase price and number of acres involved in the sale?*

**Response:** MPL acquired the Lā'au parcel (6,348 acres) in 2001. The purchase price is proprietary and confidential information and therefore not included in the EIS.

27. *Comment 27: On page 17 of the DEIS it mentions, "In December 2001, Molokai Ranch acquired the land holdings of Kukui (Molokai), Inc. that included the abandoned Kaluakoi hotel, the Kaluakoi golf course, and the undeveloped lands of the resort area" What did Molokai Ranch pay Kukui (Molokai) for its land holdings at the Kaluakoi resort and how many acres were involved with the sale?*

**Response:** The Kaluako'i parcel (3,965 acres) was acquired by MPL in 2001. The purchase price is proprietary and confidential information and therefore not included in the EIS.

28. *Comment 28: What was the name of the company that owned Kukui (Molokai), Inc, and was that company a US or foreign company?*
29. *Comment 29: Who did Kukui (Molokai) purchase the Kaluakoi resort from and what was the price Kukui (Molokai) paid?*

**Response:** MPL has no knowledge of the financial arrangements of its predecessors. Kukui (Molokai), Inc., no longer holds an interest in the parcel; and therefore, comments regarding this company are not relevant to the outcome of this project or the scope of the EIS.

30. *Comment 30: Please provide a breakdown of the lands at the Kaluako'i resort purchased by Molokai Ranch on December 2001 with the approximate number of acres in each purchase component listed below: Kaluakoi hotel, Kaluakoi golf course, Lands north of the Kaluakoi hotel that include several hotel, condominium and residential sites, as well as, a major commercial site as noted in the Molokai Community Plan, Papohaku Ranchland residential lots (total lots and approximate total acreage), Moana Makani residential lots (total lots and approximate total acreage), Other*

**Response:** The breakdown of lands at Kaluako'i Resort is not applicable to this EIS since these lands are not part of the proposed action; however, you may obtain the information from the Land Court.

31. *Comment 31: What is gross total of real estate sales realized from its resort properties since acquiring the property in December 2001 up until February 23, 2007?*

**Response:** This information is commercially sensitive.

32. *Comment 32: How many Papohaku Ranchland lots does MPL still own as of February 23, 2007 and what is the estimated market value of those holdings?*

**Response:** Although MPL does still own a substantial number of Pāpōhaku Ranchland lots, which it inherited when it purchased the Kaluako'i property, the information you request is commercially sensitive. In addition, Pāpōhaku Ranchland property is not part of the Master Plan or proposed project; therefore, activity regarding these lots has not been evaluated here.

33. *Comment 33: On page 17 of the DEIS it states, "In 1987 Brierly Investments Limited (later to become BIL International Limited) became sole stockholder of Molokai Ranch and the Ranch consisted of approximately 52,000 acres." Since 1987 how much gross sales has BIL realized from selling portions its 52,000 acres and how many total acres have been involved in those sales?*

**Response:** This information is commercially sensitive, and under the Stock Exchange rules, BIL and its subsidiaries cannot release information to one party without releasing it to all shareholders.

34. *Comment 34: In Section 11 of the DEIS, MPL was asked to explain a statement by its parent company that "the Molokai Properties operation managed to remain cash positive during the 2004/2005 financial year.." MPL did not respond to the specific comment. Please provide the explanation requested above in light of the fact that MPL claims in the EISPN it continues to have a large "cash deficit" each year.*

**Response:** MPL's operating cash deficit between 2001 and 2007, as outlined in the Economic and Fiscal Impacts Report (Appendix J of the Draft EIS), totaled \$42 million. MPL has been fortunate to be able to sell entitled residential lots at Kaluako'i and Maunaloa and some agricultural parcels to meet that deficit and remain cash positive, thereby giving its creditors confidence it can meet its on-going commitments.

#### Section 2.1.7

35. *Comment 35: What is the most current cost of renovating the hotel and when was that determined?*

**Response:** The most current costs for renovating the Kaluako'i Hotel were obtained in 2006. As of November 2006, those costs were in excess of \$30 million. These costs do not include the anticipated losses over the first few years of the hotel's operation.

36. *Comment 36: What is the most current cost of upgrading the golf course and when was that determined?*

**Response:** Depending on the extent of upgrading, which ranges from a complete renovation of the golf course to only minimal work, the price estimates have ranged between \$1.5 million and \$3.5 million. All estimates involve the installation of a new irrigation system, which will conserve water use on the golf course. The last cost estimate obtained by MPL was in 2005.

37. *Comment 37: What entitlements or other actions have to occur before MPL is able to have the funding available from lot sales to apply to the renovation of the hotel?*

**Response:** In the Final EIS, this information is provided in Sections 1.1, 1.74, and Section 5.3 as shown in the attachment titled, "Revised Permits and Approvals."

38. *Comment 38: MPL has stated that the hotel will not be re-opened unless the La'au project is approved? Is MPL anticipating that the Molokai Planning Commission will begin processing the SMA permit for the hotel prior to having a decision on the La'au project from the Land Use Commission (boundary amendment) or the Maui County Council (community plan amendment and zoning change)? If so, what is MPL's rationale for assuming the Molokai Planning Commission would take the time to process the hotel renovation project when MPL is not willing to assure the Commission that it will move forward expeditiously with the project if the Commission approves it?*

**Response:** MPL intends to begin construction of the hotel as soon as funds are available. That will require the permits for the Kaluako'i project to be in place when the Lā'au project has been approved. MPL has submitted applications for the renovation of the hotel property and is currently awaiting acceptance of the application and a hearing before the Moloka'i Planning Commission. We expect the Planning Commission to begin the processing of the Special Management Area (SMA) permit for the hotel prior to Lā'au project approval. MPL has had no communication from the planning commission as to timing of hearing the permit.

MPL hopes that both the Moloka'i Planning Commission and Maui County will deal with its permit applications judiciously. MPL is meeting the wishes of its Master Plan commitment by ensuring that it has approval to re-open the Kaluako'i Hotel just as soon as funding is available. If MPL waited until it received the approval for Lā'au and then sought an SMA permit, considerable time would be lost.

39. **Response:** We note there was no "Comment 39" provided.

40. *Comment 40: How many does MPL employ respectively in its current tourism and ag operations, and how much does the salaries of these employees represent the \$3.8 million dollar annual loss.*

**Response:** MPL staff numbers are seasonal and depend on activity in its tourism operations. MPL has approximately 80-85 full-time staff in its tourism operations and about 25 full-time involved in agriculture and agricultural maintenance operations. The rest of your question is proprietary information.

41. *Comment 41: What is the source of funds MPL is anticipating to fund current tourism and ag operations and what is the respective cost annually to fund each of these MPL operations?*

**Response:** MPL's tourism operations are funded from visitors to the island and the local community. MPL's agricultural operations are funded from the sale of cattle.

42. *Comment 42: Please provide a breakdown of what operational and other expenses that make up MPL \$3.8 million annual deficit.*

**Response:** A breakdown of MPL's operational losses are contained in the Economic and Fiscal Impacts report (Appendix J of the Draft EIS). Any further breakdown is proprietary information, is commercially sensitive, and not within the EIS scope.

43. *Comment 43: If the La'au shoreline area has been closed to the community for generations, how will opening it up lead to the enhancement and protection of subsistence resources?*

**Response:** Currently, access to the area and utilization of the resources is unregulated and its impacts have not been measured. Community members and others regularly fish for lobster and bait fish in the area with no restrictions or supervision, which may lead to a depletion of the resources.

Under the terms of the Master Plan, a shoreline access management plan (SAMP) will be in place that seeks to regulate, preserve, and manage the resources of the area. Land stewards, also known as resource managers, will enforce access rules and ensure subsistence gatherers only take what they need and can carry. Resource managers will also ensure the Lā'au areas are closed at breeding times or at times that will allow resource replenishment.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

44. *Comment 44: Describe the lands that make up the "access areas"*

**Response:** Accessible areas for the community will be those areas in the expanded Conservation District totaling 434 acres adjacent to the shoreline. The Moloka'i Land Trust, along with the homeowners, will be charged with the management of these Conservation District areas. There will be two public access points for the Conservation District areas located at the Kamāka'ipō and Pu'u Hakina ends of the project area. These public access points will include shoreline parks, parking, and comfort stations.

45. *Comment 45: Will the owners of the residential lots and their guests and or caretakers be required to use the same "access areas" to access the La'au shoreline resources, or will they be allowed to access the shoreline from their respective residential lots?*

**Response:** Homeowners may access the shoreline from the residential area; however, they will be required to adhere to the rules of the SAMP, which designate certain protected areas in the Conservation zone as off-limits to non-cultural practitioners.

All Lā'au Point homeowners will be required to undergo an education program about the restrictions on access, its importance, and the requirements of the SAMP. This educational process, the lack of infrastructure and paths through the Conservation zone, and the density of

the foliage and rough terrain as a practical and natural barrier will support adherence to the SAMP.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

46. *Comment 46: What is the difference between an "income stream" and a "revenue source"?*

**Response:** An "income stream" is the amount of money flowing during a given time frame. A "revenue source" is where the money is coming from. For example, the Land Trust will receive an income stream of \$250,000 per year from its revenue source, which is rental income from communications towers located on donated lands.

47. *Comment 47: What is the amount of acreage that valued at \$50 million and what is the source of that evaluation.*

**Response:** The information concerning the source of the valuation of the land to be donated to the Land Trust, and the source for the reduction in the value of land to be placed under protective easements, are contained in a valuation report completed for MPL's parent, the Guoco Group in February 2005. The valuation report is publicly available on MPL's parent company website, [www.bilgroup.com](http://www.bilgroup.com).

As provided in Sections 2.1.8 and 2.1.9 of the Draft EIS, the acreage and funds involved are:

- 26,200 acres donated to the Molokai Land Trust and Community Development Corporation (CDC). The Hallstrom report shows this land is valued at \$40 million.
- The effective reduction in value of the 24,500 acres because of restrictive easements of \$25 million - a 50 percent reduction in the current appraised value of \$51,000,000.
- Funds supplied to the Moloka'i CDC (estimated to be \$10 million) from the sale of the Lā'au Point parcels. This was not included in the \$50 million estimate.

The lost opportunity cost from the sale of land being gifted to the CDC (Fire station, Junior Roping Club short term lease, and future sale of land to the Community College). These amounts have been included in the \$40 million appraised value.

48. *Comment 48: What are the current property taxes on the gifted lands valued at \$50 million?*

**Response:** From what we can estimate from Land tax records, the current land taxes are about \$40,000 per annum.

49. *Comment 49: What water resources, if any, are available on the gifted lands?*

**Response:** There is currently non-potable water supplied through agriculture water lines to water troughs on various parts of the land that will be donated to the Land Trust.

MPL will supply non-potable water for toilets and for subsistence activities to the boundary of the Mokio parcel, the first 1,600 acres of land to be donated to the Land Trust. MPL and the Land Trust have agreed to review water needs for the entire Land Trust lands once it is known whether it is successful in obtaining its permit for the brackish well at Kākalahale.

50. *Comment 50: If development will be prevented on the 24,950 acres of easement lands, why does MPL desire to maintain ownership of these lands?*

**Response:** MPL has not indicated whether, once the agriculture easements (14,390 acres) in particular, are in place, whether it wishes to either retain the land for its own use, lease the land to third parties, or sell it to those parties who are willing to purchase the lands with restrictive easements on it. This decision has yet to be made.

51. *Comment 51: To assure the community that future development will be prevented on the easement lands, why doesn't MPL put a deed restriction on these lands preventing future development such as "farm dwellings" that are currently being developed on agriculture lands at the Kaluakoi resort?*

**Response:** Restrictive easements preventing developments, other than single-family farm dwellings accessory to actual farming purposes, will be placed on the agricultural easement land, and restrictions preventing any development on Rural Landscape Reserve Land, will be held by the Land Trust.

52. *Comment 52: Please provide in the Final EIS a copy of the restrictive/covenant easement agreements applicable to the conservation, rural landscape reserve and agricultural lands, as well as, the agreement governing the Land Trust and the La'au Point Cultural Protection Zones and Conservation lands.*

**Response:** As of November 2007, the CC&Rs were undergoing review by the Moloka'i 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.

Some of the other agreements are currently being drafted and being negotiated with the Moloka'i Land Trust, and will be available at the time of LUC petition hearings. These include:

- The Expanded Conservation District easement to the Land Trust.
- The Easements over the Rural Reserve and Agricultural lands.
- The Shoreline Access Management Plan.

53. *Comment 53: Please define the development opportunities that make up "lost revenue opportunity cost" resulting from applying the easement agreements, and how the value of these lost opportunities was determined?*

**Response:** The development opportunities that make up the lost revenue opportunity costs include:

- Protective agriculture easements on 14,390 acres will prevent the development of 25-acre lots which are currently allowed under the community plan and the current zoning. It will also prevent the future subdivision of the land into house lots.
- Protective Open Space Easements over another 10,560 acres will prevent any development of any sort on Open Space land.
- The current market valuation of those lands completed by Hallstrom in 2006, and available on the BIL International Limited website shows the market value for the 25,000 acres at \$51 million.
- MPL believes, and its valuers agree, that once restrictive easements are placed on the total of the 25,950 acres, the value of those parcels will decrease by more than 50% because no development opportunities will be available at any time in the future.
- The ability under the current Moloka'i Community Plan designation to subdivide Agricultural land into 25-acre lots.

54. *Comment 54: Has MPL applied to the State to establish the subsistence fishing zone noted above and on Page 19 of the DEIS? If not, when does MPL anticipate submitting an application?*
55. *Comment 55: Please explain the process required to establish the subsistence zone as defined by MPL, and an estimate of how long it will take to secure the needed approvals for such a zone.*

**Response:** The designation of "subsistence fishing areas" is subject to agreement by the DLNR and other organizations outside of its control. To reflect this information in the Final EIS Section 2.3.7 (Access for Subsistence Gathering) has been revised to include the following:

As recommended in the *Community-Based Master Land Use Plan for Molokai Ranch*, to preserve inshore fishing/subsistence resources, a subsistence fishing zone in the coastal waters along all of the Ranch's coastline property will be sought. This means that from one quarter-mile out from the shoreline (north and west shore) and from the beach to the reef edge/breaker line (south shore), only Molokai residents will be able to fish for subsistence, effectively banning off-island boats from fishing in these in-shore areas. ~~State legislation will be needed for this to be enforced.~~

The 1994 Hawai'i State Legislature created a process for designating community-based subsistence fishing areas (Act 271/94). The guidelines for a community-based subsistence fishing management area in *Community-Based Master Land Use Plan for Molokai Ranch* would need to be developed into a management plan and draft administrative rules for adoption by the Department of Land and Natural Resources (DLNR) Division of Aquatic Resources (DAR) working in coordination with the landowners, the community and the subsistence fishers and gatherers. The administrative rules would need to undergo a public hearing process on 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 *Community-Based Master Land Use Plan for Molokai Ranch* is the first step toward its establishment.

Once the community-based subsistence fishing management area is established through the DAR rule-making process, the rules will be enforced by DOCARE in conjunction with the shoreline resource managers who will be hired jointly by the homeowners and the Moloka'i Land Trust.

#### 6.0 ALTERNATIVES TO THE PROPOSED ACTION

56. *Comment: Please explain what MPL considers a "reasonable financial return" on funds invested, and what is MPL's formula for calculating its return on invested funds.*
57. *Comment: In calculating a financial return on invested funds what discount rate does MPL use to determine the present value of future cash flows?*

**Response:** MPL's financial return criteria are commercially sensitive.

58. *Comment: How many proposed alternatives did MPL analyze using its financial model?*

**Response:** As provided in Section 6.4 of the Draft EIS, MPL analyzed nine different alternatives using the financial model.

59. *Comment: Please explain the different "financial models" used by MPL.*

**Response:** These were previously discussed in detail in Section 6.4 of the Draft EIS.

60. *Comment: Did MPL's employ any discounted cash flow analyses in its financial modeling?*

**Response:** MPL did not use a discounted cash flow. Discounted cash flow criteria would have worsened the financial returns considerably.

61. *Comment: Were any of the 10 proposed alternatives presented to the Land Use Committee in April 2005 proposed by MPL? If not, did MPL evaluate any other alternatives?*

**Response:** MPL presented its alternatives report to the Land Use Committee on April 10, 2005 (see Section 6.0 of draft EIS), and the alternatives were discussed at that meeting and subsequent meetings of the Land Use Committee when the Lā'au Point project was open for discussion. Alternatives had also been discussed in the Economics committee meetings.

In order to meet the wishes of the Alternatives to Lā'au Development Committee (ALDC) concerning alternatives, the EC paid for a consultant, Clark Stevens, to look at alternatives to the Lā'au project. This report and action that had been taken by MPL and the EC is discussed at length in Section 6.5 of the Draft EIS.

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)."

62. *Comment: At which of its meeting(s) did the LUC discuss the report MPL prepared on alternative developments, and were written minutes prepared to document discussions at those meeting(s).*

**Response:** The Alternatives were discussed at an April 2005 committee meeting. MPL does not have access to meeting minutes.

63. *Comment: Did the LUC ask MPL for any follow-up information on the 10 alternatives the LUC reviewed?*

**Response:** The Land Use Committee was confident, after reviewing the alternatives, that MPL had gone to exhaustive lengths to review all known alternatives. During the meetings specifically designed to discuss the Lā'au Point development, no member of the LUC sought further information other than what had been provided, although the alternatives were discussed.

64. *Comment: The LUC evaluated the 10 alternatives in April 2005, when did the EC evaluate the 10 alternatives?*

**Response:** The EC specifically asked the ALDC for recommendations on alternatives that had been proposed by Clark Stevens. The ALDC representatives sought time to find an investor to buy the Lā'au Point parcel and prevent the development going ahead. The EC was not prepared to wait for this possibility, indicating that at any time an investor could make an offer to MPL. MPL gave the EC an assurance that it would seriously consider any offer made through the EC for the Lā'au parcel that would meet its financial criteria. This is still the case.

65. *Comment: What amount of "revenue" is necessary to re-open the Kaluakoi hotel?*

**Response:** This is commercially sensitive; however, MPL has stated that to break even it will need to fill 152 rooms at 60% occupancy at an average room rate of at least \$130 per day, as well as revenue from its food and beverage operations.

66. *Comment: What amount of "returns" is required to support the future viability of MPL?*

**Response:** This information is commercially sensitive, but MPL has indicated returns from the Lā'au development will enable the re-opening of the Kaluako'i Hotel, both providing the impetus for increased activity for its entire operations.

67. *Comment: Explain the components that make a project "viable economically as a stand alone project."*

**Response:** Normally, in financial terms, a project is economically viable when: a) its income exceeds its costs, including costs of funding; and b) the percentage of its returns over the capital invested is in excess of putting that money into another secure investment such as government stocks.

68. *Comment: When evaluating alternatives that included residential development, did MPL apply the same water use assumptions for each residential lot as it assumed for each lot in the La'au Point development? If not, why were different assumption employed in analyzing alternatives?*

**Response:** As the alternatives analysis shows, different amounts of water use were used, and in some cases less domestic potable water was factored into the alternatives analysis. For example, in the Kualapu'u residential development, only 500 gallons per day was proposed based on that area's historic water use.

On larger rural development lots, more total water was factored based on the need to irrigate more land than the two acres proposed for Lā'au Point. But in the alternative "Kaluako'i Resort Condo Units," only 500 gallons per day of potable water was proposed, less than the amount proposed for Lā'au Point residents.

MPL has further analyzed alternatives regarding water use. 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)."

69. *Comment: What criteria did the Land Use Committee and/or the EC establish for MPL to use in its evaluation of alternatives?*

**Response:** MPL believes the Land Use Committee accepted MPL's criteria as a suitable evaluation method for alternatives. 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 was needed to re-open the Kaluako'i Hotel, and fund its initial losses, then it did not measure up against the existing Lā'au proposal. If an alternative required more potable drinking water than MPL was able to propose from the Kāalahale Well or more water than was agreed in the Water Plan (Chapter 6 of the Master Plan and Appendix P of the Draft EIS), then it did not measure up to the Lā'au proposal. If the alternative proposed population increases of more than the Lā'au development, it did not measure up to the Lā'au proposal.

#### 6.1 "NO ACTION" ALTERNATIVE

70. *Comment: What assurances and/or information, if any, allow MPL to anticipate that the La'au Point project "will receive approval".*

**Response:** There is no assurance that MPL will receive regulatory approvals for those parts of the Master Plan that need State Land Use Commission and other regulatory approvals.

71. *Comment: How does MPL rate the Molokai community's support for the La'au Point project?*

**Response:** There is clearly support for the project and the Master Plan. The Master Plan was created by participating community members who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Master Plan participants have made it clear their support through the creation of the Master Plan document (provided in its entirety as Appendix A of the Draft EIS). MPL believes the majority of the community, although silent and not vocal like the opponents, supports the Master Plan. Many supporters feel intimidated by the current actions of opponents and are fearful of turning out to meetings or expressing their support vocally.

72. *Comment: Describe the "preliminary design work on the hotel" that MPL needs to start now, and an estimate of how long it will take to complete this work?*

**Response:** MPL has contracted for conceptual architectural plans at the schematic phase only. MPL has completed basic architectural drawings relating to the renovation, done a color plan and submitted a landscape plan. Another six to nine months is needed to complete working drawings. This involves architects, engineers and interior designers.

These plans are necessary to prepare the preliminary permit submittals. Additional design work will take place at a later date following a hearing on the SMA application by the Moloka'i Planning Commission. The Kaluako'i Hotel design, renovation, and re-opening is its own project, requiring separate entitlements from Lā'au Point. Therefore, further specific project details about Kaluako'i shall be addressed in a future environmental assessment.

73. *Comment: What percentage, if any, of the "design work on the hotel" has MPL completed as of February 23, 2007?*

**Response:** Approximately 30 percent. See our response to #72.

74. *Comment: Assuming no contested case, how long does MPL estimate it will take to receive its SMA Permit approvals for the Kalakoi Hotel?*

**Response:** The answer to this question is dependent on the Moloka'i Planning Commission's schedule since they are the approving agency for the SMA permit. Normally in these cases, it should take no longer than six to nine months from the time of application.

75. *Comment: Assuming no contested case, how long does MPL estimate it will take to receive its SMA Permit associated with the La'au Point project?*

**Response:** We cannot estimate this because it is up to the approving agency's schedule.

76. *Comment: In the DEIS Text above, MPL states that "it could be at least two years after regulatory approvals for La'au Point that the hotel is re-opened. Please explain specifically what would take "at least two years" to accomplish before the Hotel could be re-opened?"*

**Response:** MPL is not sure whether the Moloka'i Planning Commission will agree to grant the SMA permit for the Kaluako'i Hotel before the Lā'au Point project has received all of its permits and approvals.

MPL has also been told by building contractors that the construction phase could take as long as 18 months to two years.

MPL is uncertain as to whether it will have the funds itself, or be able to attract an investor immediately upon approvals of the Lā'au project, and therefore, has allowed some time for that to be actioned and confirmed.

**COMMENTS ON THE ABOVE DATA POINTS**

77. *Comment: Please explain the specific components that make up the \$246 million in total development and construction investment.*

**Response:** The components are specified in Table 7 of Appendix J of the Draft EIS.

78. *Comment: Is the person years total for construction related employment include the buildout of the projects proposed dwelling units?*

**Response:** Yes.

79. *Comment: What are the percentage taxes applied and what is the gross construction related total dollars the taxes are applied to?*

**Response:** Excise tax on finished development is 4.0 percent; excise tax on building materials is 0.5 percent; and applied to gross construction cost of \$229 million.

80. *Comment: Is MPL assuming that the average value of the 200 lots that property taxes are calculated on is \$1,300,000 in 2012, and that full-buildout the average value of the 200 lots with dwelling unit(s) that property taxes are calculated on is \$2,600,000? If not what is, please explain how the tax amounts were calculated.*

**Response:** Based on data available at the time of the development of the Master Plan, average lot prices range from \$460,000 for south facing ocean view lots to \$1.75 million for west facing oceanfront lots. The overall average price is \$1,023,750. The tax amounts referenced above include finished residences on a portion of the lots.

81. *Comment: Please provide a breakdown of the revenue sources by category of County tax revenues that will total \$1,600,000 annually. Will the County continue to receive the \$1,600,000 in annual tax revenues in subsequent years following full-buildout of the project?*

**Response:** Whereas property taxes represent the majority (58 percent) of County tax revenue, other sources (including charges for services, transient occupancy tax, licenses, permits, franchise and fuel taxes, and special assessments) typically represent about 74 percent of property tax revenue. These revenues would continue on in subsequent years.

82. *Comment: What does "full-buildout: assume, development of all 200 lots with one residential dwelling?...with two residential dwellings on each lot....or other?"*

**Response:** The buildout assumption is that the average residence is 3,500 square feet, which is the average at Kohala Ranch on the Big Island, and therefore, as close a comparison in terms of a large lot development. No assumption was made as to whether this included an 'ohana dwelling or not.

As previously responded in #7 above, based on the current plan, there could be a potential of 400 dwellings under current county ordinances that allow a family 'ohana unit on properties. However, the Master Plan and Lā'au Point covenants are specific in that the total building area must not exceed 5,000 square feet, so if some residents want an 'ohana dwelling (which would

be subject to approval by the homeowners' design review committee), then both dwellings together could not exceed a total of 5,000 square feet.

83. *Comment: As with the County tax revenues, please provide a line item breakdown of the various state taxes revenues that make up the \$276,000 and \$1,300,000 in 2023. What assumption is made on the amount of tax revenues the state will realize each year after 2023?*

**Response:** In response to this comment, Section 4.8.4 of the Final EIS has been amended as shown below:

- Annual state revenues from taxes on residents and their expenditures of \$276,000 at the end of lot sales in 2012; climbing to \$1.3 million by 2023. A line-item breakdown of these state tax revenues are as follows:

	For 2012	For 2023
Excise Tax	\$28,668	\$240,000
Income Tax	\$64,000	\$960,000
Conveyance Taxes	\$183,324	\$106,205
<u>These revenues would continue on in subsequent years.</u>		

84. *Comment: Please provide a breakdown of the amounts in each on-island expenditure categories that contributes to the \$4.4 million total. How many residents has MPL assumed would be contributing to the \$4.4 million annual on-island expenditure total?*

**Response:** The model is based on an average household income for Lā'au Point owners of \$250,000, of which 45 percent is spent on goods and services, with 65 percent of that amount being spent on Moloka'i. For seasonal residents, the amount spent on goods and services is prorated according to the percentage of the year (18 percent) they are expected to "be present" or "reside" on Moloka'i. Again, 65 percent of that pro-rated amount is spent on Moloka'i.

85. *Comment: Please describe the nature of the 60 full-time jobs referenced in the project benefits chart.*

**Response:** The new jobs will be a mix of construction, maintenance, and service jobs at prevailing wages.

86. *Comment: The \$10.2M from land sales going to support the Land Trust works out to be 5% of \$204 million in land sales. In the DEIS, MPL notes that the 5% is based on a net lot sales figure. The \$204 net sales is a product of what gross sales figure? Please explain the type of expenses that are netted from gross sales to reach the \$204 net number that the 5% is applied to.*

**Response:** The Economic and Fiscal Impacts Report (Appendix J of the Draft EIS) and comments on funds going to support the Land Trust gave approximate figures on likely funds based on a range of sale prices for lots.

The Economics Report did not allow for sale expenses such as real estate commissions and county, state, and other fees that may be applicable at the time on the sale of land, and therefore, did not accurately reflect sums likely to go to the Land Trust based on Net Revenue. The following will be corrected to 4.8.4 in the Final EIS:

Five percent of land sales going to support the Land Trust; this commitment will provide over \$10.2 million (prior to the payment of any real estate commissions or other regulatory costs) for the preservation and enhancement of the dedicated lands.

87. *Comment: In comparing each of the alternative developments to La'au did MPL evaluate what the State, County and general public would be denied if a particular proposed alternative was not implemented? If so, please provide a copy of each of these evaluations.*

**Response:** No. MPL rejected some alternatives because they were not economically viable, water requirements were too great, or would lead to population increases which the island could not sustain.

88. *Comment: Did MPL evaluate what benefits the State, County and general public will realize if MPL develops the undeveloped sites its owns at the Kaluakoi resort that are designated in our community plan (approved by the community and adopted into law), which six several hotel sites, three condo sites, a couple of commercial sites, a second golf course and single-family and rural sites that be could potentially developed into four times as many residential lots as are being proposed at La'au? If so, please provide a copy of that evaluation.*

**Response:** No. There are no plans do develop those sites, and therefore, were not evaluated.

#### 6.2 BULK OR "PIECE-MEAL" SALE OF OTHER MPL LAND INVENTORY ALTERNATIVES

89. *Comment: As of February 23, 2007, how many Papohaku Ranchland lots are still owned by Kaluakoi LLC and what is the estimated total market value of these lots based on recent sales involving Papohaku lots.*

**Response:** As previously addressed in response #32, this is proprietary information.

90. *Comment: MPL said that an appraisal has recently been done to determine the value of its 101 parcels. What was the appraised value of these parcels and what assumptions were made in determining the appraised value?*

**Response:** The EIS does not state that an appraisal has been done for MPL's 101 parcels. One of its parent organizations, the Guoco Group, sought a market valuation of MPL's land in early 2006 which showed the break-up value of all its landholdings would realize more than \$200 million.

91. *Comment: In the future, will MPL have the option to sell the 24,950 acres or rural and Ag lands that MPL proposes to protect through easement agreements?*

**Response:** Yes. The easements will run with the land regardless of who owns it. MPL has not indicated whether, once the agriculture easements (14,390 acres) in particular, are in place, whether it wishes to either retain the land for its own use, lease the land to third parties, or sell it to those parties who are willing to purchase the lands with restrictive easements. This decision has yet to be made.

92. *Comment: How many of MPL's 101 lots would remain available for sale after transferring lands to the CDC and/or Molokai Land Trust, and what is the appraised sale value of those remaining lots as set forth in the recent appraisal report done on these lands?*

**Response:** More than 40 percent of MPL's holdings will be donated to either the Land Trust or the CDC. More than half of MPL's TMK parcels remain following donation of land to the Land Trust and CDC.

93. *Comment: Is there any restriction on the Land Trust or CDC selling lands that MPL deeds to them?*

**Response:** MPL believes that the Land Trust Articles of Incorporation and Bylaws prohibit the sale of donated properties. Most Land Trusts are able to transfer land only to qualified governmental entities or public charities.

The Land Trust is a private, nonprofit corporation organized under Hawai'i State Statute HRS-414D, and as such, its organizing documents are private. Questions about these documents should be posed directly to the Land Trust.

94. *Comment: What assurances, if any, has the Molokai community received from MPL's parent company, BIL Investment Limited, or The Guocco Group, that MPL will not continue sell off its remaining parcels if La'au is approved?*

**Response:** See our response to #3 above.

### 6.3 AGRICULTURAL SUBDIVISION ALTERNATIVE

95. *Comment: In the DEIS, MPL claims to be in the Ranching business. Is the ranching business "economically sustainable" for MPL.*

**Response:** No. By the time all costs are taken into account – land tax, staff, maintenance, transport and vehicle costs – MPL's cattle operation is cash negative. Similar to other large ranch owners in Hawai'i, Molokai Ranch must rely on other revenue sources, such as the Lodge and resort operations, to supplement its ranching segment.

96. *Comment: There are numerous existing agricultural lots at the Kaluakoi Resort on West Molokai that are currently being sold at close to \$2 million. One 5-acre ag lot at the resort with a "farm dwelling" on it is on the market for \$6.8 million. Are these agricultural subdivision lots being sold to farmers?*

**Response:** We are unaware of any lot being sold for \$2 million. Regardless, these are not MPL properties and owned by third parties, and therefore not relevant to the EIS.

97. *Comment: What "direct competition" do the owners of the 300 plus agricultural subdivision lots on West Molokai at the Kalakos Resort have with products grown on agricultural lands elsewhere on Molokai and in the State?*

**Response:** This comment is taken out of context from the Draft EIS text (Section 6.3, page 149), which refers to the agricultural subdivision alternative for the Lā'au Point parcel, not Kaluako'i Resort.

MPL is only aware of the economics of raising cattle. The economics of cattle farming should be similar within Moloka'i locales, but Moloka'i farmers are at a disadvantage to other farmers in the state because of the limited transport availability and its high cost.

### 6.4 OTHER MPL LAND DEVELOPMENT ALTERNATIVES

98. *Comment: Please include the corresponding figures from the above chart to the La'au Point development.*

**Response:** The Lā'au Point project provides a higher dollar return than each of the nine alternatives shown in your chart, uses only the water set out in the Water Plan from the Master Plan, and will only be occupied on average by 30 percent of its owners at most times.

99. *Comment: Did DeGray Vanderbilt make his proposal to MPL in writing? If not, how did MPL hear about the proposed alternative MPL identifies with him?*

**Response:** You sought an evaluation of this alternative verbally at a Master Plan meeting in 2003. You raised this as an alternative to Lā'au during a meeting of the Land Use Committee. You initially raised the alternative verbally, but later included the same question in a list of about 100 submitted to the Land Use Committee.

MPL studied the alternative, and in fact developed a number of other alternatives based on his hypothesis, in order to examine the viability of an alternative using rural lots.

MPL supplied you and other members of the Land Use Committee with details of why the alternative would not work financially. This explanation was given to you and the Land Use Committee in a document that is on record with the Land Use Committee and dated April 2005 and is titled, "Alternatives to the Lā'au Point Development Proposal."

100. *Comment: Did Vanderbilt propose 500 lots be used in the model? Is there enough rural lands designated in community plan in the area of the proposed alternative to develop 500 rural [sic]*

**Response:** We note that you were vague in your proposal, so MPL tried to find an economically viable model that would work. Work done on a lesser number of lots put the project into a deficit on the criteria used. Therefore, this alternative was rejected.

101. *Comment: In developing the financial model for Vanderbilt's proposed alternative, did MPL consult with Vanderbilt at all?*

102. *Comment: Did MPL provide Vanderbilt with any of the detailed findings relative to its feasibility study on the viability of his proposed alternative?*

**Response:** At the April 2005 meeting, MPL discussed the results in detail with you.

103. *Comment: Do the revenue figures associated with the evaluations of the proposed alternatives in Section 6.0 reflect accurately what property is currently selling for on the West end. If not, would current real estate values make any or all of the proposed alternatives a viable option to the La'au Point development, especially if MPL went with an alternative that did not require a State Boundary Amendment, County Zoning.*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had regarding sales at the time of similar lots. In the mid-year 2007 real estate market, the revenue figures for the alternatives would be much lower, making these alternatives even less viable.

#### 6.4.1 MAUNALOA TOWARDS LA'AU POINT

104. *Comment: Did Professor Minerbi qualify his recommendation to MPL in any way?*

**Response:** Professor Minerbi verbally offered his suggestion in community meetings but did not qualify his recommendation. He drew a proposed subdivision outline on a map of the West End that gave the parameters of the subdivision.

105. *Comment: What assumptions, if any did Professor Minerbi suggest be used to evaluate the three alternatives in Section 6.4.1?*

**Response:** Professor Minerbi suggested that the value of view sheds, a protected coastal area dedicated to conservation that is owned in common by the landowners, and proximity to expanded amenities that could be available in Maunaloa town, might be factors to weigh in the appraised and sale value of lots that could be developed from Maunaloa Town makai to Lā'au Point as compared to oceanfront lots.

#### 6.4.1 25-acre Minimum lot size alternative

106. *Comment: Would all lots have ocean views?*

**Response:** Yes, but no views of the beaches or waves breaking, which is a key factor in lot value realizations.

107. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** MPL assumed the value at the time in 2005 of similar lot sales in Kaluako'i. Since mid to late 2005, the market price of these similar lots has dropped considerably.

108. *Comment: How did MPL calculate the \$72,450,000 total revenue?*

**Response:** By multiplying the lot revenue by the number of lots proposed.

109. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 68,114,000*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

110. *Comment: The \$4,336,000 return is based on what amount of invested funds.*

**Response:** The amount is based on reasonable returns on the funds invested. Therefore, this alternative was rejected because it was unviable.

111. *Comment: What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.*

**Response:** MPL assumed mostly non-potable water use because of the desire by rural lot owners to irrigate lots that presumably would have some farming use as per the designation in the Moloka'i Community Plan.

112. *Comment: What are components that make up the total land requirement of 4,650 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** A total of 4,375 acres in lots, the remainder for infrastructure development.

113. *Comment: How many of the several hundred agricultural lots within the Kalakoi resort have been marketed to farmers who are actively involved in the cultivation of diversified crops?*

**Response:** MPL is unaware of any lots that have been marketed for any particular use. As you are aware, there are covenant restrictions on agriculture at Kaluako'i.

114. *Comment: What infrastructure is lacking and is the lacking infrastructure existing in the area proposed for the Lā'au Point development?*

**Response:** There is no existing infrastructure at Lā'au Point.

115. *Comment: How much is the high cost of front-end investment needed and how does this compare to the high cost front-end investment needed for the Lā'au Point development?*

**Response:** This alternative needs \$55 million, compared to similar cost at Lā'au Point for an additional 25 lots. Yet, the revenue from the Lā'au Point project is more than more than 2.7 times this alternative scenario.

#### 6.4.1 10-acre Minimum lot size

116. *Comment: Would all lots have ocean views?*

**Response:** No. Because of the density and smaller sized lots less than 25 acres, many lots may not have ocean views because of topography and the necessity to site houses in areas where views of the ocean are not possible.

117. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents, and from information MPL had regarding sales at the time of similar lots. In the mid-year 2007 real estate market, the revenue figures for the alternatives would be much lower, making these projects even less viable.

118. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 99,769,000?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

119. *Comment: The \$15,731,000 return is based on what amount of invested funds.*

**Response:** The investment of \$99,769,000.

120. *Comment: What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.*

**Response:** MPL assumed mostly non-potable water use because of the desire by rural lot owners to irrigate lots that presumably would have some farming use as per the designation in the Moloka'i Community Plan.

121. *Comment: What are components that make up the total land requirement of 4,350 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** A total of 4,200 acres in lots, the remainder for infrastructure development.

122. *Comment: Why is more water usage for each lot assumed for this alternative than for the La'au Point proposed development?*

**Response:** This development proposed rural 10-acre lots, which would require more water than 2-acre lots.

123. *Comment: Who conceived what the community would find an acceptable increase in population and what is conceived as the maximum acceptable population increase the community would accept.*

**Response:** This was the common theme that came through during EC Project #47 committee meetings and at community meetings based on the least number of newcomers to the island as possible.

124. *Comment: How does the population increase for this alternative comparable to the population increase projected for the La'au Point development?*

**Response:** As this alternative would involve most of the residents living on their 10-acre lots, the population would more than double. This alternative, however, was ruled out not for this reason, but because the financial return was less than the funds needed to re-open the Kaluako'i Hotel.

#### 2-Acre Minimum Lot Size

125. *Comment: Will all lots have ocean views?*

**Response:** Many would not because of the higher density of this alternative.

126. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents, and from information MPL had regarding sales at the time of similar lots. In the mid-year 2007 real estate market, the revenue figures for the alternatives would be much lower, making these projects even less viable.

127. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ 113,545,000?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

128. *Comment: The \$6,445,000 return is based on what amount of invested funds.*

**Response:** An investment of \$113,500,000.

129. *Comment: What assumptions did MPL use to determine water usage of 3,000 gpd, and how is the 3,000 divided between potable and non-potable water.*

**Response:** It had been presumed that the buyers of these lots would prefer to be involved in more intensive agriculture than those on larger lots, thus the requirement for water (mostly non-potable) would be as high for 2-acre lots as for the 10-acre lots.

130. *Comment: What are components that make up the total land requirement of 1,450 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** 1,200 acres for lots plus the remaining infrastructure.

131. *Comment: Why is more water usage for each 2-acre lot assumed for this alternative than for the 2-acre lots in the proposed La'au Point development?*

**Response:** As previously addressed in #129 above, it had been presumed that the buyers of these lots would prefer to be involved in more intensive agriculture than those on larger lots, thus the requirement for water would be as high for 2-acre lots as for the 10-acre lots.

Lā'au Point buyers, because of the project area's lack of suitability for agricultural use, would use a much lesser amount of water.

132. *Comment: What was the percentage rate of return on funds invested?*

**Response:** 5.3% pre-net present value (NPV).

133. *Comment: What would have been a reasonable return on invested funds?*

**Response:** Higher than 5.3 percent; otherwise, MPL shareholders might as well just invest their funds in a bank.

**6.4.2 Maunaloa Agricultural Subdivision**

*134. Comment: Will all lots have ocean views?*

**Response:** MPL believes that most of these lots would have ocean views.

*135. Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents, and from information MPL had regarding sales at the time of similar lots. In the mid-year 2007 real estate market, the revenue figures for the alternatives would be much lower, making these projects even less viable.

*136. Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$10,887,500?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

*137. Comment: The \$2,612,500 return is based on what amount of invested funds.*

**Response:** Invested funds of \$10.7 million.

*138. Comment: What assumptions did MPL use to determine water usage of 3,000 gpd on the 25-acre lots, and how is the 3,000 divided between potable and non-potable water.*

**Response:** MPL assumed mostly non-potable water use because of the desire by rural lot owners to irrigate lots that presumably would have some farming use as per the designation in the Moloka'i Community Plan.

*139. Comment: What are components that make up the total land requirement of 700 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** 675 acres for the rural lots, the remaining for infrastructure. The infrastructure is less than the previous evaluated rural lots because of its proximity to Maunaloa.

*140. Comment: What was the percentage rate of return on funds invested?*

**Response:** While this alternative shows a pre-NPV return of 24 percent, to obtain the funds necessary to re-open the hotel, MPL would need to construct 20 of these rural subdivisions, using 14,000 acres. This is because the further the developments were from Maunaloa, the more expensive the infrastructure and the lower the returns would be.

*141. Comment: What would have been a reasonable return on invested funds?*

**Response:** See our response to #140 above.

**6.4.3 Kaunakakai Agricultural Subdivision**

*142. Comment: Will all lots have ocean views?*

**Response:** Mostly, depending on the where the houses are sited. The revenue presumes they all will have views.

*143. Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had as to sales at the time of similar lots at the West End. However in hindsight, it proposed lot revenues that were probably too high if revenues at Kawela are comparable. In the mid-year 2007 real estate market, the revenue figures for all the alternatives would be much lower, making these projects even less viable.

*144. Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$32,006,000?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

*145. Comment: The \$1,974,000 return is based on what amount of invested funds.*

**Response:** \$32 million.

*146. Comment: What assumptions did MPL use to determine water usage of 3,000 gpd on the lots, and how is the 3,000 divided between potable and non-potable water.*

**Response:** MPL assumed mostly non-potable water use because of the desire by rural lot owners to irrigate lots that presumably would have some farming use as per the designation in the Moloka'i Community Plan.

*147. Comment: What are components that make up the total land requirement of 1,800 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** 1,750 acres with the remaining acreage for infrastructure. Infrastructure acreage is similar to the Maunaloa rural lot alternative because this alternative is close to existing infrastructure and therefore costs and acreage needs are less.

*148. Comment: What was the percentage rate of return on funds invested?*

*149. Comment: What would have been a reasonable return on invested funds?*

**Response:** 5.9 percent, but like the Maunaloa rural subdivision, not enough total funds would be generated to re-open the Kaluako'i Hotel.

**6.4.4 Kualapu'u Residential Subdivision**

150. *Comment: Will all lots have ocean views?*

**Response:** It is unlikely any would have ocean views because of its location and topography.

151. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had as to sales at the time. In the mid-year 2007 real estate market, the revenue figures for all the alternatives would be much lower, making these alternatives even less viable.

152. *Comment: How large are the lots?*

**Response:** Between 5,000 and 7,000 square feet.

153. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$2,492,000?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc.), other regulatory fees, archeological evaluations, road infrastructure, and services.

154. *Comment: What assumptions did MPL use to determine water usage of 500 gpd on the lots, and how is the 500 divided between potable and non-potable water.*

**Response:** MPL used its Kualapu'u customer base to establish consumption rates. Because Kualapu'u has higher than average West End rainfall, Kualapu'u lots would have lower (mostly potable) water use.

155. *Comment: What are components that make up the total land requirement of 7 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** A total of 6.5 acres in lots, with the remaining in roadways and other infrastructure, with the project relying on extension of current roads and water lines.

**6.4.5 Kaluakoi Rural Subdivision and Golf Course**

156. *Comment: Will all lots have ocean views?*

**Response:** No, half would likely have ocean views.

157. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had as to sales at the time. In the mid-year 2007 real estate market, the revenue figures for all the alternatives would be much lower, making these alternatives even less viable.

158. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$122,259,000?*

**Response:** Eighteen hole golf course cost of \$1 million per hole to develop, usual construction costs, consultants' fees (engineering, water, etc), other regulatory fees, archeological evaluations, road infrastructure, and services.

159. *Comment: The "breakeven" return is based on what amount of invested funds.*

**Response:** \$122.2 million.

160. *Comment: What assumptions did MPL use to determine water usage of 1,500 gpd on the 25-acre lots, and how is the 1,500 divided between potable and non-potable water.*

**Response:** MPL assumed water usage of 1,000 gallons per day for non-potable and 500 gallons per day for potable.

161. *Comment: What are components that make up the total land requirement of 425 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** 250 acres in housing/lots, 120 acres in golf course and golf course infrastructure, and the remaining acreage in infrastructure.

162. *Comment: Will all lots have ocean views?*

**Response:** As per the previous golf course and lot scenario, about half would and the other half would have rural views.

163. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had as to sales at the time and the value of the ground component of the condo-unit projects adjacent to the Kaluako'i Hotel. In the mid-year 2007 real estate market, the revenue figures for all the alternatives would be much lower, making these projects even less viable.

164. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$163,748,000?*

**Response:** A total of 27 golf holes at \$1 million per hole to develop, usual construction costs, consultants' fees (engineering, water, etc), other regulatory fees, archeological evaluations, road infrastructure, and services.

165. *Comment: The \$36,752,000 return is based on what amount of invested funds.*

**Response:** \$200.5 million.

166. *Comment: What assumptions did MPL use to determine water usage of 1,450 gpd on the 25-acre lots, and how is the 1,450 divided between potable and non-potable water.*

**Response:** MPL assumed water usage of approximately 1,000 gallons per day for non-potable uses and 500 gallons per day for potable uses.

167. *Comment: What are components that make up the total land requirement of 900 acres (i.e. roads, waste water plant, lots, etc?)*

**Response:** A total of 220 acres for golf courses, 600 acres for the condo units, and the remainder for infrastructure.

168. *Comment: Was the financial return suitable?*

**Response:** The population and water use increase was by far the highest of any alternative studied, and therefore, rejected because of this and because of the huge capital investment and uncertainty of return.

Although the financial return would be acceptable, MPL would not have had access to the development funds and would be highly unlikely to attract an investor for this project. Also, it would never seek the amount of water allocation needed for the project.

#### *Kaluakoi Resort Condo Units*

169. *Comment: Will all lots have ocean views?*

**Response:** From our analysis, we did not think so.

170. *Comment: What assumptions did MPL use to come up with the Revenue per lot, and are those assumptions still applicable based as of February 23, 2007?*

**Response:** The revenue figures used in the evaluations were obtained from real estate surveys conducted among real estate agents and from information MPL had as to sales at the time and the value of the ground component of the condo-unit projects adjacent to the Kaluako'i Hotel. In the mid-year 2007 real estate market, the revenue figures for all the alternatives would be much lower, making these projects even less viable.

171. *Comment: What are the line items amounts of each of the cost components that make up the total cost to develop of \$ \$462,000,000?*

**Response:** Usual construction costs, consultants' fees (engineering, water, etc), other regulatory fees, archeological evaluations, road infrastructure, and services.

172. *Comment: The \$38,000,000 return is based on what amount of invested funds.*

**Response:** Funds invested of \$462 million.

173. *Comment: What assumptions did MPL use to determine water usage of 745 gpd per unit ?*

**Response:** MPL assumed historic average condominium water use.

174. *Comment: What are components that make up the total land requirement of 92.75 acres*

**Response:** Condominiums on 89 acres of the 92.75 acres, the remaining for infrastructure.

175. *Comment: What was the rate of return on invested funds, and was this an acceptable return.*

**Response:** 7.6 percent. This was not an acceptable return based on the amount invested, the likely time to sell out the project, and the uncertainty about whether the project could ever be sold at all.

176. *Comment: Did MPL run the alternative assuming a timesharing project? If not, why not.*

**Response:** Yes, we did a time-share assumption, but MPL's parent company does not support time-share developments, so the scenario was not examined further. Also, the Land Use Committee and economics committee members made it very clear they would not support a time-share project.

177. *Comment: What is the preliminary estimate of the cost of capital and the funding costs associated with the La'au Point development? Have these costs been included in the \$88,150,000 "preliminary costs" projected for the La'au Point development shown in Table 3 on page 55 of the DEIS?*

**Response:** The cost of capital has been assumed and factored into the project, but not detailed or disclosed in public information given on the project's costs.

178. *Comment: What amount, if any, did MPL include for "sales revenue assigned to the Land Trust" in its \$88,150,000 project cost figure?*

**Response:** None, as revenue from the Land Trust is taken from net revenue proceeds, not project costs.

179. *Comment: Did MPL factor in any cost factor for delays in the regulatory permitting process into its \$88,150,000 project cost figure?*

**Response:** All costs were projected to be at 2008 costs and some contingencies built in for inflation and delays.

180. *Comment: If MPL were to factor in a "net present value of future cash flows" into evaluating alternatives, what percentage discount rate would MPL apply?*

**Response:** 10 percent per annum. However, as previously addressed in response #57 above, MPL has not applied a discounted rate.

181. *Comment: In the land value appraisal, which was recently done for MPL's land holdings, was a "value of money" or "discount rate used to value future cash flows" used? If so, what was that rate and what was the rationale for applying that specific rate?*

**Response:** From MPL's reading of the appraisal report, which was completed by a Hawai'i appraiser for MPL's parent company, the net present value of future land sales on a break-up scenario was not factored in as most sales were projected to be over one to three years. However, when the valuation looked at future income streams from rentals, and a NPV calculation of those future cash flows was used to determine a value of the rental streams at the time of the valuation.

**Lā'au Point Preliminary Project Costs**

182. *Comment: To better understand the "Cost to Develop" the La'au Point project in relationship to the "Cost to Develop" figures MPL has depicted for the various alternative projects it evaluated, it is important to fully understand the components that make up the \$88,150,000 project cost for La'au Point development. Therefore, please provide the following explanations of the cost items shown on page 35 of the DEIS: Comment: What are the specific line item costs associated with the "Infrastructure and Development" total cost of \$17,730,000*

**Response:** Costs associated with infrastructure development include: electrical, road connections, land restoration and erosion control, sewer system, potable and non-potable water systems.

183. *Comment: What are the specific line item costs associated with the "Amenities" total cost of 2,350,000*

**Response:** Costs associated with amenities include: public access and parking systems, park improvements, entry facilities, and resource manager's house.

184. *Comment: What are the specific line item costs associated with the Onsite (roadways, housepads, water systems, etc.) total cost of \$39,234,000*

**Response:** Onsite costs include: pavements, earthworks, embankments, roadway appurtenances, drainage improvements, re-grassing, lot creation, potable water system, non-potable water system, underground electrical, and both major and minor roads.

185. *Comment: What are the specific line items costs associated with the Design & Contingencies, Other Costs" total cost of \$12,683,000*

**Response:** Design and contingencies, and other costs include: subdivision bond, legal costs, this EIS study, civil engineering fees, further archeological studies, electrical engineering fees, surveying costs, and other consultants, as well as a normal construction contingency over the entire project.

186. *Comment: What are the specific line item costs associated with the "Maintenance, Operations, and Management" total cost of \$ 16,153,000*

**Response:** Maintenance, operations, and management costs include: project management, maintenance costs associated with the project until sell out, management of the subdivision until sell-out, and additional staff costs over the life of the project.

187. *Comment: What is the gross sales MPL is anticipating from the 200 La'au Point lots sold over the projected 5-year sales period.*

**Response:** MPL has stated on numerous occasions it anticipated receiving gross receipts from the project of about \$200 million, but this is highly dependant on a buoyant property market.

188. *Comment: What is the estimated amount of the gross sales total that MPL will apply the 5% due to the CDC as an endowment?*

**Response:** All the gross sales of initial lot sales, less selling costs such as real estate fees and any other regulatory costs imposed on the sale of lots in such a project, is the amount calculated.

**1.0 COMMENTS ON THE PETITION FOR LAND USE BOUNDARY AMENDMENT**

189. *Page 2: How many Molokai Ranch staff members are assigned to tourism operations and how many to agricultural operations?*

**Response:** This was previously answered in #40 above.

190. *Page 6: Re: Development Timetable: When does MPL anticipate it will begin realizing sale proceeds from the La'au Point luxury house subdivision?*

**Response:** Pending project entitlements, MPL anticipates it will begin receiving proceeds from this project in 2010.

**Comments on Page v:**

191. *What specific Molokai development plans between 1990 and 2003 met with strong community opposition because the ranch did not consult with the community on its development plans?*

**Response:** Some of the previous development plans that met with strong community opposition were hotels, condo projects, equestrian arenas, airports and helicopter landing strips, including:

- A 375 room hotel on Kaiaka Rock at the Kaluako'i Resort.
- A 150 unit condominium at Kawākiu.
- The Highlands Golf Course and Club House at Nā'iwa.
- The Waiola Well and Pipeline.

192. *How would Molokai Ranch rate the community opposition to the propose luxury residential subdivision being proposed for development at La'au Point?*

**Response:** We are aware there is opposition to the project.

193. *When did MPL purchase Kaluakoi Hotel, Kaluakoi Golf Course and surrounding land?*

**Response:** In December 2001; this is stated in Section 2.1.5 of the Draft EIS.

194. Who did Molokai Ranch purchase these properties from?

**Response:** Kukui (Molokai), Inc.; this is stated in Section 2.1.5 of the Draft EIS.

195. What was the purchase price?

**Response:** Purchase price information is confidential and this information is not relevant to the EIS.

196. How many acres surrounding the Kaluakoi Hotel and Golf Course did Molokai Ranch purchase?

**Response:** These lands are not part of the proposed action and there are no plans for development there; therefore, discussion is not relevant to the EIS.

197. Please list the various parcels included in the "surrounding lands" purchased at the what is known as the Kaluakoi resort, and provide the current state zoning designation, the current county zoning designation, the current community plan designation, the parcel size and the potential development density of each parcel assuming county zoning is secured for each parcel that allows for maximum densities consistent with the land use designations in the current community plan (i.e. multi-family, hotel, single family, commercial, rural, open space, etc.

**Response:** These lands are not part of the proposed action and there are no plans for development there; therefore, discussion is not relevant to the EIS.

198. The 339-page EISPN document references the Maui County General Plan and the Molokai Community Plan often. Please include a copy of these plans in the Draft EIS document. (Note: it would be helpful to decision makers to have the pages from these documents that set forth the themes, goals, objectives and policies, so that they are able to determine if MPL adequately comments on all provisions in those documents that MPL's project is consistent with, as well as, the provisions in these documents that the MPL's project may not be consistent with.)

**Response:** The Maui County General Plan and the Moloka'i Community Plan are both public documents, and therefore, available directly from the County of Maui Planning Department. The documents can also be downloaded from its website.

The following statement will be added in Section 5.2.1 of the Final EIS:

The Maui County General Plan is a public document, and therefore, is available directly from the County of Maui Planning Department, and accessible directly from the Maui County website.

The following statement will be added in Section 5.2.2 of the Final EIS:

The Moloka'i Community Plan is a public document, and therefore, is available directly from the County of Maui Planning Department, and accessible directly from the Maui County website.

199. Why did Molokai Ranch purchase the abovementioned properties surrounding the Kaluakoi Hotel and Golf Course, Molokai Ranch, when at the time of the purchase Molokai ranch was emphasizing to the community its financial hardships?

**Response:** The decision was based on sound business practices. MPL was able to purchase these properties with funding from its parent company.

200. What are the total sales proceeds Molokai Ranch has accumulated from the sale of parcels that were part of the purchase of the lands within the existing Kaluakoi resort?

**Response:** The actual sale amounts are proprietary, but we note that land sales have enabled the MPL to fund this Land Use application, remain cash positive, continue employing its 140 staff, and overall cover its operating cash losses since 2001.

201. Is Molokai Ranch planning sell off these designated development properties in the future or be a partner in the developments over the long haul to insure that the integrity is upheld for of a "visionary plan for Molokai Ranch's 60,000+ acres that would reflect the kind of community the residents desired."

**Response:** MPL will uphold the promises made in the Master Plan. MPL will be a partner in these developments.

202. What development standards (i.e. timing, water use, densities, extent of Molokai Ranch's participation, , if any, did the Land Use Committee or the Enterprise Community Board consider for the future development of the Kaluakoi resort parcels purchased by Molokai Ranch prior to their respective adoption of the Master Land Use Plan as noted on Page 7 of the EISPN.

**Response:** No plans for development of those properties were contemplated by either group.

203. Since its purchase of all of the aforementioned parcels designated for future development in the Molokai Community Plan, what efforts has Molokai Ranch made to develop these many residential, multi-family, hotel and commercial income generating development projects that could be alternative revenue producing projects that are alternatives to the La'au Point development?

**Response:** No concrete plans were pursued, because all scenarios for their development did not make economic sense.

**Comments on Page 5 of Exhibit 1**

204. The La'au Point coastal area currently serves as a haven for the endangered monk seal. How will the development of up to 400 dwelling units along the shoreline area of La'au enhance the "unspoiled coastal environment" in which the monk seal population currently thrives?

**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 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)." The SAMP has been included as an appendix to the Final EIS.

205. What is the current population of "the small town of Maunaloa"?

**Response:** According to the US Census 2000, the population of Maunaloa is 230 people.

206. How many total residential lots exist in Maunaloa Town?

**Response:** Excluding the housing project, 240.

207. How many of these residential lots have homes developed on them?

**Response:** Approximately 100.

208. What is the projected population of Maunaloa Town if the all the currently available lots are developed?

**Response:** Up to 600 people.

209. How many of the 150 people the Ranch employs are a) full-time, b) part-time, c) on-call and d) casual hire employees.

**Response:** Currently, there are 110 full-time, and another 40 part-time and casual hires.

210. Explain how the terminology used on page 5 that "MPL" has a cash deficit of \$3.7 million per annum" relates to the statement from the BIL International Limited (BIL) Report for 2005 that is included as Exhibit 3 of the EISPN document package which states: "The Molokai Properties operation managed to remain cash positive during the 2004/2005 financial year...."

211. Please provide a line item breakdown of Molokai Ranch's operating components that make up the Ranch's "cash deficit of \$3.7 million per annum", and explain how the Ranch's Master Land Use Plan will specifically address the Ranch's annual cash flow deficit for each operation.

**Response:** See our response to #34 above regarding our cash deficit.

212. How will the Master Land Use Plan specifically assure and economic future for Molokai Ranch's employees?

**Response:** Implementation of the Master Plan provides a sustainable future for MPL and its employees by ensuring the company has a sound financial base and is not cash negative from its operations.

213. Please provide an explanation of the relationship between MPL, Molokai Ranch and BIL and any other entity that may be in the corporate relationship chain between Molokai Ranch and BIL International and provide a copy of the Board of Directors of each entity.

**Response:** MPL is a fully owned subsidiary of BIL International Limited. Other information you request is not made available to the public.

214. What percentage of BIL's "audited equity of US\$1 billion" does BIL's holdings on Molokai represent?

**Response:** This information is not released to shareholders, and therefore, cannot be disclosed.

215. When was Kolo Wharf abandoned, and what is the relevance of referencing this abandoned development project in the EISPN?

**Response:** Kolo Wharf was abandoned in the 1980s. It was a historic wharf structure. This is referenced in Section 2.1.3 (Surrounding Land Use) in the EIS for locational purposes. There are no plans for development there.

216. Are there any other abandoned developments along the "shores south of Maunaloa"? If so, please provide an explanation of those developments.

**Response:** The proposed Land Trust land donations and easement lands will prevent future development on those lands. Listing abandoned developments is not necessary for the EIS.

217. Since BIL (formerly Briery Investments) assumed ownership of Molokai Ranch have there been any other proposed developments along the "shores south of Maunaloa"? If so, please provide an explanation of those developments.

**Response:** Not specifically along the south shore similar to the Lā'au development. In the late 1990s, some plans were proposed to develop agricultural lots between Maunaloa and the south

shore, but these plans were never submitted to regulators. Following an internal review, current MPL management understands that these plans were found to not be viable.

**2.0 COMMENTS ON PAGE 7 OF EXHIBIT I**

218. *What business was the Louisiana Land and Exploration Company (LL&E) in and what resort development experience did LL&E have prior to entering into its partnership with Molokai Ranch?*

219. *What was the partnership interest of LL&E and how much did LL&E pay for its percentage interest?*

220. *Who did Molokai Ranch "subsequently sell its interest in the undertaking" to, and what was price did the ranch receive for its interest?*

221. *It is alleged that LL&E secured ownership of the approximate 7,000 acre La'au Point parcel from Molokai Ranch by agreeing to a request by Molokai Ranch that LL&E pay off a debt it owed to Molokai Ranch in connection with the Kaluakoi Resort purchase early. Please explain the specifics of how LL&E acquired ownership of the La'au Point parcel.*

**Response:** LL&E no longer holds an interest in the parcel, and therefore, comments regarding this company's past practices are not relevant to the scope of this project or EIS.

222. *How did Kukui (Molokai) Inc. acquire the Kaluakoi Resort properties?*

223. *How much did Kukui (Molokai) pay for the Kaluakoi Resort properties?*

**Response:** Kukui (Molokai) Inc., no longer holds an interest in the parcel, and therefore, comments regarding this company's past practices are not relevant to the outcome of this project or the scope of the EIS.

224. *How much did Molokai pay Kukui (Molokai) for the Kaluakoi Resort properties?*

**Response:** MPL has no knowledge of the financial transactions of its predecessors or the previous financial dealings of those companies.

225. *Molokai ranch joined "with over 1,000 community participants" to discuss the Master Land Use Plan. How many more than 1,000 participants were there?*

226. *Did the "over 1,000 community participants" consist of over 1,000 different participants? If not how many "different" participants were involved in discussing the Master land Use Plan?*

**Response:** MPL estimates that there were around 1,000 participants in the master planning process based on attendance sheets and other documents.

227. *Please provide a copy of any plans the ALDC submitted "for alternatives to development at La'au Point".*

**Response:** None were submitted in writing to the Land Use Committee by the ALDC itself.

228. *Please provide a list of all the Land Use Committee members showing which members voted for, which members voted against, which members abstained from voting, and which members did not vote for the adoption of segments of the Master Land Use Plan at the Committee's meeting of August 1, 2005.*

**Response:** We first note that the details of the EC Project #47's Land Use Committee voting records are not relevant as discussion in the EIS. Questions of this nature are best directed to the EC, not MPL. The information we do know regarding your comments is provided below.

The members of the EC Land Use Committee were: Vannie Ainoa, Lawrence Aki, William Akutagawa, Ella Alcon, George and Pat Benda, Rikki Cooke, Cheryl Corbiell, Stacy Crivello, Zhantell Dudoit, Jimmy Duvauchelle, Harold Edwards, Kekama Helm, Dewitt Jones, Barbara Kalipi, Halona Kaopuiki, Moke Kim, David Lunney, Colette Machado, Danny Mateo (ex-officio), Davianna McGregor, Ed Misaki, Peter Nicholas, Milton Pa, Kuulei Perez, Walter Ritte, John Sabas, DeGray Vanderbilt, and Matt Yamashita.

The Land Use Committee voted on two separate motions.

Motion 1: In order to advance the "Community-Based Master Land Use Plan for Molokai Ranch," the Land Use Committee approves the La'au Development portion of the plan based upon and accepting the circulated Principles and Policies, Cultural Resource Protection Zones, and Design Guidelines and CC&Rs for the La'au Subdivision. Vote: 19 Yes, 6 No, 2 Abstain.

Motion 2: The Land Use Committee approves the Land Ownership/Management Map and the Land Use Districts Map based on the approved Community Guidelines for Principles and Policies and recommends that the Land Use Committee move forward to complete the "Community-Based Master Land Use Plan for Molokai Ranch." Vote: 21 Yes, 3 No, 3 Abstain.

229. *How were people chosen to be on the Land Use Committee?*

**Response:** The Land Use Committee comprised the chairpersons and deputy-chairpersons of the five sub-committees under the EC's Project #47, and others who asked to be included on the committee.

230. *Was it open to all Molokai residents who asked for representation on the Committee?*

**Response:** See our response to #229 above.

231. *How many meetings did the Land Use Committee have?*

**Response:** From December 2003 to October 2005, there were 28 total Land Use Committee meetings; this is stated on page 31, Section 2.4 of the Draft EIS.

232. *Please provide a list of members' attendance at the Land Use Committee meetings.*

**Response:** The lists of attendees at the EC meetings on the Master Plan are held by the EC. As such, any questions or requests for the lists should be directed to them.

233. *Why didn't the Land Use Committee adopt all segments of the Master Land Use Plan?*

**Response:** From MPL's knowledge, the Land Use Committee did adopt the Master Plan in its entirety

234. Please provide a list of all the EC Board members and note, which Board members voted to adopt the Master Land Use Plan, who on the EC Board voted against adopted the Plan and who did not vote.

**Response:** See our response to #228 above.

235. The Molokai community has been advised that Department of Hawaiian Home Lands (DHHL) Commission and the Board of Trustees for the Office of Hawaiian Affairs have all indicated their endorsement of the "Community-Based Master Land Use Plan for Molokai Ranch". Please provide as part of the Draft EIS evidence of their respective support and a copy of the minutes of any meetings at which the support of the Ranch's Land Use Master Plan was discussed and/or approved by the DHHL Commission and the OHA Trustees

**Response:** The DHHL Commission has not taken a position regarding the Master Plan. A copy of the OHA resolution supporting the Master Plan can be obtained from their website at <<http://www.oha.org/pdf/MolokaiLandReso.pdf>>.

**Comments of Page 8 of Exhibit 1.**

236. How has the Molokai Enterprise Community mandated as the organization "representing the Molokai community"?

**Response:** The Molokai Enterprise Community (EC) is part of the federal U.S. Department of Agriculture EC/EZ Program. The EC process in the U.S. began in 1998, which included the participation from the Molokai community to develop a 10-year strategic plan for Molokai. The EC Board is an all-volunteer, community elected board responsible for setting operating policies, allocating USDA Enterprise Community funds, and working with the community to implement and update the EC Strategic Plan.

237. How many potential dwelling units could be developed in the La'au Point community?

**Response:** See our response to #7 above.

238. Based on projected timetables when does Molokai Ranch anticipate receiving La'au Point lot sale proceeds that "are crucial to funding of the Kaluakoi Hotel renovations and Golf Course Upgrades"?

**Response:** As responded in #190 above, pending project entitlements, MPL anticipates it will begin receiving proceeds from this project in 2010.

239. Who will provide the guarantees for the lot development construction funding Molokai ranch, BIL International or an investment partner? *MPL Response: MPL will be responsible for lot development construction funding. Follow-up questions: Will the construction loan be made to MPL. If so, what is the collateral for MPL's Loan, MPL's credit or pre-sold La'au Point lots or some other form of collateral? Will the construction money be provided to MPL by its parent company or other affiliated company?*

**Response:** The answers to these questions are proprietary.

240. Please provide a list of Molokai Ranch's current tourism operations, the profit or loss ("cash negative") from each operation, the amount of funding anticipated to be applied to each operation from the sale of the La'au Point lots, the current staff assigned to each operation, and how the funding from the La'au Point sales will result in "ensure the continued employment for Molokai Ranch's current staff."

**Response:** The answers to these questions are proprietary.

241. Please provide a list of Molokai Ranch's current agricultural operations, the profit or loss ("cash negative") from each operation, the amount of funding anticipated to be applied to each operation from the sale of the La'au Point lots, the current staff assigned to each operation and how the funding from the La'au Point sales will result in "ensure the continued employment for Molokai ranch's current staff."

**Response:** The answers to these questions have been previously outlined or are contained in the Fiscal Report. Any further information is proprietary.

242. Please explain the amount of financial support BIL provided to its Molokai operations during 2003, 2004 and 2005.

**Response:** As previously indicated, no financial support was provided in those years.

243. Please explain how Molokai Ranch is legally able to close walking access along the shoreline of its La'au Point parcel to Molokai residents for subsistence gathering. *Follow-up question: Today, without any La'au Point project and/or Master Land Use Plan, is there anything that would restrict a Molokai resident (Hawaiian or non-Hawaiian) from walking along the shoreline from Kaupoa Camp to La'au Point and on to Hale O Lono harbor for purposes of a) subsistence gathering/fishing?*

**Response:** Walking access on the shoreline below the highest wash of the waves will always be accessible to the public. Accessing the shoreline from other areas inland require entering private property, which MPL can legally restrict as the landowner.

244. Please provide a breakdown of the value for each land, income stream and revenues source which total more than \$50 million being gifted to the Molokai Land Trust and the Molokai Community Development Corporation.

**Response:** See our response to #47 above.

245. Please provide a summary of the specific development opportunities, which result in a total of "lost revenue opportunity costs" of more than \$25 million as a result of restrictive easements applied to certain Molokai Ranch lands.

**Response:** See our response to #53 above.

**3.0 COMMENTS ON PAGE 9 OF EXHIBIT 1**

246. Who will manage the Land Trust operations and how will those in charge of the Land Trust be selected? *MPL Response: The Land Trust is a community-based land steward organization, not related to MPL. Therefore, we are unable to respond on their behalf. Follow-up comments: How*

*has MPL been assisting in the development of the entity that will be the Land Trust referenced in the DEIS? Based on MPL's current knowledge of the Land Trust organization being formed, how will those managing the Land Trust be selected?*

**Response:** Since the Moloka'i Land Trust is an independent nonprofit corporation, policies and procedures for selecting directors will be formed by the Land Trust, not MPL. The Land Trust will be managed by its directors and staff. MPL cannot answer comments directed specifically to the Land Trust.

MPL representatives were invited to attend several of the Land Trust Steering Committee meetings and to provide technical assistance. Most of this technical assistance focused on specific land, infrastructure and boundary issues and terms of the Master Plan. MPL is an ex-officio, non-voting member, of the Land Trust board purely to assist the Molokai Land Trust with information concerning its donated lands.

247. *What was the name of the golf course development planned by previous Ranch management in the Naiwa area, and to what extent was the Ranch going to be [sic]*

**Response:** This question is incomplete; however, the name of the golf course you are referring to is Highlands Golf Course.

248. *Who will run the Community Development Corporation (CDC) and how will those in charge of the CDC be selected? Ranch response: The CDC will be an independent entity from MPL. Therefore, we are unable to respond on the CDC's behalf. Follow-up question: How has MPL been assisting in the development of the entity that will be the Land Trust referenced in the DEIS? Based on MPL's current knowledge of the Land Trust organization being formed, how will those managing the Land Trust be selected?*

**Response:** MPL has not been assisting in the development of the Land Trust, but providing information on its lands in order that the Land Trust can make appropriate future decisions. See our response to #246 above.

249. *What standards have been established for the development of affordable housing? Follow-up question: What standards and/or guidelines (minimum lot size, dwelling units size, quality of building materials etc.) did the Land Use Committee or the EC discuss and/or agree on before recommending approval or approving the Master Land Use Plan, which includes the Lā'au Point project?*

**Response:** The Land Use Committee did not get into specific detail on affordable housing standards or guidelines (minimum lot size, dwelling unit size, quality of building materials, etc.). Section 4.8.2 of the Draft EIS provides discussion on affordable housing.

250. *What does Molokai Ranch feel is the range of home sale prices that is affordable to Molokai's working families? Ranch response: Sales prices for the affordable homes have not been determined, but are expected to be based on a percentage of the median income for Molokai as established annually by the federal Department of Housing and Urban Development (HUD). Follow-up question: Affordable homes (up to 4-bedroom, 2 bath) are being built on homestead lands for under \$70,000 and most, if not all of these homes are being purchased by Molokai workforce families*

*earning less than \$30,000 annually. During the Master Planning process did MPL, members of the LUC and/or the EC Board members discuss and/or approve any policy statements to ensure that affordable homeownership opportunities would be available to this wage-earning segment of Molokai's workforce community?*

**Response:** Homestead lands are only available to native Hawaiians, and are not allocated solely according to median income; therefore, it is not a reasonable comparison. We reiterate that affordable housing prices will be based on a percentage of the median income for Molokai as established by the HUD.

The houses on DHHL lands to which you refer as "self-help" houses, are a scheme under which owners and family members construct their homes under guidance from a registered builder. Many people on Molokai'i are unable to undertake this type of scheme.

### 3.1 COMMENTS ON PAGE 10 OF EXHIBIT 1

251. *MPL will "put aside 200 acres for affordable housing around the towns of Kualapuu and Maunaloa." What does "put aside" mean? Ranch response: MPL will also reserve 200 acres around the towns of Kualapuu and Maunaloa to be made available for community housing. Although MPL will retain ownership of these reserved lands, development decisions and timing will be made by the community via the CDC and not by MPL. Follow-up comments: CDC's development decision regarding the development of community housing would have to factor in affordability. Having said this, who would determine what price the land that has been "put aside" by MPL (but still owned by MPL) on which any proposed affordable housing would be built?*

**Response:** In response to your comment, in the Final EIS Section 1.7.2 will be revised as follows:

**Housing** – The Lā'au Point project will address affordable housing in the implementation of *Community-Based Master Land Use Plan for Molokai Ranch* (see Section 2.1.7). Throughout the community-planning process, the vesting of land back into community hands and ensuring the development returns (Lā'au Point income) be shared by the community was part of a larger vision by the Molokai'i community to plan and finance housing for themselves. ~~MPL has reserved will put title restrictions on 100 acres around each of the towns of Kualapu'u and Maunaloa for community expansion to limit the use of these lands for affordable housing.~~ Approximately 1,100 acres will also be gifted to the Community Development Corporation (CDC), a large portion of which can be used for ~~community homes~~ affordable housing. Section 4.8.2 contains the full discussion.

In addition, in the Final EIS Section 2.1.9 (Molokai'i Community Development Corporation (CDC)) will be revised as follows:

To assist the CDC with providing affordable housing, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the CDC for future housing development. ~~MPL will also reserve put title restrictions on 200 100 acres around each of the towns of Kualapu'u and Maunaloa to be made available for community housing to limit the use of these lands for affordable housing.~~ Although MPL will retain ownership of the reserved lands, development decisions and timing will be made by the community via the CDC and not by MPL.

The CDC will work with partners such as Lokahi Pacific, the 501c3 organization that is currently completing 10 affordable homes in Maunaloa on land provided at a reduced price by MPL. Funds from the Lā'au development (the initial five percent of lot sales and the subsequent half a percent of subsequent lot or house and lot sales) will be used to fund CDC activities. The CDC will own the Kaunakakai land of 1,100 acres, it being donated by MPL.

Self-determination is a critical component behind the creation of the CDC and this plan for development of community affordable housing. Moreover, placing housing development in the hands of a community organization, rather than a developer, provides the opportunity for appropriate development timing, which is important in a slow-growing community like Moloka'i.

Affordable housing is intended for resident members of the Moloka'i community, within the income bracket and definitions as defined by the County of Maui. Affordable housing will be developed by the CDC. The CDC is tasked with providing affordable homes for Moloka'i residents. Residency requirements for affordable homes will be as specified under Section 2.96.020, Maui County Code (MCC).

Further, in the Final EIS Section 4.8.2 (Housing) will be revised as follows:

**Affordable Housing** – The Lā'au Point project will address affordable housing in the implementation of *Community-Based Master Land Use Plan for Molokai Ranch* (see Section 2.1.7). During the community planning process, the EC and other Moloka'i community members involved in creating the Plan clearly indicated that "only Moloka'i residents will decide future expansion of existing communities" (Appendix A, p. 5). Throughout the community planning process, the vesting of land back into community hands and ensuring the development returns (Lā'au Point income) be shared by the community was part of a larger vision by the Moloka'i community to plan and finance housing for themselves without the involvement of MPL.

The community process identified up to 100 acres around each of the towns of, Kualapu'u and Maunaloa for the future development of "Ohana Neighborhood Communities" (i.e., affordable housing) to be developed by partnering various community resources such as Habitat for Humanities, Self-Help Housing, and others. As previously noted, approximately 1,100 acres will also be gifted to the Moloka'i Community Development Corporation (CDC); a large portion of which can be used for community affordable homes. As discussed in the Plan, the community desires a link between affordable housing and other community-facilities present at each of the three communities to insure that they be developed as balanced communities. The community also does not support a large affordable housing project in one area only (Appendix A, p. 69).

There will be a continuing need in the future for more housing for Moloka'i families at affordable prices based on incomes. MPL, EC, and others in the community, such as Habitat for Humanity to name just one organization, can coordinate the planning and implementation of future affordable housing projects. MPL can reserve lands for lease at affordable prices will put title restrictions on 100 acres around each of the towns of Kualapu'u and Maunaloa to ensure limit the development of these lands for future

affordable housing projects. Although MPL will retain land ownership, affordable housing development decisions will be made by the community-represented CDC and not by MPL.

The economic value of the land donations, and the income from Lā'au Point (estimated at more than \$10 million from initial lots sales and an endowment from the income from subsequent lot and house sales), will enable the Moloka'i CDC to plan, site, and construct affordable homes itself. Self-determination is a critical component behind the creation of the CDC and this Plan for development of community affordable housing. Moreover, placing housing development in the hands of a community organization provides the opportunity for appropriate development timing, which is important in a slow-growing community like Moloka'i. As stated in the Plan: "The growth of Kaunakakai, Kualapu'u, and Maunaloa should be community-planned and should be allowed to happen naturally as community-driven demands require" (Appendix A, p. 67).

For the purposes of affordable housing, residency will be as specified under the County of Maui Residential Workforce Housing Policy, Chapter 2.96, MCC. Specifically, under Section 2.96.020, MCC, "Resident" means a person who meets one of the following criteria:

1. Currently employed in the County;
2. Retired from employment in the County, having worked in the County immediately prior to retirement;
3. A full-time student residing in the County;
4. A disabled person residing in the County who was employed in the County prior to becoming disabled;
5. The parent or guardian of a disabled person residing in the County;
6. A spouse or dependent of any such employee, retired person, student, or disabled person residing in the County; or
7. In the event of the death of the employee, retired person, student, or disabled person, the spouse or dependent of any such person residing in the County.

To satisfy the affordable housing requirements of Chapter 2.96, MCC, MPL will seek an adjustment as specified under Section 2.96.030(C)(1), MCC. The terms of the adjustment will specify the provisions discussed above.

252. How will the community be assured that these lands will be available in perpetuity for affordable housing?

**Response:** See response to # 251 above. Title restrictions will limit the use of these lands for affordable housing

253. What process will be used by the community to determine the future expansion of these towns?

**Response:** The CDC, in conjunction with the County housing department and entities such as Habitat for Humanity, will determine when that need arises.

254. On Page 10 is the statement, "In addition to land for housing, MPL will gift the CDC with the following.....". Does MPL intend to gift the land for housing around Maunaloa and Kualapu'u like it did for affordable housing lands around Kaunakakai? If not, why not? Ranch response: MPL will

*only be gifting the land in Kaunakakai. The lands around Kualapuu and Maunaloa will be made available for affordable housing to be decided and managed by the CDC; however, MPL will retain ownership of the lands. Follow-up comment: What is the rationale for MPL gifting the lands around Kaunakakai for affordable housing and not gifting the lands around Maunaloa and Kualapuu for affordable housing? Was this issue discussed and decided on by the Land Use Committee members and/or the EC Board?*

**Response:** The issue was discussed and agreed by the Land Use Committee by majority vote in context of the Master Plan.

255. *In 2001, the Molokai Community Plan sent to the County Council for approval called for the 5-acre parcel in Kaunakakai to become the permanent home of the Junior Roping Club. The Ranch objected to what the community wanted. What were the reasons the Ranch objected to the parcel being dedicated to the use of the Junior Roping Club?*

**Response:** The parcel you reference is a valued piece of property zoned industrial. MPL believes the Junior Roping Club over the longer term should be located in a more rural environment than downtown Kaunakakai. It is prepared to assist the club with that re-location when its lease runs out.

256. *The EISPN states that the 3.2-acre parcel being gifted to the CDC "will be sold to the Maui Community College at market value". Based on recent appraisals of this parcel of property, what does the Ranch estimate the "market value" of this parcel is today? Is the CDC required to sell the 3.2 acres to the college at "market value"? Ranch response to above two comments: The CDC and MPL will obtain an independent valuation of the parcel when Maui Community College wishes to acquire the parcel. MPL has made no requirements on the sale price to the CDC. Follow-up comment: If the CDC is separate and unaffiliated with MPL, why is MPL involved in obtaining an "independent valuation" for the 3.2 acre parcel it gifted to the CDC? If the CDC should elect to gift the 3.2 acre parcel to MCC, does MPL have any say in the matter?*

**Response:** This 3.2-acre parcel is part of a larger TMK. For tax filing purposes, we are required to know the value of the land we gift. Once title has passed to the CDC, it is free to discuss any alternative with the College.

257. *It appears that MPL is projecting that the sales of the La'au Point lots will be over a 5-year period. What is the average sale price of the lots MPL projects receiving over the five-year sale period? Ranch response: Follow-up comment: What is MPL anticipating gross sales revenue will be on the original sales over the proposed 5-year sales period?*

**Response:** MPL has stated in the Draft EIS that in 2006, it anticipated receiving gross sales of \$200 million or an average of \$1 million per lot for sales of the properties. On an effective cash basis this needs to be discounted for "the time value of money" or "net present value" of the sales compared to costs outlaid for construction.

258. *In the statement "a net 5 percent of the sale revenue", explain what components go into determining the "net". What is the delay in determining what the percentage the CDC will receive from lot and/or house resales? Ranch response to two comments: All agents' fees and other taxes will be deducted from the sale price before the 5 percent is calculated. The percentage from re-sales has yet to be negotiated with the CDC following determination of the entitlements. Follow-up comments:*

*Please identify the "other taxes" and percentage of those "other taxes" and the "agent's fees" and percentage of the "agent's fees". Who decided that 5 percent on original sales was the appropriate amount to go to the CDC? If the "determination of the entitlements" was not a factor in deciding on the 5% figure to CDC on original sales, why is the entitlement issue a factor in agreeing on a percentage of the resale prices that would go to the CDC?*

**Response:** Net revenue will be the revenue after all costs associated with sale, including any state or other charges or taxes or deduction from the sale proceeds, and real estate commissions.

The "five percent" amount was determined during the planning process of the Master Plan. This was an agreement reached by the Land Use Committee and MPL during its deliberations on the Lā'au project and later confirmed in the Master Plan that was supported by a 70 percent vote by the Land Use Committee and a 70 percent vote of the Moloka'i Enterprise Community Governance Board.

The determination of entitlements and the fact that MPL would be paying the 5 percent, rather than future lot owners paying in the instance of re-sales, was a factor in deciding on the 5 percent figure.

MPL proposed the net 5 percent, and it was accepted by the Land Use Committee as generous.

259. *3.2 Please provide a draft of the proposed CCR's. Follow-up comment: please provide a the final CCR document that contains the provisions that the LUC understood would be included in the final CCRs including a provision that the CCR's could never be changed.*

**Response:** As of November 2007 the CC&Rs were undergoing review by the Moloka'i 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.

### 3.4 COMMENTS ON PAGE 11 OF EXHIBIT 1

260. *Please explain the format of the "entity" that will have jurisdiction over the 451 acres of Conservation District lands, and explain how the "shared responsibility" will translate to any decision making process? Ranch response: The Conservation District areas to be protected (approximately 434 acres) within the Lā'au Point project will be the subject of an easement held by the Molokai Land Trust. These protected lands will be part of an entity that is controlled jointly by Lā'au Point homeowners and the Land Trust. Follow-up comments: Please provide a copy of the "easement" agreement in the FEIS. If there is a difference of opinion between the Land Trust and the Lā'au Point homeowners in how the Conservation District lands are to be controlled, who prevails? Will the community have any input into decisions on how the Conservation District areas will be managed?*

261. *Please provide a copy of the document explaining the specifics of the relationship between the Land Trust and the Lā'au Point homeowners relative to managing the 451-acre Conservation District lands. Ranch response: Such a document has not been created yet; it is pending entitlement approval for the Lā'au Point project; therefore governing rules for decision-making have not been established. Follow-up comments: Did the EC's Land Use Committee or the EC Board discuss and*

*agree on any guidelines governing management goals for the Conservation District goals? If so, please provide a copy of these guidelines.*

262. *If the Land Trust and the La'au Point homeowners have a difference of opinion management strategies in the Conservation District, will the Land Trust be the final authority? Follow-up comment: Will the Land Trust be the final authority if there is a disputed with the La'au Point homeowners over how to manage the Conservation District lands?*

**Response:** As addressed in #52 above, these documents are currently being drafted and being negotiated with the Moloka'i Land Trust, and will be available at the time of the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

These include:

- The Expanded Conservation District easement to the Land Trust.
- The Easements over the Rural Reserve and Agricultural lands.
- The Shoreline Access Management Plan (SAMP).

The SAMP, which has been developed in conjunction with the Moloka'i Land Trust, provides a mechanism for developing management plans for the area. The SAMP will be appended to the Final EIS.

**Comments on Page 12 Exhibit 1**

263. *What specific measures will be employed to "maintain" the "subsistence activities" are currently being practiced in the Conservation District areas?*

**Response:** The specific measures to maintain subsistence activities in the Conservation District areas are thoroughly discussed in Section 4.2 of the Draft EIS (pages 59-60). These include (as amended in the Final EIS):

- Seek to establish a subsistence fishing zone (see Appendix A, p. 59), which will not require special legislation to be enacted by the State legislature (as previously discussed in Section 2.3.7). The zone would encompass the areas stretching from the shoreline to the outer edge of the reef on the Southern coast, and where there is no reef on the western shoreline, out a quarter-mile from the shoreline along the 40-mile perimeter of MPL's coastline property. The subsistence fishing zone for Lā'au would be modeled after the Hui Malama O Mo'omomi Subsistence Fishing Zone which has proven to be most successful in protecting the coastal resources at Mo'omomi.
- End commercial hunting (commercial leases expire 2007), and allowing only subsistence hunting on the property.
- Ensure access to the shoreline will be available only by foot.
- Establish demonstration fishing nurseries/kapu sites to insure reproduction of key subsistence food species (e.g. 'opihi, moi, mullet, limu, lobster, ulua, uhu he'e).
- Support protection for Penguin Banks from overfishing.
- Each year, an experienced Resource Group, comprising Maunaloa subsistence practitioners and the Land Trust will recommend open areas for subsistence fishing based on protecting and not depleting the resources.
- Those provided access to fish and gather once the community-based subsistence fishing management zone is established will be asked to take an educational course on traditional fishing methods, practices and conservation measures that will be offered by the resource managers, with guidance by the Maunaloa residents.

- Erect a fence to demarcate private property from public access area. All of the informants felt that it is important to have a clear physical demarcation, such as a log fence, running along the individual property lines to distinguish between private property and the public access area. By putting in a fence of some kind the public will know the boundary.
- Establish an access trail that would follow the contour of the old traditional trail as much as possible. Existing kiawe would serve as a buffer between the trail and the sand and ocean. This can help reduce impact of the trail on the beach and ocean. The trail will be unpaved and only for walking (no cars, ATVs, or bicycles). Because of community concerns about how kiawe drain water from this dry part of the island, selected pruning may be necessary to enable the re-establishment of native plants in the Conservation areas.

264. *What "subsistence activities" are currently being practiced from the "Conservation District lands in the La'au Point area?"*

**Response:** This comment was discussed in detail in Section 4.2 and Appendix F of the Draft EIS. Activities include: fishing, hunting, gathering of various invertebrates, and gathering of plant materials.

**Comments on Page 13 Exhibit 1**

265. *Based on current plans, how many dwelling in total could potential be developed on the 400 acres of "Rural-Residential lots referenced in Table 1? Ranch response: Lā'au Point will contain 200 single-family rural-residential lots. Follow-up comment: Based on the zoning MPL is seeking for the La'au Point residential lots, how many dwelling units are permitted to be built on each lot?*

**Response:** See our response to #7 above.

266. *The Molokai Community Plan talks about a minimum 40-acre Park in the area just west of Hale O Lono Harbor. How does the applicant view this park development in the scheme of the overall development at La'au Point?*

**Response:** To the best of the knowledge of current management, The County of Maui has never approached MPL regarding the creation of a 40-acre park. The Lā'au Point project will create two shoreline public parks to be dedicated to the County or the Land Trust.

267. *What access rights currently exist for the "people of Molokai" to and along the approximate 5.2 miles of undeveloped shoreline from Hale O Lono harbor to Kaupoa Beach, which borders the proposed development of a 400-unit oceanfront, luxury, second-home development? Ranch response: Currently, a subsistence committee comprising of senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access by Ranch employees. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees' committee. They are limited to two or three vehicles and ten adults. ATV's and motorcycles are not allowed. Families can go only once a month to give everyone a chance. Gathering is allowed for parties, and there is a three-gallon limit on opihi. Follow-up comment: Who else in the Molokai community, other than Molokai ranch employees, is able to access the undeveloped shorelines surrounding La'au Point? Is MPL able to restrict any member of the Molokai community from lateral access along the La'au Point shorelines areas? If so, explain how MPL is able to enforce such a restriction.*

**Response:** MPL is not allowed to restrict lateral access along the shoreline below highest wash of the waves. Access across Molokai Ranch land can be controlled as allowed to any private property owner. Molokai Ranch employees, guests of the Ranch and its employees have access to these areas beyond the shoreline.

Vehicular traffic is prohibited on Ranch property mauka of the shoreline along the existing trail. There is no way to prevent foot travel in the conservation area along the trail. Current enforcement in the area is difficult due to the terrain and is handled by requests to vacate the premises or through police intervention in extreme cases.

268. *What access restrictions, if any, will apply to the La'au Point homeowners and their guests and friends and caretakers? Ranch response: Increased public access to the shoreline and other coastal resources has the potential to damage the natural environment and diminish the uniqueness of the coast. Therefore, to protect the natural resources of the shoreline, a shoreline access management plan for the area will be implemented which addresses maintenance and resource management for the area. As previously discussed, the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners' association. Follow-up comment: Please provide a copy of the shoreline management plan in the FEIS. Will lot owners, their guests, caretakers and friends be able to access the shoreline directly from their respective lots, or will they have to go to one of the two designated public access areas?*

**Response:** See our response to #45 above.

269. *What specific access rights to and along the currently undeveloped La'au point area shoreline exist under the law for Native Hawaiians? What is the applicant's understanding of who qualifies as a "Native Hawaiian" as far as having access rights currently under the law to the La'au Point shoreline area? Ranch response: MPL recognizes all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes by descendants of Native Hawaiians. Follow-up comment: Are there any restrictions enforceable by MPL against Native Hawaiians freely accessing the La'au Point area for subsistence, cultural and religious practices customarily and traditionally exercised in the La'au Point area. If so, please define these enforceable restrictions.*

**Response:** Land owners' and Native Hawaiians rights on undeveloped land are clear under Hawai'i statutes.

270. *What will be the penalties, if any, for anyone violating the aforementioned "other protections" in the CCR's or the "strict access measures that will insure that the resources are not depleted". Ranch response: Penalties, if any, may be addressed in the shoreline access management plan. Follow-up comment: Please provide a copy of the shoreline access management plan with the FEIS. If there are no penalties or enforcement how will the shoreline access management plan be effective?*

**Response:** Penalties are governed by the terms of the SAMP, ancillary agreements, and Hawai'i Law.

**Comments on Page 18 Exhibit 1**

271. *Why were "ranching activities" halted in the La'au Point community site in 2000? Ranch response: No ranching activities currently exist on parcel since MPL's purchase. We cannot respond to questions regarding previous owners' activities. Follow-up comment: Please check with Ranch*

*cowboys (i.e Jimmy Duvauchelle) to find out why the the "ranching activities" were halted at La'au Point in 2000.*

**Response:** There were more suitable areas for ranching on other MPL property.

**3.5 COMMENTS ON PAGE 20 EXHIBIT 1**

272. *Does the applicant have any evidence, other the results of a "recent field survey", to determine the frequency of the Monk seals' presence along the undeveloped La'au Point shoreline between Hale O Lono harbor and Kaupoa Beach? Is there any time of the year when Monk seals frequent the La'au Point shoreline areas more than other times of the year? Ranch response to the two above comments: The Fauna Survey (to be included as an appendix of the Draft EIS) reports that two endangered Hawaiian Monk Seals (Monachus schawinslandi) were observed resting on Sam Wights Beach north of Lā'au Point. Follow-up comment: Please provide an adequate response that addresses the specific comments.*

**Response:** See our response to #204 above.

**3.6 COMMENTS ON PAGE 21 EXHIBIT 1**

273. *How does the applicant explain the fact that the amount of fish resources in the La'au Point area, which is subject to restricted public access, is 42% lower than fish populations in open access areas statewide? How will fish populations improve by opening the area to the development of up to 400 dwelling units and the development of more convenient public access routes complete with bathrooms and other amenities, which will result in more people utilizing the La'au Point shoreline area? Ranch response to the two above comments: Traditionally, La'au Point was not a place that was fished on a regular basis because it is isolated and difficult to reach. However, the increased use of boats on Molokai and Oahu has changed this. People interviewed for the cultural impact assessment (to be included as an appendix of the Draft EIS) noted that the resources have declined in the area with heavy seasonal harvesting by boaters from Oahu and the opening of Hale O Lono Harbor and Kaluakoi as closer launching points to La'au Point for Moloka'i boaters. The Community-Based Master Land Use Plan for Molokai Ranch proposes the establishment a subsistence fishing zone, which will require special legislation to be enacted by the State legislature. The zone would encompass the areas stretching from the shoreline to the outer edge of the reef on the Southern coast, and where there is no reef on the western shoreline, out a quarter-mile from the shoreline along the 40-mile perimeter of MPL's coastline property. The subsistence fishing zone for La'au would be modeled after the Hui Malama O Mo'omomi Subsistence Fishing Zone which has proven to be successful in protecting the coastal resources at Mo'omomi.*

**Response:** Please see the response to Comment 43 in regard to your questions about fish populations and public access. Regarding a correction related to the need for state legislation for the establishment a subsistence fishing zone, please see the response to #54 above.

**Comments on Page 24 Exhibit 1**

274. *What "community access" to the La'au Point shoreline area exists currently for "cultural practices", and how will the current access be "improved" other than development of paved roads and parking. Ranch response: Currently, a subsistence committee comprising of senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access by Ranch employees. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees' committee. They are limited to two or three vehicles and ten adults. ATV's and motorcycles are not allowed. Families can go only once a month to give everyone a chance.*

*Gathering is allowed for parties, and there is a three-gallon limit on opihi. Follow-up comment: The response does not adequately address the comment.*

**Response:** MPL recognizes all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes by descendants of Native Hawaiians. Others may not access the property except along the shoreline. The proposed project will improve access over existing conditions by providing two shoreline parks, public parking areas, and comfort stations at both ends of the project.

275. *In addition to "ensuring the community has access to the subsistence resources" via a planned "public coastal trail", won't the subsistence resources also be open to in-state and out-of-state visitors to Molokai? Ranch response: Increased public access to the shoreline and other coastal resources has the potential to damage the natural environment and diminish the uniqueness of the coast. Therefore, to protect the natural resources of the shoreline, a shoreline access management plan for the area will be implemented which addresses maintenance and resource management for the area. As previously discussed, the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners' association. Follow-up comment: What enforceable provisions are proposed for the shoreline access management plan that will stop any one (local Molokai resident, off-island, in-state resident or out-of-state visitor) from ignoring the plan and simply accessing the subsistence resources in the La'au Point area by walking laterally along the shoreline?*

**Response:** Land Trust managers will enforce the shoreline rules. The SAMP provides that the resource managers will be on property to ensure compliance. Violators will be asked to leave the premises. If violators remain on the privately held portions of the property after requests to vacate, law enforcement officials can be summoned.

276. *Who in the Molokai community is currently limited from access the La'au Point shoreline area if they wanted to go there for recreation, subsistence and/or cultural activities? Follow-up comment: In adequate response, unless the response is that everyone in the Molokai community, accept Molokai ranch employees, is currently limited from access the La'au Point shoreline area to enjoy recreation, subsistence and/or cultural activities?*

**Response:** See our response to #267 above.

277. *Does the applicant equate easier access for all members of the public (visitors as well as Molokai residents) to the La'au Point shoreline via paved roads and paved parking lots will improve the "fish populations" and/or the traditional practices of the descendants of Native Hawaiians? Ranch response: Traditionally, La'au Point was not a place that was fished on a regular basis because it is isolated and difficult to reach. However, the increased use of boats on Molokai and Oahu has changed this. People interviewed for the cultural impact assessment (to be included as an appendix of the Draft EIS) noted that the resources have declined in the area with heavy seasonal harvesting by boaters from Oahu and the opening of Hale O Lono Harbor and Kaluakoi as closer launching points to La'au Point for Moloka'i boaters. The Community-Based Master Land Use Plan for Molokai Ranch proposes the establishment a subsistence fishing zone, which will require special legislation to be enacted by the State legislature. Follow-up comment: What is the status of establishing special legislation for the proposed subsistence fishing zone for La'au, and who has the responsibility to move that legislation through?*

**Response:** See our response to #54 above.

### 3.7 COMMENTS ON PAGE 26 EXHIBIT 1

278. *In 2001 the EISPN states the population of West Molokai was 2,569 people. What is the population today? Not counting the 400 potential homes from the La'au Point luxury residential subdivision development, what does the applicant estimate the population on the West End would be if the Kaluakoi Resort and the Maunaloa Town are build out in accordance with the land use intentions set forth in the current Molokai community plan? Follow-up comment: MPL's response did not address the comment.*

**Response:** MPL has no access to current population statistics other than census figures referenced. We do know that approximately 50 to 60 new houses have been built and occupied in the West End since the census was conducted.

### 3.8 COMMENTS ON PAGE 27 EXHIBIT 1

279. *On Page 26 it states that the "community can plan its own affordable housing in Kaunakakai without recourse to MPL". What recourse is there to MPL before the community can plan the development of affordable housing in Kualapuu or Maunaloa. Comment re-stated: What does "without recourse to MPL" mean, and would the same condition of no recourse to MPL apply as the community plans its own affordable housing in Maunaloa and Kualapuu?*

**Response:** The land to be donated at Kaunakakai will be given in fee simple so MPL will have no interest in the land following its donation. The CDC will be able to plan its own affordable housing without having to include MPL. In other words, MPL will not influence CDC decision-making for community expansion or affordable housing.

In addition, MPL will not influence the CDC's decision-making regarding community expansion in Maunaloa and Kualapuu.

280. *Does the applicant feel that the Community supports the development of the 100-acres to be set aside in Kualapuu and Maunaloa, and portions of the 1,000 acres donated around Kaunakakai for affordable housing as needed as needed to supply affordable homes for Molokai's working families that would qualify for affordable housing (i.e. teachers, Ranch employee's, county and state workers, policemen, firemen, retail employees, agricultural workers, hotel and visitor industry employees, etc.)?*

281. *What does Molokai Ranch consider to be "reasonable prices" that the 100-acres around each of the towns of Kualapuu and Maunaloa can be reserved for "to ensure the development of these (lands) for future affordable housing? Ranch response: MPL has no estimate currently of the prices it is likely to negotiate with the CDC for the use of those lands, but the prices will be at levels that can make homes more affordable on these lands than other similar lands. Follow-up comments: MPL's response is inadequate and vague. What does MPL consider "similar lands" and what does MPL estimate the value of these "similar lands" (house lots) are in today's market? Who made the decisions to have donate lands for affordable housing in Kaunakakai and not have the lands donated in Maunaloa and Kualapuu?*

**Response:** The lands to be dedicated to the CDC for development were determined during the planning process for the Master Plan supported by the Land Use Committee and the Moloka'i Enterprise Community.

**Comments on Page 28 Exhibit 1**

282. Please provide in the Draft EIS a summary verifying the different operations that are contributing to MPL's "operational cash deficit of \$3.7 million per annum. Specifically, how will the Community-Based Master Land Use Plan cure MPL's "operational cash deficit of \$3.7 million per annum"? Ranch response (referred to response on an earlier comment): According to the Economic and Fiscal Impacts Report (to be included as an appendix to the Draft EIS), the net loss from operations in 2001 to 2006 has been approximately \$31.6 million. Whereas often painful cost cutting has reduced operating losses from \$8.6 million in 2001 to a range of \$3.6 to \$3.8 million in the last three years, the increasing costs of water, energy, and insurance make it difficult to expect profitable operations in the future. In addition to operating losses, annual capital expenditures are another drain on cash flow, averaging over \$800,000 per year over the past five years. Taken in total, MPL has subsidized the continuing operations and upkeep of Molokai Ranch to \$4.7 million to \$10.2 million per year. The cumulative subsidy over the past six years has been \$36.9 million. Follow-up comment: The response does not address the specifics of the comment. Please provide an adequate response.

**Response:** Any financial information, other than that outlined by the Economic and Fiscal Impacts Report (Appendix J in the Draft EIS) is commercially sensitive.

283. Please provide a breakdown by parcel indicating the "value of the donated land" or "the "potential lost-opportunity cost of developing land" that totals more than \$75 million dollars. What is the source used to determine the aforementioned \$75 million dollar value? Ranch response: Values were determined from information provided by real estate appraisal company The Hallstrom Group in a property valuation report. These values are subject to change and not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted. Follow-up comments: Please provide a breakdown of the parcels requested and the appraised value of each parcel. Where identify in the FEIS, where a copy of The Hallstrom Group appraisal report can be obtained by members of the Molokai community.

**Response:** The appraised value of the donated lands that can be identified (not the decrease in value of the easement lands) in the 2006 Hallstrom report was \$40 million. The Hallstrom report is available on the website of MPL's parent, BIL International Limited at [www.bilgroup.com](http://www.bilgroup.com).

**Comments on Page 29**

284. What is the saline content of the brackish Kakalahale well and when was this data gathered? Follow-up comments: When was the data indicated 500 ppm chlorides gathered and what was the source of the data (i.e. pump test?). Assuming 500 ppm chlorides, what would be the cost per 1000 gallons to be desalinate the Kakalahale well water to drinking water standards?

**Response:** As mentioned in MPL's water plan (discussed in Section 4.9.2 and provided in Appendix P of the Draft EIS), desalting is still about four times more expensive on Moloka'i (not helped by the island's high energy costs) than developing an operating deep groundwater well. Regardless, the Kakalahale well water will be for non-potable water uses.

285. The EISPN does not mention anything about the Ranch's potential water source from the Pala'au Shrimp Farm. Is Molokai ranch still planning to employ this source of water in its future development plans if needed? How much water is available from this source? What is the saline content of this water? Is there any requirement to go to the COWRM for any kind of permit for MPL to transport water from the Pala'au Shrimp Farm area to service irrigation needs in another area of

the island where future development takes. Follow-up comment: If water were transported from Pala'au by MPL to the Kaluakoi resort for use on a golf course would such a use require any type of permit from the state Water Commission? MPL has a permit to pump over 800,000 gpd from the Pala'au Shrimp Farm well, yet anticipates only 500,000 gpd will be available for other uses. What happens to the unaccounted for 300,000 gpd? Did Molokai Ranch or MPL ever have plans to pipe brackish water from the Pala'au Shrimp Farm to the West end for use on a golf course? If so, please explain the circumstances and how the water was to be transported to the West end for use on the golf course.

**Response:** No permit from the Water Commission is required for reclaimed water. As an alternative source of water for the golf course, MPL is considering the re-use of water that has already been cycled through the shrimp farm.

286. What transmission alternatives for the Kakalahale well water is MPL evaluating? MPL response: MPL has indicated that it will seek to use existing pipeline easements across DHHL's Ho'olehua lands for the transmission of Kakalahale water. When Kakalahale Well use is permitted, MPL will not transmit brackish water from the well to the West End using the Molokai Irrigation System (MIS) system. Follow-up comments: Who within DHHL (has the authority to approve the transmission of Kakalahale water across DHHL lands? Who is MPL negotiating with for the transmission approval, and what is the status of those approvals? What alternatives, if any, does MPL have for transmitting Kakalahale water to the West end if transmission across DHHL lands is not approved? Does pipeline size have anything to do with DHHL approval for transmission of Kakalahale water across its lands? If so, please explain.

**Response:** MPL currently has two existing pipeline easements across DHHL lands; therefore, transmission approval is not required to transport water across those easements, although any changes to pipeline size requires DHHL approval. MPL has not investigated or analyzed alternatives to the transmission of water although theoretically other options may exist.

In response to your comments regarding water transmission, 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)."

287. The EISPN states that MPL "will also make its excess potable water capacity available for use of communities outside its property". Please explain the specifics of this general statement? What is the potential amount of "excess potable water" that MPL may have available for use by others in the community and from what source(s) would the excess come from? Is the availability of the "excess potable water" envisioned by MPL, contingent on not further impacting the integrity of other water sources in order to generate the MPL's excess water capacity? MPL responses to the above three comments: MPL has offered to make the excess safe drinking (potable) water capacity available from Well 17 for the use of communities outside its property, if, as proposed in the Water Plan, water from Well 17 is freed up from existing irrigation uses. The amount of water available for use of communities outside of MPL's property has not been determined. Follow-up comments: In a recent promotional brochure sent by MPL to all Molokai residents, MPL made the following statements (follow-up comment following each statement) regarding water and its use: 1) The DHHL-approved allocation of 2.9 mgpd from the Kualapu'u aquifer is preserved forever for homesteaders - Follow-up comment: How does the preservation of DHHL's water allocation effected one way or the other by the development of the La'au Point project?

**Response:** To meet its potable water needs, MPL has committed to using only existing sources in amounts that are already permitted. In other words, a determination has already been made that the use of 1.018 mgd from Well 17 and water collected in Molokai Ranch's Mountain Water System will not interfere with DHHL's existing permits and reservation.

In response to your comments regarding DHHL's water allocation, 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)." See the section of the attachment titled, "DHHL's Future Water Needs."

288. 2) *Molokai Properties has offered the County and DHHL use of up to 500,000 gpd from Well 17, eliminating the need for DHHL and the County to spend up to \$8 million in new infrastructure costs - Follow-up comment: It is assumed that the 500,000 is additional water pumped from Well 17 over and above MPL's current allocation/use of approximately 1,000,000 gpd. Based on this assumption and assuming MPL is confident that an additional 500,000 gpd can be pumped from Well 17, why doesn't MPL use this additional water from its Well 17 for its own needs instead of giving it to other water users? Please describe the infrastructure components that cost \$8 million.*

**Response:** MPL believes that water quality should match the use. In other words, drinking quality water should be reserved for household and drinking water uses, and non-potable quality water should be used for irrigation. This is especially important on Moloka'i where drinking quality water is not abundant in the more populated areas. Well 17, which currently produces more than 1 mgd of drinking quality water, has the potential of producing another 500,000 gpd of drinking quality water. MPL does not need additional drinking quality water; it needs water for irrigation, which can utilize non-potable quality water. MPL has offered Well 17's excess capacity to DHHL and the County in recognition of their needs for additional water for domestic and household uses.

Regarding your question to "describe the infrastructure components that cost \$8 million," we do not know where this cost figure comes from; this cost is not referenced in the EIS. We expect, though, that the infrastructure cost you refer to includes the expense of having to drill wells.

289. 3) *The Plan proposes never using any more drinking water, only brackish water that homesteaders don't want to use on their land because it is too salty - Follow-up comment: If 1,000,000 gpd of Kakalahale water was mixed with 1,000,000 of surface water, what would the chloride count be in the blended water (approximately), and would homesteaders be willing to use this blended water on their lands?*

**Response:** Kakalahale Well water is only slightly brackish at about 400 mg/L. Often, surface water is non-potable, not because of chloride content, but because of other impurities (silt, bacteria, etc.). There should be no hesitation with using blended water for irrigation.

290. 4) *MPL has stated that it does not need any more drinking water than 2.5 mgpd currently proposed in the Plan. Well 17 will account for one million gpd of existing drinking water, 500,000 gpd would come from the Ranch's mountain system, and an application would be filled to bring 1 million gpd of brackish water from the Kakalahale well. - Follow-up comment: If MPL maintains the 500,000 gpd from its Well 17 that it was going to give away to DHHL and/or the County of Maui this will give MPL 1.5 mgpd from Well 17. Add to this to the 500,000 gpd of water from its mountain system,*

*and the 500,000 gpd MPL claims is available from its Pala'au well source, and that gives MPL a total of 2.5 mgpd of water without having to re-open the Kakalahale well. So why is MPL pursuing the re-opening of the Kakalahale Well, if its already has available to it, the 2.5 mgpd it needs to sustain the Plan?*

**Response:** MPL has stated that it will not seek a water use permit for any more potable water. MPL will rely on the 1.018 mgd allocation from Well 17 that it currently has and treatment of approximately 500,000 gpd of surface water from its Mountain Water System to meet all of its potable water needs.

As addressed in #288 above, MPL believes that water quality should match the use. In other words, drinking quality water should be reserved for household and drinking water uses, and non-potable quality water should be used for irrigation. This is especially important on Molokai where drinking quality water is not abundant in the more populated areas. Well 17, which currently produces more than 1 mgd of drinking quality water, has the potential of producing another 500,000 gpd of drinking quality water. MPL does not need additional drinking quality water; it needs water for irrigation, which can utilize non-potable quality water. MPL has offered Well 17's excess capacity to DHHL and the County in recognition of their needs for additional water for domestic and household uses.

291. *What is the status of the "Waiola Well application"? MPL response: The Waiola o Molokai water use permit was remanded by the Supreme Court. Many of the issues raised in the Waiola Well case were resolved by the Water Commission and affirmed by the Supreme Court. Follow-up comment: What issues were not resolved by the Water Commission and affirmed by the Supreme Court?*

**Response:** The Hawai'i Supreme Court remanded the Waiola water use permit case to the Water Commission for further proceedings on two issues.

First, the court held that although it had been shown that pumping from the proposed Waiola well would not adversely impact the existing DHHL wells in Kualapu'u, MPL had not provided evidence to show that pumping from the Waiola well would not impact DHHL's ability to withdraw its 2.905 reservation amount from the Kualapu'u aquifer.

Second, the court held that MPL did not meet its burden in showing that water withdrawals from the Waiola well would not abridge native Hawaiian traditional and customary gathering rights. In the Waiola contested case, MPL took a defensive posture with respect to the issue of traditional and customary native gathering rights. In other words, MPL focused on discounting or impeaching the testimony of those who claimed that native Hawaiian gathering rights would be abridged. The court held that that was not sufficient for MPL to meet its burden as the applicant. Instead, MPL had to make an affirmative showing that withdrawal of water from the Waiola well would not abridge native Hawaiian traditional and customary gathering rights. Additionally, the court held that there was a procedural error in not allowing one of MPL's witnesses to be fully cross-examined, which may have affected the Water Commission's findings of fact with respect to the impact on native gathering rights.

The court ruled that in all other respects MPL had met the requirements for a water use permit for the Waiola well.

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)." See the section of the attachment titled, "Waiola Well Issues Raised."

292. *Isaac Hall is one of two attorneys listed in the EISPN as representing MPL. Has Mr. Hall ever represented any Molokai individuals or community groups against the Molokai Ranch and/or MPL over development or water issues? If so, please provide a list of the actions Mr. Hall has taken on against the Ranch on behalf of community members. MPL response: Details regarding Mr. Hall's previous clients are not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted.*

**Response:** We note that you did not have a follow-up comment. MPL maintains its previous answer was adequate.

293. *What are the current water rates applicable to Kaluako'i residents and how will these rates be restructured in the future? Follow-up comment: MPL is talking about a conservation rate in the near future of approximately \$6.50 per 1000 gallons used over 1,000 gpd for users served by MPL's water utility company. How does this rate compare to the cost of desalinization of sea water?*

**Response:** As mentioned in MPL's water plan, desalting is still about four times more expensive on Molokai (not helped by the island's high energy costs) than developing an operating deep groundwater well. A pilot plan on O'ahu developed in the early 2000s still remains idle today because of escalating energy costs needed, in simple terms, to push the brackish water through a membrane to remove the salts.

294. *What is average monthly water usage in 1000 gallon per day for residents of the Papohaku Ranchlands residential subdivision? What is the average usage of residents in Maunaloa Town? MPL response to the above two comments: Papohaku Ranchlands and Maunaloa Town are not part of the La'au Point project, and therefore, discussion of this topic in the EIS is not warranted. Follow-up comment: Please provide an adequate response.*

**Response:** We concur with our original response. Also, see our response to #32 above.

**Comments on Page 33 Exhibit 1**

295. *What is the status of a park of a proposed park consisting of approximately 40-acres in the area of Hale O Lono harbor? Would this 40-acre park be in addition to the 16.5-acre park near Hale O Lono that is part of the La'au Point development? Ranch response: MPL has not proposed or referred to a 40-acre park at Hale o Lono Harbor in regard to the La'au Point project. The Lā'au Point project will include two public parks (totaling approximately 17 acres), one by Kamākaipō Gulch (1.0 acres) on the west end of the community, and the other (16.0 acres) near Hale O Lono Harbor at the south end. This 17-acre total exceeds the 2.26 acres of parks required for a 200-lot development under the County's subdivision requirements (MCC Sec. 18.16.320). Follow-up comment: Is MPL aware of the 40-acre public park proposed for the Hale O Lono area?*

**Response:** See our response to #266 above.

**3.9 COMMENTS ON PAGE 37 EXHIBIT 1**

296. *In order for those members of the public, as well as decision makers, who are reading the Draft EIS to be fully informed about the policies, goals and objectives of the Maui County General Plan and the Molokai Community Plan may or may not "conform to", please attach a full copy of these important community planning documents that have been adopted into law by ordinance to the Draft EIS.*

**Response:** See our response to #198 above.

**3.10 COMMENTS ON PAGE 39 EXHIBIT 1**

297. *There was also a plan for the development of a major timeshare project on lands already zoned for such development within the Kaluakoi Resort. Timeshare is the rage today with developers so much so that developers/landowners are converting existing hotels or demolishing profitable hotels to make way for bigger timeshare developments. Please provide the details of the timeshare alternative that MPL said it did for the timeshare alternative. Follow-up comment: If a timeshare project generated the same net project profits for MPL as the proposed La'au development, would MPL consider the timeshare project as an alternative to developing at La'au Point? If not, why not?*

**Response:** See our response to #176 above. MPL never stated that a timeshare development would provide a similar return to the Lā'au Point development. It took a preliminary look at the possibility of converting the hotel to a timeshare but for many reasons, including financial returns, the company's inability to meet timeshare marketing criteria, and the desire to re-open the hotel as a hotel, it did not pursue this.

**Comments on page 13 of Appendix A to the EISPN**

298. *Section 1.8.1: What mandate from the Community did Ke Apuni Lokahi (KAL) have be the community's representative in developing a Master Land Use Plan for Molokai ranch lands?*

**Response:** The Master Plan was created by all participants in the community-based planning process, not only KAL (also known as EC). MPL cannot answer questions on behalf of KAL.

299. *Page 40 Section 3.6: What is the status of the camping facilities at Kolo Camp and Paniolo Camp that operated similar to Kaupoa Camp? Ranch response: Details regarding Kolo Camp and Paniolo Camp are not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted.*

**Response:** We retain the view that details regarding Kolo Camp and Paniolo Camp are not relevant to this EIS.

300. *Page 41 Section 3.7.4: MPL has indicated that it would be seeking an investor to provide the necessary financial strength to fund the reopening of the Kaluakoi Hotel. What is the status of MPL's search for an investor? Ranch response: What amount of money or loan guarantees is MPL looking for an investor to provide. For the investors funding commitment, what will MPL offer an investor as far as participation the La'au Point development profits or future profits from other MPL "development" lands? Ranch response to the above three comments: Details regarding investors for Kaluakoi Hotel are not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted. Follow-up comments: MPL's CEO advised the EC's Land Use Committee on more than one occasion that it was seeking an investor to fund the investment needed to re-open the Kaluakoi Hotel and that the Lā'au Point project was needed to give the investor comfort that there would be revenues coming in to provide a return on investment. MPL's Peter Nicholas even distributed a*

*letter to the members of the Land Use Committee stating that MPL was looking for an investor who saw more in Molokai than just dollars. Is MPL still seeking an investor? If so, please respond to the above comments adequately.*

**Response:** MPL is still hoping to attract an investor to either assist it in funding the Lā'au Point development costs or invest in its entire land holdings. MPL has been discussing investment in Lā'au and in its property with a number of potential investors both from Hawai'i and the US mainland over the past three years. All investors, who are also keen to invest in the re-opening of the Kaluako'i Hotel, are awaiting the outcome of the entitlement process. We note that over the past five years, MPL has never been contacted by an investor who is interested in re-opening the Kaluako'i Hotel without the potential returns from the Lā'au Point development.

The structuring of either a joint venture in the Lā'au development or in its total property assets, or the structuring of a relationship between MPL and that potential investor is commercially sensitive.

*301. Page 41 Section 3.7.5: How many of the Papohaku Ranchland lots have currently been built on. How many potential swellings can be developed on the 272 Papohaku lots? Recently, the County of Maui approved one the Papohaku lot owners to subdivide his 6-acre lot into two lots, each about 3 acres. What is the potential number of additional lots that could be created within the Papohaku Ranchlands residential subdivision if all the lot owners to subdivided their properties? How many lots are in the Moana Makani Residential subdivision and how many additional lots could be created if all the lot owners to subdivide their lots to the maximum extent allowable under the law? MPL response: Speculation on other residential subdivisions is unpredictable, the DEIS will include discussion regarding relative cumulative impacts. Follow-up comment: The information solicited from the above three comments is important for determining development potential in relation to available water sources, please provide constructive responses to the comments.*

**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.

Cumulative impacts are restricted to those future actions that are reasonably foreseeable. Because there are no definite plans set forth regarding the "potential number of additional lots that could be created within the Pāpōhaku Ranchlands residential subdivision if all the lot owners to subdivided their properties," this cannot be considered reasonably foreseeable for the purposes of this EIS. The same applies for speculation of the Moana Makani subdivision.

*302. Page 53 Section 4.1.1: By what authority will MPL, the La'au Point community property owners or members of the Molokai community be able to enforce the subsistence fishing activities described on Pages 61 and 62?*

**Response:** The Lā'au point shoreline, below the highest wash of the waves, is public lands under the jurisdiction of the DLNR. DLNR may enforce its rules and regulations in this area. As a result, unless DLNR has established rules governing the subsistence resource there is no way that anyone can be prevented from ignoring the SAMP if they do not in any way enter onto the

private lands. In order to deal with this dilemma, MPL, the Land Trust and the community are committed to making every reasonable effort to establish the Subsistence Fishing Zone with rules designed to preserve the resources. Adherence to the SAMP will be a condition of entry onto the privately held lands. Those who violate the SAMP will not be allowed entry or may only enter under proscribed circumstances. Also, see our response to #54 above.

*303. Page 66 Section 4.1.4: How many acres of land suitable for agricultural production currently are not in production but need protection? How much water will be needed to make these lands productive and what is the source of the water needed? MPL response: We do not have a response to this question. Re-stated comment: MPL claims that 14,390 acres of agricultural land are proposed to be protected under the Master Plan via easements so they are available for future agricultural production. How much water will be needed to make these lands productive and what is the source of the water needed?*

**Response:** MPL does not have response to this question as the variables of weather, crop choice and irrigation techniques vary too greatly. The answer to this question is wholly dependent on the agricultural use and therefore MPL is unable to answer this in any meaningful way at this time.

It should first be clarified that these lands are currently in agricultural use. The easements will ensure that agricultural use of these lands will continue into the future. Much of these lands are utilized for ranching, which has low water requirements. Water for irrigation of MPL's agricultural lands is supplied by Molokai Ranch's Mountain Water System.

*304. Page 70: What is MPL's plan to work with the Molokai community's unique effort to establish Kaunakakai "as a special destination area for residents and visitors alike" as noted in the Molokai Community Plan for the property located makai of Kamehameha Highway between the highway and Kaunakakai harbor? Ranch response: The development of Kaunakakai is not relevant to this EIS; therefore, discussion of this topic in the EIS is not warranted. Follow-up comment-- MPL CEO Peter Nicholas during a videotaped Land Use Committee meeting said that he would not sell any of MPL's lands in Kaunakakai makai of Kamehameha Highway until the community had worked out a Master Plan for the area. Can this promise from Mr. Nicholas still be counted on by the community?*

**Response:** What Mr. Nicholas said was that during the community planning process, which is now completed, MPL would not sell any land it owned in Kaunakakai. MPL complied with this by ensuring two land sales/donations – one to the County of Maui for a new fire station, and the other a donation of land to the Molokai Veterans – receive the blessing of the Land Use Committee. MPL will uphold the promises made in the Master Plan.

*305. Page 71: Please define a "put option". Ranch response: An option for securities or shares that can be "put" to other shareholders at a specified time or under specified circumstances. Follow-up comments: MPL proposes a put option on the Kaluakoi Hotel. Who would the put option go to? How will the put option price be determined? Please provide a copy of the "put option" agreement with the FEIS.*

**Response:** The "put option" would be held by the CDC and negotiated with that organization in private. Such a put option will be put in place once the Moloka'i Planning Commission approves the SMA permit for refurbishment of the Kaluako'i Hotel.

DeGray Vanderbilt  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 62 of 62

**3.11 PAGE 85 SECTION 5.1.3**

306. Based on the "appropriate activities" envisioned for the Rural Landscape Reserve please provide an example in which residential development would be warranted? Ranch response: Rural Landscape Reserves will preserve large open space landscapes throughout La'au Point. Buildings or structures will not be allowed in Rural Landscape Reserves. Follow-up comment: MPL response seems to conflict with Appendix A of the DEIS, which states that residential use will be permitted in certain circumstances on Rural Landscape Reserve lands. Please clear up the discrepancy.

**Response:** As noted in Section 2.1.8 (Moloka'i Land Trust) of the Draft EIS, Rural Landscape Reserve easements will protect open space and views on five large parcels on which no buildings or development will be permitted. The Land Trust will administer agreed upon land use policies for these areas, and enforce the dedicated use of the easement lands.

307. Page 138: When does MPL plan to have an investor on board? Has MPL approached any investors? Is there any investor interest? Ranch response: Detailed investor information is not relevant to the EIS; therefore, discussion of this topic in the EIS is not warranted. Follow-up comment: Does MPL need another entity to provide investment funds to fund the re-opening of the Kaluakoi Hotel?

**Response:** See our response to #300 above.

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 Permits and Approvals
- Revised Section 4.3 (Trails and Access)
- Revised Section 6.0 (Alternatives
- Revised Section 3.7 (Fauna)
- 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



THOMAS S. WITTEN, ASLS

PRES

PBR HAWAII

1001 BISHOP ST

ASB TOWER SUITE 650

HONOLULU HI 96813

Dear Mr. Thomas Witten

As a member of the Molokai Community, I am asking  
that you consider extending the date 60 days so  
that we may be able to read about the EIS  
booklet, to ascertain the impact it will have  
on Molokai and the whole state.

Sincerely,  
John Sabas

January 16, 2007

Drake Wells  
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. Wells: *Aloha Drake*

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

Sandy-file  
B comment J



DEAR MR. KING  
MY NAME IS DRAKE WELLS. I HAVE BEEN A RESIDENT OF  
THIS ALoha STATE SINCE 1967. I HAVE LIVED ON MOLOKAI  
FOR 30 YRS. I RETIRED FROM THE STATE D.O.H FROM KAULAPAPA  
2003, 14 YRS SERVICE. I AM VERY CONCERNED ABOUT LAUA  
WATER. THERE HAS BEEN A WATER SHORTAGE FOR 15 YRS. WE  
HAVE SEEN POOR WATER RESOURCE MANAGEMENT SINCE  
WIFE SINCE TERRITORIAL DAYS. I URGE YOU AND THE BOARD  
TO VOTE NO TO RANCH'S LAUA POINT.  
RESPECTFULLY YOURS Drake Wells

November 1, 2007

Drake Wells  
P.O. Box 100  
Kaunakakai, Hawai'i 96748-0100

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Wells:

Thank you for letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the island water shortage. As explained in Section 4.9.2 of the Draft EIS and Chapter 6 of the *Community-Based Master Land Use Plan for Molokai Ranch* (provided as Appendix A of the Draft EIS), a key feature of the project's water plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the project.

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.

To meet its potable water needs, MPL has committed to using only existing sources in amounts that are already permitted. In other words, a determination has already been made that the use of 1.018 mgd from Well 17 and water collected in Molokai Ranch's Mountain Water System will not interfere with DHHL's existing permits and reservation.

To address your comments in the Final EIS, as well as to address other questions and concerns regarding water issues in the Final EIS, Section 4.9.2 (Water) has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

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)

Drake Wells  
P.O. Box 100  
Kaunakakai, HI 96748-0100

address added  
by WLC staff

RECEIVED  
FEB 22 2007  
STATE OF HAWAII  
LAND USE COMMISSION

Drake Wells  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

O:\NOB17\1733.10 Molokai Ranch-Laaui Pt EIS\EIS\DEIS\Comment letters\Responses\Individuals\Final\Drake Wells.doc

From: Elizabeth Johnson  
104 Onioni Drive  
P.O. Box 1830  
Kaunakakai, Hawaii 96748  
Phone 808-553-5228  
Fax 808-553-5359

To: Anthony Ching  
State Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804  
Phone 808-587-3822  
Fax 808-587-3827

Office of Environmental Quality Control  
235 Beretania St. Suite 702  
Honolulu, Hawaii 96813  
Fax 808-586-4184

Date: January 27, 2007

Re: La'au Point Draft Environmental Impact Statement (DEIS) -- December 2006

I have several comments on the above document.

1. This document consists of more than 800 pages, some of it in very tiny print so that 2 pages can fit onto one. It is not user friendly or easily readable. For complete understanding of this document a person must have considerable knowledge of the law and the working of government as well as knowledge of all of the various subjects that are addressed, such as water, soil, flora, fauna, economics, archaeology, culture, etc. Some of Molokai's people have limited formal education and limited reading ability. This plan affects virtually all those currently making Molokai their home, and all of these people deserve to have an impact statement concerning their environment, written in language they can understand.

2. There is considerable confusion generated in 2 areas of this document in the title *Community Based Land Use Plan for Molokai Ranch*. What has been known for years as Molokai Ranch, primarily an agricultural endeavor, is now in actuality Molokai Properties Limited (MPL), a land development company under foreign ownership. This proposed plan is a development plan for MPL. Furthermore, using the word *Community* in this title confuses this DEIS with the *Molokai Community Plan of 2001*. If this DEIS document were to be consistent in using MPL instead of Molokai Ranch and if they could remove the word *Community* from the MPL plan it would be easier to understand what is actually being proposed. There would be no previously conceived idea of what "Molokai Ranch" or the "Community Plan" means.

January 27, 2007

Page 2

3. The DEIS refers more than once to the large number of community meetings and number of participants that were involved in the development of the MPL plan. This is used as evidence that there is wide community support for MPL plan. Contrarily, for any meeting that I personally attended, the vast majority were not in favor of developing La'au Point. When I attempted to access minutes from the Molokai Enterprise Community (EC) of meetings that I did not attend, I was told that the minutes were not public documents. How can the public find out what transpired at these public meetings?

4. On the issue of water, it is again confusing. To say the population is to be increased by 200 (or is it 400 - another area of confusion) large estate homes, without asking for a larger water allotment doesn't pass the common sense test.

5. The CC&R's for the La'au Homeowners Association are not included in this document although section 2.3.6 provides a summary of what they will cover. Who will enforce the CC&R's and what will be penalties for non compliance, on the part of the homeowner and the enforcer? I think both the La'au homeowner by-laws and CC&R's are pertinent to this DEIS and should be included to make this a complete document.

6. There is not enough information on the Molokai Land Trust (MLT), how it will be funded and governed. What relationship if any, is there with the La'au homeowners association? If the MLT is part of the MPL plan, the complete details should be available to the community.

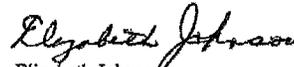
7. In the same light, the role and formation of the Community Development Corporation (CDC) is not clear. What is the relationship between the CDC and the La'au homeowners association?

8. There is no question that this proposed development will have tremendous social impact on Molokai residents. Indeed, the social impact is already being felt. Our Community is divided as I have never seen it before, at least in the 40 years that I have lived here.

9. There is an immediate need for affordable housing for Molokai people. This need will not be satisfied by large fancy multimillionaire homes that are occupied for only a portion of the year.

10. Once land is taken out of the Agricultural classification, it is lost forever. Currently, throughout our State there is a call to preserve Agricultural lands for agriculture and for our future. To remove land from Agricultural zoning at La'au Point at this time would be a giant step backward.

Thank you for listening to my concerns.

  
Elizabeth Johnson



November 1, 2007

Elizabeth Johnson  
104 Onioni Drive  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Johnson:

Thank you for your letter dated January 27, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments.

1. *This document consists of more than 800 pages, some of it in very tiny print so that 2 pages can fit onto one. It is not user friendly or easily readable. For complete understanding of this document a person must have considerable knowledge of the law and the working of government as well as knowledge of all of the various subjects that are addressed, such as water, soil, flora, fauna, economics, archaeology, culture, etc. Some of Molokai's people have limited formal education and limited reading ability. This plan affects virtually all those currently making Molokai their home, and all of these people deserve to have an impact statement concerning their environment, written in language they can understand.*

**Response:** We acknowledge your comments. We understand that some pages of the document contain two pages per sheet which results in small print; however, this format is used so that the hard copy of the document would not be too unwieldy to handle. If every page were printed full-size, the hard copy document would have yielded over a 1,000 pages. For this reason, we also offer the EIS on CD to view on a computer; this provides the reader the option to enlarge pages for easier reading.

2. *There is considerable confusion generated in 2 areas of this document in the title Community Based Land Use Plan for Molokai Ranch. What has been known for years as Molokai Ranch, primarily an agricultural endeavor, is now in actuality Molokai Properties Limited (MPL), a land development company under foreign ownership. This proposed plan is a development plan for MPL. Furthermore, using the word Community in this title confuses this DEIS with the Molokai Community Plan of 2001. If this DEIS document were to be consistent in using MPL instead of Molokai Ranch and if they could remove the word Community from the MPL plan it would be easier to understand what is actually being proposed. There would be no previously conceived idea of what "Molokai Ranch" or the "Community Plan" means.*

**Response:** We acknowledge your comments. It is stated in the beginning of the Draft EIS (page iv, Background) that Molokai Ranch is also known as Molokai Properties Limited. It is not uncommon for companies to have a formal name and do business as another (example: Molokai Properties Limited dba Molokai Ranch).

Elizabeth Johnson  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 5

We acknowledge your confusion of the titles *Community-Based Master Land Use Plan for Molokai Ranch* and the *Molokai Community Plan*. However, these are different documents and we believe the titles are different enough to avoid confusion.

3. *The DEIS refers more than once to the large number of community meetings and number of participants that were involved in the development of the MPL plan. This is used as evidence that there is wide community support for MPL plan. Contrarily, for any meeting that I personally attended, the vast majority were not in favor of developing La'au Point. When I attempted to access minutes from the Molokai Enterprise Community (EC) of meetings that I did not attend, I was told that the minutes were not public documents. How can the public find out what transpired at these public meetings?*

**Response:** We acknowledge your comments; however, we do not believe that the true feelings of the greater community can be gauged at such venues.

We note that most EC Board Meetings are attended by fewer than 100 people, many of whom are the same, one meeting to the next, Master Plan supporters and opponents alike. Many of the Master Plan opponents continually seen in attendance have waged a diligent and contentious propaganda campaign against KAL-EC over the past 12-18 months, because of their previous vote to support the Master Plan. The atmosphere at EC meetings over this same time period has been extremely tense, sometimes overflowing into outright violence. Police have been called to ensure safety and are often in attendance in advance as a preventive measure.

We cannot comment on KAL-EC policy on distribution of Board Meeting minutes. Nor do we know which minutes have been 'refused' and to whom they have been "refused," if ever. We can say, however, that KAL, as a private, Hawaii nonprofit corporation organized under HRS-414D, is under no legal obligation to make its Board Meeting minutes public. We do note meetings were aired on the Akaku Channel 53.

4. *On the issue of water, it is again confusing. To say the population is to be increased by 200 (or is it 400 — another area of confusion) large estate homes, without asking for a larger water allotment doesn't pass the common sense test.*

**Response:** Chapter 6 of the Master Plan (provided as Appendix A in the Draft EIS) details the proposed water allocation plan for the project. 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 Plan. The water use proposed is in accordance with domestic Maui County standards (600 gallons per day) and we believe the 1,500 gallons per day proposed for irrigation use is more than actually will be required.

As far as source, a new non-potable source is being proposed. Existing 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 increased population.

5. *The CC&R's for the La'au Homeowners Association are not included in this document although section 2.3.6 provides a summary of what they will cover. Who will enforce the CC&R's and what will be penalties for non compliance, on the part of the homeowner and the enforcer? I think both the*

*La'au homeowner by-laws and CC&R's are pertinent to this DEIS and should be included to make this a complete document.*

**Response:** Section 2.3.6 of the Draft EIS and Chapter 5 of the Master Plan provide covenants that will be in the Lā'au Point CC&Rs. 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. The CC&Rs are currently being prepared and will be provided at the LUC hearing for the Final EIS.

6. *There is not enough information on the Molokai Land Trust (MLT), how it will be funded and governed. What relationship if any, is there with the La'au homeowners association? If the MLT is part of the MPL plan, the complete details should be available to the community.*

**Response:** The Moloka'i Land Trust 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 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.html>>.

No member of the Land Trust is from MPL, although MPL is a non-voting ex-officio member in order to assist the Land Trust with on-going information about MPL land scheduled for donation. Most of the Land Trust's initial directors were part of a volunteer steering committee under the guidance of Ke 'Aupuni Lōkāhi (KAL) for the purpose of creating a land trust that would protect culturally and environmentally important lands on Moloka'i. The committee members spent several hundred hours educating themselves on the land trust model and working with consultants and experts in the land conservation field to create the Land Trust. The current board of directors include: Colette Machado, Richard Cooke III, Stephanie Crivello, Cheryl Corbiell, Clarence Halona Kaopuiki, William Akutagawa, David Lunney, Davianna McGregor, and Edwin Misaki. Other directors are soon to be appointed.

7. *In the same light, the role and formation of the Community Development Corporation (CDC) is not clear. What is the relationship between the CDC and the La'au homeowners association?*

**Response:** There is no relationship from an organizational standpoint. The CDC will be an independent entity and will have no connection whatsoever with the Lā'au homeowners nor the Moloka'i Land Trust. Pursuant to agreements with the Land Trust and the CDC, funds will be given to the CDC (and indirectly the Land Trust) from fees assessed on Lā'au Point homeowners.

8. *There is no question that this proposed development will have tremendous social impact on Molokai residents. Indeed, the social impact is already being felt. Our Community is divided as I have never seen it before, at least in the 40 years that I have lived here.*

**Response:** The social impact assessment (SIA) was provided as Appendix M and discussed in Section 4.8 of the Draft EIS. You imply that the current conflict and division in the community is due to this project. We disagree. The controversy surrounding this project is not unique to Lā'au Point. In focus group sessions and interviews conducted for SIA, people repeatedly said that they do not go to meetings because of confrontational behavior. Kūpuna were concerned that this type of behavior was becoming more common. The confrontational behavior was exhibited in recent projects that are not connected to Lā'au Point, such as the proposal to allow cruise ships to land in Moloka'i and the University of Hawai'i patent applications for genetically-modified taro.

We understand people are passionate about Moloka'i, and equally passionate about protecting their island and perpetuating the Moloka'i Style. Regardless of their position on the Lā'au Point project or the Master Plan, people want to protect Moloka'i from detrimental change. The controversy stems from a divergence in the approach on how to protect and perpetuate what is valuable in Moloka'i. The Lā'au Point project is a reflection of this divergence, and not the cause of conflict.

9. *There is an immediate need for affordable housing for Molokai people. This need will not be satisfied by large fancy multimillionaire homes that are occupied for only a portion of the year.*

**Response:** Section 4.8.2 of the Draft EIS discussed affordable housing and how lot sales will fund future affordable housing projects.

10. *Once land is taken out of the Agricultural classification, it is lost forever. Currently, throughout our State there is a call to preserve Agricultural lands for agriculture and for our future. To remove land from Agricultural zoning at La'au Point at this time would be a giant step backward.*

**Response:** Section 3.4 of the Draft EIS discussed the agricultural impacts, along with mitigation measures. The Master Plan actually protects agricultural land under easements which will ensure their agricultural use forever.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Elizabeth Johnson

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 5 of 5

RECEIVED

FEB 21 2007

February 19, 2007 PBR HAWAII

Ella Alcon  
P.O. Box 1346  
Kaunakakai, HI 96748

Mr. Anthony Ching  
State Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804

Peter Nicholas  
Molokai Properties Limited  
745 Fort Street Mall, Ste. 600  
Honolulu, HI 96813

Thomas Witten  
PBR Hawaii  
1001 Bishop St. Ste. 650  
Honolulu, HI 96813

Genevieve Salmonson  
OEQC  
235 S. Beretania St. #702  
Honolulu, HI 96813

Comments on the Draft Environmental Impact Statement for La'au Point

Dear Mr. Ching, Mr. Nicholas, Mr. Witten, and Ms. Salmonson:

My name is Ella Alcon and I was a member of the Enterprise Community Land Use Committee, which was responsible in finalizing the guidelines for policies and principles for the Community-Based Master Land Use Plan for Molokai Properties Limited.

In retrospect I believe the entire planning process was flawed because the two most important issues, the La'au Point development and the use of our precious water were intentionally left to the very end. The members knew that the La'au Point development and the use of our water would be contentious issues finding it difficult to come to an agreement. For many residents when it comes to developing La'au or the use of our water, there is no middle ground. This was known from the very start of the planning process and unfortunately the development of La'au did not get its fair share of the discussion.

After two years of meetings and the creation of the so called Community-Based Master Land Use Plan, the Enterprise Community Land Use Committee was asked to take a vote either to end the process and do away with the "Plan" or continue the process taking it to

the next step and vote to recommend to the Enterprise Community Board that the committee supported the intentions of seeking Community approval. This "Plan" was to be a Community-Based Plan that the community would embrace and agree to.

The Enterprise Community claims that they received overwhelming community support for the "Plan" at the numerous community meetings held. As an Enterprise Community Land Use Committee member I voted in favor to take this "Plan" to the next level hoping for community input and allowing the community to decide what was best for this island. I never voted in favor of developing La'au Point. I want to make it clear that my vote was to take the "Plan" to the community, which was already determined by MPL from the beginning of the process.

I was born and raised here on Molokai and have lived here for 50 years. I can say with confidence that I know my community well and am convinced beyond a doubt that the overwhelming majority of residents oppose the development of La'au Point and the use of our precious water for this project.

The "Plan" sounds enticing, offering the community a land trust of thousands of acres of land, reopening Kalua Ko'i Hotel etc. but the bottom line is all of that cannot compare to the value and worth of our precious water and La'au Point. The Enterprise Community Board does not have the support of the community when it comes to the Development of La'au Point. Let's be clear, if this "Plan" is not Community-Based then it should not be called that.

Social Impact:

La'au is a very pristine place with great spiritual and cultural significance and it would be devastating to have it marred by 200 luxury homes for people who may not have an appreciation for this precious place. The visual appearance of this sacred land will be changed forever. We the people of this island will feel out of place when we visit La'au. The people living there will have different values and lifestyles and will not have a spiritual and cultural connection to the aina. There will always be contention no matter how much time goes by. Every generation will feel the same bitterness and resentment that the generation before has felt. It will never end!

Moloka'i is truly a special place that needs to be protected. We cannot sit back and allow this beautiful island to become like it's sister islands. We have to stand firm because once our lands are built upon and desecrated there is no turning back. If our generation does not protect our aina, all that we cherish, love, and enjoy will be gone forever. We owe it to our future generations to fight with our heart and soul to keep Moloka'i, Moloka'i.

Respectfully,

*Ella Alcon*  
Ella Alcon



Ella Alcon  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 4

favor of the Master Plan, it did include the Lā'au Point project. The Master Plan's financial viability is dependent on the Lā'au Point component.

The Master Plan is being taken to the next level of community input—decisions by the regulators at the Land Use Commission, the Moloka'i Planning Commission, and Maui County.

3. *I was born and raised here on Molokai and have lived here for 50 years. I can say with confidence that I know my community well and am convinced beyond a doubt that the overwhelming majority of residents oppose the development of La'au Point and the use of our precious water for this project. ¶ The "Plan" sounds enticing, offering the community a land trust of thousands of acres of land, reopening Kalua Ko'i Hotel etc. but the bottom line is all of that cannot compare to the value and worth of our precious water and La'au Point. The Enterprise Community Board does not have the support of the community when it comes to the Development of La'au Point. Let's be clear, if this "Plan" is not Community-Based then it should not be called that.*

**Response:** We do not believe you or any one person, including ourselves, can speak on behalf of the "overwhelming majority of residents" on Moloka'i.

We also note that there are many Moloka'i residents who support the project. Master Plan was created by participating community members, like yourself, who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Master Plan participants have made it clear their support through the comprehensive Master Plan document.

We note that the vast majority of development proposals in Hawai'i are solely the product of the landowner and/or developer, with minimal community input prior to the stage when the proposals face State and County regulatory approvals. Recognizing that community input is crucial to the success of any development on Moloka'i, MPL, in partnership with the EC, held more than 150 community and special interest group meetings in which more than 1,000 Moloka'i residents participated. The result was the Master Plan. Adoption and implementation of the Master Plan rests with MPL and the Land Trust, and with regulators such as the Land Use Commission, the Molokai Planning Commission, and the Maui County Council.

Notwithstanding the community process that went into creation of the Master Plan, the Master Plan requires approvals from State and county agencies which are obligated to review the proposal in the context of a number of different criteria established by law. As with any other development proposal, this Master Plan is not subject to community referendum. Instead, the community elects State Governments and local government officials to make many decisions on its behalf. Those authorities appoint people to statutory organizations such as the State Land Use Commission and the Moloka'i Planning Commission in order that they can decide issues such as this Master Plan's implementation.

4. *La'au is a very pristine place with great spiritual and cultural significance and it would be devastating to have it marred by 200 luxury homes for people who may not have an appreciation for this precious place. The visual appearance of this sacred land will be changed forever. We the people of this island will feel out of place when we visit La'au. The people living there will have different*

November 1, 2007

Ella Alcon  
P.O. Box 1346  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Alcon:

Thank you for letter dated February 19, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments regarding the community-based master land use planning process, the EC Board vote, and the spiritual and cultural significance of Lā'au. Below, we offer responses.

1. *In retrospect I believe the entire planning process was flawed because the two most important issues, the La'au Point development and the use of our precious water were intentionally left to the very end. The members knew that the La'au Point development and the use of our water would be contentious issues finding it difficult to come to an agreement. For many residents when it comes to developing La'au or the use of our water, there is no middle ground. This was known from the very start of the planning process and unfortunately the development of La'au did not get its fair share of the discussion.*

**Response:** We disagree with your statement that the planning process was "flawed." On January 28 and 29, 2003, the Conservation Fund convened a meeting of all interested parties at Kulana 'Ōiwi. A process for agreed and Peter Nicholas outlined what MPL needed from that process to remain viable. At the time, during a discussion of the process, Peter Nicholas said that it was not much use discussing water or the Lā'au development unless the community agreed other major aspects of a Master Plan for the property. This valid process was agreed upon by many of those people who now object to the process.

To reflect this information in the Final EIS, as well as to address other questions and concerns regarding the validity of the community-based planning process, Section 2.5 will be revised as shown on the attachment titled, "Revised Section 2.4 (Community Meetings and Involvement)."

2. *The Enterprise Community claims that they received overwhelming community support for the "Plan" at the numerous community meetings held. As an Enterprise Community Land Use Committee member I voted in favor to take this "Plan" to the next level hoping for community input and allowing the community to decide what was best for this island. I never voted in favor of developing La'au Point. I want to make it clear that my vote was to take the "Plan" to the community, which was already determined by MPL from the beginning of the process.*

**Response:** We acknowledge your comment. We note that Lā'au Point is a part of the overall Community-Based Master Land Use Plan for Molokai Ranch (provided as Appendix A in the Draft EIS; hereafter referred to as "Master Plan"). Therefore, as you know, when you voted in

Ella Alcon  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 3 of 4

*values and lifestyles and will not have a spiritual and cultural connection to the aina. There will always be contention no matter how much time goes by. Every generation will feel the same bitterness and resentment that the generation before has felt. It will never end!*

**Response:** You have made several statements regarding social impacts and we will address each one. First, you say that the new residents "may not have an appreciation for this precious place." This is based on an expectation or stereotype that is unfounded. Moloka'i is a unique community and island. Those who choose to buy a lot and build a house at Lā'au Point will likely be attracted to the beauty and mystique of the area. It is very likely that new buyers will share Molokai's desire to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts on Moloka'i. This was previously discussed in Section 4.8.3 of the Draft EIS.

In addition, it was stated in Section 2.3 of the EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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.

Second, you are concerned about feeling out of place when you visit Lā'au. According to interviews conducted in the Social Impact Assessment (Appendix M of the Draft EIS), Lā'au Point is not commonly visited by Moloka'i residents. The inaccessibility of Lā'au Point was commonly discussed in interviews, and, typically, people did not visit Lā'au Point unless they received permission by the landowner or they trespassed illegally. The project will actually increase community access to an unfrequented area.

Third, you point out that there will be "different values and lifestyles" and "contention no matter how much time has gone by." Moloka'i is already growing and exposure to non-Moloka'i people is part of the Moloka'i social environment. Section 2 of the Social Impact Assessment presents detailed information regarding population trends and demographics. The information indicates that the island has experienced steady growth since the 1970s for an overall 43 percent increase by 2000. Significantly, East Maui's population grew by 82 percent between 1970 and 2000.

Further, Lā'au Point will not add a new element on luxury housing on Moloka'i. This is already occurring in East Maui and other portions of Moloka'i. Interaction between people of different economic status is already occurring.

Finally, the level of new population due to Lā'au Point is not significant to cause major social impact. As discussed in Section 5.1 of the Social Impact Assessment, the permanent population

Ella Alcon  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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at build-out is estimated at 174 persons, which is only two percent of the forecasted 2025 population. We do not believe that adding 174 permanent residents to Moloka'i will cause the "bitterness and resentment" that you describe for future generations.

5. *Moloka'i is truly a special place that needs to be protected. We cannot sit back and allow this beautiful island to become like it's sister islands. We have to stand firm because once our lands are built upon and desecrated there is no turning back. If our generation does not protect our aina, all that we cherish, love, and enjoy will be gone forever. We owe it to our future generations to fight with our heart and soul to keep Moloka'i, Moloka'i.*

**Response:** The Master Plan, in essence, would prevent Moloka'i from becoming like its "sister islands" because it would put over 50,000 acres into permanent protection through land donations and easements to the Moloka'i Land Trust. In addition, the Master Plan's intention for slow, controlled growth for Moloka'i is unlike the other islands' seemingly rapid, uncontrolled growth.

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 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

RECEIVED

FEB 26 2007

PBR HAWAII

Emrick D. Bailey  
98-1403E Kaahumanu St.  
Aiea, HI. 96701  
(808) 489-5002  
20 February 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Subject: La'au Point, Molokai

Dear Sir,

I'm writing to you in regards to an aggressive building project proposed for the area of La'au Point, Molokai. 200 hundred luxury homes on the West side of Molokai are being proposed for construction. I am very much in favor of progress and improving the land and if the funds were available I too would certainly be thinking of purchaseing one of these beautiful homes. Unfortunately, not much thought or considereration has gone into the choice of location or its impact. To use an area such as "La'au Point" just for the sake of raising money to fund other projects is totally ridiculous. The impact it would have on the eco system of La'au Point and its community would cause more harm than good. Please take more time to look at all of Molokai as a whole rather than La'au Point only. Many potential buyers would love to buy one of these magnificent houses regardless of where in Molokai it was located just to own a part of paradise.

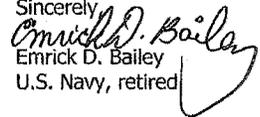
I understand also that the beautiful and endangered Monk seals could also be severely impacted by construction, kids and a number of marauding dogs. If it was as simple as relocating the seals that would be one thing but you can't keep a sea creature restricted to an area by signs and good will only. No sir! This should really take plenty of time and thought on how this construction and changing of the landscape might affect Hawaiian wild life.

Why not stagger your luxury homes around other areas of the island of Molokai? You would get the much needed funds for selling these homes and would benefit other communities by raiseing their property values. You might also try dividing the 200 homes into smaller luxury neighborhoods of 15-30 homes and perhaps

building them in a gated community. There is certainly more than one side of an island to live on. People want choice and more options when buying a home. Limiting that choice to one area is not a choice. Let the developers and the community come together and encourage improvements across the whole island rather than a single area. Let's not bulldoze La'au Point in a rush for funds.

We are all a part of the Hawaiian community and everything that happens to our state affects us all. Lets take that into account as we consider and work for a long term solution. Let us not forget what the good book says and how it affects our decision making for all of our neighbors: Behold, how good and how pleasant it is for brethern to dwell together in unity (Psalm 133:1). May we all dwell in harmony as we solve this issue concerning "La'au Point". Let us all work to create a better future for all who love and respect this beautiful land of ours we call home.

Sincerely

  
Emrick D. Bailey  
U.S. Navy, retired



November 1, 2007

Emrick D. Bailey  
98-1403E Ka'ahumanu Street  
Aiea, Hawai'i 96701

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Bailey:

Thank you for letter dated February 20, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

- 1. I am very much in favor of progress and improving the land and if the funds were available I too would certainly be thinking of purchasing one of these beautiful homes. Unfortunately, not much thought or consideration has gone into the choice of location or its impact. To use an area such as "La'au Point" just for the sake of raising money to fund other projects is totally ridiculous. The impact it would have on the eco system of La'au Point and its community would cause more harm than good. Please take more time to look at all of Molokai as a whole rather than La'au Point only. Many potential buyers would love to buy one of these magnificent houses regardless of where in Molokai it was located just to own a part of paradise.*

**Response:** We acknowledge your comments and we respectfully disagree. This project, and the *Community-Based Master Land Use Plan for Molokai Ranch* (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 Molokai. The Master Plan is a long-term solution for Molokai.

Much thought, time, and consideration have been put into examining the location and impacts for this project. Various alternatives, which included other locations and other lot/unit mixes, were examined and discussed in Section 6.0 of the Draft EIS.

As previously discussed in Section 2.3 of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of 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.

Mr. Emrick D. Bailey  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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- 2. I understand also that the beautiful and endangered Monk seals could also be severely impacted by construction, kids and a number of marauding dogs. If it was as simple as relocating the seals that would be one thing but you can't keep a sea creature restricted to an area by signs and good will only. No sir! This should really take plenty of time and thought on how this construction and changing of the landscape might affect Hawaiian wild life.*

**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 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 Molokai, 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.

- 3. Why not stagger your luxury homes around other areas of the island of Molokai? You would get the much needed funds for selling these homes and would benefit other communities by raising their property values. You might also try dividing the 200 homes into smaller luxury neighborhoods of 15-30 homes and perhaps building them in a gated community. There is certainly more than one side of an island to live on. People want choice and more options when buying a home. Limiting that choice to one area is not a choice. Let the developers and the community come together and encourage improvements across the whole island rather than a single area. Let's not bulldoze La'au Point in a rush for funds.*

Mr. Emrick D. Bailey

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**Response:** As stated in #1 above, various alternatives, which included other locations and other lot/unit mixes, were examined and discussed in Section 6.0 of the Draft EIS. In addition, the following were evident during the planning process:

- MPL and the island do not support gated communities.
- The Moloka'i Community Plan states that development of house lots should be restricted to the West End of the island.
- The community, through the Master Plan process, indicated that it only wanted housing for the community developed now in Maunaloa, Kualapu'u, and Kaunakakai and supported the La'au project as a result.
- Housing for the community, or "affordable homes" as they are termed, will not be profitable for any developer and are usually constructed with the aid of funds from a 501c3 charitable organization.

The above information is reflected in the Master Plan, which is provided in its entirety as Appendix A in the Draft EIS.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 3.7 (Fauna)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Farhod Family  
3037 Manoa Rd. Honolulu, HI 96822  
(617)935-1203

2/22/07

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,

I am writing this letter in regards to the Environmental Impact Statement, and issue of development on La'au point in Molokai. I must say that I strongly oppose the two hundred millionaire lots that are being discussed. There are many issues which still need to be resolved. Mainly, where exactly is all the water going to come from?

In the La'au Point Environmental Impact Statement, Molokai Ranch addresses water by stating that they are in discussions over water usage with Hawaiian Homes and the County of Maui, but the fact is Hawaiian Homes cannot negotiate any of their water rights. The Attorney General stated that Hawaiian Homes has no authority to give away their rights. To gain support for their development, one of the deals proposed by Molokai Ranch is to give Hawaiian Homes 500,000 gallons per day from Well 17 at Kualapu'u. The fact is Molokai Ranch doesn't own this water; Hawaiian Homes does. It is a fact that Moloka'i has a very limited water resource, and Moloka'i ranch is attempting to use a lot of it for the development of lots at La'au. Molokai only has 33.5 million gallons per day of sustainable water supplies. (Source: State DLNR Water Commission Report dated April 1996 (Molokai water working group) page 4). When complete, all currently approved development on the island will need 54.45 million gallons of water per day. This includes 11.55 mgd for drinking and 42.9 mgd for agriculture and recreation. Today, the water issue is more critical than ever. With over ten years of drought, the true sustainable yield of this island is in dire question.

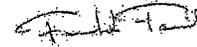
Besides just the water issue, is the public outcry against the development of La'au. In what was the largest voter turnout in Molokai EC history, challengers Bridget Ann Mowat and Leila Dudoit Stone upset board members Colette Machado and Claud Sutcliffe on Wednesday January 31, 2007. Together, Mowat and Stone garnered roughly 66% of votes on the nearly 1,300 ballots cast, which made it a complete landslide. Mowat and Stone campaigned on a clear 'No to La'au development' platform. Besides this, the public has overwhelmingly been against the development of La'au. How many articles do we need to read about protesters against La'au? It is clear that the people of Moloka'i don't want La'au developed. Moloka'i is one of the few places in Hawai'i that has not been hit with major developments of houses and hotels. Why can't it stay that way? It is such a beautiful place to see, why have it turn into another developed piece of land? After a while enough is enough, these islands are slowly being transformed to become something they are not. La'au needs to be left in piece for people to come and experience what Hawai'i is all about. It would be devastating to the community to develop such a beautiful piece of land for multi-millionaires. It would divide the community, leaving no harmony between the people.

Hawai'i has been developed quite a bit already, just look at O'ahu. When people come to Hawai'i, it is because they want to see the beauty of a place like La'au point, and see for themselves that these marvels of nature still do exist in the world. It would be a great disservice not just to the people of Hawai'i by developing these lands, but also to people who want to preserve nature's beauty and leave it intact.

As I mentioned above, just look at the elections of Mowat and Dudoit, they are the voice of the people, and that voice is clearly crying, save La'au! If development continues, especially on a place like La'au point, the islands will begin to lose their substance. They won't have the feel of a truly natural islands.

It has gone far enough already. Hawai'i needs La'au much more then Moloka'i ranch does. It is so crucial to preserve the few undeveloped lands that are still left.

Sincerely,



Farhod Family



Farhod Family  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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November 1, 2007

Farhod Family  
3037 Manoa Road  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Farhod Family:

Thank you for letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments regarding water and the EC Board vote, and offer the following responses.

Water

MPL is not in the process of negotiating, or seeking to negotiate, over DHHL's water rights. MPL is working with DHHL, the County of Maui Department of Water Supply, and USGS to comprehensively evaluate Moloka'i's long-term water demand and resources with the objective of coordinating future development of ground water resources so that, to the greatest extent possible, the water needs of all the stakeholders can be accommodated without impairing DHHL's water rights.

MPL offered to DHHL (and potentially to the County as well) the use of Well 17 to save these agencies the expense of having to drill their own wells. Should either DHHL or the County take up MPL's offer, it is understood that DHHL or the County will be responsible for obtaining a water use permit from the Water Commission for use of the water. MPL makes no claims to ownership of this water.

The 33.5 mgd and 54.45 mgd numbers referred to are from the Moloka'i Water Working Group's 1996 Report. Some clarification about these numbers is warranted. 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 Molokai 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 *Community-Based Master Land Use Plan for Molokai 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.

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 Moloka'i 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.

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 Moloka'i Enterprise Community (EC)

We acknowledge your comments; however, we respectfully disagree with your conclusion that there is a direct correlation between the election results and the project. The election held on

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January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan community-based planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for the Board of Directors that has no such regulatory power.

Regarding your statement that "the public has overwhelmingly been against the development," we also note that there are many Moloka'i residents who support the project. The Master Plan was created by participating community members that volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Plan participants have made it clear their support through the comprehensive Master Plan document.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Farhod Family  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

To: PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attn: Thomas Witten  
Telephone: (808) 521-5631  
FAX: (808) 523-1402

From: Fay Huff  
Molokai Middle School  
P.O. Box 442  
Hoolehua, HI 96729

I'm writing my comments after careful consideration as I am not indigenous to Molokai, having chosen to make Molokai my home in 1975. I went away from the island for some years to complete my professional education, only to return and become more immersed in the community through my teaching, first at Molokai High and Intermediate, and presently the more recently formed Molokai Middle School, still on the same campus. Daily, I am faced with the daunting task of educating children of the Molokai community, to equip them with the necessary reading and writing skills to one day compete in the work force of the 21<sup>st</sup> Century. Having not read the 800+ page document, I don't know if the DEIS even addresses the future social environment of the island, but my letter is an expression of concern to that end.

Given the huge spike in property values on the island in recent years, I often wonder how many of my students will actually be able to make Molokai their permanent home, if and when they go off to college or technical schools to pursue careers. My teaching efforts include promises of a better life through education. However, jobs promised as a result of developing La'au are few and low paying service jobs. Most of these minimum wage employees will never be able to afford a home for their families with the skyrocketing property values, fueled by the out of control land speculation practices. Without affordable housing and meaningful employment, I see no future on Molokai for most of my students. I am afraid they will have to realize their career dreams elsewhere, or remain in Molokai, languishing in poverty with never enough employment compensation to own their own home, and most certainly not a home in the proposed development.

I am not adverse to all development for Molokai. However, as one who works daily with the future adult population of Molokai, I would like to see more visionary development that would directly benefit these young people, to eventually become meaningfully employed and compensated in a way that allows for affordable family living in Molokai. I have also often wondered why the Molokai Ranch is so disengaged from the schools of Molokai. The Molokai Ranch has a huge opportunity to truly partner with the community, to develop educational and employment opportunities as well as affordable housing for our young college, technical, vocational school graduates to come home to Molokai as permanent responsible citizens of their community, raising families of their

own. In doing so, everyone benefits, while the island's natural and cultural environments can be preserved for future generations to come.

I would be delighted to see the Molokai Ranch develop affordable housing, with the younger people of Molokai in mind. However, to make this a reality, meaningful employment must also be developed through industries that are environmentally compatible to the island, like a tech park where these young people can be gainfully employed to provide technological support to larger off shore entities. More meaningful employment for a young work force of Molokai, will improve the tax base of Molokai, and with a higher income than minimum wage, create even more economic opportunities through the construction of infrastructure, and provision of necessary goods and services. As the largest landowner on the island, the Molokai Ranch bears some responsibility to Molokai's future social environment. For the Molokai Ranch to cling to its only vision for quick profit and sustainability by selling off precious land resources to someone who does not need it, but simply desires the "untouched pristine setting at La'au" for a second home (or even third or more) and is willing to pay an inflated price for it, will only force our young educated population to leave the island to fulfill their dreams of meaningful employment and a home of their own.

As an educator of Molokai's children, I ask that the Molokai Ranch and the EC rethink the possibilities for development that will truly benefit the community of Molokai in the long term, and to not so quickly give up precious land and shoreline resources as the only viable plan for Molokai's future. To develop La'au is short sighted, and to say that it is necessary to revitalize the Kaluakoi resort hotel is simply dishonest. This was an after thought, an attempt to convince the community that La'au was necessary to create jobs through revitalization of an earlier development that was allowed to fall into disrepair and jobs disappeared. If the Molokai Ranch is interested in upgrading an already existing development project, employing people of Molokai, I have no objection. However, being such a small island with such limited resources, it behooves the policy makers to look at future development that is environmentally responsible, not only to the island itself, but beneficial to the quality of life for the community.

With true vision driving the process, there are many other economic opportunities that could be explored, given the large land resource of the Molokai Ranch and the various agencies funded through federal grants, as well as governmental agencies, like the Department of Education, Labor, Agriculture, and Economic Development. I would name only a few such economic opportunities worth exploring: alternative fuels, through crop production and on island refinement of product; organic farm produce and livestock to supply an ever increasing demand in the market for environmentally responsible products. Eco tourism is also increasing in demand, and ecologically minded tourists are not particularly attracted to shorelines dotted with mega mansions when just a few miles away the degradation of real poverty and lack of employment is so glaringly evident. Most of these tourists not only want to see a landscape environmentally intact, but also a vibrant flourishing community, not one that is plagued with poverty and all its accompanying social ills.



I respectfully ask that the Molokai Ranch take a more responsible role in the development of Molokai for the young people I continue to work with in the school. As an educator, I can assure you I did not choose my profession to inspire students to get a good education only to get a minimum wage job; they can do that without an education. Moreover, it takes more than one minimum wage job to support a family and keep up with the ever increasing housing costs fueled by the kind of out of control land speculation we have witnessed on Molokai these past few years.

November 1, 2007

Fay Huff  
Molokai Middle School  
P.O. Box 442  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Huff:

Thank you for fax dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

1. *Having not read the 800+ page document, I don't know if the EIS even addresses the future social environment of the island, but my letter is an expression of concern to that end.*

**Response:** A Social Impact Assessment was included as Appendix M of the Draft EIS. It answers and comments on the many social issues that people expressed concern about the development.

2. *Given the huge spike in property values on the island in recent years, I often wonder how many of my students will actually be able to make Molokai their permanent home, if and when they go off to college or technical schools to pursue careers. My teaching efforts include promises of a better life through education. However, jobs promised as a result of developing La'au are few and low paying service jobs. Most of these minimum wage employees will never be able to afford a home for their families with the skyrocketing property values, fueled by the out of control land speculation practices. Without affordable housing and meaningful employment, I see no future on Molokai for most of my students. I am afraid they will have to realize their career dreams elsewhere, or remain in Molokai, languishing in poverty with never enough employment compensation to own their own home, and most certainly not a home in the proposed development.*

**Response:** The Lā'au Point project is not responsible for the "huge spike in property values on the island in recent years." As discussed in Section 4.8.2 of the Draft EIS, there have been concerns raised regarding the potential impact of Lā'au Point on increased property taxes for other Moloka'i homeowners. The Hallstrom Group, Inc., examined potential increases to real property tax on existing properties in the areas of Maunaloa, Kualapu'u, Kaunakakai, and beyond as a result of the Lā'au Point project. Appendix L contains the Hallstrom Group's comments.

According to the Hallstrom Group, assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. Of particular note has been the historic

lack of "cause and effect" between changes in market prices in Kaluako'i and assessed values elsewhere on the island.

The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself. Secondary impacts, if any, might only be potentially possible among the makai portions of the Kaluako'i lots; however, even this inventory already has an established data set of its own comparable market activity. In addition, the 55,000+ acres of protective lands of the Land Trust and easements will isolate and distinguish Lā'au Point from the rest of Moloka'i. Changes in assessments are the result of comparable market transactions, fueled by new economic activity or a scarce amenity; Lā'au Point is not a comparable to the existing real estate.

Only to the extent there is new worker in-migration to the island to support or sustain the development and its residents, could there be some modest indirect impact on selected real estate activity and prices. Offsetting this is the moratorium on further MPL land development as a result of the Land Trust and easements, which will reinforce the status quo and limit further development.

The *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) addresses your concerns about affordable housing and meaningful employment for the future. 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 Moloka'i and Molokai Ranch through the implementation of the Master Plan. The goal of the Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The Master Plan was provided in its entirety as Appendix A of the Draft EIS. The objectives of the Master Plan are shared by the Lā'au Point project and include:

- Developing sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Molokai's water resources, by minimizing drinking (potable) water use.

Since the Lā'au Point project is the primary financial component to achieve the Master Plan's objectives, non-implementation of the project means that most, or all, of the Master Plan may not be realized.

3. *I am not adverse to all development for Molokai. However, as one who works daily with the future adult population of Molokai, I would like to see more visionary development that would directly benefit these young people, to eventually become meaningfully employed and compensated in a way that allows for affordable family living in Molokai. I have also often wondered why the Molokai Ranch is so disengaged from the schools of Molokai. The Molokai Ranch has a huge opportunity to truly partner with the community, to develop educational and employment opportunities as well as affordable housing for our young college, technical, vocational school graduates to come borne to Molokai as permanent responsible citizens of their community, raising families of their own. In doing so, everyone benefits, while the island's natural and cultural environments can be presented for future generations to come.*

**Response:** Please see response to #2 above regarding the Master Plan. MPL partnered with all those in the community who wished to participate in developing the Master Plan, which is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i.

4. *I would be delighted to see the Molokai Ranch develop affordable housing, with the younger people of Molokai in mind. However, to make this a reality, meaningful employment must also be developed through industries that are environmentally compatible to the island, like a tech park where these young people can be gainfully employed to provide technological support to larger off shore entities. More meaningful employment for a young work force of Molokai, will improve the tax base of Molokai, and with a higher income than minimum wage, create even more economic opportunities through the construction of infrastructure, and provision of necessary goods and services. As the largest landowner on the island, the Molokai Ranch bears some responsibility to Molokai's future social environment. For the Molokai Ranch to cling to its only vision for quick profit and sustainability by selling off precious land resources to someone who does not need it, but simply desires the "untouched pristine setting at La'au" for a second home (or even third or more) and is willing to pay an inflated price for it, will only force our young educated population to leave the island to fulfill, their dreams of meaningful employment and a home of their own.*

**Response:** We agree with your assessment that affordable housing and meaningful employment would increase opportunities for young people to remain on Moloka'i. As a landowner and major employer on Moloka'i, we share your vision for viable opportunities for our young people, indeed for the island community as a whole. We also recognize, however, that Molokai Ranch is but one entity in the overall direction and vision for Molokai's future. Other private and public forces, as well as community will, need to be brought to bear for Moloka'i to realize a fundamentally united direction towards a desired future.

Molokai Ranch's contribution to the island's future has been financial, through employment, tax revenues and business investment, and social, through the support of numerous community efforts. Most recently, Molokai Ranch has supported the creation of the Master Plan, a Community Development Corporation, and the Moloka'i Land Trust. Our contribution to the vision that you describe, and that has been expressed by many Moloka'i residents, is the land base and providing an avenue for the community to plan the future of this land base.

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We truly believe that the Master Plan will accomplish the vision you outline in your comments. Affordable housing and economic development will be accomplished through the efforts of the CDC. Perpetuation of Moloka'i lifestyle and values will be accomplished through the Land Trust. Lā'au Point is the impetus for these changes, and it has been designed to minimize social impacts. In addition, Section 4.8.2 of the Draft EIS discussed housing.

- As an educator of Molokai's children, I ask that the Molokai Ranch and the EC rethink the possibilities for development that will truly benefit the community of Molokai in the long term, and to not so quickly give up precious land and shoreline resources as the only viable plan for Molokai's future. To develop La'au is short sighted, and to say that it is necessary to revitalize the Kaluakoi resort hotel is simply dishonest. This was an after thought, an attempt to convince the community that Laau was necessary to create jobs through revitalization of an earlier development that was allowed to fall into disrepair and jobs disappeared. If the Molokai Ranch is interested in upgrading an already existing development project, employing people of Molokai, I have no objection. However, being such a small island with such limited resources, it behooves the policy makers to look at future development that is environmentally responsible, not only to the island itself, but beneficial to the quality of life for the community.

**Response:** We acknowledge your comments regarding the projects' relationship to the Kaluako'i Hotel renovation. As discussed in the Draft EIS, both the Lā'au Point project and the Kaluako'i Hotel renovation and re-opening are pieces of a comprehensive overall Plan.

We disagree with your comment that the Lā'au Point project is "short-sighted." This 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 (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. The Master Plan is a long-term solution for Moloka'i.

- With true vision driving the process, there are many other economic opportunities that could be explored, given the large land resource of the Molokai Ranch and the various agencies funded through federal grants as well as governmental agencies, like the Department of Education, Labor, Agriculture, and Economic Development. I would name only a few such economic opportunities worth exploring: alternative fuels, through crop production and on island refinement of product; organic farm produce and livestock to supply an ever increasing demand in the market for environmentally responsible products. Eco tourism is also increasing in demand, and ecologically minded tourists are not particularly attracted to shorelines dotted with mega mansions when just a few miles away the degradation of real poverty and lack of employment is so glaringly evident. Most of these tourists not only want to see a landscape environmentally intact but also a vibrant flourishing community, not one that is plagued with poverty and all its accompanying social ills.

**Response:** We acknowledge your comments. With the 50,000 acres in land donation and easements, and perpetual program funding from Lā'au Point sales being given to the Land Trust and CDC, we believe these visions are possible for Molokai's future.

- I respectfully ask that the Molokai Ranch take a more responsible role in the development of Molokai for the young people I continue to work with in the school. As an educator I can assure you I did not

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*choose my profession to inspire students to get a good education only to get a minimum wage job; they can do that without an education. Moreover, it takes more than one minimum wage job to support a family and keep up with the ever increasing housing costs fueled by the kind of out of control land speculation we have witnessed on Molokai these past few years.*

**Response:** We acknowledge your comments.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Francis R. Alcain  
Honouliwai, Molokai &  
480 A Inia Ln  
Hilo, HI 96720

State Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804

Office of Environmental Quality Control  
235 South Beretania St., Suite 702  
Honolulu, HI 96813

#### TESTIMONY IN OPPOSITION TO THE LA'AU POINT PROJECT

To Whom Concerned:

I am Francis Robert Makana Aloha Alcain, a man born and raised on the island of Molokai. My ahupua'a is Honouliwai in Mana'e. I now reside on Moku o Keawe, but without question Molokai is my home.

I love my home and wish to return to live, raise my family, and care for my parents. However, I would rather be forever a transient than see additional degradation and destruction of Molokai.

The La'au point project boasts economic stimulus and the best interest of my home. I do not see any **sustainable** benefit in the creation of jobs as gardeners, house cleaners, and window washers for multi-millionaire vacationers with permanent homes. Molokai is uniquely undeveloped and physically ruggedly beautiful. It is this allure for pristine beautiful landscape that attracted the multi-millionaire's attention, but tragically it's the same force that will destroy the beauty of my home.

The environmental impact of 200 homes at La'au point will obviously play out most dramatically on the west end of the island, but Molokai as a whole will feel its effect. The 200 new estates at La'au will undoubtedly bring 200 new green, fertilized, manicured lawns and the resultant run off and threat of ciguatera so rampant off the shore of similar luxury developments. Visually and physically the entire coast, aside from La'au point, from Hale 'o Lono on the south to Kaluako'i resort will be developed.

Please picture the entire length of coast described above will have a resort, a golf course, and million dollar estates. Such expansive, exclusionary development does not serve the interest of any Molokai resident, but will certainly serve the interest of the developer and alien land owner who can now boast the ideal vacation home on the quaint island of Molokai.

The La'au point will impact the ecosystems of the entire island. La'au point has no water source capable of sustaining such a development. Instead this development, like all resort destinations in Hawai'i, must leach its water from the island as a whole.

Molokai and the County of Maui have suffered through years of sustained draught conditions. The overall result is decreased groundwater/stream flow and decreased shoreline discharge, all essential for healthy sustenance lifestyles, fishing and farming, and essential for the attraction and spawning for several choice reef fish.

Personally, my family's source of water, a spring in Honouliwai, has dried up with no foreseeable return to useable capacity. While such hardship or disturbance is intuitively distant and removed from La'au, water is a finite resource and its removal from Mana'e for La'au will continually stress a life sustaining commodity that cannot or has not replenished itself.

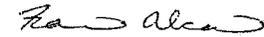
Molokai cannot sustain this development and this development will do nothing to sustain Molokai.

I return to Molokai as often as possible and cherish every trip. Flight patterns to Molokai often results in La'au and its surrounding coastline as the first eminent view my home. I do not want to see Millionaire estates sprouted on pristine Molokai coastline, and I do not want these alien homes to be the first thing I see every time I go home.

I strongly oppose any large scale development at La'au point and can fathom no sustainable benefit to Molokai.

Thank you for your time and consideration

Sincerely,



Francis Alcain  
He Kanaka No Mana'e, Molokai.



Francis R. Alcain  
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November 1, 2007  
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*interest of any Molokai resident, but will certainly serve the interest of the developer and alien land owner who can now boast the ideal vacation home on the quaint island of Molokai.*

**Response:** We disagree that the development of Lā'au Point will result in the impacts that you described, namely the replacement of the existing landscape with "a resort, a golf course and million dollar estates."

First, the Lā'au Point project will create 200 residential lots. The only resort and golf course components are related to the reopening of Kaluako'i Hotel and the golf course. It is our understanding that the Moloka'i community wants to see these elements upgraded and reopened because they are community assets and because of the economic benefits, as was previously discussed in response #1 above.

Second, we believe that those who choose to buy a lot and build a house at Lā'au Point will likely be attracted to the beauty and mystique of the area. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Molokai lifestyle and culture. This attitude among newcomers is already occurring; relatively newer residents are actively participating in environmental advocacy and protection efforts. It is also very likely that the new permanent residents will choose to live on Molokai because of the island's uniqueness, which includes a strong appreciation for local food gathering and other shoreline practices. The buyers' profile and CC&Rs will reduce the likelihood of the type of development you describe in your comments. It is the strict CC&Rs and unique market that will set Lā'au Point apart from other developments.

As previously discussed in Section 2.3 of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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. It is expected that Lā'au Point residents will not be they type of people that "continue to pollute via trash and pesticides."

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.

3. *The La'au point will impact the ecosystems of the entire island. La'au point has no water source capable of sustaining such a development, instead this development, like all resort destinations in Hawai'i, must leach its water from the island as a whole.*

**Response:** MPL believes that there is ample ground and surface water to meet current needs while still supporting MPL's plans for all of its lands. The total sustainable yield for groundwater

November 1, 2007

Francis R. Alcain  
480 A Inia Lane  
Hilo, Hawai'i 96720

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Alcain:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments and offer the following responses.

1. *The La'au point project boasts economic stimulus and the best interest of my home. I do not see any sustainable benefit in the creation of jobs as gardeners, house cleaners, and window washers for multi-millionaire vacationers with permanent homes. Molokai is uniquely undeveloped and physically ruggedly beautiful. It is this allure for pristine beautiful landscape that attracted the multi-millionaire's attention, but tragically it's the same force that will destroy the beauty of my home.*

**Response:** As discussed in Section 2.1.6 of the Draft EIS, the goals of EC Project #47: the community-based master land use plan for Molokai Ranch's lands, was to create new employment opportunities and affordable housing options for Moloka'i residents, as well as provide them with more control of their future.

The Master Plan will provide 150 Moloka'i residents employment in current Ranch operations, as well as additional jobs in the island's tourism industry. As discussed in Section 4.8.4 of the Draft EIS, the re-opening of the Kaluako'i Hotel is crucial to revitalizing the Moloka'i tourism economy. Section 4.1.5 of the Master Plan (provided as Appendix A in the Draft EIS) contains the recommended principles to guide tourism for Moloka'i. The subsequent *Moloka'i Responsible Tourism Initiative: A Community-Based Visitor Plan for Moloka'i* (EC Project #30) provided a five-year plan for sustainable, community-based tourism on Moloka'i. As discussed in these plans, the re-opening of Kaluako'i Hotel and the subsequent revitalization of the tourism industry will provide over 100 stable jobs for Moloka'i residents. The hotel will provide jobs directly at the hotel, and other small business opportunities will arise through outsourcing various hotel functions such as laundry, gift shop, beach shack, spa, and visitor activities (tours, attractions).

2. *The environmental impact of 200 homes at La'au point will obviously play out most dramatically on the west end of the island, but Molokai as a whole will feel its effect. The 200 new estates at La'au will undoubtedly bring 200 new green, fertilized, manicured lawns and the resultant run off and threat of ciguatera so rampant off the shore of similar luxury developments. Visually and physically the entire coast, aside from La'au point, from Hale o Lono on the south to Kaluako'i resort will be developed. ¶Please picture the entire length of coast described above will have a resort, a golf course, and million dollar estates. Such expansive, exclusionary development does not serve the*

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.

In response to your comments regarding water, 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)."

4. *Molokai and the County of Maui have suffered through years of sustained draught conditions. The overall result is decreased groundwater/stream flow and decreased shoreline discharge, all essential for healthy sustenance lifestyles, fishing and fanning, and essential for the attraction and spawning for several choice reef fish. Personally, my family's source of water, a spring in Honouliwai, has dried up with no foreseeable return to useable capacity. While such hardship or disturbance is intuitively distant and removed from La'au, water is a finite resource and its removal from Mana'e for La'au will continually stress a life sustaining commodity that cannot or has not replenished itself.*

**Response:** The Cultural Impact Assessment (Appendix F of 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. Appendix P 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.

In response to your comments regarding water, 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)."

5. *Molokai cannot sustain this development and this development will do nothing to sustain Molokai.*

**Response:** We respectfully disagree with your statement. We invite you to read the Master Plan, provided in its entirety as Appendix A 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 Moloka'i 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 Moloka'i 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 Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i 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.

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

Gandharva Mahina Hou Ross  
P.O. Box 1461 Kauanakakai HI 96748  
(808) 558-8488

February 20, 2007

PBR Hawaii  
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ASB Tower, Suite 650  
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Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
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Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

Aloha mai kakou. My name is Gandharva Mahina Hou Ross and I am a subsistence taro farmer in Waialua and Halawa valleys on the East side of Molokai. I have been farming taro since I was a young child and am passing this knowledge on to my 3 children. I am also a Hawaiian Language Immersion science teacher and agriculture teacher in the Natural Resources Academy at Molokai High School. My wife is on the Hawaiian Homes waiting list

I am writing this letter to state my concern for the proposed development of 200 luxury lots at Laau Point on the southwest end of Molokai. My main concern is for the water that is needed for the proposed project. The plan states that they will use 1 million gallons/day of brackish water from the Kakalahale well. This is of grave concern. By taking brackish water from the buffer zone between fresh and salt water in the aquifer

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this will increase the movement of salt water into the fresh water lens. This will have severe impacts on my ability to continue farming wetland taro and my ability to pass these practices on to my children and future generations. This plan also does not take into account the 2/3 reserve water rights of homesteaders and future homestead development. I feel this plan jeopardizes my family's ability to get a homestead lot in the future. I feel that all future water development should be reserved for current Molokai residents.

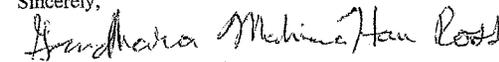
I am also concerned about the findings of the botanical, marine and animal survey reports in the DEIS. I feel that they are inadequate. As a fisherman and subsistence gatherer I know that this is an area of high concentrations of resources. As a member of the group that did the phone interviews for the Molokai Subsistence Task Force Survey, I learned that the area of the proposed development was one of the areas with the most subsistence activity on Molokai. There are many valuable marine resources that are not mentioned in the studies. This area is known to have large amounts of hee, lobster, aama crab, opihī, moi, as well as limu lipoa. These are not mentioned in the DEIS. I feel that a Molokai expert who is familiar with the area should be hired to do the study. I am also concerned that there is no mention of the Pueo. This is known to be one of the best places on Molokai to see the pueo.

I feel that this area should be designated as critical habitat for the endangered *Marsilea villosa* or 'ihī'ihīlauakea. This is one of the last remaining known habitats for this highly endangered fern. It occurs only in seasonal wetlands and has spores that can remain dormant for many years until the right conditions are present. This is a species that needs to be protected to ensure that it does not go extinct.

I also have concern for the potential discovery of unmarked burials during the digging of the roadway and putting in the needed infrastructure. The whole proposed development area is covered with many sites that have been documented. There are even lots with known sites. What is the plan when more burials are discovered? Once the bones have been exposed to the sun it is considered desecration. It is too late.

Mahalo for taking time to hear my concerns.

Sincerely,

  
Gandharva Mahina Hou Ross



Mr. Gandharva Mahina Hou Ross  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

November 1, 2007

Gandharva Mahina Hou Ross  
P.O. Box 1461  
Kaunakakai, Hawaii 'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Ross:

Thank you for your letter dated February 20, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *My main concern is for the water that is needed for the proposed project. The plan states that they will use 1 million gallons/day of brackish water from the Kakalahale well. This is of grave concern. By taking brackish water from the buffer zone between fresh and salt water in the aquifer this will increase the movement of salt water into the fresh water lens. This will have severe impacts on my ability to continue farming wetland taro and my ability to pass these practices on to my children and future generations. This plan also does not take into account the 2/3 reserve water rights of homesteaders and future homestead development. I feel this plan jeopardizes my family's ability to get a homestead lot in the future. I feel that all future water development should be reserved for current Molokai residents.*

**Response:** Withdrawals of water from the basal aquifer in central Moloka'i will not have any impact on surface water used for farming wetland taro in Waialua and Halawa valleys, which relies on rainfall and high-level dike impounded water.

Hawaiian Homesteaders have a priority right to 2/3 of the water developed in Phase I of the Molokai Irrigation System, which is owned and operated by the State Department of Agriculture. Water for the MIS is developed from dike compartments in Waikolu Valley which are isolated from the basal ground water bodies from which Well 17 and Kākalahale well water is or will be withdrawn.

DHHL has a reserved 2,905 mgd from the Kualapu'u aquifer, the bulk of which is targeted for agricultural use. MPL's water plan recognizes DHHL's future needs and MPL's water development plans will not interfere with DHHL's ability to develop its water reservation.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown in 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."

2. *I am also concerned about the findings of the botanical, marine and animal survey reports in the DEIS, I feel that they are inadequate. As a fisherman and subsistence gatherer I know that this is an area of high concentrations of resources. As a member of the group that did the phone interviews for*

*the Molokai Subsistence Task Force Survey, I learned that the area of the proposed development was one of the areas with the most subsistence activity on Molokai. There are many valuable marine resources that are not mentioned in the studies. This area is known to have large amounts of hee, lobster, aama crab, opihi, moi, as well as limu lipoa. These are not mentioned in the DEIS. I feel that a Molokai expert who is familiar with the area should be hired to do the study. I am also concerned that there is no mention of the Pueo. This is known to be one of the best places on Molokai to see the pueo.*

**Response:** The random sample telephone survey conducted for the 1994 Moloka'i Subsistence Task Force Report indicated that fishing and ocean gathering areas with the largest percentages of multiple responses (above 30%) was on the South-East end coast from Makakupa'ia to Honouli Wai (40% for fishing and 35% for ocean gathering) and from Honouli Wai to Hālawā (30% for fishing and 33% for ocean gathering). Relative to the area proposed for development, the 1994 subsistence study reported that 23% of the respondents in the random sample telephone survey fish in the area from Pālā'au to Lā'au Point and from Lā'au to 'Īlio Point, while 19% gather in the ocean off of the same area.

Extraordinary measures will be taken by the Moloka'i Land Trust, in cooperation with the homeowners, to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes and resources.

During the community-based planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The Cultural Impact Assessment (provided as Appendix F of the Draft EIS) refers to the measures outlined in the Master Plan to protect subsistence fishing on page 113 and referred to above. Details of the plan to protect subsistence fishing and gathering were provided on pages 118 through 121. In addition, access will be managed to protect subsistence resources as discussed on pages 116 - 118.

Additionally, the CC&Rs and Shoreline Access Management Plan (SAMP) for the project will include measures to restrict access to foot only between Dixie Maru and Hale O Lono in order to conserve resources, with an acknowledgement of Native Hawaiian gathering rights as defined by law for subsistence purposes, in a designated subsistence management area.

The project's CC&Rs reflect the community-driven SAMP, which outlines the guidelines to monitor and enforce protection of the cultural and natural resources in the area proposed for development. The SAMP has been included in the Final EIS as an appendix.

3. *I feel that this area should be designated as critical habitat for the endangered Marsilea villosa or 'ihi'ihilauakea. This is one of the last remaining known habitats for this highly endangered fern. It occurs only in seasonal wetlands and has spores that can remain dormant for many years until the right conditions are present. This is a species that needs to be protected to ensure that it does not go extinct.*

**Response:** We acknowledge your comment. We confirm that ihi'ihilauakea has been found around Kamāka'ipō Gulch. This area is proposed to be re-districted into Conservation

Mr. Gandharva Mahina Hou Ross  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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District and designated a cultural protection zone, where no development will occur. The area will also 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 'ihi'ihilauakea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

4. *I also have concern for the potential discovery of unmarked burials during the digging of the roadway and putting in the needed infrastructure. The whole proposed development area is covered with many sites that have been documented. There are even lots with known sites. What is the plan when more burials are discovered? Once the bones have been exposed to the sun it is considered desecration. It is too late.*

**Response:** As stated in Section 4.1 of the Draft EIS, 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.

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



To Whom It May Concern  
Thomas S. Witten, ASLA  
President  
P. B. R. Hawaii  
1004 Bishop Street  
ASB Tower Suite 650  
Honolulu HI, 96813

1-9-07

I am requesting an extension to be granted to the Molokai community to properly respond to the Environmental Impact Statement that was prepared by P. B. R. Hawaii. Now that the holidays are over we can refocus our energies in this direction.

Thank you for your consideration  
Glenda Mawae

January 16, 2007

Glenda Mawae  
c/o Walter Ritte  
P O Box 486  
Kaunakakai, HI 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Mawae

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

Glenn I. Teves  
P.O. Box 261  
Kualapuu, HI 96757

February 22, 2007

Peter Nicholas  
Molokai Properties Limited  
745 Fort Street Mall, Ste. 600  
Honolulu, HI 96813

Thomas Witten  
PBR Hawaii  
1001 Bishop St., Ste. 650  
Honolulu, HI 96813

Anthony Ching  
State Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804

Genevieve Salmonson  
OEQC  
235 S. Beretania St. #702  
Honolulu, HI 96813

RE: COMMENTS ON DRAFT EIS FOR LA'AU POINT

As a Hawaiian Homestead farmer, I submit my concerns regarding our precious water resource and the need to protect it for us and our future generations. As a county extension working with ranchers and farmers on the island of Molokai for 26 years, I'm familiar with the soil, water needs, various crops. I have also worked on Molokai in community development and long-range planning. I hereby submit the following comments for your consideration:

#### OVERVIEW

I have read the La'au Point EIS and would like to comment on it. I was also granted status as a consultant to this project. Overall, this EIS is inadequate and inaccurate, and is a cursory attempt by both PBR and Molokai Properties to make a mockery out of the EIS process. They must return to the drawing board to address the many concerns they have failed to address.

#### BREADTH OF EIS

The La'au Point project is part of a larger project of conservation and agricultural easements, land trusts, opening of the Kaluakoi Hotel, etc and should be evaluated within this context. What will be the cumulative impacts of all these projects on the water,

environment, socio-economic situation, etc. For example, what will be the water needs of the entire project, and where will this water come from? Also, how will these water requests impact upon rights of Hawaiian Homesteaders as well as present needs of the residents of Kaunakakai? Molokai Properties is cognizant of this fact since it was discussed at a meeting they had called for all consultants and parties who had requested standing in this land zoning change before the LUC. This strategy employed by Molokai Properties is similar to 'parceling' where it's very difficult to envision the entire project because they're only showing one small piece of the entire pie. If this project is being used to raise fund to renovate the Kaluakoi Hotel, then we need to look at the impact of that development as well. In the strategy MPL is employing, it will be difficult to gauge the cumulative impacts.

#### SOIL

I submitted in my comments that montmorillinitic soil exists on the project area in question. Instead of at least identifying the soil and coming up with mitigating measures, it was easier for Mr. Witten to say this soil doesn't exist at La'au. This is inaccurate, and makes me question this whole report as shoddy workmanship. The soil series is Kapuhikani series, and contains a montmorillinitic clay which is the crux of the problem. The soil class is described as a Vertisol. On the island of Molokai, soils belonging to this classification are found predominantly along the southeast coast near Laau Point. (See attached map.)

I'm familiar with Vertosols from Kuliouou Valley where we raised cattle for 18 years. If properly managed, it can be one of the most productive soils for farming. Conversely, it can be the worst soil to construct a house on due to the soil characteristics. Properties of vertisols include a high shrink-swell capacity. In other words, when dessicated the soil will crack and is evident if you walk this area of the island. When wetted, this soil can swell to 25% it dry volume in all directions, and have been implicated in the destruction of house structures in Manoa, Aina Haina, Kuliouou, and other valleys on Oahu.

In the Kuliouou situation, I commented in the supplemental EIS in the mid 1970's that this soil was going to present some major challenges to the construction of housing in this valley, and outlined what would happen. On New Years Eve of 1990, a storm brought out the full potential of this soil and over 12 homes constructed by the Hawaii Housing Authority in concert with developer Kikuo Yanagi were destroyed due to these soil characteristics.

When contacted by one of the State Attorney General's assigned to this case, he asked if I was going to testify against the state? I commented that I didn't have to and that they would use my comments in the SEIS as the basis for the suit. He then asked how I knew this was going to happen and how I detailed exactly what happened over 10 years before it happened, I told him, "It's the Montmorrillonite clay that's the crux of the problem. You cannot build houses on this soil." As a result, the State was sued for over \$20 million and lost the suit. The big question in the La'au Point case is will the State take responsibility for this defective soil in the event that housing structures are destroyed as in the Kuliouou case? The one thing in common with all vertisols is the high shrink-swell

capacity caused by the montmorillinite clay which makes up the basic soil structure of all vertisols.

On the other hand, if properly managed, the soil can be one of the most productive soils for farming. With the water brought to this area, it actually increased the soil productivity. I believe this area is ideal for the production of orchids, with the proper windbreaks to protect your shade structures. Even with a predominant slope of 15 degrees, this area can be terraced with short stone walls, shadehouses can be constructed on these terraces. With the high solar radiation even during the winter, and the ability to control water, many of the orchid species can be manipulated to flower at certain targeted times. This crop is one of the fastest expanding agricultural commodities in the state for export. So yes, the soil and area is good for farming.

#### **WATER**

In their Water Plan entitled 'Molokai Properties, Limited EC Project #47 Water Plan', they assume a 1% build-out at Kaluakoi. Yet, over the last year, there have been about 30 building permits issued and acted upon in this area. This equates to a 10% build out and not 1%, assuming the total lots at 300. How far off can they be in their water projections before you tell them to go back to the drawing board?

As a Hawaiian Homesteader, I'm concerned about the impact of this development on our first rights to water as mandated in the Hawaiian Homes Act of 1920. The EIS must evaluate the full information available. This was not done. Molokai Properties has attempted to glaze over this area by stating they are in discussions with the County and the Department of Hawaiian Home Lands. The fact of the matter is DHHL rights are non-negotiable, and Molokai Ranch doesn't have clear options for water to accommodate this project.

MPL has no secure water source since all of their water is in question. Their present allotment of 1.018 from Well 17 that is transported via the Molokai Irrigation System is on appeal before the State Supreme Court by DHHL and others. Their mountain water source of approximately .5 mgd is being questioned due to decisions regarding the need to maintain stream flow, based on recent decisions arising from the Waihole case, and also the need to monitor the impact of surface water on ground water recharge. I believe this capture of mountain water from our watershed is impacting on the water quality of wells from Kualapuu to Kawela. In the last 15 years, they have expanded their capture capacity, which is in violation of their original intent of replacing existing pipes and catchments.

All issues made in the Waiola Contested Case and affirmed by the State Supreme Court must be considered in this case. Molokai Properties must prove that their taking of water will not impact on water for Hawaiian Home Lands now and in the future, and also that the taking of water will not impact on the gathering rights of native Hawaiians, including Hawaiian Homesteaders along the south coast of Molokai from Kaunakakai and areas both east and west of the main town. The fact that the Kakalahale well is in proximity to the proposed Waiola Well makes these issues relevant in this case.

With the recent revelation of one of their wells supplying Kaunakakai going salty, and also that the State Commission on Water Resource Management has asked the County to decrease their reliance on water from the Kualapuu area due to impacts on Hawaiian Home Lands rights there, the County is in a bad situation and has to identify two new well sites to supply the existing needs of Kaunakakai residents. This is further complicated by the fact that USGS Hydrologist Delwyn Oki stated in a meeting on Molokai in August 2006 that he doesn't believe Hawaiian Homes can extract their 2.905 mgd from the Kualapuu wellfield. This forces DHHL to seek water further east in the Kamiloloa sector, and the County may have to seek water further east to Kawela or beyond. This means Molokai Properties may have to seek water east of Kawela and not from Kakalahale Well.

Without a clear idea of where water for this new development is coming from, and what present rights to water will be infringed upon, we cannot evaluate the environmental impact of this project, and it makes no sense to approve this rezoning. Water follows zoning approval. By approving the land zoning, you will be denying others of their rights. You are only causing more litigation instead of solving something. Furthermore, Molokai Properties has not stated how this water will be transported to West Molokai. By keeping things fuzzy and tentative, Molokai Ranch has created more questions than answers.

The Department of Hawaiian Home Lands has over 26,000 acres of land on Molokai. Of this, only 15% of these lands have access to water. Where will the water for their future homesteads come from, especially if Molokai Properties is allowed to take water for this development? Kakalahale well is located above Kaunakakai town. On both sides of this area lie 5,000 parcels of Hawaiian Home Lands. Of this 10,000 acres, less than 5% have access to water.

Another factor is the shrinking aquifer due to over 12 years of drought. It will get even more difficult to extract water for future development on the island, especially for the Department of Hawaiian Home Lands. This will force them to go further inland, meaning they will have to drill deeper. Costs will become prohibitive, and the state will be failing in their trust responsibilities to native Hawaiians in their rehabilitation efforts.

There's a legal issue that should be answered, and I'm not sure if this is the place, but can a foreign-owned company own a utility company in Hawaii? MPL owns Waiola O Molokai, Inc., the purveyor of water for West Molokai.

#### **TRANSMISSION OF WATER TO WEST MOLOKAI/LA'AU POINT**

MPL is proposing to utilize the Molokai Irrigation System (MIS) to carry their drinking water to the project site. Yet, they have no signed agreement. The MIS was constructed with the primary intent of supplying water to Hawaiian Homestead lots for farming and subsistence activities. Many of the Hawaiians have vigorously objected to the use of this system for this purpose. Many bills presently in the legislature may affect their ability to transport their water to west Molokai, including one to allow 2/3's of the voting membership of the Molokai Irrigation System be comprised as Hawaiian Homesteaders.

They will be adamant about allowing their water system to be continually used for non-agricultural purposes.

#### **CC&Rs**

The CC&R's touted by this proposal will not hold up in court because its contrary to prevailing western law which gives the landowner whatever rights they want, including the right to farm, or to use water. To use pricing as a deterrent to increased water doesn't work for millionaires that this development is attempting to attract as prospective buyers. The water issue will lead into litigation regarding Hawaiian Homes first rights to water on the island where the Hawaiian Homes Act was established. You use CC&Rs are a way to restrict certain activities have been challenged in court and, for the most part, hasn't held up in court at least in Hawaii.

#### **AGRICULTURAL WATER**

For agricultural purposes, the present water available from the Molokai Irrigation System is sufficient to irrigate 2000 acres of agricultural land at any given time. About 2/3's of this is reserved for the Department of Hawaiian Homes Lands; this amount is only sufficient water to irrigate a little over 1300 acres. Yet, there are over 7,800 acres of agricultural lots in the Hoolehua area awarded to native Hawaiians. In legislation approving the construction of the Molokai Irrigation System, it states that 2/3's of the water from Waikolu and 2/3's of the groundwater west of Waikolu is reserved as part of the first phase of the Molokai Irrigation System construction. The groundwater has never been tapped for agriculture, but in the event there is no water left for the homesteaders, this water can be tapped for their use in homesteading. Any taking of water in adjacent areas will have impact on the DHHL's ability to extract water for homestead use.

#### **IMPACT OF LAND CLEARING**

In the EIS, MPL is trying to say that their land clearing will not have an impact on the near shore environment and will actually create a better situation than now exists. This couldn't be farther from the truth. The present situation is stable, and anything other than the present situation will have greater impact. Once you disturb the soil with large earthmovers, you crack this soil further and this causes the soil to fall apart.

The idea of using very little water, which this project is touting, through the use of natives and xeriscaping, will create a worst-case scenario since it will be difficult to cover and stabilize the soil in the entire lot without covering the entire area with water due to water restrictions. Also, there are few natives that can hold the soil in place with soil-binding root systems.

The high wind conditions present in this area will aggravate the situation by blowing all loose or disturbed soil away and ultimately into the ocean. Another problem created by land clearing will be the movement of soil near the coastal strand where many natives are found. By changing the make-up of the soil in the coastal area through the runoff of soil into this area, this will affect the ability of some natives to survive in this modified environment. The present soil has glued or fried itself together, while loose material has either blown away or rolled downhill. Again, any change from the present stage will have

an increased impact on the soil and adjacent areas, including the shoreline and ocean and the inhabitants therein.

#### **IMPACT ON LAND PRICES**

One issue that MPL has skirted, among many other issues, is the impact on prices on adjacent areas, such as Maunaloa. It's inevitable that this very high-end development will have an adverse impact on land prices, not only nearby, but also on the entire island since this island is so small. It will make it harder for residents to purchase residential lots, let alone qualify for a house construction loan. This will be a major socio-economic impact on the island that can aggravate many other social problems that are not already on the surface for some of these families. Economic and social stability starts with the ability to afford to own your own home.

#### **SOCIAL IMPACTS**

Surveys don't assess impacts, especially if the experimental design is not sound. There were instances, such as in Maunaloa, where the participants were selected and were skewed toward supporting the development. Since many of the Maunaloa residents are MPL employees, they feel suppressed and oppressed to say things against MPL. One of the sociology experts hired, Berna Cabucungan, in the Waiahole contested case hearing, stated there would be no adverse social impacts on the neighbor islands due to the opening up of large tracts of farm land on Oahu. As a result of this opening of land on Oahu, many Maui farmers went out of business because they couldn't compete with a farm who grew the same crops as there's, was situated near their markets, could deliver on demand, and didn't have inter-island shipping costs. The neighbor island farmers could no longer compete and were driven out of farming. I wouldn't put any credence in the social impact survey.

#### **FAILURE TO ADDRESS COMMUNITY CONCERNS**

I attended most of the community input meetings and many of the planning meetings. In fact, I attended more meetings than many of those who voted on whether to proceed on the La'au project. Although they collected input, they made no concerted attempt to address questions and concerns that came up in these meetings, which was unfortunate. In hindsight, the strategy was to use the attendance numbers to say, "We met with the community and they're in support of this development." This couldn't be farther from the truth, and was evident in the recent Molokai Enterprise Community elections. The turnout exceeded the last general election, and the pro-La'au candidates lost their seats by a margin of over 2 to 1. This is a community mandate; the majority of the Molokai community is not in support of this project.



November 1, 2007

Glenn Teves  
P.O. Box 261  
Kualapu'u, Hawaii'i 96757

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Teves:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

1. *OVERVIEW: I have the read the La'au Point EIS and would like to comment on it. I was also granted status as a consultant to this project. Overall, this EIS is inadequate and inaccurate, and is a cursory attempt by both PBR and Molokai Properties to make a mockery out of the EIS process. They must return to the drawing board to address the many concerns they have failed to address.*

**Response:** We disagree with your comments. We feel that we have thoroughly evaluated all pertinent issues for this EIS.

2. *BREADTH OF EIS: The La'au Point project is part of a larger project of conservation and agricultural easements, land trusts, opening of the Kaluakoi Hotel, etc and should be evaluated within this context. What will be the cumulative impacts of all these projects on the water, environment, socio-economic situation, etc. For example, what will be the water needs of the entire project, and where will this water come from? Also, how will these water requests impact upon rights of Hawaiian Homesteaders as well as present needs of the residents of Kaunakakai? Molokai Properties is cognizant of this fact since it was discussed at a meeting they had called for all consultants and parties who had requested standing in this land zoning change before the LUC. This strategy employed by Molokai Properties is similar to 'parceling' where it's very difficult to envision the entire project because they're only showing one small piece of the entire pie. If this project is being used to raise fund to renovate the Kaluakoi Hotel, then we need to look at the impact of that development as well. In the strategy MPL is employing, it will be difficult to gauge the cumulative impacts.*

**Response:** 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.

First, the Lā'au Point project was analyzed. The environmental impacts and benefits of this project have been addressed based upon the construction of this project in West Moloka'i.

Second, the Lā'au Point project has been addressed as one component that permits other actions to take place such as (1) the reopening of the Kaluako'i Hotel and (2) affordable housing projects elsewhere. To the extent that the EIS must discuss the impacts of re-opening of the Kaluako'i

Glenn Teves  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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Hotel, this re-opening is roughly to the same extent that the hotel was operating a few years ago such that the impacts of the hotel at that time are already known.

The impact of not increasing tourism on the island is more relevant as most tourism establishments and tour operators are in serious financial difficulties. This is evidenced by the continual change in ownership at Hotel Molokai, the lack of retained earnings to fund capital improvements, and the losses sustained by the Molokai Lodge and Beach Village.

The impact of the re-opening of the Kaluako'i Hotel will produce no more of an impact than when it was open up until 2001, providing jobs and a stable economy on the West End of the Island, including a viable Maunaloa elementary school and a viable commercial heart for Maunaloa.

Third, the La'au Point project is also a part of the *Community Based Master Land Use Plan for Molokai Ranch* (Master Plan). To this extent, each component of the Master Plan really facilitates each other component of the Master Plan. In an overall context, the Master Plan preserves and protects large amounts of acreage on the West end of Moloka'i. The development of Lā'au Point to some degree facilitates this protection and preservation.

3. *SOIL: I submitted in my comments that montmorillinitic soil exists on the project area in question. Instead of at least identifying the soil and coming up with mitigating measures, it was easier for Mr. Witten to say this soil doesn't exist at La'au. This is inaccurate, and makes me question this whole report as shoddy workmanship. The soil series is Kapuhikani series, and contains a montmorillinitic clay which is the crux of the problem. The soil class is described as a Vertisol. On the island of Molokai, soils belonging to this classification are found predominantly along the southeast coast near Laau Point. I'm familiar with Vertosols from Kuliouou Valley where we raised cattle for 18 years. If properly managed, it can be one of the most productive soils for farming. Conversely, it can be the worst soil to construct a house on due to the soil characteristics. Properties of vertisols include a high shrink-swell capacity. In other words, when desiccated the soil will crack and is evident if you walk this area of the island. When wetted, this soil can swell to 25% it dry volume in all directions, and have been implicated in the destruction of house structures in Manoa, Aina Haina, Kuliouou, and other valleys on Oahu...¶ On the other hand, if properly managed, the soil can be one of the most productive soils for farming. With the water brought to this area, it actually increased the soil productivity. I believe this area is ideal for the production of orchids, with the proper windbreaks to protect your shade structures. Even with a predominant slope of 15 degrees, this area can be terraced with short stone walls, shadehouses can be constructed on these terraces. With the high solar radiation even during the winter, and the ability to control water, many of the orchid species can be manipulated to flower at certain targeted times. This crop is one of the fastest expanding agricultural commodities in the state for export. So yes, the soil and area is good for farming.*

**Response:** Kapuhikani soil occurs on the south coast and wraps around approximately 3/4-mile up the west coast from Lā'au Point. Mauka of this and up most of the west coast portion of the project area. This type of soil is listed as reaching bedrock at 20 or more inches, but my experience is that it is generally shallower, and the road and houses may easily reach a solid footing. The well documented instability problems in the eastern valleys of O'ahu (Kuli'ou'ou, 'Āina Haina, Mānoa, and Pālolo) are due to deep deposits (20 to 40 feet thick or more) of high plasticity clay situated on relatively steep valley side slopes. The very limited thickness of high plasticity clay present precludes the occurrence of similar slope instability problems at the

project. Adverse effects of high plasticity, expansive clay soils can be readily mitigated by removal of the clay below structures or other conventional treatment such as capping with structural fill or special foundation design.

Very Stony Soil (rVT2) is more common, and does not have the shrink-swell problem. Finally, there is a pocket of Mala series soil (MmA), which is described as good road fill, with a tendency to flooding at 0-3% slope, and with a high shear strength.

In summary, the shrink-swell problem of the Kapuhikani soil can be readily mitigated by conventional geotechnical engineering design, and much of the project area has different series that are not as good for agriculture and do not appear to pose the engineering challenges of the Kapuhikani clay. The complete soils study conducted by Geolabs, Inc., will be included as an appendix in the Final EIS.

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 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

Kamāka'ipō Gulch), basalt rock formation is encountered at the ground surface and partly exposed at the ground surface mixed with the soils mentioned previously.

4. *WATER: In their Water Plan entitled 'Molokai Properties, Limited EC Project #47 Water Plan', they assume a 1% build-out at Kaluakoi. Yet, over the last year, there have been about 30 building permits issued and acted upon in this area. This equates to a 10% build out and not 1%, assuming the total lots at 300. How far off can they be in their water projections before you tell them to go back to the drawing board?*

**Response:** MPL's Water Plan projects long-term potable water needs of no more than 1.5 mgd. This includes, among other things, water for full build-out of the Kaluako'i residential properties. At full build-out, potable water requirements for Kaluako'i residential properties are expected to increase to 228,500 gallons per day from its current use of 77,500 gpd. Non-potable water needs for Kaluako'i residential properties are expected to increase from the current 143,825 gpd to 633,825 gpd at full build out.

5. *As a Hawaiian Homesteader, I'm concerned about the impact of this development on our first rights to water as mandated in the Hawaiian Homes Act of 1920. The EIS must evaluate the full information available. This was not done. Molokai Properties has attempted to glaze over this area by stating they are in discussions with the County and the Department of Hawaiian Home Lands. The fact of the matter is DHHL rights are non-negotiable, and Molokai Ranch doesn't have clear options for water to accommodate this project.*

**Response:** MPL is not in the process of negotiating, or seeking to negotiate, over DHHL's water rights. MPL is working with DHHL, the County of Maui Department of Water Supply, and USGS to comprehensively evaluate Molokai's long-term water demand and resources with the objective of coordinating future development of ground water resources so that, to the greatest extent possible, the water needs of all the stakeholders can be accommodated without impairing DHHL's water rights.

The current sustainable yield of the Kualapu'u aquifer is 5 mgd. Current permitted withdrawals from Kualapu'u total less than 2.0 mgd (which include 1.018 mgd withdrawal from Well 17). From a sustainable yield standpoint, therefore, there is sufficient water in the Kualapu'u aquifer for DHHL to withdraw its 2.905 mgd reservation amount.

The impact of withdrawing one mgd from Kākalahale Well on existing DHHL and DWS wells and on the DHHL Reservation in the Kualapu'u Aquifer is discussed in the attachment titled, "Revised Section 4.9.2 (Water)."

6. *MPL has no secure water source since all of their water is in question. Their present allotment of 1.018 from Well 17 that is transported via the Molokai Irrigation System is on appeal before the State Supreme Court by DHHL and others. Their mountain water source of approximately .5 mgd is being questioned due to decisions regarding the need to maintain stream flow, based on recent decisions arising from the Waiahole case, and also the need to monitor the impact of surface water on ground water recharge. I believe this capture of mountain water from our watershed is impacting on the water quality of wells from Kualapu'u to Kawela. In the last 15 years, they have expanded their capture capacity, which is in violation of their original intent of replacing existing pipes and catchments.*

**Response:** It is true that the water use permit for 1.018 mgd from Well 17 is on appeal to the Hawai'i Supreme Court. However, a permit issued by the Water Commission is valid, even though appealed, unless and until it is vacated or revoked by the court or the Commission.

It is also true that the Hawai'i Supreme Court's decision in the Waiahole Ditch case cast a cloud over all of the interim instream flow standards adopted statewide. However, no petition has been filed to amend any of the interim instream flow standards adopted for any of the streams on Molokai. It is unlikely, therefore, that Molokai Ranch's ability to continue to divert water in its Mountain Water System is in any real jeopardy.

MPL has not violated its original intent of replacing existing pipes and catchments. The system changes have been for efficiency. The capture of water is limited by permit, which MPL has not violated.

7. *All issues made in the Waiola Contested Case and affirmed by the State Supreme Court must be considered in this case. Molokai Properties must prove that their taking of water will not impact on water for Hawaiian Home Lands now and in the future, and also that the taking of water will not impact on the gathering rights of native Hawaiians, including Hawaiian Homesteaders along the south coast of Molokai from Kaunakakai and areas both east and west of the main town. The fact that the Kāalahale well is in proximity to the proposed Waiola Well makes these issues relevant in this case.*

**Response:** MPL concurs that it must meet all criteria and has done so in the EIS.

8. *With the recent revelation of one of their wells supplying Kaunakakai going salty, and also that the State Commission on Water Resource Management has asked the County to decrease their reliance on water from the Kualapuu area due to impacts on Hawaiian Home Lands rights there, the County is in a bad situation and has to identify two new well sites to supply the existing needs of Kaunakakai residents. This is further complicated by the fact that USGS Hydrologist Delwyn Oki stated in a meeting on Molokai in August 2006 that he doesn't believe Hawaiian Homes can extract their 2.905 mgd from the Kualapuu wellfield. This forces DHHL to seek water further east in the Kamiloloa sector, and the County may have to seek water further east to Kawela or beyond. This means Molokai Properties may have to seek water east of Kawela and not from Kāalahale Well.*

**Response:** MPL's understanding is that Mr. Oki's statement was made in reference to a ground water model simulation that he conducted in 2006. USGS simulated the withdrawal of 2.905 mgd from four arbitrarily sited wells within the Kualapu'u aquifer. These arbitrarily chosen sites were spaced relatively close together and not far distant from the existing Kualapu'u well field. Under that scenario, USGS concluded that DHHL could not develop the full amount of its reservation from the Kualapu'u aquifer.

MPL believes that 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 Kāalahale 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 Kāalahale 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.

To reflect the above information in the Final EIS, Section 4.9.2 (Water) of the Final EIS will be revised as shown in the attachment titled, "Revised Section 4.9.2 (Water)."

9. *Without a clear idea of where water for this new development is coming from, and what present rights to water will be infringed upon, we cannot evaluate the environmental impact of this project, and it makes no sense to approve this rezoning. Water follows zoning approval. By approving the land zoning, you will be denying others of their rights. You are only causing more litigation instead of solving something. Furthermore, Molokai Properties has not stated how this water will be transported to West Molokai. By keeping things fuzzy and tentative, Molokai Ranch has created more questions than answers.*

**Response:** Regarding your comment about water following land zoning, this should be directed toward State and County policymakers. We have no control over the order in which approvals are given.

Water will be transported through existing rights-of-way and pursuant to current pipeline usage agreements.

10. *The Department of Hawaiian Home Lands has over 26,000 acres of land on Molokai. Of this, only 15% of these lands have access to water. Where will the water for their future homesteads come from, especially if Molokai Properties is allowed to take water for this development? Kāalahale well is located above Kaunakakai town. On both sides of this area lie 5,000 parcels of Hawaiian Home Lands. Of this 10,000 acres, less than 5% have access to water.*

**Response:** Hawaiian Homesteads on Moloka'i currently obtain agricultural irrigation water through the Moloka'i Irrigation System (MIS) or DHHL's Kualapu'u wells. MPL's water sources – Well 17, Kāalahale Well, and the mountain water system – do not, and will not, interfere with DHHL's existing sources of water.

The dike compartments in Waikolu Valley, from which the MIS system obtains its water, are isolated from the basal ground water bodies from which Well 17 and Kāalahale well water is or will be withdrawn. The Department of Agriculture has proposed increased pumpage from the Waikolu dike system to augment the MIS.

To date, DHHL has identified a need for 2.905 mgd from the Kualapu'u aquifer to meet future domestic and agricultural homestead needs. MPL's water plan recognizes DHHL's future needs and MPL's water development plans will not interfere with DHHL's ability to develop its water reservation.

As previously discussed in #8 above, 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 Kākahale 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 Kākahale 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.

Rising salinity in certain Moloka'i wells appear to be related to local phenomena associated with particular pumps. 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.

In addition to the development of new sources for agricultural water, drought mitigation strategies are important in securing the viability of agriculture and agricultural activities on Moloka'i. Recommended drought mitigation strategies for Molokai, identified by the Maui Drought Committee, include a number of measures to repair and improve the efficiencies of the MIS. Another drought mitigation recommendation is to install a pump in MPL's Kākahale well, which could supply brackish water for mixing with existing sources to meet non-potable demands. This drought mitigation measure can readily be incorporated into MPL's plans to utilize the Kākahale Well for non-potable irrigation needs identified in the Master Plan.

To reflect the above information in the Final EIS, Section 4.9.2 (Water) of the Final EIS will be revised as shown in the attachment titled, "Revised Section 4.9.2 (Water)."

11. *Another factor is the shrinking aquifer due to over 12 years of drought. It will get even more difficult to extract water for future development on the island, especially for the Department of Hawaiian Home Lands. This will force them to go further inland, meaning they will have to drill deeper. Costs will become prohibitive, and the state will be failing in their trust responsibilities to native Hawaiians in their rehabilitation efforts.*

**Response:** MPL is not aware of any hydrological evidence that the aquifers on Moloka'i are shrinking.

12. *There's a legal issue that should be answered, and I'm not sure if this is the place, but can a foreign-owned company own a utility company in Hawaii? MPL owns Waiola O Molokai, Inc., the purveyor of water for West Molokai.*

**Response:** MPL's ownership of Waiola O Moloka'i is legal and has been accepted by the PUC.

13. *TRANSMISSION OF WATER TO WEST MOLOKAI/LA'AU POINT: MPL is proposing to utilize the Molokai Irrigation System (MIS) to carry their drinking water to the project site. Yet, they have no signed agreement. The MIS was constructed with the primary intent of supplying water to Hawaiian Homestead lots for farming and subsistence activities. Many of the Hawaiians have vigorously objected to the use of this system for this purpose. Many bills presently in the legislature may affect their ability to transport their water to west Molokai, including one to allow 2/3's of the voting membership of the Molokai Irrigation System be comprised as Hawaiian Homesteaders. They will be adamant about allowing their water system to be continually used for non-agricultural purposes.*

**Response:** The use of the MIS by MPL to transport water has been the subject of a long-standing agreement. The Agreement expired and is currently in the process of re-negotiation. While there were a number of bills introduced in the last legislative session concerning the governance of the MIS, all were defeated and none were passed. Because there are existing customers in Kaluako'i dependent upon Well 17 water, water will have to somehow be transported from Well 17 to the facilities owned by MPL for further distribution to end users at Kaluako'i. Either the MIS will continue to be used or alternate infrastructure will be developed for this purpose. Either way, the infrastructure used to transport water from Well 17 to MPL distribution facilities will also be used to transport potable water to Lā'au Point. Therefore, even if use of the MIS to transport Well 17 water is discontinued, there will be a means of getting potable water to Lā'au Point. The decisions made with respect to this MIS issue, however, will affect infrastructure planning for the transport and distribution of potable water to Lā'au Point.

To reflect the above information in the Final EIS, Section 4.9.2 (Water) of the Final EIS will be revised as shown in the attachment titled, "Revised Section 4.9.2 (Water)."

14. *CC&Rs: The CC&Rs touted by this proposal will not hold up in court because its contrary to prevailing western law which gives the landowner whatever rights they want, including the right to farm, or to use water. To use pricing as a deterrent to increased water doesn't work for millionaires that this development is attempting to attract as prospective buyers. The water issue will lead into litigation regarding Hawaiian Homes first rights to water on the island where the Hawaiian Homes Act was established. You use CC&Rs are a way to restrict certain activities have been challenged in court and, for the most part, hasn't held up in court at least in Hawaii.*

**Response:** We are not aware of any legal barrier to the enforcement of CC&Rs by any party with standing. Excessive use of water will be controlled through pricing and conservation measures available. We disagree with your opinion.

15. **AGRICULTURAL WATER:** *For agricultural purposes, the present water available from the Molokai Irrigation System is sufficient to irrigate 2000 acres of agricultural land at any given time. About 2/3's of this is reserved for the Department of Hawaiian Homes Lands; this amount is only sufficient water to irrigate a little over 1300 acres. Yet, there are over 7,800 acres of agricultural lots in the Hoolehua area awarded to native Hawaiians. In legislation approving the construction of the Molokai Irrigation System, it states that 2/3's of the water from Waikolu and 2/3's of the groundwater west of Waikolu is reserved as part of the first phase of the Molokai Irrigation System construction. The groundwater has never been tapped for agriculture, but in the event there is no water left for the homesteaders, this water can be tapped for their use in homesteading. Any taking of water in adjacent areas will have impact on the DHHL's ability to extract water for homestead use.*

**Response:** DHHL's preference in the MIS is provided in HRS §168-4, which reads as follows:

**Preference.** To the extent that the same may be necessary from time to time for the satisfaction of their water needs, domestic and agricultural, the Hawaiian homes commission and lessees of the Hawaiian homes commission shall at all times, upon actual need therefore being shown to the board of agriculture, have a prior right to two-thirds of the water developed for the Molokai irrigation and water utilization project by the tunnel development extending to Waikolu valley and ground water developed west of Waikolu valley, which was planned by the board of land and natural resources as the first stage of the Molokai irrigation project.

It is MPL's understanding that the first phase of the MIS is complete. MPL's water sources – Well 17, Kākalahale Well, and the mountain water system – do not, and will not, interfere with the MIS's existing sources of water.

16. **IMPACT OF LAND CLEARING:** *In the EIS, MPL is trying to say that their land clearing will not have an impact on the near shore environment and will actually create a better situation than now exists. This couldn't be farther from the truth. The present situation is stable, and anything other than the present situation will have greater impact. Once you disturb the soil with large earthmovers, you crack this soil further and this causes the soil to fall apart. ¶The idea of using very little water, which this project is touting, through the use of natives and xeriscaping, will create a worst-case scenario since it will be difficult to cover and stabilize the soil in the entire lot without covering the entire area with water due to water restrictions. Also, there are few natives that can hold the soil in place with soil-binding root systems.*

**Response:** Erosion control measures, including Best Management Practices, will be implemented during earthwork to minimize erosion and siltation.

17. *The high wind conditions present in this area will aggravate the situation by blowing all loose or disturbed soil away and ultimately into the ocean. Another problem created by land clearing will be the movement of soil near the coastal strand where many natives are found. By changing the make-up of the soil in the coastal area through the runoff of soil into this area, this will affect the ability of*

*some natives to survive in this modified environment. The present soil has glued or fried itself together, while loose material has either blown away or rolled downhill. Again, any change from the present stage will have an increased impact on the soil and adjacent areas, including the shoreline and ocean and the inhabitants therein.*

**Response:** Prior to construction, the contractor will develop a dust control management plan, which will identify and address all activities that a potential to generate fugitive dust. Activities will comply with the provisions of Hawai'i Administrative Rules, §11-60.1-33 on Fugitive Dust.

As discussed in Section 2.3.1 on page 25 of the Draft EIS, the expanded State Conservation District and additional 50-foot building setback from the residential lot line will provide a significant buffer between the residential makai boundary and shoreline uses (250 to 1,000 feet). Land clearing for the residential area will not be near the "coastal strand."

18. **IMPACT ON LAND PRICES:** *One issue that MPL has skirted, among many other issues, is the impact on prices on adjacent areas, such as Maunaloa. It's inevitable that this very high-end development will have an adverse impact on land prices, not only nearby, but also on the entire island since this island is so small. It will make it harder for residents to purchase residential lots, let alone qualify for a house construction loan. This will be a major socio-economic impact on the island that can aggravate many other social problems that are not already on the surface for some of these families. Economic and social stability starts with the ability to afford to own your own home.*

**Response:** Section 4.8.2 (Housing) and Appendix L (Hallstrom Letter) of the Draft EIS provided discussion about why Lā'au Point would not have an adverse impact on land prices for the island.

19. **SOCIAL IMPACTS:** *Surveys don't assess impacts, especially if the experimental design is not sound. There were instances, such as in Maunaloa, where the participants were selected and were skewed toward supporting the development. Since many of the Maunaloa residents are MPL employees, they feel suppressed and oppressed to say things against MPL. One of the sociology experts hired, Berna Cabucungan, in the Waiahole contested case hearing, stated there would be no adverse social impacts on the neighbor islands due to the opening up of large tracts of farm land on Oahu. As a result of this opening of land on Oahu, many Maui farmers went out of business because they couldn't compete with a farm who grew the same crops as there's, was situated near their markets, could deliver on demand, and didn't have inter-island shipping costs. The neighbor island farmers could no longer compete and were driven out of farming. I wouldn't put any credence in the social impact survey.*

**Response:** We note this is your opinion regarding social impact surveys.

20. **FAILURE TO ADDRESS COMMUNITY CONCERNS:** *I attended most of the community input meetings and many of the planning meetings. In fact, I attended more meetings than many of those who voted on whether to proceed on the La'au project. Although they collected input, they made no concerted attempt to address questions and concerns that came up in these meetings, which was unfortunate. In hindsight, the strategy was to use the attendance numbers to say, "We met with the community and they're in support of this development." This couldn't be farther from the truth, and was evident in the recent Molokai Enterprise Community elections. The turnout exceeded the last general election, and the pro-La'au candidates lost their seats by a margin of over 2 to 1. This is a community mandate; the majority of the Molokai community is not in support of this project.*

Glenn Teves  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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**Response:** Your input was taken seriously at the meetings; in fact, the agricultural easement land designation (14,390 acres for agriculture) in the Master Plan was the direct result of your and Alton Arakaki's input relating to types of soils and slope that were suitable for agriculture.

You also advised against any development under "agriculture use" as had been often done on Maui. It was advice such as this that led MPL to seek a State Land Use District Boundary Amendment with the Land Use Commission rather than try to do an already permissible "agricultural subdivision" at Lā'au Point.

Your information relating to water resources, and the fact that the Kualapu'u aquifer needed to be reserved for homesteaders' future use, was also the cornerstone of MPL's Water Plan.

We respectfully disagree with your conclusion that there is a direct correlation between the election results and the project. The election held on January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for the Board of Directors that has no such regulatory power.

We thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Glenn Teves  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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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*Study file  
B comment*



February 22, 2007

TO: Anthony Ching, Executive Officer  
State Land Use Commission

RE: Draft Environmental Impact Statement for La'au

RECEIVED  
FEB 22 2007  
STATE OF HAWAII  
LAND USE COMMISSION

November 1, 2007

Hana Yasso  
[no address given]

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Yasso:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Your comments deal with emergency response time.

We acknowledge your comments. The 25-minute response time is an estimate; we concur that emergency response time can take longer. Currently, access to the area is via unimproved and dirt roads. Although previously addressed in Section 4.10.3 (Fire Protection) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

The project may impact fire protection services due to the increased demand generated by additional population, the presence of more structures, and potential increased activity at the parks and along the shoreline. The project area is about 25 to 35 minute response time from the Ho'olehua fire station and about 20 additional minutes from Kaunakakai's station. These response times are estimates and emergency response times may take longer. Currently access to the area is via unimproved and dirt roads. With the project, the access road will be paved, improving the road conditions, which may reduce emergency response times.

Most responses to the project area would probably be medical related given the older population. Further, there is a risk of brush fires in the area due to dryness and high winds, although fire breaks will be cut regularly during summer months.

A water storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection. Fire hydrants will be installed along the road spaced at intervals between 450 to 500 feet.

To provide increased fire protection at Lā'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the Lā'au Point Covenants, Conditions, and Restrictions (CC&Rs) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for Lā'au Point.

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluako'i to access Lā'au Point.

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 • Telephone 808.531.0158 • Facsimile 808.521.2279

According to the statement on pg. 89 "The project area is about 25-35 minutes response time from Hoolehua fire station and about 20 additional minutes from Kaunakakai station " needs to be re-evaluated from past experience as a Fire Captain for the Maui Fire Department, stationed at the Hoolehua fire station, now retired, it would take approximately 40 minutes from Hoolehua fire station to get to Dixies at the end of the road in Kaluakoi. From Dixies to La'au Point will take another 3 miles approximately, along the shore line, taking another 5-10 minutes, should the road be paved. In addition, the statement also states, "Fire and rescue emergency services will be able to access La'au Point and the shoreline from the new paved access road from Kaluakoi and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations."

This statement clearly fails to describe an actual or proximate response time for, 1 "the new paved access road from Kaluakoi" and where this road will actually be; and 2 "the existing emergency access dirt road from Hale O Lono Harbor."

First, where this new paved access road would be leaves it to speculation as I described above, or from the current coral road that connects to Puhaku Loa Rd. in Kaluakoi. Either road would clearly lengthen the approximate response time as stated in this impact statement. Secondly, this impact statement fails to state the actual response time for the other route, "the existing emergency access dirt road from Hale O Lono" pg. 89. This highly leaves it to speculation and inaccuracies. The response time for Hoolehua fire station to Maunaloa town is 20 minutes. This does not include the 8-10 miles approximately to arrive at the project area. One must also consider the road to Hale O Lono is an unpaved road, and may take approximately up to 45-60 minutes to arrive at the project area in La'au from Hoolehua Fire Station.

Last, the impact of such emergencies for this proposed project for La'au affects many, leaving areas from Kala'e, Kualapuu, Hoolehua, Maunaloa, and Kaluakoi vulnerable should there be an emergency also. I urge you to review and research further on the actual impact it will have on our fire, rescue, and emergency personnel as well as the emergency response times in this Draft Environmental Impact Statement for La'au, which is highly questionable and inaccurate to the best of my knowledge.

Respectfully Submitted,

Hana K. Yasso  
Retired Fire Captain, E-9 Hoolehua Fire Station

Hana Yasso  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

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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ALONA ANTONY: COMMISSIONER

MY NAME IS HARRY K. PORD III

BOB: RAISED ON MOLOKAI

LIVED AND WORKED ON OAHU, UNTIL I MOVED HOME IN 1977, WORKED FOR ALONA AIRLINES TILL 1981 ON MOLOKAI. WHEN THEY STOPPED OPERATIONS HERE. I STAYED AND I CREATED PORD'S NATURAL MARAUNIA FARM ON MY HOMESTEAD LOT # A-A HOOLEILUA. IT IS A VISITOR AND RETAIL FARM, WHICH HAS BEEN SUCCESSFUL.

WHEN KALUKOI HOTEL WAS BUILT AND OPENED IN 1977, IT OPEN THE DOORS TO A VISITOR INDUSTRY ON MOLOKAI. IT TOOK THE PLACE OF PINEAPPLE. BUT IT WAS BUILT WITH THE ISLAND IMPUT AND PLANNED THAT WAY. IT WORKED! GREAT, 100 MOLOKAI RESIDENTS, EMPLOYEES HERE, AND MANY OTHER JOBS CREATED BECAUSE OF IT, NONE INCLUDED. I AM STILL SUCCESSFUL BUT THE WHOLE ISLAND COULD USE THAT ECONOMIC ENGINE NOW.. THE VISITORS NEED A PLACE TO STAY.

AFTER READING PARTS OF THE EIS FOR LAU. I'M AMAZED HOW MUCH YOU CAN WRITE AND NOT SAY ANYTHING, IF YOU ARE FROM THIS ISLAND AND ATTENDED THE EC AND MPL MEETINGS YOU WOULD UNDERSTAND.

I HAVE COMPILED SOME QUESTIONS TO CHALLENGE MPL QUEST TO DEVELOPE LAU.

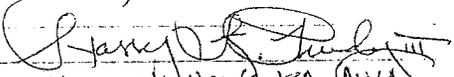
I WANTED TO FOCUS ON TOURISM

AND ECONOMICS..

BOTH SUBJECTS WERE VERY LIMITED AND NOT TO MUCH THAT WILL ACTUALLY SUPPORT AND MAINTAIN ECONOMIC GROWTH FOR THE ISLAND. MY CONCERN IS HOW WE SUSTAIN TOURISM (VISITOR ONLY) AND HAVE ECONOMICS WITHOUT KALUKOI HOTEL? THE ENGINE IS THERE. WE GOT TO START IT UP AGAIN. IT WORKED FINE BEFORE.

AS I READ PAGES, JUST SKIMMING, I REALISED THAT THERE WAS A LOT OF DISCREPANCIES. I HAD ONLY LIMITED TIME AND I'M SURE THERE IS MANY, MANY MORE THROUGHOUT THE EIS. WOULD FOR THIS OPPORTUNITY

VERY CONCERNED MOLOKAI  
RESIDENT,

  
OWNER NA HUA O KA (ALUA)  
DBA PORD'S NATURAL MARAUNIA  
FARM

IC LAND USE COMMISSION (STATE)  
MOLOKAI PLANNING COMMISSION  
MAUI COUNTY COUNCIL  
PER HAWAII

# DEIS KRAFI ENVIRONMENTAL IMPACT STUDY LAAU

PAGE 1

PAGE 31  
2-4

COMMUNITY MEETINGS STARTED APL 2003, BUT ONLY IN MAY OF 2005 DID MPL BRING UP THE MENTION OF LAAU. TWO YEARS TO REVEAL TO THEIR PLAN, LAAU TO THE COMMUNITY... I KNOW I ATTENDED THE FIRST AND MY WIFE THE NEXT 20 MEETINGS.

MY QUESTION

WHY CREATE THIS HYPE AND TIME CONSUMING FACADE, OF WANTING TO WORK WITH THE COMMUNITY, ONLY TO REVEAL ITS TRUE INTENTIONS, DEVELOPE LAAU WITH 200, 2 ACRE LOTS, FOR 1 ML PER ?

PAGE 31-33

BY THE 3RD YEAR OF COMMUNITY MEETINGS 95% 98% OF PEOPLE IN ATTENDANCE (AKAKU NAOI PUBLIC TV RECORDED MEETINGS) WAS TO STOP LAAU DEVELOPMENT.

MY QUESTION

WHY AFTER FULL COMMUNITY SUPPORT TO STOP LAAU DEVELOPMENT, HAS MPL IGNORED THE COMMUNITIES DEMAND ?

PAGE 128-129

COMMUNITY PLAN  
MOLOKAI RESPONSIBLE TOURISM INITIATIVE REPORT:  
FUNDING FROM LAAU WILL INVICATE KAIKAIKI HOTEL.

NOTE

MY QUESTION

WHY ALL THE MONEY, TIME, HURDLES, MAPS, CHARTS, BROCHERS, GOLF TOURNAMENT, ADS, PERMITS, NEW HIRED PEOPLE (JUST FOR THIS PROJECT) LAWYER, LIASON ETC... ETS (ZONE CHANGE)  
HOW CAN THEY FUND ALL THIS ACTIVITY, TIME

PAGE

PAGE

1 CONTINUE 2

SPEND TO ML TO CONSTRUCT LAAU AND SAY THEY DON'T HAVE THE MONEY TO REOPEN KAIKAIKI HOTEL, THATS ALREADY BUILT ?

PAGE 26

2-3,3

COMMUNITY PLAN AMENDMENT

MOLOKAI DID A LOT OF WORK TO CREATE THIS COMMUNITY PLAN. NOW MPL WHO IS A FOREIGN INVESTMENT CO. WANTS TO AMEND PARTS OF IT. THEY WILL MAKE 200 ML DOLLARS, UNDERSTANDABLE FOR INVESTORS, BUT NOT FOR MOLOKAI COMMUNITY.

MY QUESTION

WHY ALLOW MPL TO CHANGE OUR COMMUNITY PLAN TO SUIT THEM, WHEN THEIR PLATE IS ALREADY FULL?  
(NOTE) (MAHALOA TOWN, TENTA LO STRS (3K) 2 of which ARE SHUT DOWN, KAIKAIKI HOTEL SITTING IDLE SINCE THEY BOUGHT IT, GOING ON 5 YEARS NOW.

PAGE 87-88

PUBLIC SERVICES

88 4-10.3 FIRE PROTECTION

MY QUESTION HOW DID YOU ESTIMATE 25 MINS FOR ANY EMERGENCY TO LAAU ?

(NOTE)

A MOLOKAI RETIRED FIRE CAPTAIN FROM THE WOODENOA FIRE STATION SAID "ITS TAKES ATLEAST 25-30 MINS TO MAHALOA TOWN." LAAU POINT IS 6-8 MILES

PAGE 52-54

4.2.1

QUESTION

CULTURAL SIGNIFICANCE OF LAAU POINT  
2ND PARAGRAPH .... TOTALLY CORRECT WHY DISTURB LAAU ?

NOTE

DANIANA MCGREGOR PHD ETHNIC STUDIES UH. MAUIA REVEALS DURING EARLY WESTERN CONTACT, KAIKAIKI, LAAU WAS ARID, SPARSELY INHABITED... TILL TODAY IS THE SAME.

CONCLUSION

PAGE

25  
PAGE

2 CONTINUED

QUESTION: WHAT MAKES LĀ'AU IDEAL, WITH THE EVER PRESENT  
BATTLE FOR WATER IN AN AREA THAT IS STILL  
THE DRIEST HISTORICALLY AND NOW?

PAGE 150

4.1.2. ARCHAEOLOGY  
LĀ'AU POINT CONTAINS NUMEROUS HISTORIC, HOUSE SITES,  
COURTAINS, HEI'AU, ETC.

NOTE: CALL FOR STATE WIDE MONITORING ON CONSTRUCTION IN THE  
STATE... (LOCAL CHANNEL NEWS 1/22/07) BECAUSE NOT  
ENOUGH IS BEING DONE TO PROTECT HUMAN REMAINS, ANCHOR  
JUNK, THAT HAS BEEN UNHEALTHY ACROSS THE STATE AND  
BEING LEFT AND STORED IN CONTAINERS, SHEDS, BACK ROOMS  
ETC... AND THEIR DEVELOPMENT IS OPEN FOR BUSINESS  
THE STATES RESPONSE, NOT ENOUGH MAINTENANCE, DILIG.

QUESTION: HOW CAN WE BE BETTER WITH NOT ENOUGH STATE AGENCIES  
TO OVERSEE THIS SENSITIVE PROCEDURE, BE HANDLED  
WITH KNOWLEDGE AND RESPECT?

PARAGRAPH 3. THIS DISTRICT IS ON THE STATE OF HAWAII AND  
THE NATIONAL REGISTER OF HISTORIC PLACES.

QUESTION: HOW CAN YOU ALLOW ANY DEVELOPMENT HERE?



November 1, 2007

Harry K. Purdy III  
P.O. Box 84  
Ho'olehua, Hawai'i 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Purdy:

Thank you for your letter postmarked February 21, 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](http://luc.state.hi.us/docs/luc_rules.pdf)>.

1. Page 31, 2.4: Why create this huge and time consuming façade, of wanting to work with the community, only to reveal its true intentions, develop La'au with 200, 2 acre lots, for IML per?

**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)."

2. Page 31-33: Why, after full community support to stop La'au development, has MPL ignored the communities demand?

**Response:** At the public meetings, the opposition organized strong opposition to all aspects of the Community-Based Master Land Use Plan for Molokai Ranch (Master Plan) and proposed Lā'au Point project.

MPL still believes there is overall community support for the Master Plan, with supporters afraid to demonstrate support because they are targeted by the vocal and militant opposition with reprisals and abuse.

3. Page 128-129: With all the money, time, hurdles, maps, charts, brochures, golf tournament, adds, permits, new hired people (just for this project), lawyer, liaison, etc...EIS (zone change). How can they fund all this activity, then spend 70 ML to construct Lā'au and say don't have the money to reopen Kaluakoi Hotel, that's already built?

**Response:** MPL estimates that to re-open the Kaluako'i Hotel will, at 2007 costs, need \$30 million and additional cash costs of up to \$5 million to fund initial losses before the hotel operation becomes cash positive.

MPL estimates that it will probably cost \$1 million to obtain the entitlements necessary for the Lā'au Point development, which is being funded by the sale of land. Operational losses of approximately \$3.6 million per annum are also being funded by the sale of land.

MPL has the minimal staff necessary to operate its property holdings. No more, no less.

Land sales will not fund the re-opening of the hotel as well as fund operational losses. The sale of Lā'au Point lots will fund the hotel's refurbishment, as has been stated in the Draft EIS and in the Master Plan.

4. Page 26, 2.3.3: Why allow MPL to change our Community Plan to suit them, when their plate is already full? (Maunaloa Town, Tentalo sites (3x) 2 of which are shut down, Kaluako'i Hotel sitting idle since they bought it, going on 5 years now.

**Response:** The Community Plan Amendment is proposed to change the project area's zoning from Agricultural to Rural for the residential areas, and also to re-designate the expanded Conservation District shoreline areas to Conservation from Agricultural.

5. Page 87-88, 4.10.3: How did you estimate 25 mins for any emergency to Lā'au? A Molokai retired fire captain from the Hoolehua Fire Station said "It takes a least 25-30 mins to Maunaloa Town." Lā'au Point is 6-8 miles.

**Response:** The 25-minute response time is an estimate; we concur that emergency response time can take longer. Currently, access to the area is via unimproved and dirt roads. Although previously addressed in Section 4.10.3 (Fire Protection) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

The project may impact fire protection services due to the increased demand generated by additional population, the presence of more structures, and potential increased activity at the parks and along the shoreline. The project area is about 25 to 35 minute response time from the Ho'olehua fire station and about 20 additional minutes from Kaunakakai's station. These response times are estimates and emergency response times may take longer. Currently access to the area is via unimproved and dirt roads. With the project, the access road will be paved, improving the road conditions, which may reduce emergency response times.

Most responses to the project area would probably be medical related given the older population. Further, there is a risk of brush fires in the area due to dryness and high winds, although fire breaks will be cut regularly during summer months.

A water storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection. Fire hydrants will be installed along the road spaced at intervals between 450 to 500 feet.

To provide increased fire protection at Lā'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the Lā'au Point Covenants, Conditions, and Restrictions (CC&Rs) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for Lā'au Point.

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluako'i to access Lā'au Point.

6. Page 52-54, 4.2.1: 2nd paragraph...Totally correct. Why disturb La'au?

**Response:** Lā'au has already been disturbed, but the Shoreline Access and Management Plan will ensure this is minimized and the area is protected.

In addition, we direct you to Section 2.2 of the Draft EIS, which provides explanation of the Lā'au Point project's purpose and need, and Section 6.1, which addresses the "no action" alternative.

7. What makes Lā'au ideal, with the ever present battle for water in an area that is still the driest historically and now?

**Response:** Lā'au Point was chosen because it is the only location with high-value for less density. In evaluating any proposed alternative (see Section 6.0 of the Draft EIS for various alternatives), there was the need for economically viable projects that could generate revenue and returns on investment which could make the overall conservation initiatives proposed by the Master Plan feasible and sustainable for the benefit of the Moloka'i community.

In summary, other alternatives proposed were evaluated against the project objectives and not selected over the proposed Lā'au Point project for the following primary reasons. The alternative plans:

- Did not produce the revenue and returns necessary to fund the re-opening of the Kaluako'i Hotel and support the future viability of Molokai Properties Limited.
- Were not viable economically as stand alone projects.
- Would require vastly increased safe drinking (potable) and non-drinking (non-potable) water use that could not be supported by the Land Use Committee or the EC.
- Proposed increases of up to 1,000 units which increased the resident population to levels that were unacceptable to the Land Use Committee and the EC.

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)."

Concerning water, in summary, MPL did not want to seek more drinking (potable) water from island resources, nor propose population increases that appeared to be unacceptable to the island's community. At the Lā'au Point project's build-out, it is anticipated that permanent residents will occupy only 60 of the homes (30 percent), thus minimizing the social impact (see Section 4.8). Water use will be contained by strict CC&Rs attached to the project (see Section 4.9.2).

Another criteria was to ensure that current potentially usable agricultural land remain available for future agricultural use, thus protecting the desire to have Moloka'i remain an agricultural-based economy. Section 3.3 and 3.4 discuss soils at the Lā'au Point site as being poorly suited for soil-based agriculture. Other more suitable agricultural land has been identified elsewhere on other MPL lands in the Plan.

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 Kāalahale 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.

The Kāalahale 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 Kāalahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kāalahale 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 Kāalahale and DHHL/DWS well sites, namely Pu'u Kāalahale and Pu'u Luahine, which are barriers to ground water flow.

The Kāalahale 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 Kāalahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kāalahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kāalahale Well, also function to limit the effect of pumping the

Kāalahale 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 Kāalahale 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 Kāalahale 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 Kāalahale 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.

If the unlikely event occurs that DHHL and MPL must compete for the same water, MPL will recognize DHHL's priority rights to water and will seek alternative sources of water, including, but not limited to, desalinization of brackish or salt water. Desalinization 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 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)."

8. *Page 50, 4.1.2: How can we be sure, why not enough state agencies to oversee this sensitive procedure, be handles with knowledge and respect?*

**Response:** The project will not proceed without approval from the State Historic Preservation Division on the archaeological plans. Appendix E of the Draft EIS provides the archaeological plans.

The situation at DLNR merits concern by all parties engaged in or commenting on development, and is currently the subject of activity in the legislature, where a management audit of the State historic Preservation Division appears likely. It is true that incomplete staffing at SHPD means that the program is unable to keep up with demand. Likewise, the Moloka'i Island Burial Council (which makes the recommendations upon which the Burials Program typically relies) has not been active for quite some time, which presents a serious

Harry K. Purdy III  
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 6 of 6

roadblock to approval of the Burial treatment Plan intended to set the procedures for dealing with burials and reassuring the public.

It should also be noted that the Burials Program, while it does review burial treatment plans, is frequently not involved in the day to day fieldwork. This is more often the domain of an archaeological consultant, who must communicate any finds to the program. SHPD has never had dedicated, on-island Moloka'i archaeological or burial staff, and the community should be aware that even in the best of times, SHPD exercises oversight of archaeological work and monitoring, rather than having a field presence themselves.

9. *This District is on the State of Hawaii and the National Register of Historic Places. How can you allow any development here?*

**Response:** As shown in Appendix E of the Draft EIS, the Southwest Moloka'i Archaeological District (Site 803) and all other significant archaeological sites around Lā'au Point will be preserved in place. No development will occur in the "Cultural Protection Zones," areas where groupings of historic sites exist, therefore providing the preservation of cultural landscapes rather than individual sites.

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

Attachments:

Revised Section 2.4 (Community Meetings and Involvement)  
Revised Section 6.0 (Alternatives)  
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 4TH, 2007

To: Thomas S. Witten  
President  
PBR Hawaii  
1001 Bishop St.  
ASE Tower Suite 650  
Honolulu, Hawaii 96813



January 16, 2007

Jaissuinin Cariceo  
P.O. Box 1269  
Kauanakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. Cariceo:

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 MR. WITTEN  
I WOULD LIKE TO ASK THAT WITHIN THE POWER THAT YOU HOLD WITH THE PBR HAWAII - THAT YOU EXTEND THE TIME PERIOD CONCERNING THE ENVIRONMENTAL IMPACT STATEMENT IN REGARDS TO THE PROPOSED DEVELOPMENT OF OUR "SPECIAL" LAND POINT COASTAL AREAS... PLEASE CONSIDER THIS PERTITION THAT I DO SUGGEST (FOR A MORE ~~POND~~ OPPORTUNITY FOR ALL CONCERN) THAT THE HOLDING TIME PERIOD OF 45 DAY BE EXTENDED FOR ANOTHER 60 DAYS FOR ALL CONCERN PEOPLE & EXTENDED FAMILIES WILL HAVE A MORE JUST MEANS OF PREPARING FOR THIS MOST HEART WRENTCHING ISSUE THAT IS FURIOUSLY DIVIDING OUR COMMUNITY...

WE NEED TO COME TOGETHER SINCE AGAIN IN UNITY AND FULL OF ALOHA TO SIMPLY FULLY SHARE BRIGHTLY THE PEACE WITHIN THAT TRULLY INDOEDS DEFINES THE LOVELINESS OF OUR MO-BETTAH MOLOKAI LIFESTYLE.

MOLOKAI IS SO VERY SPECIAL, THE PEOPLE ARE ALWAYS MOST SPECIAL - SO WITH A 60 DAY EXTENSION "I DO" FEEL IN MY HEART THE TRUTH WILL CLEARLY COME OUT AND THIS MOST IMPORTANT ISSUE ABOUT LA'AU WILL BE RESOLVED FOR THE BENEFIT OF THE PEOPLE.

MAHALO FOR YOUR INTEREST IN COMMUNICATING WITH THIS SIMPLE "BEACH BOG" FROM MOLOKAI ABOUT LA'AU...

Aloha JAISSUININ M. CARICEO  
% NAKI OHANA  
P.O. BOX 1269  
KAUNAKAKAI, HI 96748  
PHONE: 808 (558-8184)

PLEASE SEND:  
COURTESY: ANTHONY CHING (DIRECTOR OF LAND USE COMMISSION)



November 1, 2007

James Puaa-Spencer  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

To Whom It May Concern:

My name James Puaa-Spencer and I am a student at Molokai High School. I am writing the letter as an assignment for my Environmental Science class but also because I am a concerned citizen of Molokai. There are a few questions that I feel is important not only for me to know but for my classmates to know the answer to so that we have an idea of how this "Plan" will impact our home and our future.

The first question I have is about burial sites and culturally important sites at La'au Point. I have read in the Plan that sites already found will be put into the land trust to preserve the area. My concerns is what will happen if bones are exposed in construction of roadways, and sewage drains what will happen to those bones? What will happen with the plan? Will it continue and the bones are moved or will construction continue around the bones?

And the second question is if brakish water is taken from the Kakalahale well the will salt water not ruin the fresh water that is in there? I feel that the well should not be touched and another system should be used before the well is ruined like those once found down Palaa.

I would like to thank you for taking time to read my letter and hopefully you get back to me.

Respectfully, James Puaa-Spencer

A handwritten signature in black ink that reads 'James Puaa-Spencer'.

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear James:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *The first question I have is about burial sites and culturally important sites at La'au Point. I have read in the Plan that sites already found will be put into the land trust to preserve the area. My concerns is what will happen if bones are exposed in construction of roadways, and sewage drains what will happen to those bones? What will happen with the plan? Will it continue and the bones are moved or will construction continue around the bones?*

**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 Section 4.1 of the Draft EIS, 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.

According to the Burial Treatment plan (provided in 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.

Mr. James Puaa-Spencer

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 2 of 2

2. *And the second question is if brackish water is taken from the Kāalahale well the will salt water not ruin the fresh water that is in there? I feel that the well should not be touched and another system should be used before the well is ruined like those once found down Palaau.*

**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 Kāalahale Well site. The Kāalahale 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 Kāalahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kāalahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kāalahale Well, also function to limit the effect of pumping the Kāalahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

Withdrawing brackish water from the Kāalahale Well will not result in a situation where upconing would contaminate a potable water lens.

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)." See the section of the attachment titled, "Additional Information on the Kāalahale Well."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



To Whom It May Concern,

Hi my name is Jasper Kaho'iwai, I am a senior at Moloka'i High School. And I'm writing a letter in my environmental science class. The reason why I'm writing this letter is so that I can share my thoughts and feelings on the developing of la'au point proposal.

I read the article that was about the marine environment at la'au point. And I just wanted to share some thoughts and feelings about it, I think that most of the information that was said was false. Like when you guys said that there were only a few species and that there were higher east of la'au point?

You cannot say that there are only a few species, because there are a lot more than a few species that are down there and you don't know that they're higher east. Because I myself am in the water most of the time, & the fish don't stay in one place, they travel all over. I would like to thank you & everyone else that took the time to read my letter of concern.

Sincerely,

Someone Who Cares

*Jasper Kaho'iwai*

A handwritten signature in black ink that reads 'Jasper Kaho'iwai'. The signature is written in a cursive style with a long, sweeping underline.

November 1, 2007

Jasper Kaho'iwai  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Kaho'iwai:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge that you disagree with the findings of the marine biological surveys.

The marine biologists from TEC, Inc., who performed the baseline survey, are among the most well-respected researchers in Hawai'i; they are as knowledgeable of the taxonomy and habitats of endemic species as any marine scientists in Hawaii. Each has conducted research for many years throughout the Hawaiian Islands and other Pacific Islands as well. One of the researchers, Dr. Alan Friedlander, has been instrumental in development of the community-based management regime in place at Mo'omomi, and is intimately familiar with the marine biota of Moloka'i.

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,

A handwritten signature in black ink that reads 'Peter Nicholas'. The signature is written in a cursive style with a long, sweeping underline.

Peter Nicholas  
President and CEO  
Molokai Properties Limited

Mr. Jasper Kaho'iwai

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 2 of 2

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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JEANNINE JOHNSON  
5648 PIA STREET  
HONOLULU, HI 96821  
PH: 373-2874 (H) / 523-5030 (W)

*V. Under ASR/K*  
*K. W. Dine*  
*Map*  
LAND USE COMMISSION  
STATE OF HAWAII  
2007 JAN 10 A 8 28



"Jeannine"  
<jeannine@hawaii.rr.com>  
01/09/2007 09:17 PM

To <luc@dbedt.hawaii.gov>  
cc <annmarie@hawaii.rr.com>, "Chris Cramer"  
<chris.cramer@maryknolls.school.org>,  
<repcarroll@Capitol.hawaii.gov>,  
bcc  
Subject RE: La'au Point

FACSIMILE COVER SHEET

TO:	FROM:
Anthony J.H. Ching, Executive Officer	Jeannine Johnson
COMPANY:	DATE:
State Land Use Commission	1/9/07
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
587-3827	1
RE:	
Moloka'i Properties Limited Proposal for La'au Point Moloka'i	
<input checked="" type="checkbox"/> URGENT <input type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY	

NOTES/COMMENTS:

Dear Mr. Ching and State Land Use Commissioners:

I object to Moloka'i Properties Limited's proposed development of an exclusive subdivision on La'au Point on Moloka'i. My father was a fisherman who grew up in Miloli'i, one of the last fishing villages in Hawai'i. He taught our 'ohana to fish, love and respect the ocean and the 'aina. Unfortunately, my keiki do not have the same quality of life I experienced because access to the ocean and our beaches in East Honolulu are blocked by mansions lining our shorelines. This has had the effect of turning our public beaches in East Honolulu into private ones.

If you allow 200 gated mansions to line Moloka'i's southwestern shore, you will forever deny the keiki of Moloka'i the right to fish, enjoy the ocean and practice the culture as their ancestors did for centuries and lose what makes Moloka'i such a unique place. Development of 200 second homes for rich people will destroy the natural shoreline, deny public access to the shoreline, block the public's views and also bring increased taxes to the residents who cannot afford to pay for infrastructure improvements and higher property tax assessments. There is no way to mitigate these adverse impacts if you approve Moloka'i Ranch's plans.

Mahalo piha,

*Jeannine Johnson*

Via fax (587-3827) & email

Anthony J.H. Ching, Executive Officer  
State Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804

Dear Mr. Ching and State Land Use Commissioners:

I object to Moloka'i Properties Limited's proposed development of an exclusive subdivision on La'au Point on Moloka'i. My father was a fisherman who grew up in Miloli'i, one of the last fishing villages in Hawai'i. He taught our 'ohana to fish, love and respect the ocean and the 'aina. Unfortunately, my keiki do not have the same quality of life I experienced because access to the ocean and our beaches in East Honolulu are blocked by mansions lining our shorelines. This has had the effect of turning our public beaches in East Honolulu into private ones.

If you allow 200 gated mansions to line Moloka'i's southwestern shore, you will forever deny the keiki of Moloka'i the right to fish, enjoy the ocean and practice the culture as their ancestors did for centuries and lose what makes Moloka'i such a unique place. Development of 200 second homes for rich people will destroy the natural shoreline, deny public access to the shoreline, block the public's views and also bring increased taxes to the residents who cannot afford to pay for infrastructure improvements and higher property tax assessments. There is no way to mitigate these adverse impacts if you approve Moloka'i Ranch's plans.

Mahalo piha,

*Jeannine*  
Jeannine Johnson  
5648 Pia Street  
Honolulu, Hawaii 96821  
Ph: 373-2874 / 523-5030 (w)  
Email: [jeannine@hawaii.rr.com](mailto:jeannine@hawaii.rr.com)

2007 JAN 10 A 9 49  
LAND USE COMMISSION  
STATE OF HAWAII



November 1, 2007

Jeannine Johnson  
5648 Pia Street  
Honolulu, Hawaii 'i 96821

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Johnson:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *If you allow 200 gated mansions to line Moloka'i's southwestern shore, you will forever deny the keiki of Moloka'i the right to fish, enjoy the ocean and practice the culture as their ancestors did for centuries and lose what makes Moloka'i such a unique place.*

**Response:** Lā'au Point will not be a gated community. This is clearly stated in on page 29 in Section 2.3.6 of the Draft EIS.

As stated in Section 2.3.7 of the Draft EIS, an agreement between MPL and the Moloka'i 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. Perpetual right to subsistence gathering will be noted on the land titles of the areas to be preserved. Protections to subsistence gathering will be specified in the Lā'au Point CC&Rs. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as allow the hiring of resource managers to protect the subsistence lifestyle.

A Shoreline Access Management Plan will also ensure that, in perpetuity, access to the shoreline will be regulated to protect the community's use of the shoreline for subsistence practices. The Shoreline Access Management Plan has been appended to the Final EIS.

Approximately 40,000 acres of Ranch land, previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) for Open Space/Protective Easements. The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. As indicated in their CC&Rs, Lā'au Point buyers must accept that hunting occurs in the broader surrounding area.

Jeannine Johnson  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

2. *Development of 200 second homes for rich people will destroy the natural shoreline, deny public access to the shoreline, block the public's views and also bring increased taxes to the residents who cannot afford to pay for infrastructure improvements and higher property tax assessments.*

**Response:** As previously discussed in Section 2.1.6 of the Draft EIS, the Lā'au Point development has been put together with community input. By listening to the communities concerns and taking into account the importance of developing a solution that does not take away from the community, we have put together a development plan that will allow the public access to the shoreline forever, ensure that view planes are not destroyed and preserve the natural and cultural resources of the area.

Sections 3.6 and 3.7 (pages 42-45) of the Draft EIS discuss the project's impacts and mitigation measures for flora and fauna, including native and endangered species. With this project, the coastal ecosystem and shoreline habitats will continue to be preserved by an expansion of the Conservation District by 254 acres along the shoreline and related resource areas. This proposed expansion will provide for a total of 434 acres of the project area to be protected in the Conservation District. The Lā'au Point shoreline will forever be accessible to the public; the Land Trust will be in charge of managing these shoreline Conservation lands.

The residential lots are set back at least 250 feet from the designated shoreline or high water mark. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet.

The lots are large and only 30 percent of the lot is buildable area. Homes are limited to single story and must be placed in a manner that does not impact on view planes. These design elements, combined with the requirements of the Shoreline Access Management Plan, which provide access for subsistence, cultural and recreational purposes for all of the residents of Molokai will provide significant assurances to the public at large.

Regarding your concern higher property tax assessments. As discussed in Section 4.8.2 and Appendix L of the Draft EIS, assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself.

3. *There is no way to mitigate these adverse impacts if you approve Moloka'i Ranch's plan.*

**Response:** We respectfully disagree with your statement. The EIS thoroughly discusses the project's potential impacts to the natural and human environment, and mitigation measures for those impacts.

Jeannine Johnson  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 3 of 3

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

Jennie Manlutac  
55 S. Judd St. #2104  
Honolulu, HI 96817

February 23, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Witten:

I'm a student at the University of Hawai'i at Mānoa, and I'm writing this letter to comment on the Draft Environmental Impact Statement (DEIS) for the proposed Lā'au Point project on Moloka'i.

One of the major concerns of the people who are opposed to the development is the irreversible social and cultural effects it will have on many Hawaiian families. In Davianna McGregor's cultural impact study/assessment, which is discussed in the DEIS, Moloka'i is "The Last Hawaiian Island" and Lā'au Point is one of the last untouched Hawaiian places on this last Hawaiian island. Many Hawaiian

families are protecting and taking care of their island by trying to stop the Lā'au Point development project not only because it will greatly affect their everyday lives, but it will also disturb and disrespect historic places, which include burials, heiaus, and other habitation sites.

If the Lā'au Point development project goes through, many, if not all, owners of the luxury homes will not be very familiar with the Hawaiian culture. Local traditions and beliefs many not be appreciated and understood creating social conflicts and a negative environment.

In addition, Hawaiians are family-oriented and are closely-tied to the land, ocean, and nature. In one article posted on Starbulletin.com website entitled "Molokai: Battle for Survival," John Sabas, who works for Moloka'i Ranch, has seen the issue of the Lā'au Point project divide friends and neighbors. Regardless of how many incentives or jobs will be offered to the community in exchange for the Lā'au Point development, the community will not benefit from it because they do not support the proposed plan. Searching for other alternatives would be the best way to move forward with the project as a whole community.

On page 61 under 4.2.4 Cultural Assessment of the DEIS, it states that the projected average occupancy of the 200 homes is only approximately 30 percent. Even though this is considered to be relatively few residents, it is enough to disturb the spiritual quality and the cultural resources of the Lā'au Point.

Most native Hawaiian families on Moloka'i still rely on fishing, hunting, and gathering. In Davianna McGregor's book entitled *Nā Kua'āina*, about "38 percent of their food come through subsistence activities" (297). I believe the Lā'au Point development will interrupt such activities, which will greatly affect the local families who depend on the island's natural resources to survive.

Another article found on TheMolokaiDispatch.com website entitled "Molokai Ranch's 800-Page Impact Report," talks about how Peter Nicholas, the Ranch's CEO, was often heard in several meetings saying that "the community was to decide if the Lā'au Point development was to be approved or disapproved." I believe that the local residents of Moloka'i has proven enough that they are opposed to the Lā'au Point development for several other reasons.



In Davianna McGregor's book, it states that "Hawaiians believe that in return for good stewardship, the land sustains the people who care for it," (299) and this has been the case on Moloka'i. They have the right to shape the island's future because they are the people who live there and take care of the island. Their traditions, beliefs, and knowledge will be passed on to their next generations, and their decision to protect Lā'au Point should be greatly considered and respected.

Thank you for your time reading this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennie Manlutac', is written over the typed name.

Jennie Manlutac

November 1, 2007

Jennie Manlutac  
55 S. Judd Street, #2104  
Honolulu, Hawai'i 96817

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Manlutac:

Thank you for fax dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your concerns.

1. *One of the major concerns of the people who are opposed to the development is the irreversible social and cultural effects it will have on many Hawaiian families. In Davianna McGregor's cultural impact study/assessment, which is discussed in the DEIS, Molokai is "The Last Hawaiian Island" and Lā'au Point is one of the last untouched Hawaiian places on this last Hawaiian island. Many Hawaiian families are protecting and taking care of their island by trying to stop the Lā'au Point development project not only because it will greatly affect their everyday lives, but it will also disturb and disrespect historic places, which include burials, heiaus, and other habitation sites.*

**Response:** As discussed in Section 2.3.1 (Protected Areas) of the Draft EIS, the roadways and residential lots avoid cultural and archaeological sites. Cultural and historic places and sites will be protected in conservation zones. The *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), included in the Draft EIS as Appendix A, provides the following guidelines for access to and use of cultural sites:

- Sites can be accessed to fulfill traditional and customary Native Hawaiian responsibilities for cultural, religious, and subsistence purposes.
- Education and training activities can be organized through the kahu or the resource manager.
- In some cases access may be seasonal, such as during the non-hunting season, rainy/muddy season.
- Use of sites and related protocols will vary according to use of the particular site, including but not limited to:
- Monitoring its condition - integrity, boundary and buffer, setting access routes, relation to overall complex or nearby sites and resources. Sites should be assessed once a year during the dry season.
- Work to stabilize and restore sites. A plan for the stabilization and restoration of selected sites should be developed and approved by the State Historic Preservation Office.
- Rededicated for specific spiritual and cultural purposes. Identify sites which have been in continuous use, those which have been rededicated and those which shall be rededicated.
- Access and use of sites should follow protocols established by the Kahu and resource manager.

- Protocols should address manner of approach, entry, use, and exit of site; chants seeking entry and granting entry to sites; appropriate ho'okupu; chants and procedures to stabilize sites.
  - Kahu and stewardship resource persons should train stewards in mo'olelo, protocols and responsibilities of stewardship for each site.
2. *If the La'au Point development project goes through, many, if not all, owners of the luxury homes will not be very familiar with the Hawaiian culture. Local traditions and beliefs many not be appreciated and understood creating social conflicts and a negative environment.*

**Response:** As previously discussed in Section 2.3 of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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. Therefore, it is expected that Lā'au Point lot buyers will want to familiarize and integrate themselves into the Moloka'i lifestyle.

The Shoreline Access Management Plan (SAMP) for the area sets forth an education program required of all homeowners and visitors to the area that covers: cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

3. *In addition, Hawaiians are family-oriented and are closely-tied to the land, ocean, and nature. In one article posted on Starbulletin.com website entitled "Molokai: Battle for Survival," John Sabas, who works for Molokai Ranch, has seen the issue of the Lā'au Point project divide friends and neighbors. Regardless of how many incentives or jobs will be offered to the community in exchange for the Lā'au Point development, the community will not benefit from it because they do not support the proposed plan. Searching for other alternatives would be the best way to move forward with the project as a whole community.*

**Response:** We note that there are also many Moloka'i residents who support the project. The Master Plan was created by participating community members that volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the comprehensive Master Plan document.

Section 6.0 of the Draft EIS provides numerous alternatives that were explored for this project, and the reasons to why those alternatives were not preferred.

MPL still believes there is a majority community support for the Master Plan, with supporters afraid to publicly demonstrate support because they are targeted by the vocal and militant opposition with reprisals and abuse.

4. *On page 61 under 4.2.4 Cultural Assessment of the DEIS, it states that the projected average occupancy of the 200 homes is only approximately 30 percent. Even though this is considered to be relatively few residents, it is enough to disturb the spiritual quality and the cultural resources of the Lā'au Point.*

**Response:** 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. The geographic location identified as Lā'au Point comprises 51 acres owned by the federal government; the Lā'au lighthouse is managed by the US Coast Guard. This property will not be disturbed or developed on by the proposed project.

The west and south shorelines adjacent to Lā'au Point is where the proposed development is projected. According to the archaeological surveys and ethnographic documents, there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka'ipō as an important cultural and spiritual place. Molokai Ranch has applied to the State Land Use Commission to re-district these areas from Agricultural to Conservation district in order to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā'au Point, notably at Kamāka'ipō, Kapukuwahine, and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

The 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 provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

5. *Most native Hawaiian families on Molokai still rely on fishing, hunting, and gathering. In Davianna McGregor's book entitled Nā Kua'āina, about "38 percent of their food come through subsistence activities" (297). I believe the Lā'au Point development will interrupt such activities, which will greatly affect the local families who depend on the island's natural resources to survive.*

**Response:** 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 and enforced by the Land Trust.

Given that the area proposed for development has been the private property of Molokai Ranch, the primary cultural practitioners of the area are current and former Molokai Ranch cowboys and employees, their 'ohana and longtime kama'āina residents of the Maunaloa community. The Master Plan outlines cultural principles and policies for the establishment and management of a Cultural Protection and Subsistence Management Zone, including areas of the proposed Lā'au development. Extraordinary measures will be taken by the Moloka'i Land Trust in cooperation with the homeowners to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes, and resources.

The SAMP provides for its implementation and further development by a committee that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the

homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

During the community-based planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The Cultural Impact Assessment (provided as Appendix F of the Draft EIS) refers to the measures outlined in the Master Plan to protect subsistence fishing on page 113 and referred to above. Details of the plan to protect subsistence fishing and gathering were provided on pages 118 through 121. In addition, access will be managed to protect subsistence resources as discussed on pages 116 - 118.

Additionally, the CC&Rs and the SAMP for the project will include measures to restrict access to foot only between Dixie Maru and Hale O Lono in order to conserve resources, with an acknowledgement of Native Hawaiian gathering rights as defined by law for subsistence purposes, in a designated subsistence management area.

The project's CC&Rs reflect the community-driven SAMP, which outlines the guidelines to monitor and enforce protection of the cultural and natural resources in the area proposed for development.

6. *Another article found on TheMolokaidispatch.com website entitled "Molokai Ranch's 800-Page Impact Report," talks about how Peter Nicholas, the Ranch's CEO, was often heard in several meetings saying that "the community was to decide if the Lā'au Point development was to be approved or disapproved." I believe that the local residents of Molokai has proven enough that they are opposed to the Lā'au Point development for several other reasons.*

**Response:** We note that there are also Moloka'i residents who support the project. The Master Plan was created by participating community members who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au Point project and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the creation of the Master Plan document.

7. *In Davianna McGregor's book, it states that 'Hawaiians believe that in return for good stewardship, the land sustains the people who care for it,' (299) and this has been the case on Molokai. They have the right to shape the island's future because they are the people who live there and take care of the island. Their traditions, beliefs, and knowledge will be passed on to their next generations, and their decision to protect Lā'au Point should be greatly considered and respected.*

**Response:** Please see our response to #6 above. 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 Lōkāhi-Moloka'i Enterprise Community to create sustainable economic solutions that will protect the cultural integrity of a unique

Ms. Jennie Manlutac  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 6 of 6

Hawaiian island community. This monumental effort deserves serious reflection, deliberation and endorsement" (Appendix F: page 154).

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 4.3 (Trails and Access)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

From: Jill Mulholland  
P.O. Box 452154  
KAUNAKAKAI, HI 96748  
2/11/07



TO: THOMAS S. WITTEN, ASLA  
PRESIDENT  
PBR HAWAII

RECEIVED

FEB 21 2007

PBR HAWAII

Re: Rezoning and Development  
at La'au Point on Molokai

Dear Sir,

I have a question regarding the soil  
quality at La'au Point.

In Section 3.3 of the EIS the soils  
are referred to as agriculturally unproductive.

At a workshop I attended here on  
Molokai, Jonathan Deenik, Assistant Specialist,  
Soil Fertility of the Department of Tropical Plant  
and Soil Sciences, stated that the soils  
at La'au Point are some of the most fertile  
on the island.

The type of clay is called Montmorillonite,  
and it is very rare on Molokai - found only  
at La'au Point.

He went on to say that it is very  
unsuitable for building on due to it's  
tendency to crack.

Could you please clarify this  
discrepancy.

Sincerely,  
Jill Mulholland  
Jill MULHOLLAND

November 1, 2007

Jill Mulholland  
P.O. Box 452154  
Kaunakakai, Hawaii 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Mulholland:

Thank you for your letter postmarked February 20, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

Section 3.3 of the Draft EIS states:

**Kapuhikani Extremely Stony Clay (KKTC)** – These soils are well drained and extremely stony with slope ranges from 3 to 15 percent, and elevation ranges from nearly sea level to 500 feet. These soils are used for wildlife habitat and pasture. Runoff is slow to medium, and the erosion hazard is slight to moderate. The project area contains a significant amount of this type of soil. KKTC soils are rated Class VII, non-irrigated. Class VII soils have very severe limitations that make them unsuited to cultivation (i.e., abundant stones and shallow soil).

**Very Stony Land (rVS, rVT2)** – Very Stony Land (rVS) occurs where 50 to 90 percent of the surface is covered with stones and boulders. The slope ranges from 7 to 30 percent. Elevations range from sea level to 1,500 feet. This land type is used for pasture and wildlife habitat. Pasture improvement is very difficult because of the many stones. Very Stony Land, eroded (rVT2) supports a thicker stand of vegetation than Very Stony Land because it has more soil material.

A majority of the Lā'au Point site contains rVT2 soil. This soil is classified as VIIs, non-irrigated. Type VII soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to pasture or range, woodland, or wildlife. Subclass VIIs soils are limited mainly because they are shallow, droughty, or stony.

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.

Ms. Jill Mulholland  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

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 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 Kamāka'ipō Gulch), basalt rock formation is encountered at the ground surface and partly exposed at the ground surface mixed with the soils mentioned previously.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Molokai Ranch Commentary  
PBR Hawaii  
1001 Bishop St. 4th Floor  
Ste 550 Honolulu, HI 96813

January 16, 2007

P.O. Box 180324  
Hawaii National Park,  
HI 96718

RECEIVED  
JAN 29 2007  
FJR HAWAII PBR HAWAII



November 1, 2007

John D. Lyle  
P.O. Box 180324  
Hawaii National Park, Hawaii 96718

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Lyle:

Thank you for your letter dated January 16, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

1. Although I do not live on Molokai, I have a comment for the record. While I support preserving 50,000 acres of Molokai Ranch land by donating it to a community land trust, I do not favor the corresponding development of 200 one-acre home sites on Lā'au Point. I understand my opinion essentially represents my having my cake and eating it too, yet I strongly feel that this proposed development will indeed alter the spirit and history of the area, encroach on traditional harvesting and fishing grounds, and permanently change the character of the area through attraction of outside wealthy interests.

**Response:** We note your opinion on the proposed project. First, we would like to clarify that homesites will be approximately two acres, not one acre as you stated. As discussed in Section 7.4 (Probable Adverse Environmental Effects That Cannot Be Avoided) of the Draft EIS, the project will have some impacts on the aspects you noted, such as spirit and character of the area. In light of the unavoidable effects, however, the Lā'au Point project should proceed because any negative impacts will be minimized or offset by substantial positive benefits for the community of Molokai from the implementation of the Community-Based Master Land Use Plan for Molokai Ranch (Master Plan).

2. I live in an area which is impacted by elite, high-income, exclusive homes, and the attitudes, politics, restrictions and controls associated with such development is counter to the interest and spirit of most Hawaiians. There's already too much of this type of development on the Islands.

**Response:** We acknowledge your comment; however, we think comparing Lā'au Point to your place of residence (which is listed as Hawaii National Park in your return address) is inappropriate. This project and Master Plan, which the project is an integral part of, is unprecedented by any landowner in Hawaii.

3. My recommendation is to find a way to protect/preserve the entire Molokai Ranch—including Lā'au Point—via county/state buyback via newly enacted ballot initiatives in the last election.

**Response:** We acknowledge your recommendation; however, your recommendation would need to be directed to and implemented by the County or State.

cc: State Land Use Commission, Office Environ Quality Control.

To whom it may concern,

Although I do not live on Molokai, I have a comment for the record. While I support preserving 50,000 acres of Molokai Ranch land by donating it to a community land trust, I do NOT favor the corresponding development of 200 one-acre home sites on Lā'au Point. I understand my opinion essentially represents my having my cake and eating it too, yet I strongly feel that this proposed development will indeed alter the spirit and history of the area, encroach on traditional harvesting and fishing grounds, and permanently change the character of the area through attraction of outside, wealthy interests.

I live in an area which is impacted by elite, high-income, exclusive homes, and the attitudes, politics, restrictions and controls associated with such development is counter to the intent and spirit of most Hawaiians. There's already too much of <sup>this type of</sup> development on the Islands.

My recommendation is to find a way to protect/preserve the entire Molokai Ranch—including Lā'au Point—via county/state buyback via newly enacted ballot initiatives in the last election.

Mr. John Lyle

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 2 of 2

We feel that the comprehensive land-planning process for the Master Plan, certainly the most unique ever to have taken place in Hawai'i, created a partnership between MPL and its island neighbors that had previously been acrimonious and adversarial. The Master Plan process set the stage for Moloka'i's future—a future in which self-determination by the island's residents is assured. It is from the implementation of this Master Plan and the Lā'au Point project that more than 55,000 acres (85 percent) of MPL's property would be protected from development in perpetuity. It is also from this Master Plan and this project that MPL's future as a major island employer is preserved.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

**JON T. GIVENS**  
 601 West Fifth Avenue, Suite 900  
 Anchorage, Alaska 99501  
 (907) 276-1711 (Telephone)  
 (907) 279-5358 (Facsimile)

RECEIVED  
 FEB 08 2007  
 PBR HAWAII

January 31, 2007

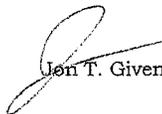
PBR Hawai'i  
 ASB Tower  
 1001 Bishop St., Suite 650  
 Honolulu, HI 96813

Re: La'au Point Project, Molokai Hawaii

This letter is public comment concerning the draft environmental impact statement and the La'au Point project. In reviewing the proposed project there are only two public parks, a western public park and southern public park which appear to be part of the current land development plan. If there are additional public road accesses provided to the numerous beaches along the western and southern portions of the La'au Point project, I did not find them in the proposed development plan. There appear to be approximately a dozen openings between the proposed lots which allow access from the roadways to the shoreline. However, this property appears to be designated as homeowners' association property such that the general public would not have a right of access from the public roadways to the shoreline. The developed property north of La'au Point contains paved public access roadways, a shower, and parking at each major beach or pocket beach. Each one of the dozen or so open spaces which allow access to different beaches or locations along the western and southern shore should have a public access roadway and parking area. Two public parks on opposite ends of the development are not adequate public access to the numerous different beaches and shoreline areas of the La'au Point development area.

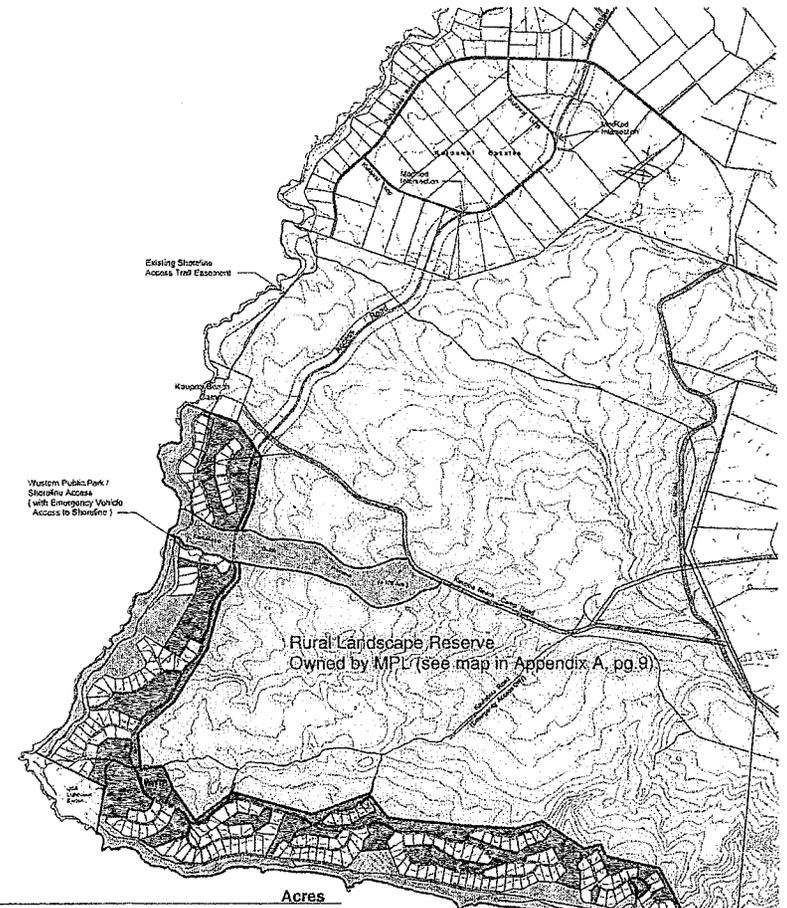
As a property owner on Moloka'i, I respect Moloka'i Ranch's private property rights but, consistent with the Hawaiian constitution, believe that there needs to be a significant availability of public access to shoreline areas. Many of the beaches in the La'au Point area and shoreline areas are not interconnected due to large outcrops and rocky formations that make it impossible to access the entire southern or western shorelines from a single access point. Therefore, additional public access points with roads and parking areas need to be provided.

Sincerely,



Jon T. Givens

JTG:jmv  
 Cc: State Land Use Commission  
 Office of Environmental Quality Control  
 Moloka'i Ranch  
 JTG\HAWAII\LTRpbr



Legend	Acres
<b>Conservation, Preservation, Open Space and Parks 833</b>	
Land Trust/Homeowners' Association	
Land Trust	
Homeowners' Association	
Public Park (County or Land Trust)	
<b>House Lots and Infrastructure</b>	
Private Homeowners (200 Lots)	400
Homeowner's Association Roads and WWTP	60
Offsite Road Corridor	139
<b>Total Project Area</b>	<b>1,432</b>
Project Area (Mauka Fence Line)	
Rural Landscape Reserve (MPL)	

Figure 11  
 Proposed Ownership and Management  
**Lā'au Point**

ISLAND OF MOLOKAI



Note: For planning purposes only.



November 1, 2007

Jon T. Givens  
601 West Fifth Avenue, Suite 900  
Anchorage, Alaska 99501

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Givens:

Thank you for your letter postmarked January 31, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

The issues you bring up regarding the lack of public beach accesses throughout the subdivision were discussed in Section 4.3 (Trails & Access) of the Draft EIS. We recognize that 16 shoreline rights of way would be required by Maui County. Through the course of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) process, significant input was obtained from the community regarding access to the area. The community members were concerned that allowing additional public access to the shoreline and to the area in general would result in a significant change in character to the area and would spoil the traditional uses and activities in the area enjoyed by ahupua'a inhabitants. At the community's behest, it was agreed that access to the area would be limited to the two parks at the ends of the project area and via foot traffic.

During the planning process, subsistence fishermen and gatherers were particularly concerned of marine resource depletion that could be caused by opening up the south and west shores to public access every 1,500 feet, as the Maui County Code (MCC) Section 18.16.210 provides. Subsistence fishermen regretted that the opening of nearby Hale O Lono Harbor to general public access had severely decreased the marine resources there and they did not want to see the same happen to Lā'au Point. Opening up access points every 1,500 feet would have severe impact on the subsistence resources along the west and south coasts adjacent to Lā'au Point. The subsistence fishermen and gatherers felt that the provision of two access points and parking at either end of the project site would afford sufficient access, and that the need to walk in would protect the area.

Based on the community-proposed access plan (see Appendix A, p. 105), it was determined that protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a shoreline access management plan (provided in the Final EIS) 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.

We respect your comment that there needs to be a significant availability of public access to shoreline areas. The proposed plan, however, was made to accommodate the subsistence gatherers, and MPL's desire to respect their wishes for limiting access.

Mr. Jon Givens  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter Nicholas", is written over a light-colored background.

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

O:\MOB17\1733.10 Molokai Ranch-Laa Pt EIS\EIS\DEIS\Comment letters\Responses\Individuals\Final\Jon Givens.doc

February 23, 2007

John Sabas, General Manager of Community Affairs  
Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, Hawai'i 96813

Thomas S. Witten, ASLA  
President  
PBR HAWAII & Associates, Inc.  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, Hawai'i 96813

Anthony Ching, Executive Officer  
State Land Use Commission  
P.O. Box 2359  
Honolulu, Hawai'i 96804

This letter is in response to the Draft Environmental Impact Statement (DEIS) for the Lā'au Point Development, Moloka'i, dated December 2006 by Moloka'i Properties Limited and their consultants, PBR Hawai'i. These are my personal observations and issues of concern regarding this development.

**Bundling the Lā'au Point development to the reopening of the Kaluako Hotel.**

The applicant claims that the development of Lā'au Point is necessary to reopen the Kaluako'i Hotel and thereby provide jobs for the community. This is disingenuous. The reality is that this renovation is simply being dangled in front of the community as a tradeoff for the Lā'au Point development. Similarly, the applicant is threatening the community stating the "critical importance" and the "urgency to reach consensus" in the development of Lā'au Point as without the development at Lā'au Point, Moloka'i Ranch lands would be "split-up and sold, or parent company Briery Investments (BIL) would sell MPL because it would never be economically viable." MPL also claimed that the community would face "the resultant prospect of never again being able to have the opportunity of planning its future." It is under these dark threats that the DEIS claims in the appendix (p. vii) :

This Environmental Impact Statement (EIS) is one component of the implementation of an integrated *Community-Based Master Land Use Plan for Molokai Ranch*. Because this Lā'au Point EIS cannot be viewed in isolation, the entire Plan has been included as Appendix A.

This EIS is 835 pages long. While there is no merit to planning and decision-making in a vacuum, this project needs to be considered on its own merits, outside the long-range community plans. This DEIS document is created to fulfill the requirements of the

Hawai'i Revised Statutes (HRS) chapter 343, its purpose to establish a comprehensive review process for projects such as this that significantly impact Hawai'i's natural and cultural resources. This process was designed to "ensure that environmental concerns are given appropriate consideration in decision-making along with economic and technical considerations." The decision making criteria in assessing the impacts should be limited to the development, i.e., 200 housing lots and associated infrastructure at Lā'au Point.

**The loss of 5 miles of pristine relatively untouched coastline for 200 homes.**

This proposal will have a significant negative impact on the environment. Environmental Impact Statement Rules, Chapter 200 Title 11 Department of Health Hawai'i Administrative Rules specifies criteria for determining whether an action may have a significant effect on the environment. Article (1): "Involves an irrevocable commitment to loss or destruction of any natural or cultural resource".

There is a precedent being set in this DEIS, the development of an area that is wild. This proposal would permanently and irreversibly alter this place by the addition of roads, utility lines and pipes, landscaping, housing, permanent residents, visitors and maintenance staff. Let me repeat, the loss of FIVE MILES<sup>5</sup> pristine and culturally significant coastline for 200 owners/investors. *sc*

In your DEIS (page 54) you state the value and significance of Lā'au in its current state:

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.

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.

How does the irreversible impacts of destroying, "one of the last untouched Hawaiian places on [The Last Hawaiian Island]" be outweighed by the creation of 200 housing lots?

Again page 54 from your DEIS:

In Hawaiian tradition, *lae*, or points of land into the ocean, are culturally significant.

How does this development benefit the people of Hawai'i, who stand to loose a place that is considered culturally significant? How can this development justify destroying a wild area and deny forever future generations the opportunity for that experience? As you



state in the DEIS, “[Lā’au] ... is so isolated that most of the residents of Moloka’i may have never been there.”

As development pressure continues unabated *throughout* the state of Hawai’i, these wild coastal areas grow more precious and valued. The development of this treasure for short-term financial gain and intended for a select few is too large of a loss for the rest of us.

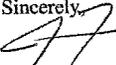
**Water**

Moloka’i lacks sufficient water to support current uses as well as future expansion at Lā’au.

The DEIS fails to adequately consider critical information regarding Molokai’s ground and surface water resources. Moloka’i is a Sole Source Aquifer (59 FR 23063) under Section 1424(e) of the Safe Drinking Water Act. Sole Source Aquifers are areas designated by the EPA (Safe Drinking Water Act, Section 1427) as the “sole or principal” source of drinking water for an area.

Molokai’s drinking water supply is inherently limited because it has only a single aquifer. In addition, water use and withdrawals in one part of the aquifer affect water quality and discharge in other areas. Current demand is already taxing remaining supply, and water quality has decreased as pumping has increased.

The Water Commission’s designation of Molokai’s sole source aquifer as a water management area and Usage’s 2006 report establish that there is not enough water on Moloka’i now to supply current uses, let alone future expansion as is proposed by your DEIS for Lā’au Point.

Sincerely,  
  
Joseph Farber

November 1, 2007

Joseph Farber  
2722 Ferdinand Avenue  
Honolulu, Hawai’i 96822

**SUBJECT: LĀ’AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Farber:

Thank you for your letter dated February 23, 2007 regarding the Lā’au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

**Bundling the Lā’au Point development to the reopening of the Kaluako’i Hotel**

We respectfully disagree with your comment. There is no threat here, merely economic reality. The economic reality is that without the funds from the La’au Point development, MPL does not have an economic future, and certainly has no funds to re-open the Kaluako’i Hotel. MPL has no debt and no borrowing capacity because it is operationally cash negative and would not meet any bank’s requirements for interest cover on any debt funding to re-open the hotel.

The Lā’au Point project is one of the elements of in the Master Plan. Successful implementation of the Master Plan depends on the Lā’au Point project. 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 Boundary Amendment Petition on Lā’au Point before the Land Use Commission, if approved, would not represent the LUC’s approval of the Master Plan.

**The loss of 5 miles of pristine relatively untouched coastline for 200 homes**

The five miles of the Lā’au Point coastline will not be lost. The nearest structure would be at least 250 feet mauka of the shoreline. Residential lot lines will be 50 feet mauka of the Conservation District Boundary, which is a minimum of 200 feet mauka of the shoreline. Structures will be prohibited within a 50-foot setback from the makai property line. As the lands within the Conservation District will not include any structures, the shoreline will be preserved in its current state.

Further, much of the project area will be in open space. Of the 1,432 acres in the Lā’au Point project area, only 400 acres would be used for residential lot development. Of the total acreage, 254 acres will be added to the existing 180 acres Conservation District, 128 acres comprising the Kamāka’ipō Gulch will be donated to the Land Trust, and 390 acres will be kept in open space and a park. The remaining lands are proposed for roadways and infrastructure.

As discussed in Sections 7.3 (Irreversible and Irrecoverable Commitments of Resources) and 7.4 (Probably Adverse Environmental Effects that Cannot be Avoided) of the Draft EIS, we acknowledge there are tradeoffs with any development project.

We note that the juxtaposition of natural beauty and expensive homes may be offensive for those who resent the presence of outsiders or structural development. On the other hand, existing residents may appreciate the ability to visit Lā'au Point, a previously inaccessible area, regardless of nearby uses.

Extraordinary measures are incorporated into the Master Plan (provided as Appendix A in the Draft EIS) to buffer and protect the subsistence and cultural rural resources from negative impacts. These include:

- Upholding and assuring Native Hawaiian rights of access for cultural, subsistence and spiritual purposes.
- Creating sizeable conservation zones and buffer areas to protect the cultural sites and shoreline area.
- Limiting shoreline access to a foot trail.
- Ending commercial hunting so that Moloka'i Kama'āina can legally engage in subsistence hunting on Ranch lands.
- Hiring community cultural and natural resource managers who will work with the community to monitor every phase of the project, from clearing and grading, to construction and when the new homeowners move in.
- Orienting homeowners to appreciate and support the unique and special way of life on Moloka'i as the "Last Hawaiian Island."

The findings of the cultural and social impact assessments (Appendices F and M in the Draft EIS) provide further rationale for proceeding with the project based on community input. People who were active in the formation of the Master Plan as well as non-participants felt that the Master Plan is a rare and unique opportunity which offers many benefits to the Moloka'i community. Given over three decades of conflicts between the community and Molokai Ranch, the Master Plan provides mutually beneficial results.

As recognized by both supporters and opponents of the Lā'au Point project, the Master Plan is not perfect but it represents a historic good faith effort on the part of MPL and the EC to create a sustainable economic solution that will protect cultural integrity of a unique Hawaiian island community. More importantly, the Master Plan process set the stage for Moloka'i's future – a future in which self-determination by the island's residents is assured.

#### Water

We acknowledge your comments about Moloka'i's aquifer. 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 Kākahale 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.

The Kākahale 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 Kākahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kākahale 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 Kākahale and DHHL/DWS well sites, namely Pu'u Kākahale and Pu'u Luahine, which are barriers to ground water flow.

The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale 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 Kākahale Well will have an adverse impact on 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 Kākahale 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 Kākahale 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.

If the unlikely event occurs that DHHL and MPL must compete for the same water, MPL will recognize DHHL's priority rights to water and will seek alternative sources of water, including, but not limited to, desalinization of brackish or salt water. Desalinization is an alternative source of water that becomes increasingly viable with technological advances.

Mr. Joseph Farber

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 4 of 4

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 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)."

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. Witten, PBR HAWAII

Joseph K.  
PL



## La'au point Letter

### To whom it may concerns:

I'm writing a letter for my class that deals with having the west end of Molokai called la'au point being developed into 200 luxury estates. My question to the development of la'au point is...what are they going to give us, in return of the development on the west end, or what are you willing to give us back in return.

To my understandings you are providing two new shoreline access parks for the community, Increased access for hunting and family gathering on west end of Molokai, and giving us land. All of these things you are giving us back is good.

As a resident of Molokai, I want to know how do you plan to protect these zones. Would you set up signs that say keep out or set up fences. How would protect these zones and protect the environment.

These are my questions that I hope you answer. Thank you for your time.

November 1, 2007

Joseph K.  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawaii'i 96729

### SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Joseph:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *My question to the development of la'au point is...what are they going to give us, in return of the development on the west end, or what are you willing to give us back in return.*

**Response:** Lā'au Point is one component of the implementation of an integrated *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). The Master Plan demonstrates the many benefits the community is to receive in what has been described by many as a "lastly settlement" in relation to development. Positive impacts 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.

Under Section 1.6 of the Master Plan are outlined "Precedents" which discuss the Land Trust, easements, areas protected from development, subsistence enhancement, community expansion, jobs for the community and Land Trust funding.

2. *To my understandings you are providing two new shoreline access parks for the community, Increased access for hunting and family gathering on west end of Molokai, and giving us land. All these things you are giving us back is good.*

**Response:** We acknowledge your comment and agree.

3. *As a resident of Molokai, I want to know how do you plan to protect these zones. Would you set up signs that say keep out or set up fences. How would protect these zones and protect the environment.*

**Response:** The protected zones will be set apart through landscaping, signage, and structures. A shoreline access management plan (SAMP) 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. The SAMP adopts protocol, rules, and permitted activities for persons engaging in subsistence shoreline fishing and

Mr. Joseph K.  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

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 Resource Manager will supervise access to ensure overfishing does not take place, and that those who access the area have taken the appropriate education classes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 4.3 (Trails and Access)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Joseph LaRosa  
1810 University Ave  
Honolulu HI, 96822

PBR Hawaii  
Attn: Thomas Witten  
ASB Tower, Suite 650  
1001 Bishop Street  
Honolulu HI, 96813

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Witten,

Subject: La'au Point – Environmental Impact Statement Preparation Notice  
(EISP) Wes Molokai, Hawaii

I am a senior at The University of Hawaii at Manoa. I am writing this letter to help you and come to grip with some possible problems with your development in Molokai, on La'au Point. My major concern is largely non-renewable resources and native species. I would hate to see a pristine tropical climate such as the one found on La'au Point end up with 10 lanes of traffic and urban development like much of Honolulu today.

Section 1.7.7 of the La'au Point – Environmental Impact Statement deals with Irreversible and irretrievable commitments of resource, while section 1.7.8 deals with Probable Adverse Environmental effects that cannot be avoided in the case of development. You Have Energy, Labor among other vague descriptions of what it will

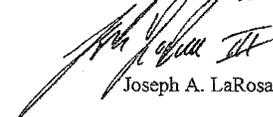
take to develop along La'au Point. Energy must come from a power plant or generator, which contributes to the burning of fossil fuels, while those non-renewable resources that are vaguely, should be specifically listed as the untouched beautiful tropical ecosystem that the state of Hawaii bases its existence on today. In section 1.7.8 it states an increase of wastewater and a need for an increase in fresh water. With wastewater a problem in Honolulu already one would think that we would learn from our lesson and not create the same problem in a different location. Then the issue of fresh water comes to the surface. The state of Hawaii is already struggling to sustain the developed areas already with fresh clean drinkable water, developing another undeveloped area with in these islands spreads the water supply thinner island wide which will not only hurt the people of Molokai but people state wide

Section 3.6 deals with the flora of the area. It is no surprise to you that there are many indigenous plants that can only be found in Hawaii growing naturally right on La'au point. If this area is developed then these plants will become more endangered and closer to extinction then they already are. I am sure you took this into consideration so this flora is not harmed by construction and if this is indeed true then the influx of people in to this area will certainly do grave damage to this small eco system of Molokai. Section 3.7 deals with fauna and although you may be right by saying there is no native birds at this site there are, as you know a large Monk Seal population. Even though considerable measures have probably been taken to protect them during construction the sheer volume of people coming to the area along with people in the ocean harming the reef will drive the seals out of La'au Point thus killing this largest seal habitat from here to the Northwest Hawaiian Islands.

I ask you to use your head and your heart when you consider developing La'au point because killing the pristine ecosystem of this tropical climate is not worth a few dollars. People come from all over the world to enjoy the untouched Hawaiian climate more so then to sit in traffic and be around tons of people. I think you should give the people of Hawaii what is truly needed a safeguarded place where these seals and native flora can grow and prosper with out the intervention of construction, that is why I ask you please leave La'au point as it is today.

I would like to thank you Mr. Witten for taking the time to read this letter and allowing the people of Hawaii the time to read the Environmental Impact Statement and respond with questions and arguments. Again your time was appreciated.

Sincerely,



Joseph A. LaRosa III



Mr. Joseph LaRosa  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

November 1, 2007

Joseph LaRosa  
1810 University Avenue  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. LaRosa:

Thank you for letter postmarked February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *My major concern is largely non-renewable resources and native species, I would hate to see a pristine tropical climate such as the one found on La'au Point end up with 10 lanes of traffic and urban development like much of Honolulu today.*

**Response:** We acknowledge your comments. We note that the climate at Lā'au Point is not tropical; it is one of the driest areas on the island, and has little rainfall (see Section 3.1 of the Draft EIS).

We agree that we would not like Lā'au Point to end up like urban Honolulu either. This project will not create an urban development like Honolulu; the area will remain rural.

2. *Section 1.7.7 of the La' au Point — Environmental Impact Statement deals with Irreversible and irretrievable commitments of resource, while section 1.7.8 deals with Probable Adverse Environmental effects that cannot be avoided in the case of development. You Have Energy, Labor among other vague descriptions of what it will take to develop along La'au Point. Energy must come from a power plant or generator, which contributes to the burning of fossil fuels, while those non-renewable resources that are vaguely, should be specifically listed as the untouched beautiful tropical ecosystem that the state of Hawaii bases its existence on today. In section 1.7.8 it states an increase of wastewater and a need for an increase in fresh water. With wastewater a problem in Honolulu already one would think that we would learn from our lesson and not create the same problem in a different location. Then the issue of fresh water comes to the surface. The state of Hawaii is already struggling to sustain the developed areas already with fresh clean drinkable water, developing another undeveloped area with in these islands spreads the water supply thinner island wide which will not only hurt the people of Molokai but people state wide*

**Response:** We note your concerns about energy, wastewater, and water. As discussed in Section 2.3.6 of the EIS, the Lā'au Point Conditions, Covenants & Restrictions (CC&Rs) have been strengthened to protect the environment and resources at Lā'au Point. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding energy, Section 2.3.6 (Covenants) in the Final EIS has been amended to include key design restrictions and covenants that will be implemented at Lā'au Point related to energy, wastewater, and water as shown in the attachment titled, "Revised Section 2.3.6 (Covenants)."

3. *Section 3.6 deals with the flora of the area. It is no surprise to you that there are many indigenous plants that can only be found in Hawaii growing naturally right on La'au point. If this area is developed then these plants will become more endangered and closer to extinction then they already are. I am sure you took this into consideration so this flora is not harmed by construction and if this is indeed true then the influx of people in to this area will certainly do grave damage to this small eco system of Molokai. Section 3.7 deals with fauna and although you may be right by saying there is no native birds at this site there are, as you know a large Monk Seal population. Even though considerable measures have probably been taken to protect them during construction the sheer volume of people coming to the area along with people in the ocean harming the reef will drive the seals out of La' au Point thus killing this largest seal habitat from here to the Northwest Hawaiian Islands.*

**Response:** As discussed in Section 3.6 of the Draft EIS, the majority of the native plant communities are located in the sandy beach and rocky shoreline areas, where no development is proposed. In fact, the project proposes to increase the Conservation District by 254 acres along the shoreline and related natural resource areas. The Conservation District areas at Lā'au Point will be managed by the Land Trust to ensure appropriate protocol is established for the protection of rare and endangered species in the shoreline habitats.

We acknowledge your concerns about the Hawaiian monk seal habitat. We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk

Mr. Joseph LaRosa

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 3 of 3

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.

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 2.3.6 (Covenants)  
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



PBR HAWAII  
1001 Bishop Street  
ASB Tower, Suite 600  
Honolulu HI 96813

Subject: Extension Request in RE: La'au Point, Draft Environmental Impact Statement

To Whom It May Concern:

The La'au Point Draft Environmental Impact Statement is the result of 150 community and special interest group meetings, occurring over a two year time span. Seeing as the statement was released to participants recently, and containing such depth of information provided, a request for extra time is in order to provide for comments which would be insightful towards the project.

Respectfully,

Joseph O'Leary  
2591 Dole St H251  
Honolulu, HI 96822

CC: Molokai Properties Limited, State Land Use Commission, Office of Environmental Quality Control.

January 24, 2007

Joseph O'Leary  
2591 Dole Street H251  
Honolulu, Hawaii 96822

**SUBJECT: La'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Aloha Mr. O'Leary:

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,

A handwritten signature in black ink, appearing to read 'John Sabas', written in a cursive style.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

To:  
Peter Nichols  
Molokai Properties Limited  
745 Fort Street Mall, Ste. 600, Honolulu HI 96813

Thomas Witten  
PBR Hawaii  
1001 Bishop Street, Ste. 650, Honolulu HI 96813

Anthony Chiang  
State Land Use Commission  
P.O. Box 2359, Honolulu HI 96804

Genevieve Salmonson  
OEQC  
235 S. Beretania St, Ste. 702, Honolulu HI 96813

RE: Comments on EIS for La'au Point.

With respect to the Environmental Impact Statement to La'au Point, I wish to raise these concerns:

1) Page 49, section 4.1.1 states "There are often permanent habitations, fishing shrines, and abundant cultural deposits clustered around the bays. Inland of these, the lower gulches have a mixture of agricultural fields, temporary habitations and work areas." On page 50 the reverse is stated "Regardless of reasons, archeological literature has accepted that Kaluako'i was a dry and thinly populated area." Was there a permanent inhabitation of the contended area, what was the population of the area during seasonal inhabitation, and how much agriculture was being undertaken?

2) Maurice Major, composer of Appendix E, states in the opening that community involvement was important in the process of the La'au Subdivision Archeological Preservation and Mitigation Plan; I question this. In CRM issue number 8, Major states "CRM firms operate under competitive bidding conditions that leave little to no time for community interaction." How much community interaction took place, was interaction separate or combined with other meetings that occurred in discussion for La'au Point project, and was Mr. Major present at said meetings?

3) The homes being built at La'au Point are often called "vacation/second homes" with expected low occupancy rates (pg 12). This wording opens a myriad of possibilities, none of which are discussed in the EIS:

- a) With these being vacation homes, there is no discussion of the possibility of the owners of said homes utilizing them for income when unoccupied. These 'weekly renters' will not have taken the 'mandatory course' on the Moloka'i way of life, and likely little respect for it. Has any thought been put into the possibility that these 'low occupancy' homes may be occupied year round if renting occurs?
- b) If these are 'vacation homes', people on vacation have certain wants when they are on vacation, things such as shopping, eating out, drinking, and various other recreation activities. If these are vacation homes, has any thought been put into people wanting these activities, and thereby further development?

4) With the building of 200 two-acre house lots on the coast of Moloka'i and the further development that will come with the building of these homes; does MPL feel that Moloka'i will still have "surroundings of peace, tranquility and wide open spaces" (<http://www.molokairanch.com/activities.cfm>), with 200 families and the lifestyles they bring?

I thank you for the opportunity to make comments to the EIS,

Respectfully,



Joseph O'Leary



November 1, 2007

Joseph O'Leary  
2591 Dole Street  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. O'Leary:

Thank you for your letter postmarked February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

- 1) *Page 49, section 4.1.1 states "There are often permanent habitations, fishing shrines, and abundant cultural deposits clustered around the bays. Inland of these, the lower gulches have a mixture of agricultural fields, temporary habitations and work areas." On page 50 the reverse is stated "Regardless of reasons, archeological literature has accepted that Kaluako'i was a dry and thinly populated area." Was there a permanent inhabitation of the contended area, what was the population of the area during seasonal inhabitation, and how much agriculture was being undertaken?*

**Response:** We do not agree with your conclusion that these are "reverse" statements. As discussed in Appendix E of the Draft EIS and backed up with archaeological evidence, settlement includes permanent and temporary habitation. In the context of population, the West End was historically less populated (or "thinly populated") compared to East Moloka'i.

- 2) *Maurice Major, composer of Appendix E, states in the opening that community involvement was important in the process of the La'au Subdivision Archeological Preservation and Mitigation Plan; I question this. In CRM issue number 8, Major states "CRM firms operate under competitive bidding conditions that leave little to no time for community interaction." How much community interaction took place, was interaction separate or combined with other meetings that occurred in discussion for La'au Point project, and was Mr. Major present at said meetings?*

**Response:** Although the archaeologist, Maurice Majors, was not a direct participant in community meetings on Moloka'i, he consulted an array of people (project supporters and opponents) there regarding the plans, and he did local community consultations in 2001, prior to drafting the original archaeological plans. Nobody objected to the increased emphasis on preservation protection.

Furthermore, Mr. Majors was closely involved in working with the Cultural Committee of EC Project #47, which produced the *Community-Based Master Land Use Plan for Molokai Ranch*, as they considered issues such as the location and significance of cultural resources (as evidence by a detailed map produced by Cultural Landscapes in 2004), archaeological issues in the management of the proposed land trust and subdivision, and management tactics and strategies regarding cultural resources.

Mr. Joseph O'Leary  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

Mr. Majors has also made myself available via email and phone for any interested community members, and met with the leaders of the Cultural Committee on Moloka'i in 2004.

- 3) *The homes being built at La'au Point are often called "vacation/second homes" with expected low occupancy rates (pg 12). This wording opens a myriad of possibilities, none of which are discussed in the EIS: a) With these being vacation homes, there is no discussion of the possibility of the owners of said homes utilizing them for income when unoccupied. These 'weekly renters' will not have taken the 'mandatory course' on the Moloka'i way of life, and likely little respect for it. Has any thought been put into the possibility that these 'low occupancy' homes may be occupied year round if renting occurs? b) If these are 'vacation homes', people on vacation have certain wants when they are on vacation, things such as shopping, eating out, drinking, and various other recreation activities. If these are vacation homes, has any thought been put into people wanting these activities, and thereby further development?*

**Response:** As stated in Section 2.3.6 of the Draft EIS, the Conditions, Covenants, & Restrictions (CC&Rs) will prohibit vacation rentals.

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 Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'āina (caring for, protecting, and preserving the land and sea). The project "must be the most environmentally planned, designed, and implemented large lot community in the State." This statement precedes the covenant document determined by the Land Use Committee that will place many restrictions on lot owners. Lā'au Point will be unlike any other community in Hawai'i. Therefore, it is expected that Lā'au Point lot buyers will be familiarized with the Moloka'i lifestyle and would not have the as "shopping, eating out, drinking, and various other recreation activities" expectations that you are concerned about.

- 4) *With the building of 200 two-acre house lots on the coast of Moloka'i and the further development that will come with the building of these homes; does MPL feel that Moloka'i will still have "surroundings of peace, tranquility and wide open spaces (<http://www.molokairanch.com/activities.cfm>), with 200 families and the lifestyles they bring?*

**Response:** Yes, MPL does feel that Moloka'i will still have "surroundings of peace, tranquility, and wide open spaces" with the implementation of this project. An aspect of the project involves the dedication of 55,000 acres of open space to the Land Trust in the form of fee simple land donations and easements. This will be permanent open space (see Section 2.1.7 of the Draft EIS).

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Mr. Joseph O'Leary  
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

Josh Pastrana  
P.O. Box 1334  
Kaunakakai HI, 96748

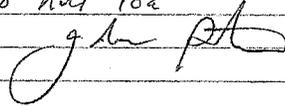
To Whom it may Concern:

I would like to request a 60 day extension  
of the La'au point (EIS) Environmental Impact  
statement Public Community Period.

The 45 day period is too short of time  
to review a 1000 page report especially during  
the Holiday season.

Please Grant us a 60 day extension.

Mahalo nui loa



January 16, 2007

Josh Pastrana  
P.O. Box 1334  
Kaunakakai, Hawaii 96748

**SUBJECT: La'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. Pastrana

We have received your request for an extension of the public comment period for the La'au Point Draft Environmental Impact Statement (EIS).

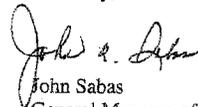
Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

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

February 18, 2007

RECEIVED

FEB 21 2007

PBR HAWAII

February 18, 2007  
1132 'Ilikala Place  
Kailua, O'ahu, Hawaii  
96734-1854

Peter Nicholas/John Sabas  
Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
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1001 Bishop Street, Suite 650  
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Anthony Ching  
State Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804

Genevieve Salmonson  
OEQC  
235 S. Beretania Street #702  
Honolulu, Hawaii 96813

Re: Comments on EISPN FOR LA'AU POINT

To Whom It May Concern

Mahalo for allowing me this opportunity to ask questions of and comment on the E.I.S. for the La'au Project.

Per. 1.7.1.

How will you attract people who respect the unique character of Molokai when palatial vacation homes for the affluent are in direct conflict with that unique character?

Per 1.7.2

Do you view "vacant land" as worthless unless people are generating financial gain from it. Do you see the value of open space?

Per 1.7.2

Why do you think animals and shorebirds will "readily relocate and repopulate after you disturb their longtime habitat. Hasnt loss of habitat and human disturbance led to the endangered status of some of these creatures?

Per 1.7.2

How will a caretaker supervise access so "no environmental damage occurs"? Is this 24/7 staffing for control of residents and public?

Per 1.7.2

If you truly want to benefit the island and her residents while "retaining Molokai's rural island lifestyle, how about affordable housing in another area allowing La'au to remain untouched.

Per 1.7.2

Are the 100 jobs you will create by reopening Kaluakoi dedicated to present Molokai residents, or will you bring in cheaper labor from outside Hawaii?

Per 1.7.2

If you have not been able to make your ranch operation profitable (you've "lost 36 million between 2001-2006"), why would I want to trust that you can make a go of Kaluakoi or handle a project such as is proposed for ka'au?

Per 1.7.6

If you believe "community character may change as an inevitable consequence of growth", why do you keep telling Molokai residents you will keep the character the same?

Per 1.7.7

You want to "protect subsistence fishing, gathering, and hunting". Why not work to pass legislation to protect ka'au as it is forever and guarantee that outcome.

Per 1.7.8

Why should we feel confident you can carry out your "protection plans" when you acknowledge "unquantifiable impacts to spiritual quality" and "changes to a presently isolated fishing area"?

Per 1.7.8

Since most visitors view Hawaii as "their" playground, do you really believe you can educate these people and modify their values to respect our indigenous culture?

Per 1.7.9

You make it sound as if hunting and gathering will be protected by your efforts. Are there not State laws in place preventing you from denying access for these activities?

Per 1.7.9

Water is the most important issue when population grows. Do you feel this issue should be resolved before any plans move forward?

Per. 6.0

Since you anticipate only a 30% steady occupancy of the 200 homes, what will keep owners from running vacation rentals, greatly raising occupancy and impacting your "impact statistics".

Per 6.1

You warn, if the ka'au Project does not go thru, residents may lose access to "significant cultural sites" and are creating "unknown risks for Molokai" when the Ranch is forced to sell its land. Do these threatening and vindictive comments reflect respect for Molokai's character or the culture of Hawaii's indigenous people you say you will instill in others?

4.

Comment

For many tens of decades (and certainly for the 3½ decades of my personal observation), the indigenous people of Hawaii have been told, guided, threatened, and chided by self-proclaimed benevolent Western (and other area) settlers who feel they know what is better for the islands than the original islanders. If the "guest" does not get what he wants from the "host", often there is manipulation and threatening with doomsday predictions.

Many times it is just outsiders using these tactics, but often now we see the recruitment of established members of the local community to make the effort seem more legitimate. These people may truly believe they are helping their indigenous people by securing land - but at what price to future generations?

Please allow me to share a poem:

O Hawaii, I came not to change you, but to keep you as you were.

Your people have taught me how to express my love for the land without shame.

I ache for these islands along with the many who have watched her being eaten away by people who have come before me, and continue to come.

My children are kama'aina and are learning the blessing which is upon them for having first breathed life on this land.

They were born here; I was born again. J. Mick '79

Aloha and mahalo,  
Judith A. Mick



November 1, 2007

Judith A. Mick  
1132 Ilikala Pl.  
Kailua, HI 96734-1854

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Mick:

Thank you for your letter dated February 18, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *Per 1.7.1: How will you attract people who respect the unique character of Moloka'i when palatial vacation homes for the affluent are in direct conflict with that unique character?*

**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 Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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.

2. *Per 1.7.2: Do you view "vacant land" as worthless unless people are generating financial gain from it. Do you see value of open space?*

**Response:** Yes, we see great value in open space. The project and the overall implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which was provided as Appendix A in the Draft EIS, will provide 55,000 acres of open space and agricultural lands, putting a restriction on development.

3. *Per 1.7.2: Why do you think animals and shorebirds will "readily relocate and repopulate after you disturb their longtime habitat. Hasn't loss of habitat and human disturbance led to the endangered status of some of these creatures?*

**Response:** There are many factors, other than "loss of habitat and human disturbance," which could put a particular species on the "endangered" list. We will pass your comments on to the US Fish & Wildlife Service, the federal agency charged with establishing the endangered species list.

As previously discussed in Section 3.7 of the Draft EIS, there are no endangered species habitats located in the residential development area. The endangered monk seal has been

observed along the shoreline; however, no development is proposed to occur there. In fact, the project will expand the shoreline Conservation District area.

We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding monk seals, Section 3.7 (Fauna) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)." The SAMP has been included as an appendix to the Final EIS.

4. *Per 1.7.2: How will a caretaker supervise access so "no environmental damage occurs"? Is this 24/7 staffing for control of residents and public?*

**Response:** Similar to a park ranger, the Land Trust Resource Manager will make best efforts to educate Conservation District area users to respect the land and not cause environmental damage. The resource managers will have enforcement authority pursuant to the shoreline access management plan. This staffing is for rules control of both residents and the public.

Various resources are to be monitored to ensure that the SAMP is effective and actually protecting and preserving the various resources. Onsite Resource Managers will monitor the

situation daily and adjustments made to the rules and plan to ensure the goals of the SAMP are met. Enforcement of the rules by the Managers will further serve to ensure the mitigation of any impacts on the area resources.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

5. *Per 1.7.2: If you truly want to benefit the island and her residents while "retaining Moloka'i's rural island lifestyle, how about affordable housing in another area allowing Lā'au to remain untouched."*

**Response:** We believe the Master Plan (discussed in Section 2.1 of the Draft EIS) provides for Moloka'i to retain its rural island lifestyle. The Master Plan is provided in its entirety as Appendix A of the Draft EIS.

As discussed in Section 2.1.9 of the Draft EIS, the Master Plan provides for proposes the creation of the Moloka'i Community Development Corporation (CDC), which is tasked to develop affordable homes for the Moloka'i community. To assist the CDC with providing affordable housing, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the CDC for future housing development. MPL will also reserve 200 acres around the towns of Kualapu'u and Maunaloa to be made available for community housing. Section 4.8.2 of the Draft EIS provides further discussion about the CDC and its affordable housing plans.

6. *Per 1.7.2: Are the 100 jobs you will create by reopening Kaluako'i dedicated to present Moloka'i residents, or will you bring in cheaper labor from outside Hawai'i?*

**Response:** The Master Plan's benefits, which include the re-opening of the Kaluako'i Hotel, are for the Moloka'i community. MPL will always attempt to employ Moloka'i residents as its priority.

7. *Per 1.7.2: If you have not been able to make your ranch operation profitable (you've "lost 36 million between 2001-2006"), why would I want to trust that you can make a go of Kaluako'i or handle a project such as is proposed for Lā'au?*

**Response:** We acknowledge your concerns. We emphasize that we are firmly committed to the Master Plan and our commitments made in the Master Plan.

In the 90s, MPL made decisions on developments without consultation with the community. Between 2003 and 2006, MPL underwent a community consultation process unprecedented in the State. See Section 2.4 of the Draft EIS regarding community meetings and involvement.

MPL, and its parent BIL International, are confident the Master Plan is not only the best solution for the property's future, but also for the future of its shareholders.

8. *Per 1.7.6: If you believe "community character may change as an inevitable consequence of growth", why do you keep telling Moloka'i residents you will keep the character the same?*

**Response:** We do not state that we "will keep the character the same" in the EIS. In fact, Section 4.8.3 of the Draft EIS provides discussion of the potential impacts and mitigation measures for community character.

We understand that the island's character continues to be influenced by changes that have already occurred. The Social Impact Assessment (SIA), provided as Appendix M in the Draft EIS, found that Moloka'i has experienced steady growth since the 1970s for an overall 43 percent increase by 2000. Significantly, East Maui's population grew by 82 percent between 1970 and 2000. With this population increase came changes in demographics and socio-economic characteristics. Further changes are expected. Population forecasts estimate an 18 percent increase in population by 2030.

The SIA also found that the Moloka'i lifestyle and style continues to persist with the increase in population. In spite of the changes, those interviewed in the SIA (Section 4.2.2) described a long-standing "Moloka'i style," which was founded on Hawaiian values, and included characteristics of being laid back, respectful, helpful and accepting social interactions, and a tradition of survival.

We believe that these values will continue to persist with the addition of new Lā'au Point residents for two reasons. 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 adding 174 permanent residents to Molokai will significantly change the Molokai character, which has persisted in spite of changes that have already occurred.

Second, the Master Plan is intended to preserve the very qualities that contribute to the uniqueness of Molokai's character.

9. *Per 1.7.7: You want to "protect subsistence fishing, gathering, and hunting." Why not work to pass legislation to protect Lā'au as it is forever and guarantee that outcome.*

**Response:** Please see our response to #7 above.

10. *Per 1.7.8: Why should we feel confident you can carry out your "protection plans" when you acknowledge "unquantifiable impacts to spiritual quality" and "changes to a presently isolated fishing area"?*

**Response:** The Land Trust will have a major influence on the protected areas at Lā'au and we believe will ensure its protection.

11. *Per 1.7.8: Since most visitors view Hawaii as "their" playground, do you really believe you can educate these people and modify their values to respect our indigenous culture?*

**Response:** Please see our response to #1 above regarding target buyers for Lā'au Point. The Shoreline Access Management Plan (SAMP) for the area sets forth an education program required of all homeowners and visitors to the area that covers: cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

12. *Per 1.7.9: You make it sound as if hunting and gathering will be protected by your efforts. Are there not State laws in place preventing you from denying access for these activities?*

**Response:** Access to Lā'au via the shoreline has never been denied.

13. *Per 1.7.9: Water is the most important issue when population grows. Do you feel this issue should be resolved before any plans move forward?*

**Response:** Under the Hawai'i State Water Code, water decisions follow land use decisions.

Judith Mick  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 6 of 7

14. *Per 6.0: Since you anticipate only a 30% steady occupancy of the 200 homes, what will keep owners from running vacation rental, greatly raising occupancy and impacting your "impact statistics."*

**Response:** As stated in Section 2.3.6 of the Draft EIS, the Lā'au Point CC&Rs prohibit vacation rentals.

15. *Per 6.1: You warn, if the Lā'au Project does not go thru, residents may lose access to "significant cultural sites" and are creating "unknown risks for Moloka'i" when the Ranch is forced to sell it's [sic] land. Do these threatening and vindictive comments reflect respect for Moloka'i's character or the culture of Hawai'i's indigenous people you say you will instill in others?*

**Response:** We acknowledge your comment that you feel Section 6.1 (No-Action Alternative) contains "threatening and vindictive comments;" however, we disagree with your opinion.

MPL has an economic reality; survival. It will be disrespectful to its own shareholders if it does not put their needs ahead of the island should this Master Plan not succeed. It will have given its best chance to try to protect its land while seeking an economic solution to its financial issues.

The social impacts related to a no-action alternative are based on non-implementation of Lā'au Point. Since the Lā'au Point project is the only springboard for the Master Plan, the Project's non-implementation means that most of the Master Plan will not be realized. The principal issue of the No-Project scenario is the viability of ongoing operations of Molokai Ranch and its employees. The net loss from operations, including capital spend on replacements between 2001 and 2006 was in excess of \$40 million. Cost cutting measures reduced operating losses from \$8.6 million in 2001 to a range of \$3.6 to \$3.8 million in the past three years. In addition to operating losses, annual capital expenditures annually average over \$800,000 million. In total, the MPL subsidy of operations and upkeep average between \$4.7 to \$10.2 million annually. The cumulative subsidy in the last six years is more than \$40 million.

Hence, if the Lā'au Point project is not implemented, it is highly likely that MPL will need to seek other options, such as the sale of other land inventory, further reductions in operations and employment force, and possible termination of ranch operations and land banks. These are not threats. They are realistic alternatives intended to reduce financial losses.

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

Judith Mick  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 7 of 7

Attachments:

Revised Section 3.7 (Fauna)  
Revised Section 4.3 (Trails and Access)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

O:\JOB17\1733.10 Molokai Ranch-Lasau Pt EIS\EIS\DEIS\Comment letters\Responses\Individuals\Final\Judith Mick.doc



To whom it may concern,

Hi my name is Kainalu Purdy and I am a junior at Molokai High School. In our science class we were to pick out a topic in the environmental impact statement draft and come up with some questions.

I read page 6 in the draft and it was talking about the flora and fauna in La'au and it talks about how could they protect our plants and animals in La'au Point. I think that the people should study more about the plants and animals that are at La'au before anybody does anything to La'au. It would be important because there is a lot of native animals and plants at La'au that are endangered and hard to find on the other islands. The plants that are endangered are the Ma'o, 'Ihihilaauakea, and the cressa.

Questions:

How do u guys plan to deal with the historical things?

*Kainalu Purdy*

November 1, 2007

Kainalu Purdy  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Purdy:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the flora, fauna, and historic resources at Lā'au Point.

Sections 3.6 and 3.7 (pages 42-45) of the Draft EIS provide a more detailed discussion of the project's potential impacts and mitigation measures for flora and fauna, including native and endangered species. Appendices B and C contain the full flora and fauna reports.

With this project, the coastal ecosystem and shoreline habitats will be preserved by an expansion of the Conservation District by 254 acres along the shoreline and related resource areas. This proposed expansion will provide for a total of 434 acres of the project area to be protected in the Conservation District. The Land Trust will be in charge of managing Lā'au Point's Conservation lands.

We confirm that 'ihi'ihilaauakea (*Marsilea villosa*) 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 also be owned and managed by the Land Trust. The 'ihi'ihilaauakea population is not within the proposed residential houselot area. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding 'ihi'ihilaauakea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

We note that ma'o and cressa are not endangered plants.

Regarding your question about "historical things," we assume you mean the archaeological and historic resources. Section 4.1 of the Draft EIS provides detailed discussion of the project's potential impacts and mitigation measures for the archaeological and historic resources. Appendix E contains the Archaeological report.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Kainalu Purdy  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

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

Kalimakuhilani Sukanuma  
835 Ahuwale St.  
Honolulu, HI 96821  
808-377-5611/kas@hawaii.edu

February 23, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

It has come to my attention the very important issue of La`au Point and Moloka`i Ranch (MPL) in dealing with the proposed usage of water from the Department of Hawaiian Homelands and the County of Maui. In the La`au Point Environmental Impact Statement, Moloka`i Ranch states that negotiations are in action with Hawaiian Homelands and the County of Maui over water usage. It is important to know that Hawaiian Homelands does not have the right to negotiate any water rights. The Attorney General back in the mid 1980's specifically stated that DHHH "has no authority to give away their rights." For development support

MPL proposed a deal to give Hawaiian Homelands 500,000 gallons per day from Kualapu`u (Well 17), when in fact they do not own this water, and do not have the right to give it away, therefore their proposed water usage plan does not exist.

More importantly, over the last ten years there has been a drought, questioning how long Moloka`i can sustain itself, yet MPL wants to take away more water, eventually depleting the resource itself. The intent of the Moloka`i Irrigation system is to supply water to Hawaiian Homestead lots. With MPL proposing to transport this water to La`au, this directly infringes on the rights of those who were intended to benefit from this system. It is the responsibility of all of us to preserve and conserve our water resources to the best of our ability.

The next issue deals with Moloka`i Ranch's reason for development in La`au. MPL has repeatedly stated that the sale of La`au lots are vital to the renovation of Kaluako`i Hotel. It is hard to believe this being that MPL has had excellent investment returns for Kaluako`i, which has increased by ten to twenty times since it's purchase. In addition, MPL has sold over 25 million dollars worth of lots in that area and there has been a profit of approximately 150 million over the last two years. And still, with all of these monies MPL still cannot afford renovations for Kaluako`i Hotel with the sale of La`au? I find that hard to believe.

The fact is Moloka`i Ranch should not be allowed to sell La`au Point, not only for the issue of water usage but for many other factors including, it's environmental impact on the area. This proposed plan by Moloka`i Ranch is simply not pono, not for the people of Moloka`i, or for our beloved `aina.

Reference:

Purdy, Kammy. "We're at a water Crisis." Online Posting. 21 Jan. 2007. Molokai Water Task Force. < <http://www.savelaaui.com/sl.asp?id=71183486>>

Teves, Glenn. "Water Battle Begins." Online Posting. 23 Jan. 2007. The State of Water Usage of Molokai. <<http://www.themolokaidispatch.com/send/send/311>>

Sincerely,

Kalimakuhilani Sukanuma



November 1, 2007

Kalimakahilani Suganuma  
835 Ahuwale Street  
Honolulu, Hawai'i 96821

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Suganuma:

Thank you for letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below we respond to your comments.

1. *In the La' au Point Environmental Impact Statement Moloka'i Ranch states that negotiations are in action with Hawaiian Homelands and the County of Maui over water usage. It is important to know that Hawaiian Homelands does not have the right to negotiate any water rights. The Attorney General back in the mid 1980's specifically stated that DHHL "has no authority to give away their rights." For development support MPL proposed a deal to give Hawaiian Homelands 500,000 gallons per day from Kualapu u (Well 17), when in fact they do not own this water, and do not have the right to give it away, therefore their proposed water usage plan does not exist.*

**Response:** As stated in the Draft EIS, discussions are underway with DHHL regarding long term planning for the placement of wells and management of the water resources on Moloka'i. MPL is not seeking to gain control over any of DHHL's water rights and has in fact repeatedly reiterated recognition of DHHL's priority rights to water, which is a priority established by law.

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, 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)."

2. *More importantly, over the last ten years there has been a drought, questioning how long Moloka'i can sustain itself, yet MPL wants to take away more water, eventually depleting the resource itself. The intent of the Moloka'i Irrigation system is to supply water to Hawaiian Homestead lots. With MPL proposing to transport this water to La' au, this directly infringes on the rights of those who were intended to benefit from this system. It is the responsibility of all of us to preserve and conserve our water resources to the best of our ability.*

**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 Kākahale 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 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, 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. *The next issue deals with Moloka'i Ranch's reason for development in La'au. MPL has repeatedly stated that the sale of La'au lots are vital to the renovation of Kaluakoi Hotel. It is hard to believe this being that MPL has had excellent investment returns for Kaluako'i, which has increased by ten to twenty times since its purchase. In addition, MPL has sold over 25 million dollars worth of lots in that area and there has been a profit of approximately 150 million over the last two years. And still, with all of these monies MPL still cannot afford renovations for Kaluako'i Hotel with the sale of La' au? I find that hard to believe.*

**Response:** We acknowledge your comments regarding the projects' relationship to the Kaluako'i Hotel renovation. As discussed in the Draft EIS, both the Lā'au Point project and the Kaluako'i Hotel renovation and re-opening are 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 Moloka'i 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 Moloka'i 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 Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.

Kalimakuhilani Sukanuma

SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 3 of 3

- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Moloka'i's water resources, by minimizing drinking (potable) water use.

Since the Lā'āu Point project is the primary financial component to achieve the Master Plan's objectives, non-implementation of the project means that most, or all, of the Master Plan may not be realized.

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. Witten, PBR HAWAII

Ahupua'a o Moloka'i  
P.O. Box 159  
Ho'olehua, Moloka'i, HI 96729  
Phone 808-567-6601



January 7, 2007

January 19, 2007

Thomas S. Witten, ASLA  
President PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813

M. Kammy Purdy  
President, Ahupua'a O Moloka'i  
P O Box 159  
Ho'olehua, Moloka'i, HI 96729

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Aloha Kammy: 

Dear Mr. Witten:

I received the Moloka'i Properties Limited (MPL) Lā'au Environmental Impact Statement (EIS) draft from PBR Hawaii on December 22, 2006 (my travel date for the holidays). Apparently, your choice to distribute the EIS during the Christmas Holidays (the busies travel time of the year) wasn't thought out. Upon my return, I finally had the chance to attend to your mailed EIS computer disk, of which, I could not open. I called PBR Hawaii requesting for a hard copy but was told that the EIS documents would cost me \$100. I'm presently sharing a written copy of the EIS with other residence of Moloka'i due to the limited text available to the public.

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

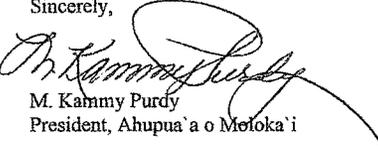
Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

There are many residences on their holiday vacation until January 16, 2007 (when school reconvenes); it is imperative that they have the time to process this EIS. Therefore, I am requesting that your firm extend another sixty days for public comments. The additional time would be greatly appreciated.

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.

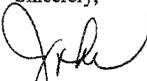
The extension to February 23 will provide for a public comment period of 63 days.

Sincerely,

  
M. Kammy Purdy  
President, Ahupua'a o Moloka'i

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

C: Mr. Anthony Ching, State of Hawaii LUC

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

Appendix Q

Page Conceptual WWTP Layout

no page number



Ms Karen Ashley  
PO Box 1302  
Kaunakakai HI 96748

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PER HAWAII

How saddening and stupefying to consider that this highly valued real estate is planned to be served by such an inferior quality sewage treatment plant. Drying beds, which spread disease are left open to areas frequently assailed by high winds. The more energy efficient, organically managed types are available as shown on public television and discovery channel which manage the wastes in a greenhouse style environment with, shrimp, worms and living plants eating up bacteria and toxins. Already in use in inner city conurbations, creating drinkable water instead of sickening stench, not "green architecture" as stated on Page 114, Cultural Impact

Appendix P Page 5

There are not 36 perennial streams. Many of these are completely dry during the summer which means water from another source must be considered. The west and Central areas are already no longer drinkable, which means water must be brought from elsewhere. Saddening to see that a desalinization plant was not considered in this "final" development, when such a plant could serve the needs of the entire island as in the Mediterranean Island of

Malta & Gibraltar? Source Public Television/Discovery Channel.

Haiau Point Cultural Assessment Page 130

Admission of guilt. Use cattle ranch water instead. People are more important than cows, and golf courses

Page 51 Social Impact Assessment

4.3.1 Positive Characteristics of the Plan, Non-participo

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PER HAWAII

DID NOT feel the Plan offers many benefits to the Molokai Community.

Page 52 No plan for housing the scores of Hawaiian families made homeless by the latest real estate surge. How can these families work at the Kaluakoi resort if they have no homes to live in?

Haiau Point Cultural Assessment Page 113.

Community housing in Kualapu'u, Maunaloa, and above Kaunakakai. 1) These areas are all far from the ocean. Must only the wealthy have ocean access? Are the wealthy the only seafood addicts? This will create racial antagonism! 2) The area above Kaunakakai was posted for many years as an area subject to "sudden subterranean fires". Although the signs have been removed, I have seen no evidence, reports of evidence or read any news stating that area is now safe to build.

Haiau Point Cultural Assessment Page 84

Subsistence fishing and gathering. The National Oceanographic and Atmospheric Administration has stated that "the most healthy monk seals live on Molokai". Due to overfishing in the Northwest Hawaiian Islands monument, seals are eating their own babies for the protein. Seals dive to 1500 for their food. This area at Haiau Point is the known safe place in all of Hawaii.



November 1, 2007

Karen Ashley  
P.O. Box 1302  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Ashley:

Thank you for your letter dated February 14, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

**Appendix Q Conceptual WWTP Layout**

We note your comments about energy-efficient, organically-managed wastewater treatment facilities you saw on public television and the discovery channel.

As discussed in Section 4.9.3 of the Draft EIS, biosolids from the wastewater treatment process will be stabilized by naturally occurring microbes in the waste stream. Long treatment times and an oxygenated environment afford microbes cultured in the treatment basins to convert organic matter to innocuous biosolids and inorganic constituents. In essence, the treatment plant processes replicate the treatment that happens naturally in streams, rivers, and oceans, but in confined tanks under controlled environment at an accelerated pace. Residues are humus-like devoid of objectionable matter and harmful microbes. As our islands are in a tropical zone, sunny and arid climate are well suited for drying the biosolids on sand beds in dug earthen basins or in concrete walled containment. Sand drying beds have been used for decades and have proven to perform reliably, effectively, and safe to public health.

**Appendix P Page 5**

We note your comments about water. After preliminary investigation, it was determined that desalinization was not a reasonable alternative and it was therefore not included among those alternatives that were more rigorously explored. Desalinization is too expensive to be considered as MPL's first choice as a source of non-potable water; this was previously discussed in Section 4.9.2 of the Draft EIS. However, it is an alternative source if water from the Kākalahale Well is not available.

**Lā'au Point Cultural Assessment Page 130**

The page you cite in the Cultural Impact Assessment references cultural viewpoints about the Water Plan. The concerns about the impacts of pumping brackish water are unsubstantiated.

Ms. Karen Ashley  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

**Page 51 Social Impact Assessment**

We note your opinion regarding the benefits of the Master Plan. We also note that the discussion on page 51 of the Social Impact Assessment (SIA) is based on analysis of input received from a public information meeting that was attended by 27 people, several focus groups that included 49 people, and 62 community interviews.

**Page 52**

Regarding your opinions on the re-opening of Kaluako'i Hotel, we understand that you are concerned about housing for Hawaiian families who may be employed at the resort. The desire to re-open the hotel was a common theme in the focus group sessions and interviews held in the SIA. As stated on page 52 of the SIA, the re-opening of the hotel was associated with positive economic activity that would help stabilize the economy and increase personal income. This type of economic activity would help families pay for housing and other necessities.

Throughout the community planning process, the vesting of land back into community hands and ensuring the development returns (Lā'au Point income) be shared by the community was part of a larger vision by the Moloka'i community to plan and finance housing for themselves through a Community Development Corporation, without the involvement of MPL, other than partnering in the provision of land. Further, MPL will donate 5 percent of Lā'au lot revenue (estimated to be \$10 million) to the CDC, whose main mission is the provision of affordable homes for the community.

**Lā'au Point Cultural Assessment Page 113**

During the community planning process, the EC and other Moloka'i community members involved in creating the Master Plan clearly indicated that "only Moloka'i residents will decide future expansion of existing communities" (Appendix A, p. 5). The community process identified up to 100 acres around each of the towns of, Kualapu'u and Maunaloa for the future development of "Ohana Neighborhood Communities" to be developed by partnering various community resources such as Habitat for Humanities, Self-Help Housing, and others. As discussed in the Plan, the community desires a link between affordable housing and other community-facilities present at each of the three communities to insure that they be developed as balanced communities (Appendix A, p. 69).

The area about Kaunakakai to be dedicated for CDC community expansion is not "subject to sudden subterranean fires."

**Lā'au Point Cultural Assessment Page 84**

According to their letter dated February 5, 2007, the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) considers Lā'au Point a good monk seal habitat because of its limited access, sandy beach substrate, and proximity to foraging areas. To reflect this information in the Final EIS, as well as to address other questions

Ms. Karen Ashley

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 3 of 3

and concerns regarding monk seals, Section 3.7 (Fauna) will be revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

NOAA NMFS verified that the overfishing of the Northwest Hawaiian Islands is not causing seals to eat their own pups for protein (personal communication, March 21, 2007).

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 3.7 (Fauna)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

To: Tom Schnell, Planner, PBR Hawaii  
From: Karen M. Holt  
Re: MPL Draft EIS for Redistricting of La'au, Moloka'i  
Date: February 23, 2007

-----  
After reviewing Molokai Properties Limited's LUC redistricting petition and draft EIS, I have the following comments and questions:

MPL acknowledges that development at La'au will harm the area's pristine environmental qualities. To mitigate this damage, MPL proposes to impose covenants, conditions and restrictions on La'au subdivision owners. In addition, MPL asserts that substantial portions of its other land holdings outside of La'au will be protected through the use of restrictive easements and the donation of 26,000 acres to a Molokai Land Trust.

It does not appear, however, that MPL's promises to mitigate damage are reflected in any legal documents that can be examined to insure that they will be binding. Since MPL is asking the Land Use Commission to approve the self-admitted environmental degradation of La'au based on its promises, the burden is on MPL to produce evidence that they will be legally enforceable.

The following questions are based on my concern that MPL has not provided sufficient legal proof that its predicted environmental damages to La'au will be both minimized and mitigated:

1. What is the specific language of the proposed covenants, conditions and restrictions (CC&R's) that will be imposed on La'au subdivision owners?
2. Has MPL sought or received legal counsel regarding the long-term enforceability of its proposed CC&R's? What is the specific language of any legal opinions received, and what legal authorities were cited in support of those opinions?
3. What is the specific language of the proposed agricultural and rural easements on MPL's lands outside La'au? Will the construction of dwellings or any other buildings still be permitted under the terms of these easements?
4. Please define the following zoning term used by MPL: "Rural Landscape Reserve." What kinds of land uses are permitted under this zoning?
5. What is the specific language of the documents that created the Molokai Land Trust? And what is the specific language of any other documents that are relevant to the Land Trust's role as enforcer of MPL's proposed protective easements and/or CC&R's?

6. What role will MPL play in the governance or management of the Molokai Land Trust? Will any seats on the Trust board be filled by MPL officials or their agents? Will board members be compensated for their service?

7. Has MPL deeded over the ~1,500 acres that it promised to give the Molokai Land Trust as soon as the Trust obtained its IRS tax-exempt status? Since MPL promised to do this as proof of its good faith commitment to protect lands outside La'au, if the donation has not yet been made, why not? And if it has not yet been made, when will the land be donated to the Trust, as promised?

8. What is the specific language of the "Stakeholders Agreement" with Ke Aupuni Lokahi, Inc. (KAL)? (MPL says that this Agreement spells out MPL's relationship to KAL regarding implementation of its Community Master Land Use Plan.) Has it been executed by both parties? If so, when?

Where I have asked for "specific language," I would like to see the actual draft documents if they exist. If they do not yet exist, please indicate this in your response to my questions.

Thank you for your assistance in responding to these questions.

Karen M. Holt  
P.O. Box 354  
Kaunakakai, Hawai'i 96748



Karen Holt  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

November 1, 2007

Karen Holt  
Moloka'i Community Service Council  
P.O. Box 354  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Holt:

Thank you for your email dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *What is the specific language of the proposed covenants, conditions and restrictions (CC&R's) that will be imposed on La'au subdivision owners?*

**Response:** Section 2.3.6 of the Draft EIS contains proposed language of the CC&Rs. As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding the CC&Rs, Section 2.3.6 (Covenants) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.3.6 (Covenants)."

2. *Has MPL sought or received legal counsel regarding the long-term enforceability of its proposed CC&R's? What is the specific language of any legal opinions received, and what legal authorities were cited in support of those opinions?*

**Response:** MPL has sought legal counsel to draft the CC&Rs using the Master Plan for guidance. MPL received advice that the provisions are enforceable because the CC&Rs will be signed as a pre-condition to lot ownership, and because the Moloka'i Land Trust will be a party to the CC&Rs. As a party to the document, the Land Trust can litigate the enforceability.

3. *What is the specific language of the proposed agricultural and rural easements on MPL's lands outside La'au? Will the construction of dwellings or any other buildings still be permitted under the terms of these easements?*

**Response:** The specific language of the agricultural easements contemplated in the Master Plan will be available at Land Use Commission hearings on the petition. The construction of single unit dwelling and ancillary farm buildings will be allowed on some lots per the Master Plan where bona fide farmers wish to live and work on the land they farm.

4. *Please define the following zoning term used by MPL: "Rural Landscape Reserve." What kinds of land uses are permitted under this zoning?*

**Response:** As noted in Section 2.1.8 (Moloka'i Land Trust) of the Draft EIS, Rural Landscape Reserve easements will protect open space and views on five large parcels on which no buildings or development will be permitted. The Land Trust will administer agreed upon land use policies for these areas, and enforce the dedicated use of the easement lands.

5. *What is the specific language of the documents that created the Molokai Land Trust? And what is the specific language of any other documents that are relevant to the Land Trust's role as enforcer of MPL's proposed protective easements and/or CC&R's?*

**Response:** The specific documents pertaining to the establishment of the Moloka'i Land Trust are private to the organization. The specific language relevant to the Land Trust's enforcement role in protective easements and in relation to the CC&Rs will be available at Land Use Commission hearings for the State Land Use District Boundary Amendment petition.

6. *What role will MPL play in the governance or management of the Molokai Land Trust? Will any seats on the Trust board be filled by MPL officials or their agents? Will board members be compensated for their service?*

**Response:** MPL will play no role in the governance or management of the Land Trust. It has been invited (or will serve) in an ex-officio status to assist through its knowledge of the lands to be donated. It is non-voting. No MPL employees are directors of the Land Trust board. Board members are volunteers and do not receive compensation.

7. *Has MPL deeded over the ~1,500 acres that it promised to give the Molokai Land Trust as soon as the Trust obtained its IRS tax-exempt status? Since MPL promised to do this as proof of its good faith commitment to protect lands outside La'au, if the donation has not yet been made, why not? And if it has not yet been made, when will the land be donated to the Trust, as promised?*

**Response:** MPL has prepared an agreement relating to the first donation of lands at Mokia. Once the Moloka'i Land Trust completes its due diligence of the property, the fee land will pass to the Trust. The Land Trust is preparing a complete land inventory of the Mokia Lands and also a management and access plan. Therefore, upon receiving the land donation, the Land Trust can be responsible stewards of the property. It is anticipated the handover can take place once these plans and the subdivision/boundary change amendments have been completed which should be in early 2008.

8. *What is the specific language of the "Stakeholders Agreement" with Ke Aupuni Lokahi, Inc. (KAL)? (MPL says that this Agreement spells out MPL's relationship to KAL regarding implementation of its Community Master Land Use Plan.) Has it been executed by both parties? If so, when?*

**Response:** MPL and the Land Trust have entered into a binding agreement for the transfer of the first donation of lands at Mokia. Once the Land Trust has taken to ensure that it has full knowledge of the conditions on the property, completed its due diligence examination, as is prudent for any organization prior to transfer, the land will pass to the Trust. The Moloka'i Land

Karen Holt  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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Trust is preparing a complete land inventory of the Mokiō Lands and is in the process of completing a management and access plan so that upon receiving the land, it can be a responsible steward. It is anticipated the handover can take place once these and subdivision/ boundary change amendments have been completed.

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 2.3.6 (Covenants)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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FEB 21 2007

PBR HAWAII

From: Kauwila Hanchett  
PO Box 44  
Kualapuu, HI 96734  
Telephone: (808) 567-9078

TO: Peter Nicholas, President and CEO  
John Sabas, General Manager of Community Affairs  
Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, Hawaii 96813  
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CC: Thomas S. Witten, ASLA  
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Anthony Ching, Executive Officer  
State Land Use Commission  
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Genevieve Salmonson  
Office of Environment Quality Control  
Leiopapa a Kamehameha  
235 South Beretania Street, Suite 702  
Honolulu, Hawaii 96813

RE: DEIS Comments, Questions & Concerns Regarding MPL's La'au Point Development

Aloha, I submit these comments: as a Native Hawaiian, born and raised on Molokai; as a member of a family who has always depended on the land and sea to provide food for our bodies and souls; as a future Molokai homesteader (still in the application process); as a person who is deeply rooted and connected to the land and to Molokai; as an active member of the Molokai Community; as a member of the next generation who embraces my kuleana to malama pono I ka aina aloha o Molokai.

Kupono I Ku'u Kuleana,

*Kauwila Hanchett*

The Draft Environmental Impact Statement (DEIS); prepared by PBR for MPL's proposed development at La'au Pt., Molokai; fails to properly address the many concerns of the Molokai Community. Almost every single point addressed in the DEIS was found lacking in some way. Indeed MPL tries to gloss over the many imperfections in the project by continually "offsetting" negative impacts through the lands to be donated to the community. Donating the Na'iwa Makahiki grounds to a community land trust does not "fix" destroying the spiritual and pristine beauty of La'au point! Perhaps there is a lack of understanding about the true relationship between indigenous people and the lands they inhabit.

#### **Land and People - A Cultural Perspective**

In Western thought land is seen as a commodity: something to be bought and sold; something to make money off of. In Hawaiian thought land is part of our 'ohana (family) and treated as such. Natural objects, such as rocks or trees, are not thought of as "inanimate" but rather experienced as a living, breathing part of the 'ohana. Indeed there is a spiritual connection between people and the land they inhabit. This connection can be likened to the umbilical cord which connects mother to child, the health of each depends on the other. If the mother (the land) is not well, so too the child (the people). To put it simply, what ever is done to the island of Moloka'i, directly affects the health and well-being of her people, for the two are deeply connected.

This is why there has been such a strong force of community opposition. We are not just fighting to stop a development at La'au, we are fighting for our very health and well being. So much more so because of the spiritual significance of this particular place. The spiritual nature of La'au pt. is noted in the DEIS however it was not given the weight and consideration it deserves. Nor was the connection made between the impacts this project will have upon the spiritual health of the community and the rest of the island, not to mention all of Hawai'i. Also not given due consideration was the cultural and spiritual importance of lae, land extremities or points.

#### **Spiritual Importance of Ka Lae O Ka La'au**

In Hawaiian thought ka lae, land extremities or points, of an island are sacred. If you imagine that the island of Moloka'i is a halau or hale (structure/house), then these lae, extending towards the four cardinal directions; especially hikina (east) and komohana (west), are the kukulu, the corner pillars of the house. The lands within can be seen as the foundation; the sky, its' ceiling; and the people of Moloka'i, the family that dwells in this hale. And just as a house cannot stand without its' corners, so too an island without its' lae. If you damage even one corner, the whole structure is compromised. This is part of the spiritual and cultural importance of Ka Lae O Ka La'au. **There is no type of development that would be appropriate for this area due to its spiritual and cultural significance.**

#### **Impact on Hawai'i**

I have had the opportunity of spending a lot of time on the other islands especially: Hawai'i, Maui, O'ahu, and Kaua'i. I have also been very involved in the Hawaiian Community through my work as a teacher at Hakipu'u Learning Center, a native Hawaiian charter school and

as a student in a culturally rooted halau, Na Mamoali'i O Ka'uiki. What I have gathered from meeting with so many Hawaiian people from throughout the islands is that Molokai is held in great reverence and awe by the larger Hawaiian community. This is partly because of the history of Moloka'i as a place of great 'ike (knowledge) and spiritual power. But another part of this is the ability of the current generation of Molokai people to tap into this mana and resist the negative changes that development has caused on the other islands. We feel that in some ways we are "the last Hawaiian island", and the stand that we have taken to keep Molokai, Molokai is recognized and appreciated by the Hawaiian community.

#### **One Last Development?**

Though there has been promises by MPL that the La'au development would be "the last development" on ranch lands, there is nothing in the DEIS which shows the community how they will ensure this is so. Are we to take them at their word? We have already learned that MPL has no qualms about making empty promises to placate the community with no real intentions of upholding their word. Such as the promise of CEO Peter Nicholas that "the community would decide" about the development at La'au. If this is so then there is no need for this DEIS because the community has said "NO!" loud and clear at the EC vote in February. Again this is a conflict in Western and Hawaiian thought. Western thought is everything needs to be in writing, then it is binding. In Hawaiian thought "I ka 'olelo no ke ola, I ka olelo no ka make", life and death is in the spoken word, thus words are binding.

#### **Community Land Trust?**

Also not clearly defined was The Land Trust. So much of this project hinges on the donation of our "legacy lands" to this trust yet it is still unclear to the community how this entity will operate. Here are some of the unanswered questions:

- Who is the Land Trust?
- Who actually owns the Lands in the Land Trust? The trustees?
- How are trustees chosen? By appointment or election by community members?
- If appointed, who appoints?
- Is The Land Trust already formed? Are they seeking tax-exempt status?
- If already formed, who are the trustees? Why was the community not involved in it's creation?
- Is the Land Trust a public or private entity?
- What is the community voice in the Land Trust?
- Are their meetings open to public? Are their records open to public?
- What checks and balances are in place to assure that trustees will not abuse their power?
- How can we be sure that the Land Trust is actually for the community and not a select group of people working with the Ranch on the La'au Project?
- Who makes the decisions about the lands in the Land Trust?

It would seem obvious that in order to have a successful Land Trust you must have Land and you must have trust. One without the other will crumble and fall. Yet what has MPL done to build a relationship of trust with the Moloka'i Community? Though it may have appeared that MPL was attempting to do this through the development of their Master Land Use Plan it has

become clear that the Ranch had ulterior motives at work all throughout this process. Currently, the relationship that exists between the Community and the Ranch is again one of distrust and enmity. This distrust has extended to The Land Trust, which seems to be a "dangling carrot" the ranch is attempting to use to get the community to accept the unacceptable.

#### **The Silent Majority.....that never showed up**

Also troubling is MPL and the Enterprise Community's (also known as Ke Aupuni Lokahi) claim that the majority of the community supports the La'au project. The EC is supposed to represent the community in working with MPL regarding MPL's Master Land Use Plan. However the EC has taken a strong stand in support of the La'au development, despite community opposition to the project. Twice they denied the communities right to vote on the issue of La'au. But the community voted a resounding "NO!" at a recent EC election which was for all practical purposes a referendum on the La'au issue. About 1300 people showed up to vote, for two seats on the EC board (which is probably the most people to turn out for a vote in Molokai history). The two candidates who campaigned as "SAVE LA'AU" ousted the two pro-la'au incumbent garnering almost 70% of the votes. This is astounding when you calculate that there were 6 candidates on the bill!

As this process continues, MPL's and the EC's claim of the "silent majority" of Moloka'i supporting the development will fall through. MPL should change their DEIS to reflect the current status of community support, **that the overwhelming majority of the Molokai Community opposes the La'au Pt. Development.**

#### **Empty Promises in the DEIS**

Another common thread throughout the 800+ page document was that MPL makes a lot of empty commitments to the community, yet refuses to take any responsibility for doing the work fulfilling these commitments. Here are just a few examples of such commitments:

- CC&R's to be signed and upheld by landowners
- Educating landowners who have the critically endangered fern, ihihilauea, in their lots about the cultural significance of this plant and create a management plan to protect them
- Protect the Hawaiian Monk seal population at La'au Pt.
- Create a coastal management plan, like that at Mo'omomi
- Educating the general public who will access the area for subsistence purposes
- Protecting the spiritual quality of the area
- Avoid or lessen conflict between residents and landowners

The list goes on and on. Many of these commitments will take a huge amounts of effort but not by MPL. The burden of fulfilling all of these commitments rest mostly upon The Land Trust, the Homeowners Association, and the larger community.

#### **Teaching Aloha Aina?**

In the DEIS MPL claims that social and environmental impacts will be mitigated by future homeowners being "educated" about the spiritual and cultural significance of the area as well as the unique lifestyle of Molokai. They say that these homeowners will sign and uphold

strict CC&R's limiting what they can and cannot do on their private property. Some of them will care for endemic and critically endangered species of flora and fauna that may be found in their property. They won't mind when locals are hunting in the area near their homes or accessing the beaches just past the boundaries of their land. They will deny themselves all the luxuries they are accustomed to and blend into "Moloka'i Style". They will limit their access to the beach in order to lessen the impact on subsistence fishing and the Hawaiian Monk Seal population. They will not legally challenge any of these restrictions on their lifestyle or their private property-which they have paid a lot of money for. Nor will they engage their powerful lawyers to change some of these restrictions so that their personal needs/wants will be better met. No, they will allow a community they do not know, on an island they may or may not care for determine their rights. And they will feel this way because they were "educated"?

REALLY?!

This is what MPL would like us to believe. However it will never happen. Why? It banks on future residents' willingness to accept and comply with things they most likely will not understand or deem valuable. How can you guarantee that 200+ wealthy landowners and their friends will not rise up and legally overthrow all of the carefully planned, legally questionable, restrictions at La'au Pt.?

What this does is set the community (especially those who will continue to use the area for subsistence purposes) and the future landowners up for continual social conflict. The mitigation plan in the DEIS fails to properly and realistically address this very real concern.

#### Specific Concerns

1. No mention or mitigation of negative impacts on the native seed bank present at La'au. Native seeds can last for many years awaiting the proper conditions for growth. Often times when non-native species take over an area native species decrease and sometimes disappear. However, as evident at He'eia Fishpond, Oahu, when these non-native species are cleared, native species come back. This is because of the many generations of native seeds that have accumulated in the soil forming a native seed bank. The proposed development would damage this native seed bank. One of the greatest risks of this is that in the case of the Ihihilaakea (*Marsilea Villosa*) which may wait a decade or more for proper conditions for growth.
2. In the DEIS it says MPL is committed to preserving "known archaeological sites". Due to the sacred nature of the area, there are some concerns about burials being uncovered during development. Traditional cultural practices often require that burials are purposefully left "unknown". And therefore it is highly possible that there are numerous unknown burials in the area that could be desecrated and destroyed during development.
3. The DEIS states that native species of flora and fauna (specifically the Hawaiian Monk Seal and native bird species) will not be disturbed because they can move to other open spaces available in the area. It does not elaborate on whether or not this is something that actually could occur. It does not give much information on the patterns of these animals and plants and whether or not relocation is a viable option.

4. In Davianna McGregor's Cultural Impact Statement numerous cultural resources are identified. However in the DEIS only a handful of these resources are address. The DEIS should address every single resources listed in the CIA (pg 13).
5. Water is the KEY issue because there isn't any for this project. The DEIS does not even come close to trying to address this issue. As a future homesteader, how can you assure me that I will not be negatively affected by water being taken for this project when Molokai is designated as a sole source aquifer?
6. Much of the protection of La'au point hinges on strict CC&Rs being accepted and upheld by landowners. However, the DEIS fails to provide the community with what these CC&Rs include saying only they are in "draft form". It also fails to explain how this process will work, if it is legally sound, or if there are any other examples of such measures being met in other developments throughout Hawaii.

In closing the DEIS has failed to properly address the impact that the La'au Pt. Development project will have on the spiritual and cultural health and well being of the Molokai Community and the larger Hawaiian community. It has also failed to make clear how this will be the "one last development" on Ranch lands and how the CC&Rs and the Land Trust will operate. It has not sufficiently covered the issue of burials at la'au, native species, native seed bank, cultural resources, and water issues. Nor has it realistically addressed potential social conflict between residents and landowners and how landowners will be made to follow the many restrictions at La'au Pt. In short, the DEIS has given many of the "whats" but almost none of the "hows". Without these details how can you expect the community to buy into this project which is being built on lands that have been designated as sacred space. **There is no type of development that is appropriate for La'au Pt. due to its' spiritual and cultural significance.** Therefore this project should be abandoned and other alternatives explored by MPL.



November 1, 2007

Kauwila Hanchett  
P.O. Box 44  
Kualapu'u, Hawaii 96734

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Hanchett:

Thank you for your letter postmarked February 20, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

**Land and People – A Cultural Perspective**

1. *In Western thought land is seen as a commodity: something to be bought and sold; something to make money off of. In Hawaiian thought land is part of our 'ohana (family) and treated as such. Natural objects, such as rocks or trees, are not thought of as "inanimate" but rather experienced as a living, breathing part of the 'ohana. Indeed there is a spiritual connection between people and the land they inhabit. This connection can be likened to the umbilical cord which connects mother to child, the health of each depends on the other. If the mother (the land) is not well, so too the child (the people). To put it simply, what ever is done to the island of Moloka'i, directly affects the health and well-being of her people, for the two are deeply connected. ¶This is why there has been such a strong force of community opposition. We are not just fighting to stop a development at La'au, we are fighting for our very health and well being. So much more so because of the spiritual significance of this particular place. The spiritual nature of La'au pt. is noted in the DEIS however it was not given the weight and consideration it deserves. Nor was the connection made between the impacts this project will have upon the spiritual health of the community and the rest of the island, not to mention all of Hawai'i. Also not given due consideration was the cultural and spiritual importance of lae, land extremities or points.*

**Spiritual Importance of Ka Lae O Ka Lā'au**

2. *In Hawaiian thought ka lae, land extremities or points, of an island are sacred. If you imagine that the island of Moloka'i is a halau or hale (structure/house), then these lae, extending towards the four cardinal directions; especially hikina (east) and komohana (west), are the kukulu, the corner pillars of the house. The lands within can be seen as the foundation; the sky, its' ceiling; and the people of Moloka'i, the family that dwells in this hale. And just as a house cannot stand without its' corners, so too an island without its' lae. If you damage even one corner, the whole structure is compromised. This is part of the spiritual and cultural importance of Ka Lae o Ka Lā'au. There is no type of development that would be appropriate for this area due to its spiritual and cultural significance.*

**Response:** We acknowledge your comments about cultural perspective. We note that Section 4.2 and Appendix F of the Draft EIS contain discussions and an assessment of the cultural resources.

In responding to your comment regarding the spiritual significance 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

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by the federal government. This property will not be disturbed or developed on by the proposed project.

The west and south shorelines adjacent to Lā'au Point, Keawakalani on the southeast and Kamāka'ipō on the northwest, is where the proposed development is projected. According to the archaeological surveys and ethnographic documents, there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka'ipō as an important cultural and spiritual place.

Molokai Ranch has applied to the State Land Use Commission to re-district these areas from Agricultural to Conservation district in order to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā'au Point, notably at Kamāka'ipō, Kapukuwahine, and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

A Shoreline Access Management Plan (SAMP) 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. The SAMP will be included as an Appendix to the Final EIS.

In addition, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. These cultural guidelines are provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

To reflect the information above 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 (Kahalepōhaku) and fourth point ('Opihi 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.

Hawaiians consider the land and ocean to be integrally united and that these land sections also include the shoreline as well as inshore and offshore ocean areas such as fishponds, reefs, channels, and deep sea fishing grounds. Coastal shrines called fishing ko'a were constructed and maintained as markers for the offshore fishing grounds that were part of that ahupua'a.

**Impact on Hawai'i**

3. *I have had the opportunity of spending a lot of time on the other islands especially: Hawai'i, Maui, O'ahu, and Kaua'i. I have also been very involved in the Hawaiian Community through my work as a teacher at Hakipu'u Learning Center, a native Hawaiian charter school and as a student in a culturally rooted halau, Na Mamoali'i o Ka'uiki. What I have gathered from meeting with so many Hawaiian people from throughout the islands is that Molokai is held in great reverence and awe by the larger Hawaiian community. This is partly because of the history of Moloka'i as a place of great 'ike (knowledge) and spiritual power. But another part of this is the ability of the current generation of Molokai people to tap into this mana and resist the negative changes that development has caused on the other islands. We feel that in some ways we are "the last Hawaiian island", and the stand that we have taken to keep Molokai, Molokai is recognized and appreciated by the Hawaiian community.*

**Response:** The *Community-Based Master Land Use Plan for Molokai Ranch* (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. Implementation of the Master Plan will place over 50,000 acres into permanent protection from development. The Master Plan ensures Moloka'i's continued status as "the last Hawaiian island."

Section 6.1 of Draft EIS provided discussion of a "no action" alternative. It concluded that "no action" would lead to greater overall impacts on cultural sites; natural resources utilized for cultural, subsistence and spiritual purposes; water resources; and the overall Hawaiian way of life on Moloka'i. This scenario would result in uncontrolled growth and unmonitored utilization of lands and natural resources. The "no action" alternative which opponents advocate would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "No Action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for Moloka'i.

**One Last Development?**

4. *Though there has been promises by MPL that the Lā'au development would be "the last development" on ranch lands, there is nothing in the DEIS which shows the community how they will ensure this is so. Are we to take them at their word? We have already learned that MPL has no qualms about making empty promises to placate the community with no real intentions of upholding their word. Such as the promise of CEO Peter Nicholas that "the community would decide" about the development at Lā'au. If this is so then there is no need for this DEIS because the community has said "No!" loud and clear at the EC vote in February. Again this is a conflict in Western and Hawaiian thought. Western thought is everything needs to be in writing, then it is binding. In Hawaiian thought "I ka 'olelo no ke ola, I ka olelo no ka make", life and death is in the spoken word, thus words are binding.*

**Response:** We disagree with your conclusion that the community has said "No" to this project. Three years of participation, planning, and creating the Master Plan indicates there is clear support of the Master Plan and project.

MPL's agreement with the EC and Project #47 is enshrined in agreements. In addition, other factors will prevent further development from occurring, such as: MPL does not have the water resources, even with the brackish water it hopes to have permitted at the former Kākalahale Well; and the Kaluako'i rural subdivisions are within the Moloka'i special management area, and as such no development of any sort can be done without the majority support of the Moloka'i Planning Commission and the Maui County.

We also 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 the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan community-based planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of Moloka'i's eligible voting age population.

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To assume that an election for Board Directors of a private nonprofit corporation is equivalent to a referendum on the Master Plan or a mandate for the Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for Board Directors that have no such regulatory power.

Community Land Trust?

5. *Also not clearly defined was The Land Trust. So much of this project hinges on the donation of our "legacy lands" to this trust yet it is still unclear to the community how this entity will operate. Here are some of the unanswered questions: • Who is the Land Trust? • Who actually owns the Lands in the Land Trust? The trustees? • How are trustees chosen? By appointment or election by community members? • If appointed, who appoints? • Is The Land Trust already formed? Are they seeking tax-exempt status? • If already formed, who are the trustees? Why was the community not involved in it's creation? • Is the Land Trust a public or private entity? • What is the community voice in the Land Trust? • Are their meetings open to public? Are their records open to public? • What checks and balances are in place to assure that trustees will not abuse their power? • How can we be sure that the Land Trust is actually for the community and not a select group of people working with the Ranch on the La'au Project? • Who makes the decisions about the lands in the Land Trust? ¶It would seem obvious that in order to have a successful Land Trust you must have Land and you must have trust. One without the other will crumble and fall. Yet what has MPL done to build a relationship of trust with the Moloka'i Community? Though it may have appeared that MPL was attempting to do this through the development of their Master Land Use Plan it has become clear that the Ranch had ulterior motives at work all throughout this process. Currently, the relationship that exists between the Community and the Ranch is again one of distrust and enmity. This distrust has extended to The Land Trust, which seems to be a "dangling carrot" the ranch is attempting to use to get the community to accept the unacceptable.*

**Response:** The Moloka'i Land Trust (MLT) is a private, non-profit corporation with its focus on land conservation. The MLT owns land fee simple or acquires conservation easements to conserve land for future generations. MLT includes its own bylaws to govern its lands. The MLT is 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. The MLT was incorporated in the State of Hawai'i in 2006. It received a tax-exempt, public charity determination from the IRS in late 2006.

The MLT is governed by a board of directors, (not trustees) 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. There are currently nine members on the board of directors, which include, 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.

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The Moloka'i community was directly involved in the formation of the MLT, in that the MLT was formed by a steering committee recommended by the Land Use Committee during the formation of the Master Plan. The MLT steering committee members spent several hundred hours educating themselves on the land trust model and working with consultants and experts in the land conservation field to create the Land Trust. The MLT steering committee was composed almost exclusively of members of the Moloka'i Community. Two members were part-time Moloka'i residents, while the remaining members were full-time Moloka'i residents. A majority of MLT board members are required by its Bylaws to be residents of Moloka'i. The MLT allows a minority of directors to be non-residents of Moloka'i in order to be open to having off-island people with special skills and talents serve on the board.

Since the MLT is a private, non-profit corporation, it is not required to make its board meetings open to the public. The MLT, however, will set its own policies on whether its board or subcommittee meetings will be open to the public. Same is true of its corporate documents -- except for its annual Form 990 tax return which will be public information, in accordance with code 501(c)3.

The MLT has adopted the same standards and practices of the Land Trust Alliance, a national organization that promotes voluntary land conservation and provides support to nonprofit land trusts by providing information, skills, and resources that land trusts need to conserve land. The Land Trust Alliance is the national convener, strategist and representative of more than 1,600 land trusts across America. The Land Trust Alliance's *Land Trust Standards and Practices*, which the MLT board has resolved to follow, 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. The Land Trust Alliance standards and practices can be reviewed at < <http://www.lta.org/sp/index.html> >. In the future, the MLT also plans to seek accreditation from the newly-formed Land Trust Accreditation Commission.

The MLT directors, of which we note that no members work for MPL, are a purely volunteer board, prohibited by the organization's Articles of Incorporation and Bylaws from receiving compensation. They are bound by law to work to forward the charitable purpose of their organization. As such, their motivation for serving on the MLT board of directors is to make decisions about the MLT lands that will benefit the community.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding the Land Trust, Section 2.1.8 (Moloka'i Land Trust) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.1.8 (Moloka'i Land Trust)."

The Silent Majority...that never showed up

6. *Also troubling is MPL and the Enterprise Community's (also known as Ke Aupuni Lokahi) claim that the majority of the community supports the La'au project. The BC is supposed to represent the community in working with MPL regarding MPL's Master Land Use Plan. However the EC has taken a strong stand in support of the La'au development, despite community opposition to the project. Twice they denied the communities right to vote on the issue of La'au. But the community voted a resounding "No!" at a recent EC election which was for all practical purposes a referendum on the La'au issue. About 1300 people showed up to vote, for two seats on the EC board (which is probably*

*the most people to turn out for a vote in Molokai history). The two candidates who campaigned as "Save La'au" ousted the two pro-la'au incumbent garnering almost 70% of the votes. This is astounding when you calculate that there were 6 candidates on the bill! ¶As this process continues, MPL's and the EC's claim of the "silent majority" of Moloka'i supporting the development will fall through. MPL should change their DEIS to reflect the current status of community support, that the overwhelming majority of the Molokai Community opposes the La'au Pt. Development*

**Response:** We previously responded to your comments regarding the EC election in #4 above. We note that the public process before the Land Use Commission, the Moloka'i Planning Commission, and the County of Maui are the public forums that are adequate for a decision on the Lā'au Point project and its associated Master Plan components.

MPL still believes there is overall community support for the Master Plan, with supporters afraid to demonstrate support because they are targeted by the vocal and militant opposition with reprisals and abuse.

The Enterprise Community (EC), also known as Ke Aupuni Lōkāhi, Inc. (KAL), facilitated the Master Plan process, and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. KAL has also stated that the Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

As a Hawai'i nonprofit corporation and a 501(c)3 public charity, KAL is legally obligated to act within its defined charitable purpose. To quote from KAL bylaws, "Ke 'Aupuni Lōkāhi, a Hawai'i non-profit corporation, is dedicated to protecting the island of Moloka'i and its resources, and improving the welfare of Moloka'i's people." KAL Board of Directors have also stated that its support for the Maser Plan will greatly further the charitable purpose of KAL.

Questions as to the KAL Board's decisions to deny motions to call for a community vote should ideally be asked to KAL. Nevertheless, KAL's publicly-stated reasons for denying the motions were: 1) Faulty wording in the motions; 2) Motions in no way addressed who would be responsible for administering the proposed vote; 3) Motions in no way addressed who would be responsible for funding the proposed vote; and 4) KAL Board members questioned their own authority to call for a vote that would address proposed developments on private land that is not their own.

**Empty Promises in the DEIS**

7. *Another common thread throughout the 800+ page document was that MPL makes a lot of empty commitments to the community, yet refuses to take any responsibility for doing the work fulfilling these commitments. Here are just a few examples of such commitments: • CC&R's to be signed and upheld by landowners • Educating landowners who have the critically endangered fern, ihiihilauakea, in their lots about the cultural significance of this plant and create a management plan to protect them • Protect the Hawaiian Monk seal population at La'au Pt. • Create a coastal management plan, like that at Mo'omomi • Educating the general public who will access the area for subsistence purposes • Protecting the spiritual quality of the area • Avoid or lessen conflict between*

*residents and landowners. ¶The list goes on and on. Many of these commitments will take a huge amounts of effort but not by MPL. The burden of fulfilling all of these commitments rest mostly upon The Land Trust, the Homeowners Association, and the larger community.*

**Response:** We strongly disagree with your statement that MPL has made "empty commitments." MPL is firmly committed to the Master Plan and all the commitments made in the Master Plan. Master Plan participants were adamant in retaining community control of the donated and easement lands; therefore, we would disagree that management responsibility of these protected lands would be considered a "burden" to the Land Trust, homeowners' association, and the larger community.

**Teaching Aloha Aina?**

8. *In the DEIS MPL claims that social and environmental impacts will be mitigated by future homeowners being "educated" about the spiritual and cultural significance of the area as well as the unique lifestyle of Molokai. They say that these homeowners will sign and uphold strict CC&R's limiting what they can and cannot do on their private property. Some of them will care for endemic and critically endangered species of flora and fauna that may be found in their property. They won't mind when locals are hunting in the area near their homes or accessing the beaches just past the boundaries of theft land. They will deny themselves all the luxuries they are accustomed to and blend into "Moloka'i Style". They will limit their access to the beach in order to lessen the impact on subsistence fishing and the Hawaiian Monk Seal population. They will not legally challenge any of these restrictions on their lifestyle or their private property-which they have paid a lot of money for. Nor will they engage their powerful lawyers to change some of these restrictions so that theft personal needs/wants will be better met. No, they will allow a community the do not know, on an island they may or may not care for determine theft rights. And they will feel this way because they were "educated"? Really?! This is what MPL would like us to believe. However it will never happen. Why? It banks on future residents' willingness to accept and comply with things they most likely will not understand or deem valuable. How can you guarantee that 200+ wealthy landowners and theft friends will not rise up and legally overthrow all of the carefully planned, legally questionable, restrictions at La'au Pt.? What this does is set the community (especially those who will continue to use the area for subsistence purposes) and the future landowners up for continual social conflict. The mitigation plan in the DEIS fails to properly and realistically address this very real concern.*

**Response:** We note that many assumptions have been made as to the type of people that will live at Lā'au Point. This potential social impact is discussed in Section 4.8 and Appendix M of the Draft EIS.

The Shoreline Access Management Plan provides for its implementation and further development by a council that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

The Shoreline Access Management Plan describes how an educational program shall be required of all homeowners and visitors to the area and cover cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. These are all aimed at promoting understanding between the homeowners and the Moloka'i community. To reflect the

information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

A strong mitigation measure for the project is the target market for Lā'au Point. Lā'au Point aims to attract people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management (see Section 2.3 of the Draft EIS). 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.

**Specific Concerns**

*1. No mention or mitigation of negative impacts on the native seed bank present at La'au. Native seeds can last for many years awaiting the proper conditions for growth. Often times when non-native species take over an area native species decrease and sometimes disappear. However, as evident at He'eia Fishpond, Oahu, when these non-native species are cleared, native species come back. This is because of the many generations of native seeds that have accumulated in the soil forming a native seed bank. The proposed development would damage this native seed bank. One of the greatest risks of this is that in the case of the Ihiihilauakea (Marsilea Villosa) which may wait a decade or more for proper conditions for growth.*

**Response:** The few 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.

*2. In the DEIS it says MPL is committed to preserving "known archaeological sites". Due to the sacred nature of the area, there are some concerns about burials being uncovered during development. Traditional cultural practices often require that burials are purposefully left "unknown". And therefore it is highly possible that there are numerous unknown burials in the area that could be desecrated and destroyed during development.*

**Response:** The burial/potential burial sites are marked with orange dots and site numbers on Figure 10 of the Draft EIS. As shown in the figure, the subdivision lot lines are sited away from these burial sites. Except for two possible burial sites located in the residential open space areas between lots, all burial/potential burial sites are located within the proposed expanded Conservation District and Cultural Protection Zones. The burials will not be relocated.

While it is true that Hawaiians sometimes disguised burials, this was by no means universal. Unlike the lava fields of Hawai'i Island, where the geology affords many places to hide burials, western Kaluako'i is an easier place to find them, due to the thin soils, heavily eroded surfaces, and the high visibility of features such as mounds and platforms used for most burials.

Furthermore, we have archaeological, historical, and contemporary cultural knowledge that tell us the types of places where burials usually occur: in sand dunes, in permanent settlements, and at the mauka edge of the settlement zone. None of these is proposed for development.

The plans 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.

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.

*3. The DEIS states that native species of flora and fauna (specifically the Hawaiian Monk Seal and native bird species) will not be disturbed because they can move to other open spaces available in the area. It does not elaborate on whether or not this is something that actually could occur. It does not give much information on the patterns of these animals and plants and whether or not relocation is a viable option.*

**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 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)." The SAMP has been included as an appendix to the Final EIS.

Regarding endangered species protection, similar to the Monk Seal Program, rules for access and designation of closed areas are set forth in the SAMP. The Resource Manager will be responsible for monitoring the health of any significant organisms, designating closed areas and enforcement of regulations designed to protect the resource including fire and times of access to the area. A long term monitoring program will also be developed to adapt to changed circumstances.

*4. In Davianna McGregor's Cultural Impact Statement numerous cultural resources are identified. However in the DEIS only a handful of these resources are address. The DEIS should address every single resources listed in the CIA (pg 13).*

**Response:** The purpose of Section 4.2 of the Draft EIS is to provide a summary discussion of the Cultural Impact Assessment. For the full discussion, you may refer to the Cultural Impact Assessment report attached to the Draft EIS as Appendix F.

*5. Water is the Key issue because there isn't any for the project. The DEIS does not even come close to trying to address this issue. As a future homesteader, how can you assure me that I will not be negatively affected by water being taken for this project when Molokai is designated as a sole source aquifer?*

**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 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 Kāalahale 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.

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 your

specific comments is incorporated into the attachment. See the section of the attachment titled, "DHHL's Future Water Needs" and "Molokai's 'Sole Source Aquifer' Designation."

*6. Much of the protection of La'au point hinges on strict CC&Rs being accepted and upheld by landowners. However, the DEIS fails to provide the community with what these CC&Rs include saying only they are in "draft form". It also fails to explain how this process will work, if it is legally sound, or if there are any other examples of such measures being met in other developments throughout Hawaii.*

**Response:** 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.

The CC&Rs will be monitored and enforced by the Board of the Association of Owners of Lā'au Point, affected lot owners, and in certain circumstances, Molokai Properties Limited as the Declarant under the CC&Rs. 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.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Ms. Kauwila Hanchett  
SUBJECT: LĀ'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 4.3 (Trails and Access)  
Revised Section 3.7 (Fauna)  
Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



To whom it May Concern,

Aloha, my name is Kawaiola Agader and I attend Molokai High School. I am an average 11<sup>th</sup> 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,

A handwritten signature in black ink, appearing to read 'Kawaiola Agader'. The signature is fluid and cursive, with the first name being more prominent.

Kawaiola Agader

November 1, 2007

Kawaiola Agader  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 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 Kākahale 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.

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

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 be 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 cursive script, appearing to read 'Kegal-Joe Tancayo'.

November 1, 2007

Kegal-Joe Tancayo  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawaii'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Tancayo:

Thank you for your letter regarding the Lā'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 Lā'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 Lā'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'ipō 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 Lā'au subdivision will have to run through a part of the Kamaka'ipō 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

TO: M.P.L. FAX 521-2279  
and P.B.R. FAX 523-1402

pg 1/2

Subject: Comments pertaining to D.E.I.S.  
for LA'AU Point Project

FROM: Ken BARE P.O. Bx 1235 KAUNAKAKAI, HI.

Comment #1: (Pertaining to Chapt 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 ever  
vote on the PLAN?  
Did the committee at Large Vote on the PLAN?  
IF NOT WHY?

Comment #2. (pertaining to 4.9.2 water)

pg 2/2

The discussion of water in the D.E.I.S. is  
incomplete.

Questions: IF salinity levels rise, at what  
level will M.P.L. stop OR reduce  
pumping from effected well? OR the  
Aquifer? What are the back up plans  
in case of misjudgements of the Water situation

Discussion: Given in the "PLAN" M.P.L. 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 Molokai outside  
M.P.L.'s holdings, and is relevant to this E.

Thank you,

Ken Bare Feb 23, 2007



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.

Mr. Ken Bare  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

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 DHHL;
- 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

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To whom it might concern:

ALOHA!!!!

My name is Keoki Mollena-Akina. I'm attending Molokai high school and I'm an 11<sup>th</sup> 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, kalalolo, 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

November 1, 2007

Keoki Mollena-Akina  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawaii'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Mollena-Akina:

Thank you for your letter regarding the Lā'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, kalalolo, 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.*

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



**From:** Brown Kevin [mailto:kboom@wave.hicv.net]  
**Sent:** Fri 2/23/2007 6:25 AM  
**To:** Tom Schnell  
**Cc:** mrogers@dbedt.hawaii.gov; oeqc@doh.hawaii.gov  
**Subject:** Comment on the La'au Point Draft Environmental Impact Statement

Comment on the La'au Point Draft Environmental Impact Statement

22 February 2007

To whom it may concern,

Of all the issues discussed in the La'au Point Draft Environmental Impact Statement (EIS,) the final end point of the debate comes at section 4.2.3 on page 57.

La'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 La'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 La'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

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 La'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 La'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 Lac 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.

Kevin Brown  
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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 (Kahalepōhaku) and fourth point ('Opihi 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  
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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 Inviromental 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.**

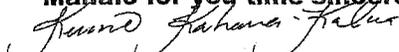
**Questions:**

**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.**

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, Kualapu'u, 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 the 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 Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



To Whom It May Concern:

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 id say would be the water. Where would the water becoming 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,

A handwritten signature in black ink, appearing to read 'Kian Phillips', written over a white rectangular area.

November 1, 2007

Kian Phillips  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Phillips:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *[H]ow 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 'ihi'ihilauakea (*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.

Mr. Kian Phillips  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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 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 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 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.

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: LĀ'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

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VIA FACSIMILE TRANSMITTAL

February 23, 2007

John Sabas, General Manager of Community Affairs  
Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, Hawai'i 96813  
Fax: (808) 521-2279

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Anthony Ching, Executive Officer  
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Genevieve Salmonson  
OEQC  
235 S. Beretania St. #702  
Honolulu, Hawai'i 96813  
Fax: (808) 586-4186

Re: Comments Regarding Lā'au Point Draft Environmental Impact Statement

Deans Mr. Sabas, Mr. Whitten, Mr. Ching and Ms. Salmonson:

Pursuant to the Hawai'i Administrative Rules §11-200, I am providing comments on your December 2006 Draft Environmental Impact Statement (DEIS) for Lā'au Point, Moloka'i. I am currently a student at the University of Hawai'i 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 Hawai'i Revised Statutes chapter 343, your existing analysis presents serious health and safety issues to the people of Moloka'i 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 (KKTC), a soil with high shrink-swell potential. The shrink-swell nature of these soils will impair the structural integrity of any buildings constructed at Lā'au Point if left unmitigated. The NRCS soil survey of 1972 recognizes that KKTC 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 (rRK) also has a high shrink-swell potential and "Buildings on the steep slopes are susceptible to sliding when the [rRK] 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 Lā'au. Any final EIS must examine whether or not wells can be dug in MmA soil specifically at Lā'au and the resulting environmental and cultural impacts of any such action.

Not all soils present in the proposed project area are disensed.

According to the DEIS, the *Soil Survey of the Islands of Kaua'i, O'ahu, Maui, Moloka'i, 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-Eroded, Pamoia Stony Silty Clay-Eroded) 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 Kaluako'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 EIS 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 'uhaloa, are present on Kapuhikani, Mala, Pamoia, Very Stony Land Eroded, and Holomua soils. Equally ignored is the existence of the native Puakeawe on Very Stony Land (rVS) that is also present in the proposed project area. Traditionally, stems, leaves, and root bark of 'uhaloa 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 Hawai'i where 'ihi'ihī continues to exist. 'Ihi'ihī 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'ihī.

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 Alish 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 2,297 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 Moloka'i soils are Oxisols. As seen in Table 1, when irrigated, HvA and MuA have "few limitations that restrict their use" as they are classified as type I [1]. HvB 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. IIvB3 and MuB3, both classified as IIIe, 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]. HvC3, 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 HvA 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 EIS should examine alternative uses of the various soil types with and without water.

Capability classification comparison for soils			Table 1
Soil	Capability classification - non irrigated	Capability classification - irrigated	Additional classifications
Soils where residential lots are proposed			
Kapuhikani Extremely Stony Clay (KKTC)	VIIc		Pasture group 1
Very Stony Land (rVS) and Very Stony Land, Eroded (rVT2)	VIIc		
Other soils in project area			
Pamoia Stony Silty Clay 5-20% slopes, eroded (PHD2)	Vlc		Pasture group 3
Beaches	VIIIw		
Moloka'i Silty Clay Loam 0-3% slopes (MuA)	IVe	I	Sugarcane group 1, pineapple group 1, pasture group 2
Moloka'i Silty Clay Loam 3-7% slopes (MuB)	IVe	IIe	Sugarcane group 1, pineapple group 2, pasture group 2
Moloka'i Silty Clay Loam 3-7% slopes, severely eroded (MuB3)	IVe	IIIe	Sugarcane group 1, pineapple group 2, pasture group 2
Holomua silt loam 0-3% slopes (HvA)	Vlc	I	Pineapple group 1, pasture group 1
Holomua silt loam 3-7% slopes (HvB)	Vlc	IIe	Pineapple group 2, pasture group 1
Holomua silt loam 3-7% slopes, severely eroded (HvB3)	Vlc	IIIe	Pineapple group 2, pasture group 1
Holomua silt loam 7-15% slopes, severely eroded (HvC3)	Vlc	IVe	Pineapple group 3, pasture group 1
Mala Silty Clay 0-3% slopes (MmA)	Vlc	I	Pasture group 1

Source: Soil Survey of the Islands of Kauai, Oahu, Maui, Moloka'i, 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"> <li>If mulch is used, pineapple can be grown without irrigation in areas where the annual rainfall is less than 25 inches.</li> <li>Yields amount to 35 to 45 tons per acre for the plant crop and 25 to 35 tons per acre for the ratoon crop.</li> </ul>	HvA, MuA, HvB, HvB3, MuB, MuB3, HvC3
Sugarcane group 1	<ul style="list-style-type: none"> <li>Yields are 12 to 15 tons per acre per crop.</li> </ul>	MuA, MuB, MuB3
Pasture group 1	<ul style="list-style-type: none"> <li>Well-managed improved pasture produces 1700 to 2600 pounds of air-dry forage per acre per year.</li> <li>Improvements are difficult in stony areas (KKTC) and eroded soils (HvB3, HvC3).</li> <li>Total production on unimproved pasture is 400 to 1300 pounds of air-dry forage per acre per year.</li> </ul>	KKTC, HvB, HvB3, HvC3, MmA
Pasture group 2	<ul style="list-style-type: none"> <li>Well-managed improved pasture produces 1400 to 2600 pounds of air-dry forage per acre per year.</li> <li>Improvement is difficult on eroded soils (MuB3).</li> <li>Total production on unimproved pasture is 700 to 1700 pounds of air-dry forage per acre per year.</li> </ul>	MuA, MuB, MuB3
Pasture group 3	<ul style="list-style-type: none"> <li>Well-managed improved pasture produces 2000 to 4800 pounds of air-dry forage per acre per year.</li> <li>Total production on unimproved pasture is 1000 to 2000 pounds of air-dry forage per acre per year.</li> </ul>	PJD2

Source: *Soil Survey of the Islands of Kauai, Oahu, Maui, 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-E, 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 EIS 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 EIS.

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, erodability, 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].

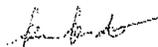
The fourth classification system must be discussed.

The fourth system, the Land Evaluation and Site Assessment (LESA) System, combines five soil 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.

Mahalo for the opportunity to comment.

Very Truly Yours,



Kim Kido

#### References

- [1] Soil Survey of the Islands of Kauai, Oahu, Maui, Moloka'i, and Lanai. USDA Soil Conservation Service in cooperation with Univ of 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.ctahr.hawaii.edu/awq/presentations.asp>>.
- [4] Abbott, Isabella Aiona. Lā'au Hawai'i: Traditional Hawaiian Uses of Plants. Honolulu, Hawaii: Bishop Museum, 1992.



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 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.*

**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

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 Kamāka'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 (MmA) in sub-section 3.3.1... Any final EIS must examine whether or not wells can be dug in MmA 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 Vlc, 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 Vlc, nonirrigated. Only a small portion of the proposed access road, as well as a portion of the Cultural Protection Zone at Kamāka'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 Vlc, 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, ilima and/or uhaloa are present on Kaphukianis, Mala, Pamoia, Very Stony Land Eroded, and Holomua soils. Equally ignored is the existence of the native Puakeawe 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. Ilima 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'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 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: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

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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 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 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 renovation 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 positive 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 renovating the Kaluakoi Hotel it will increase tourism as well as increase revenues for other businesses on Molokai.

As a Hawaiian living on Molokai I believe that this will have a real positive 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 considered home to many of our endangered species, wildlife, as well as endangered plants that you cannot see anywhere else 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

A handwritten signature in black ink that reads 'Kirk K. Kiaha'.

November 1, 2007

Kirk K. Kiaha  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Kirk:

Thank you for your letter regarding the Lā'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,

A handwritten signature in black ink that appears to read 'Peter Nicholas'.

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,

My name is Kodah Kalawe-English. I'm a 12<sup>th</sup> grade student at Molokai high School. I am writing this in concern of the wastewater that will take place if La'au is developed.

I read the Draft Environmental Impact Statement on page 83 on wastewater. I understand that if La'au Point gets developed it's anticipated that wastewater will use as much as 20,000 - 70,000 gallon's per day. I feel that is to much water being used for wastewater. 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. 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 La'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 La'au Point.

Sincerely, Kodah A. Kalawe-English

A handwritten signature in black ink that reads 'Kodah A. Kalawe-English'. The signature is written in a cursive, flowing style.

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 gallon'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 Kākalahale Well will not cause salt water to intrude on freshwater. In West Moloka'i, the basal aquifers do not have a potable water lens

Kodah A. Kalawe-English

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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 Kākahale Well site. The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

Withdrawing brackish water from the Kākahale 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)."

Kodah A. Kalawe-English

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

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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 La'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 Kākahale 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: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

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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 on 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,

A handwritten signature in cursive script that reads 'Kyle Kaiama'.

Kyle Kaiama

November 1, 2007

Kyle Kaiama  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Kaiama:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments about the animal and marine life at Lā'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 Lā'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 Kaiama  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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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

Peter Nicholas & John Sabas  
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Honolulu, HI 96804

Genevieve Salmonson  
OEQC  
235 S. Beretania St. #702  
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.<sup>1</sup>

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;

<sup>1</sup> 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."<sup>2</sup> 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's "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.

<sup>2</sup>

*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.<sup>3</sup> 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).

##### 1. Delegation of Responsibilities to the Moloka'i 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 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.

<sup>3</sup> 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.

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 disinterment 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 '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 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**

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 Waiola 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, 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 Moloka'i. 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 Moloka'i 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 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 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.



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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 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 bow 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 Moloka'i 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 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.*

**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 deeded 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 (Pāpōhaku Ranchlands) does not yet have an adequate inventory survey. MPL will survey the Pāpōhaku Ranchlands parcels that will be affected by the road corridor through the area. This commitment does not extend into TMK 5-1-02-030. 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 archeologist will occur. In their July 5, 2006 comment letter on the EISPN, 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 La'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 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.*

**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 Waiola 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 Kākahāhale 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 Kākahāhale Well" and "Waiola 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*

*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 Kākahāhale 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 Waiola 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 would 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 Molokai, varying as much as 18-fold between Kawela and Kamiloloa. 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 Kākahāhale 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 Kākahāhale 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 Molokai's capacity to import everything from food and furniture to building supplies and home furnishings. The*

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*proposed La'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. Witten, PBR HAWAII

**From:** Lehua [mailto:nalej@hele.net]  
**Sent:** Sunday, January 21, 2001 1:14 PM  
**To:** Tom Schnell  
**Cc:** luc@dbedt.hawaii.gov; oeqc@doh.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 Kakahahale Well. Especially in relation to drought of recent decades.

Specifically, taro farmers in the Kainaohe pond area are reporting crop damage due to salt water ingress into coastal

wetland ponds. These Kainaohe wetland taropatches need to be included in final EIS. If this salination is already occurring due to natural drought conditions without any use of Kakahahale Well, then would any well use exacerbate this condition?

\* If Kakahahale 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.

Forigners cannot own a major interest in Phillipines land the ownership of condos on treased land is permitted. otherwise much of the population of some smaller islands could be dispossessed. Many foreign counties 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



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 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 Pāpōhaku 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*

Ms. Lehua Shelley  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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*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 Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'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 Kainaohe pond area are reporting crop damage due to salt water ingress into coastal wetland ponds. These Kainaohe 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 Kakahahale 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 Kamiloloa 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 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.*

**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 Moloka'i. 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. Lehua Shelley  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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*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 dispossessed. 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



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  
Data @ Lā'au  
HC01 Box 760  
Kaunakakai, HI 96748

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 Stone*

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

central delivery  
Kauaekakai, Molokai, HI 96748



we the people molokai are asking for  
a extension on the la'au point meeting Community Public  
meeting and I am against the development  
of la'au point thank you for listening to me  
Comments.

abha Lapaka Ocampo

January 16, 2007

Lopaka Ocampo  
c/o Walter Ritte  
P O Box 486  
Kauaekakai, 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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

Loretta Ritte  
P.O. Box 486  
K'kai 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: *Aloha Loretta*

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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control



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, Kumu Mahina Hou I was born and raised on this island and I can recall as a child walking through our little Kaunanakakai 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 unlock 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 things 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, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Young:

Thank you for your letter regarding the Lā'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 Lā'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 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.

- 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 Lōkāhi-Moloka'i Enterprise Community to create sustainable economic solutions

Lorina S.M. Young

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

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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 Moloka'i into a "city." Regarding your concern about the loss of Hawaiian culture, 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 (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'ukapele 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 2/3<sup>rd</sup> 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 Kamiloloa 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 2/3<sup>rd</sup> 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,

A handwritten signature in black ink, appearing to read 'Peter Nicholas', is written over a light blue horizontal line.

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

O:\JOB17\1733.10 Molokai Ranch-Laa Pt EIS\EIS\DEIS\Comment letters\Responses\Individuals\Final\Louise Bush.doc

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 Moloka'i Ranch Ltd. or Moloka'i Properties Ltd.) filed for a permit to dig, pump, and transport water from Kamiloloa 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 La'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, 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.*

**Response:** The shortage of water available to Hawaiian Homesteaders is not due to a scarcity of water resources on Moloka'i. Instead, the lack of infrastructure has hampered DHHL's ability to meet the demands of its homesteaders. Since 1995 DHHL has had a reservation right to develop another 2.905 mgd of groundwater in the Kualapu'u aquifer. When DHHL requested that amount, it was anticipated that it would meet the domestic and agricultural water needs for DHHL lands in Ho'olehua and Kalama'ula. In 1996, DHHL proposed to pump some of that reservation amount out of its existing wells in Kualapu'u. Because there already were indications of localized upconing due to the close proximity of the two DHHL wells and the County well, Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. At the time, DHHL was not willing to consider a new well site.

Study-file EIS  
Comments

Feb 22, 07  
LAND USE COMMISSION  
STATE OF HAWAII

TO: Anthony Ching  
State Land Use Commission  
FROM: Maikaila Purdy  
Born and raised on MoloKai  
3rd generation homesteader  
(Late a.k.a.)  
but one of two  
postmarks 2/23

SUBJECT: Request for Comments, Draft  
Environmental Impact Statement  
(DEIS) for the La'au Pt. Project  
Located at TMK: 5-1-002: 030  
(Portion), Kaluakoi, Island of  
MoloKai, Hawaii (EAC 2006/0017)  
(CPA 2006/0009) (CZ 2006/0015)  
(SMI 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  
Conservancy addressing or enforcing  
laws on this issue of overfishing?

Feb 22, 07  
Page 57 Cultural Resources and Practices  
paragraph #2

1. How will the discovery of the  
rare 'iki iki 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 La'au pt.?
5. Because it is an endangered species,  
it is protected by and under Federal  
law. This will surely have an affect  
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?

IV

Page 51 Spiritual Resources  
paragraph #2

Feb. 22, 07

1. By developing Lā'au pt. how will  
or how can the majority of the people  
of Molokai maintain the "spiritual  
mana and power"?

Page 51 Water

About 3 weeks ago on channel 14 came 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"?

mail response to:

Makaila Purdy  
P.O. Box 94  
Kualapu'u, HI 96757

Muel Nabele  




November 1, 2007

Makaila 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 Molokai residents will be able to fish for subsistence,

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 La'au Point?
5. Because it is an endangered species, it is protected by and under Federal law. This will surely have an affect 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 La'au Pt. how will or how can the majority of the people of Molokai maintain its "spiritual mana and power"?

**Response:** Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lae O Ka 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 Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Malia K H Akutagawa, Esq.  
PO Box 1715  
Kaunakakai, HI 96748

February 23, 2007

Peter Nicholas/Harold Edwards  
Molokai Properties Limited  
745 Fort Street Mall, Ste. 600  
Honolulu, HI 96813

Thomas Witten  
PBR Hawaii  
1001 Bishop St., Ste. 650  
Honolulu, HI 96813

Anthony Ching  
State Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804

Genevieve Salmonson  
OEQC  
235 S. Beretania St. #702  
Honolulu, HI 96813

Dear Messrs. Nicholas, Edwards, Witten, Ching and Ms. Salmonson:

**Subject: COMMENTS ON DEIS FOR LĀ'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' ihilauakea (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' ihilauakea (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

Peter Nicholas/Harold Edwards  
Thomas Witten  
Anthony Ching  
Genevieve Salmonson  
February 23, 2007  
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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. Lawa'ia (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 makai 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  
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February 23, 2007  
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#### **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 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.

#### **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 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 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 Irretrievable 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  
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February 23, 2007  
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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;
  - 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 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 Salmonson  
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#### 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  
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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 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.

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.

Mahaio for this opportunity to comment.

Sincerely,

  
Malia K. H. Akutagawa



November 1, 2007

Malia K.H. Akutagawa  
P.O. Box 1715  
Kaunakakai, Hawai'i 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](http://luc.state.hi.us/docs/luc_rules.pdf)>.

**Endangered Species**

1. *'Ihi'ihilauakea (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'ihilauakea (*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?

**Response:** We confirm that ihi'ihilauakea 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 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 only the 'ihi'ihilauakea (*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'ihilauakea 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 deeded to the Land Trust, is also covered by the SAMP. This will The provisions of the SAMP include managing this the significant 'ihi'ihilauakea population, including possible opportunities to use for private landowner "safe harbor" conservation programs. The 'ihi'ihilauakea might also benefit from habitat created by any settling ponds planned for the site. The key to protecting the 'ihi'ihilauakea 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 stimulate 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.

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 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.*

**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 re-populate 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

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 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 Kamāka'ipō (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 of 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 of 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, 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.*

**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

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 m<sup>2</sup> to 26 m<sup>2</sup>, 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 m<sup>2</sup>) that may contain one burial, and a much larger mound (41.4 m<sup>2</sup>) 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 1m<sup>2</sup> to 5.3m<sup>2</sup> 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 5m<sup>2</sup>, 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 m<sup>2</sup> 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 m<sup>2</sup> to 12 m<sup>2</sup>) that could contain a single or multiple interments. The enclosures, from 5 to 15 m<sup>2</sup> in area, could each also have one or more

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 m<sup>2</sup> size range, each capable of containing 1 – 2 individuals
- Site 1154 (B5-113): Two mounds in the 1.8 – 2.5 m<sup>2</sup> size range, each containing a possible burial.
- Site 1155 (B5-114): Two mounds in the 3.8 – 6.4 m<sup>2</sup> 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 m<sup>2</sup>, 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 m<sup>2</sup> in area, containing one or two possible burials.
- Site 1174 (B5-133): Mounds (4) and platforms (3) ranging from 2.25 to 14 m<sup>2</sup>, 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

*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.*

**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 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; 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 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?*

**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 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.*

**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 Lā'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, desalinization 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 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.*

**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 Molokai 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/Molokai 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 Molokai 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 Molokai 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 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.*

**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 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.

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,

*Malia Wait*

January 16, 2007

Malia Wait  
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. Wait:

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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

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 La'au Point on Molokai. Thank you

Malia A. Waits

P.O. Box 973

Kaunakakai, HI

96748

Will the proposed La'au point development have any effect on the shoreline habitat?

Will the proposed Re-opening of Kaluakoi hotel effect the shoreline habitat in any way at Kaluakoi?

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 La'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 La'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)(3) 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 La'au Point?

How will the Molokai Properties Limited expand educational opportunities that will build capacity among the islands youth by developing La'au Point?

Will the subsistence farmers or fishermen on the east side of Molokai benefit from the proposed La'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 Kalvakoi 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 Kalvakoi resort?

What is the expected future growth be at Kalvakoi properties?

Why would Molokai Properties Limited like to develop Kalvakoi Hotel?

Will the proposed houses on La'au point have swimming pools?

How will the development of La'au point benefit the Native Habitat?

What effects will the development of La'au point have on the local Monk Seal population?

How will the erosion from the development of La'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 La'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 La'au point?

How did Molokai Properties Limited acquire the (EC) 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 La'au development residents?

Are the trustees that go through extensive training in the duties and obligations of a land trust employees of Molokai Ranch?



November 1, 2007

Malia A. Waits  
P.O. Box 973  
Kaunakakai, Hawaii 'i 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 La'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 Kaluakoi hotel affect the shoreline habitat in any way at Kaluakoi?*

**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'ipō Gulch on the west end of the Lā'au Point purposed 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'ipō 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.

4. *Who will be legally responsible for all comments and questions to be included in the next Moloka'i 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 Moloka'i 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 (Moloka'i Land Trust)."

The Moloka'i Land Trust is a private, non-profit corporation organized under Hawai'i 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.html>>.

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 Moloka'i Properties Limited?*

**Response:** As stated in Section 2.1.8 (Moloka'i 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 Moloka'i 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 island's 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 Moloka'i 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 Moloka'i?*

**Response:** The EIS does not make a claim that water use for Lā'au Point will benefit agriculture. The increase of water to Lā'au Point will provide additional infrastructure and resources for the transportation of non-potable water to the west end of Moloka'i. 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 Moloka'i. 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 Moloka'i 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 Waiola O Moloka'i. 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 Lā'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 Moloka'i?*

**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 Lā'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 Lā'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 Moloka'i. 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 surplus 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 Lā'au development, 200,000 gpd is proposed for future expansion of Maunaloa and Kualapu'u, and the balance is needed to

address future demands from existing developed lots, the renovation of the Kaluako'i Hotel, and existing Ranch uses. The Kākalahale 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 Properties 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

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 Properties 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.

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 La'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 La'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 Kaluako'i 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

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 La'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.

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November 1, 2007  
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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: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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  
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Attention: Thomas Witten  
Telephone: (808) 521-5631  
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Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear 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



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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 Moloka'i 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 Moloka'i 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 Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Molokai's water resources, by minimizing drinking (potable) water use.

Since the Lā'au Point project is the primary financial component to achieve the Plan's objectives, non-implementation of the project means that most, or all, of the 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

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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)." 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 Lōkāhi-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 Lā'au Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span (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.

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Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 3.7 (Fauna)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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February 23, 2007  
 Marty Johnston  
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 ASB Tower, Suite 650  
 Honolulu, HI 96813  
 Attention: Thomas Witten  
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Laaupoint Project  
 Environmental Impact Statement

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.

1

had a thriving "local" community, one that was locally based and locally fed. In general the maka'ainana 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 neva' 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.

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.

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

3

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 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 Practicioners; 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.

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

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

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 Laau 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 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.

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.

Sincerely,

Marty Johnston

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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  
Kualapu'u, Hawai'i 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 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. ¶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*

*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.*

**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. *Mauī 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'ainana 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 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.

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 Moloka'i'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

Peter Nicholas/John Sabas  
Thomas Witten  
Anthony Ching  
Genevieve Salmonson  
February 21, 2007  
Page 1

Matt N. Yamashita  
PO Box 265  
Kaunakakai, HI 96748  
[molokaimatt@hotmail.com](mailto:molokaimatt@hotmail.com)

February 21, 2007

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

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  
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  
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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 "New"Town" 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

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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

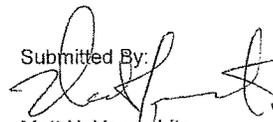
Peter Nicholas/John Sabas  
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having been given no due consideration, dissolved itself from the EC process early in 2006.

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 Salmonson  
February 1, 2007  
Page 1 – Attachment #1

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  
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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 8<sup>th</sup> 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

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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  
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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.

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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 Moloka'i 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 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.

**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 Lā'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 Lā'au Development Committee (ALDC) and an outside planning consultant were funded and sponsored by the EC to find alternatives to the Lā'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?*

Matt Yamashita

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

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**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 Vanderbilt in late 2003.

Subsequently, at least one alternative was raised by Professor Luciano Minerbi, professor of urban planning from UH Manoa 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 Moloka'i 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 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. ¶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.

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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 LUC 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 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? ¶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.*

**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 Kākahalahale 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 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. ¶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 reelected 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

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 Lā'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 Lā'au Point, and his proposal to site 50 "view-shed lots" at Lā'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 Lā'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

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 Lā'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 Lā'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  
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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

Melody Vila  
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February 23, 2007

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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  
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Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

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, Hawai'i. 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

continue this proposal because it will hurt the people who care about their native land.

Sincerely,

  
Melody Vila



Ms. Melody Vila  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Peter Nicholas', is written over a light-colored background.

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

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 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 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 Moloka'i 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 Moloka'i 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 Kaluako'i Hotel and upgrading the golf course, thereby bringing these jobs back to Moloka'i.

Therefore, if Lā'au Point is carried out, and the Master Plan moves forward, the Moloka'i community will have control over these lands, cultural and environmental resources and funding sources. Hawaiians and other Moloka'i 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.

OEQC

**From:** Mike Pate [positivepate@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 La'au area)

Dear Ms. Antolini,

We have watched the process and news surrounding the La'au development with growing frustration. We want to add our voice of SUPPORT to Moloka'i Ranches planned La'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 Moloka'i. 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 Moloka'i 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

positivepate@gmail.com



November 1, 2007

Michael and Michele Pate  
[no address provided]  
Email: positivepate@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,

A handwritten signature in black ink, appearing to read 'Peter Nicholas', written in a cursive style.

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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OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

Paulette Rodriguez Lopez  
1750 Kalakaua #1711, Honolulu, Hawaii, 96826  
413-446-9595/08pmr@williams.edu

February 23, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. 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."<sup>1</sup> 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

<sup>1</sup> McGregor, Davianna. *Na Kua'aina: Living Hawaiian Culture*. Honolulu: University of Hawaii Press, 2007, pp 247.



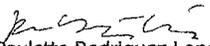
Big Island must earn around \$50,000 to be self-sufficient.<sup>2</sup> This is a result of development strategies that focus on tourism, which tends to inflate living expenses. If what has occurred in other islands materializes in Molokai, the result will be increased costs of living and a widening 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."<sup>3</sup> 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 "duodecuples" last year's election.<sup>4</sup> 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

<sup>2</sup> Vorsino, Mary. "33% in Isles not Self-Sufficient." *Honolulu Advertiser*. Feb. 3 2007.

<sup>3</sup> Id. 248

<sup>4</sup> Purtzer, Brenan. "Mandate: Bridget Mowat and Leila Stone win Molokai EC Election by solid margin." *Molokai Times*. Jan. 31 2007

<<http://www.molokaitimes.com/articles/7131225346.asp>>

November 1, 2007

Paulette Rodriguez Lopez  
1750 Kalakaua #1711  
Honolulu, Hawai'i 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 Kaluako'i Hotel as a mid-range hotel. Funding for the Kaluaki'o 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.

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

Ms. Paulette Rodriguez Lopez  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

development at Lā'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-Lā'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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for 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

Ms. Paulette Rodriguez Lopez  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 3 of 3

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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Peniela 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,

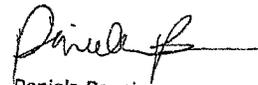
Mr. Witten  
February 23, 2006  
Page 2

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,

  
Peniela 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,

A handwritten signature in black ink, appearing to read "Peter Nicholas".

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

Peniela Penniman  
P.O. Box 240293  
Honolulu, Hawaii 'i 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 Moloka'i" 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 Moloka'i 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.

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) Aloh,

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 on Lā'au Point drafted by Peter Nicholas - Molokai Properties Limited.

) Manana,

*Rachelle K. Kupau*  
P.O. Box 528 Hialeah HI 96729  
Course 14

January 16, 2007

Ms. Rachelle Kupau  
P.O. Box 528  
Hoolehua, Hawaii 96729

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Kupau:

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

RECEIVED

FEB 21 2007

PBR HAWAII

To whom it may concern:

Hello my name is Raina Awapuhikeokeo Puaoi 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 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 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 Awapuhikeokeo Puaoi

A handwritten signature in black ink, appearing to read 'Raina A. Puaoi', written in a cursive style.

November 1, 2007

Raina Awapuhikeokeo 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 Kākahale 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 Kākahale 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 Awapuhikeokeo Puaoi  
SUBJECT: LĀ'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 ihi'ihilauakea 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 ihi'ihilauakea (*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

RECEIVED

FEB 23 2007

PBR HAWAII

Randy Bautista  
2240 Kuhio Ave. #681B  
Honolulu, HI 96815  
rpb@hawaii.edu

February 21, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

Moloka'i remains the last Hawaiian island of its kind where much of the land remains undeveloped and pristine and where the people are still innocent, trusting and vulnerable. Moloka'i is an island where the Hawaiian culture is still alive and not just a museum piece. These things make up the real richness of our island. It is an area historically used by residents for subsistence--gathering and hunting. By continuing with the proposed subdivision plans, you will be ruining what has been untouched for numerous years.

The entire plan seems to follow the traditional real estate/tourism model that has devastated the working class of other Hawaiian islands by driving up equity on real estate and ultimately

creating a drastic increase in the local cost of living index. This model works to the distinct advantage of outside investors and to those in the real estate industry but fails the average family.

By turning it into a luxury subdivision, you will perhaps affect the endangered Hawaiian monk seal. What will be the impact of run-off from the proposed developments on the Hawaiian monk seal habitats along the south and west shores downhill from this development? Has this impact been quantified? Who will be responsible for monitoring the long-term impacts and who will bear the cost? The problems seem endless. What about water? A lot of those who live on Moloka'i are there for agriculture and do note that agriculture is *not* dead on Moloka'i. These luxury lots are threatening the agricultural water. Moloka'i has a water crisis. There isn't enough water to support existing and approved development on the island now. And now, Moloka'i Ranch wants to pump one million new gallons a day to support its Lā'au Point development plans? If you notice, three of Moloka'i's drinking water wells are going salty: county's well at Kawela, at 'Ualapu'e and DHHL's well at Kualapu'u. Water is not an inexhaustible resource. Where will this water come from and how much water will be required? And what about social impact of the development? Take for example, what has happened on Lana'i where the division between haves and have-nots have caused a significant increase in the island's social problems.

The community has already decided and that decision is NO!

Sincerely,



Randy Bautista



Randy Bautista  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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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.

#### **Run-Off**

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.

#### **Water**

MPL believes that there is ample ground and surface water to meet DHHL's and the County's needs while still supporting MPL's plans for all of its lands. MPL's Water Plan does not adversely affect either DHHL's or the County's ability to develop the water resources they need for future uses.

MPL has committed to using only existing sources, at currently permitted amounts, to meet all of the potable water needs for its current water customers and MPL's future developments proposed under the Master Land Use Plan. A new non-potable source is being proposed. Currently, permitted uses for potable water from Well 17 include more than 600,000 gpd for irrigation uses. When non-potable water from the Kākalahale Well becomes available, those irrigation uses that are now supplied with potable water will utilize the new non-potable source, thus freeing up sufficient potable water to meet the demands of the Lā'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.

November 1, 2007

Randy Bautista  
2240 Kuhio Avenue, #681B  
Honolulu, Hawai'i 96815

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Bautista:

Thank you for letter dated February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

#### **Real Estate**

As discussed in Section 4.8.2 (Housing) and Appendix L (Hallstrom Letter) of the Draft EIS, the Lā'au Point project is not expected to affect real property taxes. According to the Hallstrom Group (2006), assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself.

#### **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.

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

Randy Bautista

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The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale 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 Kākahale 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 Kākahale 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 Kākahale 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, desalinization 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.

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

Randy Bautista

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November 1, 2007

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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.

Long-term water requirements for the lands that MPL will develop or continue to own will not exceed 1,500,000 gallons per day of potable water. Potable water requirements will be met through the existing 1.018 mgd existing allocation for Well 17 in the Kualapu'u aquifer and by treating surface water developed by Molokai Ranch's mountain water system.

Long-term non-potable water needs for irrigation can be met with water that is currently developed by Molokai Ranch's mountain water system plus another 1,000,000 gallons per day from the Kākahale non-potable well. These amounts will satisfy current uses, future uses following reopening of the Kaluako'i Hotel and development of Lā'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.

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)."

#### **Social Impacts**

Section 4.8 (Social and Economic Characteristics) and Appendix M (Social Impact Assessment) of the Draft EIS provided discussion of the project's social impacts and mitigation measures. The Social Impact Assessment (SIA) studied the Lāna'i situation as a possible model of potential social impact. The SIA found that the Lāna'i model illustrates how a rapid shift from a single-product agribusiness to a resort and luxury development caused significant social disruption. The SIA further found that implementation of Lā'au Point would not result in similar social conditions. Moloka'i has traditionally exhibited self-reliance and independence, whereas Lāna'i residents historically accepted the decisions of the island's predominant employer. Also, whereas Lāna'i had only one option for change, Moloka'i has multiple options for change, including economic forces and development projects. Therefore, the economic disparities that exist on Lāna'i are not expected to occur on Moloka'i due to the Lā'au Point project.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Randy Bautista  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 5 of 5

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachments:  
Revised Section 3.7 (Fauna)  
Revised Section 4.9.2 (Water)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



To whom it may concern

My name is Ricky Greenleaf I am 17 years of age and also a senior at Molokai High , I have been hearing a lot about the issues and the problems that have been going on for the past years or so. I really don't think that the plan will work it will just be a waste of money speaking of money that is all that the Molokai Ranch is interested in the money but what they don't realize is that there is why more important things in life instead of money . What my topic was on is burial sites that is the most important thing I think besides the water and every thing else there is Mana in the place and there are buried bones every where and every house that is going to be build is next or on the graves that is very wrong what they don't realize is what if the houses become hunted will some one want to live there (no) the houses will be left vacant and they have built the houses for nothing and destroyed every thing at la'au all for nothing . Money is very important to the haoles and every one else at times as well but they should put that money issues on the side and think what is really going on there will be house on the bones of your ancestors we don't know so why take that risk on developing, You know some things are better left alone and I think that la'au is one of the few places in the world that needs to just be left alone

Mahalo for your time sincerely

Ricky Greenleaf

A handwritten signature in black ink that reads 'Ricky Greenleaf'.

November 1, 2007

Ricky Greenleaf  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Greenleaf:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about burial sites at Lā'au.

We note that the roadways and residential lots will avoid cultural and archaeological sites (see Section 2.3.1 (Protected Areas) of the Draft EIS). 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 Section 4.1 of the Draft EIS, 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.

According to the Burial Treatment plan (provided in 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.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in black ink that reads 'Peter Nicholas'.

Peter Nicholas  
President and CEO  
Molokai Properties Limited

Mr. Ricky Greenleaf  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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Rydge-Alan Villa  
P.O Box 453 Kaunakakai HI' 96748



To Whom It May Concern:

During my discovery of the La'au statements I have stand neutral through out every issue there had been. I am a Molokai resident and many generations of my family have been living here as well. I didn't really care about La'au but now that I know the facts of what is happening I can see why people like Walter Ritte and others are concerned about La'au. But at the same time I see why Collette Machado had statements why she wasn't with the plan. She wasn't really against it just not for it.

Molokai residents tend to make there own problems I say. Like the MacAfee incident where a resident of Molokai sold land to this man. This land was rightfully his where he brought it and tried to invest in it. If we are concerned about these issues people should take a better responsibility and come out with it to the community before selling things. We cannot blame the person who brought the problem but the people who started it.

I'm not saying the citizens itself but the person who took it into there own hands to sell their lands.

Molokai Ranch had an opportunity to come out to the community first to tell them about there actions made but instead, went on and persist on to start newer problems. Fixing up Kaluakoi hotel was a great idea but selling land wasn't the only options. I think they sold La'au because it was the fastest option.

Therefore I keep my peace between both sides where better comes out from doing little things.

Aloha, Rydge-Alan Villa

A handwritten signature in black ink, appearing to read 'Rydge-Alan Villa', written over a horizontal line.

November 1, 2007

Rydge-Alan Villa  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Villa:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *I didn't really care about La'au but now that I know the facts of what is happening I can see why people like Walter Ritte and others are concerned about La'au. But at the same time I see why Collette Machado had statements why she wasn't with the plan. She wasn't really against it just not for it.*

**Response:** We acknowledge your comment. Please note that Colette Machado is one of the strongest supporters of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan).

2. *Molokai Ranch had an opportunity to come out to the community first to tell them about their actions made but instead, went on and persist on to start newer problems. Fixing up Kaluako'i hotel was a great idea but selling land wasn't the only options. I think they sold La'au because it was the fastest option.*

**Response:** We respectfully disagree with your comment. We came to the community in 2003 to create the comprehensive 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 is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i.

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 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 Moloka'i 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 Moloka'i 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 Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.

Mr. Rydge-Alan Villa

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

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- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Molokai's water resources, by minimizing drinking (potable) water use.

Since the Lā'au Point project is the primary financial component to achieve the Master Plan's objectives, non-implementation of the project means that most, or all, of the Master Plan may not be realized.

Please also note that Lā'au Point has not been sold, and the implementation of the Master Plan, which includes this project, was not "the fastest option." The Master Plan 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).

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

January 9, 2007



TO Thomas S. Witten ASCA  
President  
PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813

DR MR. Witten

As part of the Molokai community my family would like to ASK FOR a 60 day extension of the Lā'au Point EIS Public Comment period. We would like to have more time since many of us were busy during the holidays

Thank you for your consideration

Scot Schafer  
Scot Schafer  
P.O. Box 1308  
Kaunakakai, HI 96748

January 16, 2007

Scot Schafer  
P.O. Box 1308  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. Schafer:

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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control



To whom it may concern,

Aloha! My name is Moana Milia Maliu- Calairo, I am in the leading class of the Hawaiian immersion program, which locates at Molokai High School. I am a 17yearold student who are doing a class assignment that was given to us by our teacher, so I want to talk about the drainage for the la'au point development.

I've read about the drainage, and it talks about how much water is being transmitted, about 9,000 feet north of the la'au point project site. It had said that water from well 17 is transported via rental space in the Moloka'I irrigation system to Mahana. The Kaluako'I system does not use MIS water. And it's been put in about 1,111,111 gallons of water for every 1,000,000 gallons it takes out at its Mahana pump station, and the total amount to about 30,000,000 gallons.

From Mahana pump station water is then pumped to a 7,000,000gallon reservoir at Pu'u Nana for treatment. The water that is been treated is then piped to a 3,000,000gallon reservoir in Maunaloa and gravity fed to Kaluako'i.

Questions:

1. How can more water be transmits to La'au point?
2. Does La'au point really need's the water?

I feel that no one should develop any housings down the La'au point area, because there is no water for the people to use, and taking so much water from mahana is not a good idea, because then we would be lack of water.

Sincerely,

  
Shardae M. Maliu- Calairo

November 1, 2007

Shardae M. Miliu-Calairo  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Miliu-Calairo:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Your comments deal with water even though you have used the term, "drainage."

In connection with the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), we developed a proposed Water Plan. A copy of the proposed Water Plan is provided as Chapter 6 in the Master Plan (Appendix A of the Draft EIS). A key feature of the Water Plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the current customers of the two private water systems operated by MPL and MPL's future developments proposed under the Master Plan.

Water is necessary for the use of the homeowners and to maintain the parks and cultural sites. We are seeking to transmit Kākalahale brackish water across existing easements through existing pipelines.

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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RECEIVED

Shona Barnes  
92-648 Malahuna Loop  
Kapolei, HI 96707

FEB 21 2007  
PBR HAWAII

February 19, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

Dear Mr. Nicholas:

I am writing you today regarding the DEIS for the La'au Development on Moloka'i. I have had the privilege of visiting Moloka'i on several occasions and was impressed by the quiet, rural lifestyle so different from what I experience on Oahu. Living on Oahu, all of us are battered everyday from the congested roadways, petty crime and high real estate that make it difficult to remember what paradise once was. Moloka'i has escaped these pitfalls and remains a place where Hawaiian values still exist.

Now, Moloka'i Ranch wants to bring large development to a pristine area of west Moloka'i, La'au Point. The Master Plan proposed trades over 20,000 acres of kiawe filled, mostly unusable land for La'au, in order to cater to the desires of millionaires to have yet another piece of Hawai'i's beautiful coastline. Issues regarding the social impact of the plan have not been adequately addressed in the DEIS. Will Moloka'i become an economically stratified place of have's and have not's? Will local folks struggle to hold on to their homes because a drastic rise in real estate values caused by the development? Will an "ownership" mentality among the homeowners prevent public access to La'au to the local community? How will traditional cultural practices of native Hawaiians at La'au be affected? Will a small minority of homeowners use their wealth and connections to politically control the island and allow for further development? These questions as well as the overwhelming disapproval of Moloka'i residents to the plan have been ignored. The recent election of anti-La'au development candidates to the Moloka'i Enterprise Community with 66% of the vote, show that the "silent majority" often discussed by Moloka'i Ranch executives have spoken – and they are not in support of the Masterplan for La'au Point.

Please consider the social impact to Moloka'i that may be caused by this development. Let us not repeat the mistakes of the past and allow Moloka'i to become another Maui or Oahu. Stop development at La'au and keep the Moloka'i way of life preserved for future generations.

Sincerely,

  
Shona Barnes

Cc: Thomas Witten, PBR, Anthony Ching, State Land Use Commission, Office of Environmental Quality Control.



November 1, 2007

Shona Barnes  
92-648 Malahuna Loop  
Kapolei, Hawai'i 96707

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Barnes:

Thank you for letter dated February 19, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *Issues regarding the social impact of the plan have not been adequately addresses in the DEIS. Will Moloka'i become an economically stratified place of have's and have not's?*

**Response:** Social impacts were previously discussed in Section 4.8 of the Draft EIS, and the Social Impact Assessment was included as Appendix M.

We note that Lā'au Point will not add a new element of luxury housing on Moloka'i as "luxury" housing is evident all over the island. Interaction between people of different economic status is already occurring, and stratification is not evident.

2. *Will local folks struggle to hold on to their homes because a drastic rise in real estate values caused by the development?*

**Response:** Increase in real estate values due to new development typically occurs in immediate proximity to the new development and when infrastructure, such as roadways and water lines, are improved. Pāpōhaku Ranchlands and Kaluako'i condominiums are the closest to the proposed project. These types of improvements will benefit residents in these communities, and impacts on real estate values are generally limited to the extent that shared roadways and other infrastructure are improved. An analysis of the project's impact on real property taxes was provided as Appendix L of the Draft EIS.

3. *Will an "ownership" mentality among the homeowners prevent public access to La'au to the local community?*

**Response:** Homeowners at Lā'au will be required to take part in an educational program that will cover the rights of the community to use Lā'au Point beaches. The two community access points and the minimum 250-foot shoreline setback are also designed to minimize any implication that Lā'au is not open to the public.

The Shoreline Access and Management Plan (SAMP), which has been appended to the Final EIS, outlines in great detail access and plans by the Moloka'i Land Trust and the homeowners to share management of the Conservation District areas adjacent to the beaches.

Shona Barnes  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 3

4. *How will traditional cultural practices of native Hawaiians at La'au be affected?*

**Response:** Section 4.2 and Appendix F of the Draft EIS provided detailed discussion of the cultural resources.

5. *Will a small minority of homeowners use their wealth and connections to politically control the island and allow further development?*

**Response:** The level of population increase is not likely to change the political climate on Moloka'i. As discussed in Section 5.1 of Appendix M (Social Impact Assessment) in the Draft EIS, the project permanent population at build-out is estimated at 174 persons, which is only two percent of the forecasted 2025 population. On the average Lā'au Point residents will make up three percent of the island 2025 population. Further, the new Lā'au Point residents will not be the only new Moloka'i residents. In comparison, the residents in proposed new DHHL projects, who would account for 13 percent of the forecasted population in 2025, are more likely have political influence.

6. *The recent election of anti-La'au development candidates to the Moloka'i Enterprise Community with a 66% of the vote, show that the "silent majority" often discussed by Moloka'i Ranch executives have spoken - and they are not in support of the Master plan for La'au Point.*

**Response:** We respectfully disagree with your conclusion that there is a direct correlation between the election results and the Lā'au Point project. The election held on January 31, 2007 was for two board members the Molokai Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the

Shona Barnes

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 3 of 3

candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for Board Directors that have no such regulatory power.

We thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Sis Naehu i Ohana

HC01 Box 750

Kaunakakai HI 96748

Jan. 9, 2007

Mr. Witten:

Please may we be permitted a 60 day extension of the Lā'au Point (EIS) Environmental Impact Statement Public Comment Period due to holidays that shortened the time period.

Makalo  
pro Naehu i Ohana



January 16, 2007

Sis Naehu  
HC01 Box 750  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Naehu: *Makalo*

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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

From: Steve Morgan/ Consultant Party to EIS  
P.O. Box 72  
Maunaloa, Molokai, Hi  
96770

Date: 2/22/07

Re: Questions in regard to Draft Environmental Impact Statement

To: Thomas S. Witten, ASLA  
President  
PBR Hawaii  
1001 Bishop St  
ASB Tower, Suite 650  
Honolulu, Hi 96813

Throughout this document the name Molokai Ranch shall also refer to the name MPL.

Regarding the Draft Environmental Impact Statement, Molokai Ranch has chosen to ignore the cumulative impact of other future development in the Kaluako'i area. Subdivisions already exist on MPL owned lands in the Kaluakoi area. These subdivisions include the following- 6 additional hotel sights, 3 additional multi family zoned areas, 1 additional single family zoned area and a considerable area (possibly over a thousand acres) zoned rural which could allow for 500- 1,000 additional homes. An additional golf course is also a part of the future development of this area.  
\*See exhibit B

**Where will the water resources for the aforementioned resort development come from and what would the cumulative impact on our island be? Please include the effect on the following - Cultural Impact, Social Impact, Traffic Impact, Impact on natural terrestrial and marine environments, Impact on Community services including emergency services, and all other impact issues found in the Draft EIS.**

Another major concern regarding cumulative future development of this area is the subdivision of existing residential/ ag lots in the Papohaku Ranchland and Moana Makani areas. Currently 306 lots exist allowing for up to 612 homes. If homeowners exercise their legal right to subdivide, up to 769 lots could exist with 1,538 homes.  
\*See exhibits E1-E6

**Where will the water resources for the aforementioned residential development come from and what would the cumulative impact on our island be? Please include the effect on the following - Cultural Impact, Social Impact, Traffic Impact, Impact on natural terrestrial and marine environments, Impact on Community services including emergency services, and all other impact issues found in the Draft EIS.**

From the beginning of MPL's intent to develop La'au, the Moloka'i Community has been reminded that the Sales of La'au Lots are crucial to the funding of Kaluakoi Hotel renovations and that Molokai Ranch has been operating at a loss of 3.7 million dollars annually. Their is no real declaration as to what these losses include so we are left in the dark in this matter.

Regardless, we not only need to know the expenses of MPL, we also need to know sales and inventory figures so that we can understand the real profit/ loss statement of this company. In the case of a company whose primary business is real estate, the value of the inventory or their equitable holdings is the single most important aspect of their financial statement and this is being entirely ignored.

In 2001 MPL made the single greatest real estate investment ever made on Moloka'i. At an all time market low, the Kaluakoi resort area was sold far below even the market value of that time for the amount of \$ 9,000, 000. Few people understood the real worth of this investment or what it included. Within a few years following this purchase, under the names of Kaluakoi Properties and Molokai Land Aquisition, MPL retrieved approximately \$24,000,000 in the sales of residential ag lands as a result of this purchase. This was only the tip of the iceberg however. This purchase not only included the residential properties of Kaluako'i and the existing hotel, this investment also included more than a dozen other subdivisions including 6 more hotel sights, and several residential subdivisions which could potentially allow for the development of 500 to 1,000 additional homes. It doesn't take much imagination to understand the enormous equitable increase that has taken place in MPL's land holdings as a result of this investment.

Income recieved by Molokai Ranch (MPL) between 2003 -2006 includes the following

Sales of MPL properties/ Kaluakoi 2003-2006 \$25,342,900.  
Sales of MPL properties/ Maunaloa 2003-2006 \$9,182,856.  
Profits of BIL (Parent company to MPL) 2003-2006 \$214,400,000.  
Equitable increases on Land Holdings ??????

**With these type of assets combined with the over all financial health of BIL, the parent company, why is it that MPL can not afford to finance the refurbishing of their own Hotel?**

**How was it that BIL was able to purchase the well known gambling casino "Clermont Club" in London last August 2006 for the amount of \$60,450,000. and yet there were supposedly no monies to facilitate the \$35,000,000 refurbishment of Kakuakoi hotel?**

**The annual report by BIL shows Molokai Properties to be cash positive in 2005/ 2006 This is contrary to what has been told to the Molokai Community. Please explain? \*see exhibit D**

**Can MPL provide a breakdown of the expenses that make up the 3.7 million dollar annual loss incurred by MPL?**

Molokai Ranch has stated that in turn for developing the La'au area, Molokai Ranch will donate 51,000 acres of land to the community, however it appears that in truth, the community will not be the recipient of these lands.

The aforementioned 51,000 acres will consist of two different venues of ownership and control.

24,950 acres of this land will remain under the ownership and operation of Molokai Ranch. Of this portion 10,560 acres will be zoned rural landscape. It remains unclear as to what this classification represents. The other 14,390 acres will be zoned agricultural. The only involvement of the Land Trust will be to oversee the enforcement to which these lands are dedicated. Although keeping this much land into agriculture sounds good, in truth the 14,390 acres of agricultural land could allow for the same kind of development that exists currently at Kaluako'i.

"The Plan" states that only "farm dwellings" will be allowed. All of the large homes in Kaluako'i and Kawela, the two largest residential areas of our island, are legally considered "farm dwellings". While we have begun to see concern and even legal battles over Ag lands being used for residential development, the issue is still yet unresolved. There is no prohibition of further subdivision within these 14,390 acres.

The remaining 26,200 acres is the land that will go directly into the Land Trust and will be owned and operated by the Land Trust.

Neither Moloka'i Ranch or The Moloka'i Land Trust, are the Community.

Molokai Ranch is a subsidiary of a large offshore corporation based in Singapore and it's loyalty lies with it's shareholders.

The Moloka'i Community Land Trust is only such by name. This is a private organization that requires no community input and offers no voting privileges outside of the trust itself. It is self perpetuating.

**Why has Molokai ranch eluded to the fact that the community will be the recipient of these 51,000 acres?**

**Please include a thorough definition as to what "rural landscape refers to?**

Molokai Ranch has maintained the position that the Molokai Community supports the Development at La'au, this despite the fact that meeting after meeting took place on Molokai with the vast majority in opposition to La'au Development, often being demonstrated by a show of hands at these meetings. On several occasions the recommendation was made to the EC board by it's own members to put the issue of La'au to a vote by the community. Strong opposition persisted by the Molokai EC with the most vocal opponent of the vote being Colette Machado, vice President of the EC at that time. The election process that took place on Jan 31 2007 was the first occasion in which the public was allowed to voice their opposition to the development of La'au in the form of some sort of elective process Supporters of MPL's project, have stated all along that a silent majority exists on Moloka'i that supports the development at La'au. The following is a news article which appeared immediately following the Jan 31 election

Molokai Dispatch

Thursday 2-1-07

**Mowat and Stone Win EC Election Decisively as Molokai Voters Send a Clear Message**

In the largest voter turnout in Molokai EC history, challengers Bridget Ann Mowat and Leila Dudoit Stone upset board members Colette Machado and Claud Sutcliffe on Wednesday January 31. Together, Mowat and Stone garnered roughly 66% of votes on the nearly 1,300 ballots cast- a landslide considering there were six candidates on the bill. Sutcliffe had dubbed the election a 'community referendum', because of the ideological split between the incumbents and eventual winners, over the EC decision to support the development of La'au Point. Mowat and Stone campaigned on a clear 'No to La'au development' platform, making the answer in this unofficial referendum a resounding NO; a favorable result for supporters of Hui Ho'opakele 'Aina and others who voted for the Mowat-Stone bloc and clearly believe La'au is worth saving.

**In regard of the above information, does Molokai Ranch still maintain the position that the majority of residents on Molokai support the development of La'au as part of the community plan?**

**In previous statements made by Molokai Ranch, Molokai Ranch claimed that it would only proceed with their plan, which includes the development of La'au, if the Molokai community supported it. Please respond to this.**

**The victory of two inexperienced candidates over Colette Machado, an established community leader, was overwhelming. Why did such a landslide victory occur?**

**The official unemployment rate on Moloka'i is 3.2%. This is less than the nations average. So the question has to be asked "who will be receiving employment of the 100 new jobs created?"**

These are primarily low paying jobs, of little benefit over the existing types of jobs that already exist on Molokai. The guaranteed future existence of the jobs being created by the reopening of the hotel must also be questioned. In the past the Kalukao'i Hotel operations, under three different management companies, have never successfully brought a profit to the hotel which ultimately lead to the demise and closure of the hotel. As far as I am aware of no unique business plan has been presented that will guarantee the future health and success of the hotel.

**How will the past failures of the Kalukoi Hotel not be repeated?**

**Does a unique business plan exist that will help guarantee the success of the renovated hotel?**

MPL has boldly stated that property taxes will not increase as a result of the "La'au" development. As we have seen in the past, as real estate agents attract buyers to the island it is rare that these buyers only come and examine one part of the island. If La'au lots are placed on the market, potential buyers will naturally inspect other parts of the island and in some or even many cases, find other areas of the island to be more to their liking. The speculation of land on our island is already a grave issue. We are seeing property taxes rise significantly much of this being the cause of speculative flipping of land. The consequences of such being a higher cost of living including higher prices on home purchases and home rentals. The development at La'au will only add more fuel to an already significant problem.

**If Molokai Ranch firmly believes that property taxes will not rise as a result of Development at La'au, would they be willing to guarantee this to the community in writing and be willing to compensate the community if they are found in error?**

Project #7 of the EC requires that a water moratorium to be in place prohibiting any new water transfer from East to West until a comprehensive water management plan exists,

**Why has this water moratorium been ignored?**

A recent investigation shows that between November 2002 and February 2003, the Molokai EC allowed for the deactivation of Project #7 without notification or consent of the public. This was one of the initial projects of the EC and was a part of the initial EC application giving this project a high priority. The MPL PLAN which includes the proposed development of La'au is project #47. The current EC president, Stacy Crivello has been both vague and confusing in regard to this issue, citing that a USDA desk officer deactivated the project in 2002, but did not elaborate as to who gave the USDA the authority to do so and has yet to explain how the deactivation procedures work within the EC.

**Was Molokai Ranch aware of the deactivation of EC project #7 when it was deactivated?**

**When did Molokai Ranch become aware of the deactivation of EC Project #7**

The following water Statistics were presented by The Moloka'i Water Task Force

We're at a water crisis  
By Kammy Purdy/ Molokai Water Task Force

1/21/2007

Molokai has a water crisis. There isn't enough water to support existing and approved development on the island now. Yet Molokai Ranch wants to pump one million new gallons a day to support its La'au Point development plans.

Here are the facts:

The water supply:

Molokai only has 33.5 million gallons per day of sustainable water supplies. (source: State DLNR Water Commission Report dated April 1996 (Molokai water working group) page 4)

When complete, all currently approved development on the island will need 54.45 million gallons of water per day (mgd). This includes 11.55 mgd for drinking and 42.9 mgd for agriculture and recreation.

(Source: State DLNR Water Commission Report dated April 1996 (Molokai water working group) Exhibits 4 & 5) According to DLNR's report, Molokai will be short of water by 20.95 mgd once all approved developments are completed.

La'au Point was NOT one of the developments included in the DLNR's 1996 projections. Sings of crisis today:

Three of Molokai's drinking water wells are going salty:

County's well at Kawela (now above the legal limit for salinity in drinking water)

County's well at 'Ualapu'e

DHHL's well at Kualapu'u

DHHL can't get approval to pump any of the 2.9 mgd of water that it reserved in the 1990's for Ho'olehua and Kalama'ula

In 2000, Molokai Ranch opposed DHHL's request for 500,000 gallons to serve Ho'olehua. DHHL still doesn't have approval to use this water from its legal reservation.

In August 2006, the federal USGS hydrologist Delwyn Oki told DHHL that they won't be able to get their 2.9 mgd water reservation from Kualapu'u. He told DHHL it will have to go East for more water.

The county has also been told that it will have to go East to drill for any new water.

Existing lots at Kaluakoi can now be subdivided with two houses per lot. If all Kaluakoi landowners do this, there could be up to 784 lots with two houses on each lot (1,568 houses total). If just two people live in each house, the Ranch will have to supply more than 3,000 people with water. The Ranch has no plans on where this water would come from, but it is legally obligated to supply water to all Kaluakoi residents. At full occupancy, total water needed for these subdivided lots would be 2.4 mgd (3,000 gallons per household). (Source: Molokai Ranch LUC application Draft EIS, page 150)

La'au Point development will require one million gallons per day more water than is being used now.

Molokai has only so much water. And all new development is limited by the availability of water. The shortage warning signs are already here. We must protect our limited water resources for future generations!

**Does Molokai Ranch believe that there is a water crisis?**

**Can Molokai Ranch respond to each of the aforementioned points demonstrated by the Molokai Water Task Force?**

The Development at La'au would consume approximately five miles of untouched native coastline. As far as I know this is more than any other single development has consumed in the recent history of our state. Cultural sights ranging from heiau to ko'a are easily found in this area. This area is also a refuge for one of the most endangered mammals on the face of the planet, the Hawaiian monk seal. With less than 1,000 monk seal left, they remain in abundance in this area. It is rare to not see at least several of these magnificent creatures in the area. \*See exhibit A

**Does Molokai Ranch believe that native Hawaiian Seal Populations in the La'au area will be unaffected by the proposed residential properties in the area?**

**Statements made by the National Marine Fisheries Service in regard to Native Monk Seal Populations appear to be in conflict with Statements made by Molokai Ranch in the EIS. Please comment in full regarding the letter provided by the National Marine Fisheries. \*exhibit D**

**Is Molokai Ranch aware of any other single development that has used this much coastal area? In the last 10 years? 20 years? 50 years?**

In 2001 MPL purchased the 7000 acre Alpha parcel or what is known as "La'au" for the amount of six million dollars.

**How much profit does MPL hope to make from the sales of Lots at La'au?!**

Isaac Hall, who was hired for his expertise in the environmental assessment process has been absent through out the EIS process. He is listed as one of two attorneys for Molokai Ranch on the Environmental Impact State Prep Notice. The other attorney listed is Ms. Linnel Nishioka, who I understand passed away several months ago. Testimony was given at an earlier EIS meeting that some in the community believe that Mr. Hall was hired by Molokai Ranch so that those in the community opposed to La'au would not be able to hire him.

**Can MPL please respond to this and explain Mr. Halls absence from La'au EIS meetings held on Molokai?**

The cultural significance of the La'au area has never been thoroughly discussed or questioned by MPL and there is little discussion in the draft EIS

-as shared by highly respected native practitioner and Kumu, Vanda Hankahi.

"The Makahiki was one of the most important events in Hawaiian history. It was a time of peace and planting and a time when all wars came to an end. On Moloka'i there were two sacred areas marking the Wehe and the Pani of Makahiki (the opening and closing) On the eastern side of Moloka'i the Wehe was located at Kapu'upo'i in the proximity of Halawa. On the leeward side of the island the Pani of the Makahiki was at La'au. As you can imagine, the significance of these two locations was profound to Hawaiian culture. These were two of the most sacred areas of our island. The annual cycle that directed the course of the Hawaiian culture was determined by the natural and ceremonial events surrounding these areas. It was recognized that the blessings of our island which included the abundance of food and the well being of our people were directly linked to the prayers that occurred at La'au, (the Pani of the Makahiki). The sacredness of La'au was not arbitrary, it was created to be something permanent."

**Why was a cultural significance of this magnitude not mentioned in the EIS?**

**MPL clearly understands the the importance of cultural sights to the people of Moloka'i. Why has MPL not set aside and protected these areas in the past. It appears as though the preservation of these sights is being used as a bargaining tool. Please respond.**

To minimize the destructive effects of La'au development, MPL has assured the community that it will put conditions, covenants and restrictions (CC&R's) into buyers' deeds. It says in its EIS that the CC&R's will be impossible to change. But it also says on page 386 of the EIS that it still needs to "get legal advice to ensure potential or future landowners within the subdivision cannot change these CC&R's."

**Has such legal advice been acquired as to ensure that CC&R's can not be challenged in the future?**

Hawai'i courts seem to be very reluctant to enforce any restrictions on the use of privately owned land. In one of the Hawai'i Supreme Court's lead cases on the issue, the Court ruled against enforcing a CC&R limiting the height of a Waikiki hotel, saying that: "Restrictive covenants restrain the free use of property and are strictly construed in favor of the grantee of the property and against the grantor. The general rule does not favor restrictions imposed upon the use of land, but rather the unrestricted use of property." *Waikiki Malia Hotel v. Kinkai Properties* (1993). In this case, the seller had neglected to note a height restriction in the land transfer documents for the sale. So the court refused to uphold it.

Hawai'i law is consistent with bedrock land use principles upheld throughout the United States and England. Once someone owns a piece of property, courts believe it should be their right to do whatever they want with it, usually subject only to governmental (not private) restrictions like zoning, etc. Thus, although land owners may abide by CC&R's for awhile, it's virtually impossible to enforce them permanently. And if the CC&R's infringe on basic human needs (e.g., limiting potable water use to 600 gallons per day), it's even more likely that some future La'au seller will "forget" to tell a buyer about them -- as in the case with the Waikiki hotel -- thus giving the buyer strong grounds to contest the restriction.

The CC&R's are the legal lynchpin for all of MPL's promises to protect the area from environmental degradation. But it is in question as to whether MPL has yet even done its homework to determine whether they will work.

MPL relies heavily on the CC&R's in its La'au development plans. For a direct-quote list of all the issues that the CC&R's will address (see page 81 and pages 29-30 in MPL's draft EIS): \*see [Exhibit E](#)

**Please comment thoroughly on the previously aforementioned.**

**There are many provisions in the proposed CC&R's of the proposed LA'au development, among other things stating that residents will be educated to understand the culture and to take care of the land. Can MPL demonstrate a similar case where such CC&R's have worked successfully?**

**What is being done to enact State legislation to protect subsistence up to a quarter mile from the La'au shoreline?**

**If a second home is allowed on the lots at La'au, how large can the second home be?**

**Can the second home be rented out on a full time basis?**

**Can the main home be rented out on a full time basis?**

**The roads owned and operated by Molokai Ranch in the Kaluakoi area have been neglected for years. What guarantee is there that the same will not take place in the La'au area ?**

The West End of Molokai hosts a larger percentage of elderly persons than any other part of the island as well as poses to be one of the most significant areas in danger of fire hazard.

Why have no serious measures been taken or supported by Molokai Ranch to improve emergency services to the West End of Molokai?

In the EIS Molokai Ranch states that a fire truck could travel from Ho'olehua to La'au in 25 minutes. The fire department claims that it takes at least 25 minutes for a fire truck to arrive at Maunaloa and estimates that even with exceptional roads an additional 10 -15 minutes should be added. Can Molokai Ranch please explain how the 25 minute figure was arrived at?

Molokai Ranch states that as a result of the La'au Development, access to the La'au coastline for subsistence purposes will be made available. It is my understanding that because the coastal trail dates prior to 1893 that this trail can be freely accessed by the public with or without the development. Please respond.

A major "selling point" of Molokai Ranch's plan to the community has been that the La'au development would be the last development on Molokai Ranch Lands. Advertisements in local newspapers even boasted "One Last Development". In more recent promotions including a recent DVD promotional package that was mailed out, this statement is repeated by Molokai Ranch however in much smaller writing and less noticeable is "outside of the Kaluakoi resort" referring to one last development with exception of the Kaluakoi resort.

Does Molokai Ranch believe that the community really understands what this means and that it includes the possibility of 6 hotels, 3 condo areas, one single family residential area, rural zoning for possibly another 400-500 homes and an additional golf course? Please comment.



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, Hawaii 96814-4700  
(808) 944-2200 • Fax (808) 973-2941

FEB 05 2007

Mr. John Sabas  
Molokai Properties Limited  
745 Fort St. Mall, Suite 600  
Honolulu, HI 96813

Exhibit A-1

Dear Mr. Sabas:

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, Hawai'i. The National Marine Fisheries Service, Pacific Islands Region (NMFS), is concerned about how the development may affect the endangered Hawaiian monk seal (*Monachus schauinslandi*). The letter incorporates comments and concerns both from our regional office's Protected Resources Division and the Pacific Islands Fisheries Science Center.

The monk seal is protected under the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). The DEIS acknowledges the presence of monk seals in the area and also mentions that two seals were observed resting on Sam Wights Beach north of La'au Point during the fauna surveys (p.44).

#### Use of La'au Point area by Hawaiian monk seals

The Project Area identified in the DEIS (from Kaupo Beach south to La'au Point and east to Hale O Lono), hereafter referred to as "La'au Point" is known to be frequently used by Hawaiian monk seals.

The only systematic surveys of seals in the main Hawaiian Islands (MHI) were conducted using aircraft in 2000 and 2001 (Baker and Johanos 2004). In both years, seals (two in 2000, and one in 2001) were seen during the days Molokai was surveyed. In 2000, the aerial survey pilot (John Weiser), a resident of Molokai, related that he usually saw seals when flying by La'au Point.

The NMFS also maintains records of non-systematic monk seal sightings provided by a number of sources (public, other agency staff, and NMFS biologists). These data corroborate the conclusion that La'au Point is important habitat for seals. Since 1984, a total of 169 monk seal sightings have been documented on the shorelines of the project area. Most of these sightings (125) were documented in 2005-2006 when increased observation effort occurred. A total of 18 uniquely identifiable individual seals have been documented among these sightings, demonstrating that this area is used by a significant number of animals, rather than just a few seals accounting for the many sightings. It should be noted that because not all seals are tagged or well-identified by natural marks, these 18 represent a minimum number of individuals that have used the area. Of the 18 identified seals, nine were known to have been born on Molokai. Eight of these nine were born at Kalaupapa Peninsula, and one pup was born in 1996 at a small pocket beach between La'au Point proper and Hale O Lono.



Exhibit A-2

Favorable characteristics of the La'au Point area as monk seal habitat

A number of features of the La'au Point area seem to make it especially good monk seal habitat.

Remoteness and limited access

While certain individual monk seals appear to be particularly tolerant of human presence at sites such as Poipu Beach, Kauai and certain Oahu beaches, these animals seem to be the exception rather than the rule. Aerial surveys revealed a strong trend for seals to land at remote areas of the MHI where human presence was relatively low (Baker and Johanos 2004). As noted in the DEIS, La'au Point is currently quite isolated. Few people visit the beaches and fishing activity is low. As a result, monk seals that land at La'au Point are currently unlikely to be molested by people or dogs.

Sandy beach substrate

Monk seals land on a variety of substrates in the MHI, but most sightings occur on sandy beaches, of which there is a considerable amount in the La'au Point area.

Proximity to foraging areas

Monk seals are believed to forage primarily on or near the sea floor in waters 200 meters deep or less, based upon studies conducted in the Northwestern Hawaiian Islands and to a lesser extent in the MHI (Stewart et al. 2006, Littnan et al. 2006). Around most of the MHI, the ocean floor falls away quite rapidly such that there is only a narrow band of shallow water. Penguin Banks, in contrast, a relatively shallow (generally less than 60m) flat-topped bank that extends from the west coast of Molokai approximately 70 km to the southwest. La'au Point is the nearest land to Penguin Bank, suggesting that proximity to favorable foraging grounds may make it an attractive place for monk seals to rest. This is supported by data from two monk seals captured at La'au Point and subsequently tracked with satellite transmitters. Both animals, an adult female and a yearling male, the latter born at Kalaupapa, commuted repeatedly between La'au Point and Penguin Bank for several months (Littnan et al. 2006). These data, combined with the information noted above (total of eight Kalaupapa born seals documented at La'au Point), suggest that while Kalaupapa provides favorable birthing habitat, La'au Point is desirable for its proximity to productive foraging grounds.

Potential deleterious effects of proposed action

The specific threats to monk seals that can be expected to increase considerably as a result of the proposed development include:

- 1) Human caused disturbance (both unintentional and deliberate harassment)
- 2) Disturbance, physical harm and potentially disease transfer from dogs.
- 3) Hooking and entanglement associated with shore-based fishing

Residential development will vastly increase number of people present on the shoreline associated with the new homes. Additionally, a goal of the proposed development is to facilitate public access to this currently quite isolated area of Molokai. Specifically the plan designates a "subsistence fishing zone" which encompasses the entire La'au Point area where monk seals have been documented. Given that access to these shorelines is currently highly restricted, the plan will greatly increase the number and distribution of fishers in areas consistently used by monk seals. One can expect that this can only result in increased disturbance to the seals. Other

Exhibit A-3

likely outcomes are increased interactions between fishers, their gear and seals (including seals removing bait and catch), seals being hooked and injured, and increased risk of seals becoming entangled in laynets/gillnets to the extent these will be used in the area.

Monk seals have evolved in the absence of terrestrial predators, and therefore, despite their large size, are vulnerable to attack by dogs. The presence of dogs on beaches with monk seals pose a variety of risks, including direct attack and harm, displacement from land, and disease transfer. The proposed action is likely to greatly increase the presence of dogs. These may include pets of residents and public beach visitors, as well as hunting dogs that may range to the shoreline from newly accessible hunting areas inland. The DEIS states that dogs will not be allowed for deer hunting. It is unclear whether other types of hunting might involve dogs.

Concerns regarding proposed mitigating measures The DEIS proposes to limit public entry points to just two sites at opposite ends of the project area. However, even these two entry points will facilitate far greater access to the area beaches, which indeed is a goal of the plan. Further, it seems clear that residents of the proposed housing development will have multiple beach access points. It is not clear how members of the public will be prevented from accessing the shoreline from the residential areas.

The DEIS states that residents and visitors will be educated about proper behavior when monk seal are encountered in the project area, though details of how this will be achieved are not provided. This is a laudable goal and may indeed reduce the risks of some impacts on monk seals, especially among people who are compliant by nature. However, education without enforcement will not address the problem of persons who do not choose to respect guidelines of behavior. Additionally, one of the challenges of such education programs in Hawaii is that there is a large transient population of tourists. This segment of the population will also enjoy greater access to La'au Point if the proposed development occurs, and it is not clear how these people will be educated and policed.

A measure proposed to mitigate impact of increased shoreline access is: "... a caretaker or Land Trust steward will supervise access to ensure that damage to the environment does not take place, and that those who access the area have taken the appropriate education classes in traditional subsistence gathering and access responsibilities, safety and protocol." The apparent intention of this measure is primarily to allay concerns that opening the area to fishing will result in depletion of subsistence resources. It is not clear that the Land Trust steward would be charged with ensuring protection of monk seals. Moreover, it is not clear what authority the steward would have to actually police and enforce fishing practices, or any other behavior of beach visitors. Thus, we must anticipate that this measure will not provide adequate protection to monk seals at La'au Point.

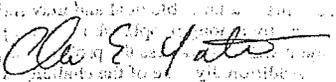
The DEIS states that "A State Land Use District Boundary Amendment is proposed to protect and expand the existing Conservation District (shoreline area) by 254 acres, thereby increasing the amount of shoreline and habitats, such as for monk seals, put into permanent protection" (p. 17). This statement appears to suggest that if the plan is implemented, monk seals will somehow be afforded greater protection than they currently enjoy. In fact, the elements of the proposed plan discussed here suggest just the opposite will occur.

8-A TIDIAK 8  
 Exhibit A-4

In addition to our concerns, NMFS recently received a total of 22 letters from Moikoi residents voicing their concerns for the monk seals of La'au Point. Residents are well aware of the importance of this currently remote and relatively undisturbed habitat to monk seals. While we typically do not respond to public outcry over coastal development, the letters are indicative of the degree of public support for protection of the seals and this valuable habitat.

Because this species is highly endangered and susceptible to disturbance by human presence, we are very interested in ensuring that the mitigation measures developed for this project will effectively protect seals when they haul out on beaches in the development area. In particular, we believe that the potential for increased disturbance warrants your consideration of hiring a full-time Hawaiian monk seal protection specialist, who could both educate the public about the seals and also protect them from the expected interactions. We are available to discuss this suggestion as well as any other ideas you may have for ways to ensure that the seals will not be adversely impacted by this development.

Thank you for working to protect our nation's living marine resources. If you have any questions regarding these comments, please contact Jayne LeFors on my staff at (808) 944-2277 or at the e-mail address [jayne.lefors@noaa.gov](mailto:jayne.lefors@noaa.gov).

Sincerely,  
  
 Chris E. Yates  
 Assistant Regional Administrator  
 for Protected Resources

cc: Anthony Ching, State Of Hawaii Land Use Commission  
 Thomas Witten, PBR Hawaii and Associates, Inc.  
 Genevieve K.Y. Salmonson, State of Hawaii Office of Environmental Quality Control

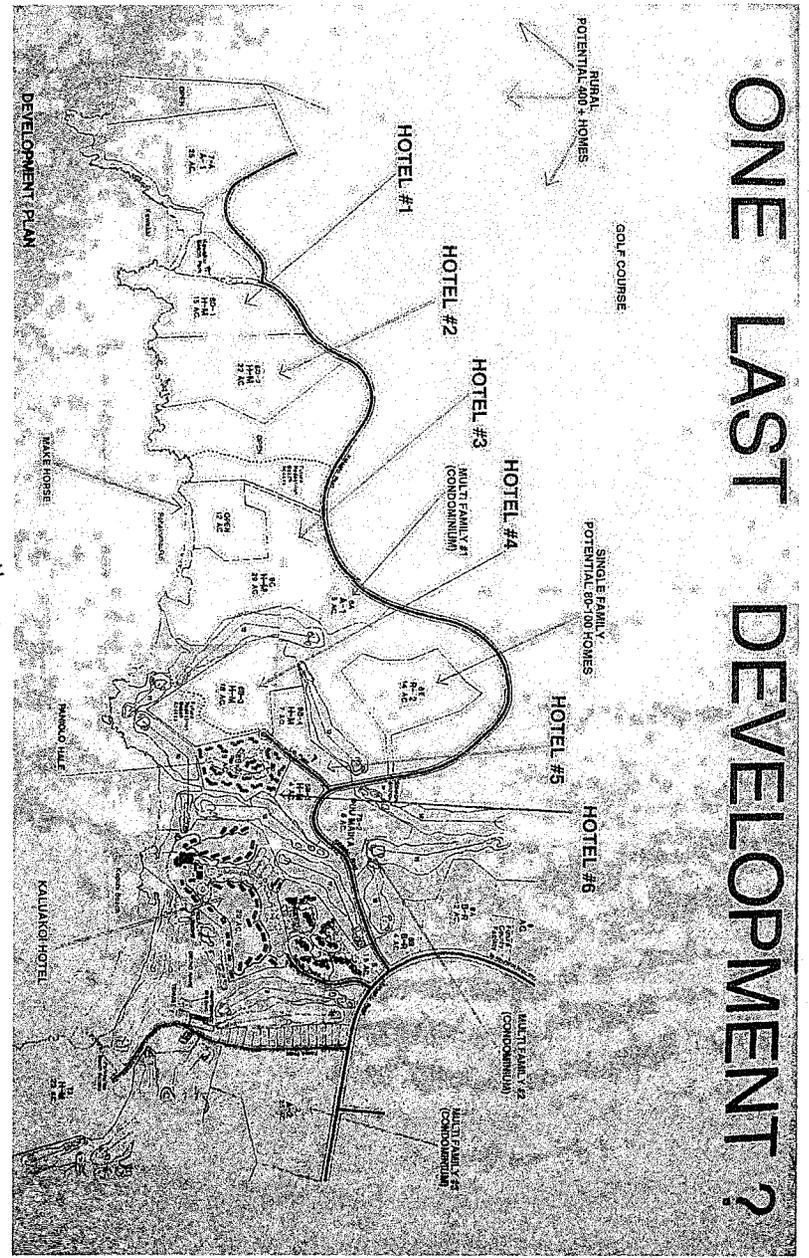


Exhibit B

# ONE LAST DEVELOPMENT?

## Exhibit D

### MOLOKAI PROPERTIES

During 2006, approval was reached with Molokai community leaders to move forward on the implementation of a Master Plan for MPL's 60,000+ acres. Since then, work has been underway on seeking various regulatory and related approvals.

This includes the entitlement process for the 200 2-acre lot subdivision at La'au Point on the island's south-western shoreline, the establishment of a Molokai Land Trust and the design and preliminary work that is necessary to renovate the 152-room Kaluakoi Hotel and Golf Course.

The planning, regulatory and entitlement process for the subdivision and for the hotel renovation are expected to be completed in the second half of 2007.

The Molokai Properties operation continued to remain cash-positive in 2005/2006 by the further sale of non-strategic lots in subdivisions that were developed in the 1980's and 1990's and by keeping a strict control on costs.

Both occupancy and revenue per available room at the company's two existing tourist establishments, the luxury 22-room Molokai Lodge and the 40-tent platform Beach Village improved significantly over the previous year.

### BASS STRAIT OIL & GAS ROYALTY

This investment is a 2.5% royalty granted by BHP/ Esso on the gross value of all hydrocarbons, liquid or gas produced and recovered in designated areas within Australia's Bass Strait. The royalty was originally granted to US geologist, Dr. Lewis Weeks, in exchange for consultancy services in relation to oil exploration in the area.

BIL received its share of the entitlement to 55.11% of the royalty payments in 1990, through its acquisition of Australian Consolidated Investments Limited. In 1997, it monetised the next 10 years' cash flows from the royalty through the issue of 44 million ordinary stock units in the Bass Strait Oil Trust (BSOT), which was floated on the Australian Stock Exchange. The units will expire in 2007 and all future cash flows will revert to BIL.

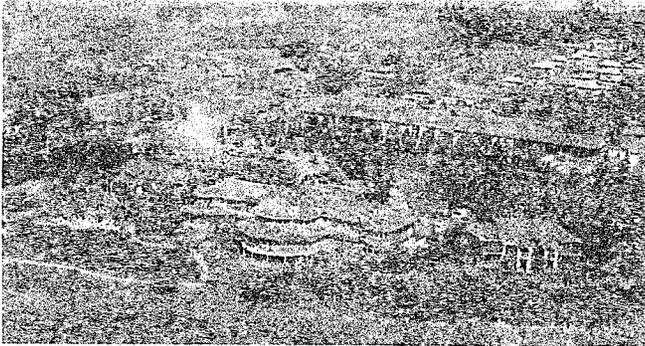
BIL currently owns 20 million of the BSOT ordinary stock units.

### DENARAU PROPERTIES

Denarau Island is Fiji's largest and most prestigious tourism resort. The resort has approximately 2,000 rooms, a championship golf course, marina and residential development.

BIL is responsible for the overall development of the resort. Since the year 2000, BIL has completed eight residential development projects and two hotel projects, the Golf Terraces and Denarau Villas.

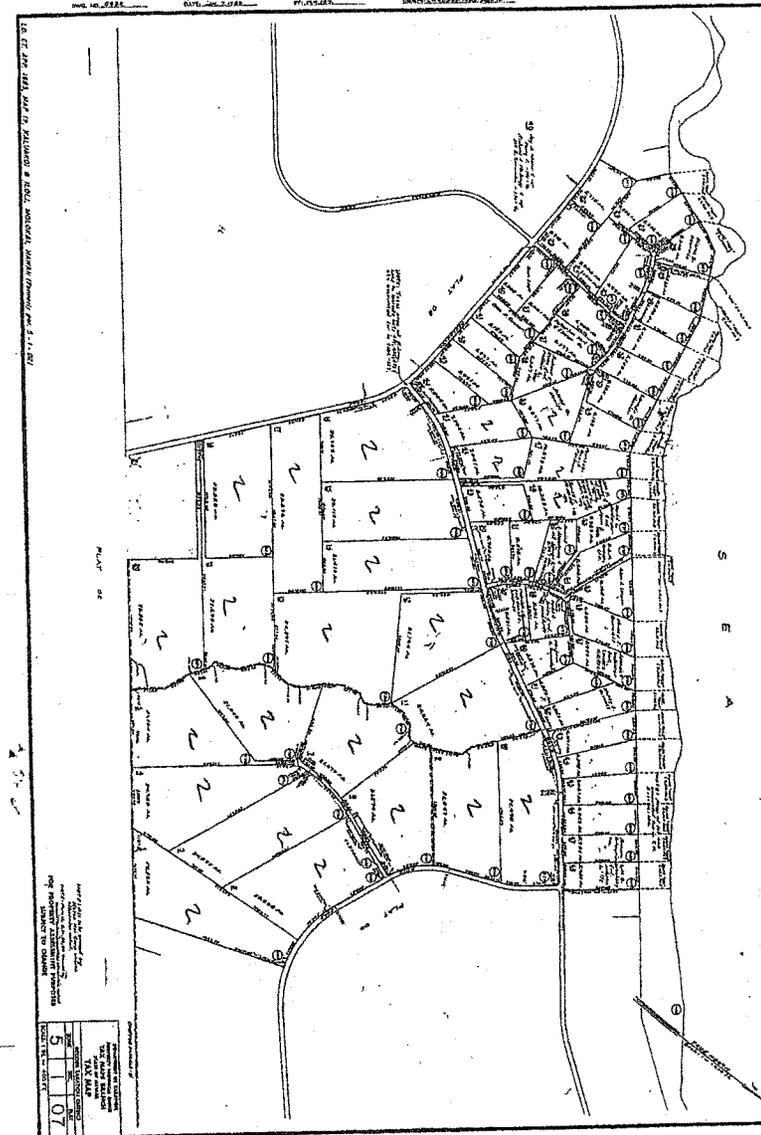
*The Lodge at Molokai Ranch with the town of Maunaloa in the background.*



### Exhibit E-1

### Papohaku Ranchlands / Area #1

Under 6 acres = 1 additional house  
Over 6 acres = 2 additional houses







## Vacant Land - 4-Up Gallery



1 of 6

MLS #: 316319

A very RARE opportunity to own an oceanfront golf course lot on the 4th fairway of Kaluakoi Golf Course. 3.2 acres of land steps from the white sands of Papohaku Beach. Commanding views of white water and Kaiaka Rock. Relax and watch our brilliant sunsets or jump in your golf cart and head off for a round of golf.

Address: LOT 401-B PAPOHAKU RANCH...  
 Subdivisi... PAPOHAKU RANCLANDS Partial Ownership: No %:  
 Land (sf)/(ac): 139392/ 3.200000 Lst Date: 1/30/2006 DOM: 380  
 Neighborhood: KALUAKOI RESORT TMK: 2 - 5 - 1 - 6 - 75 -  
 Lot Dimensions: County Z...  
 Property Taxes \$/Mo: 242.00 Tax Year: 2005  
 Easements:  
 General Land Class: Improved Residential  
 Restrictions: Building, Covenants  
 Disclosure:

Fee Simple  
 Status: ACTIVE  
 Fee Price: \$:  
 Sale Price:  
 Closing Date:  
 District: Molokai  
 Topography: LEV  
 Flood Zone: Yes  
 Assess-Land:  
 Setbacks:  
 Listing: Exclusive Right to Sell

## Exhibit F-1

MPL relies heavily on the CC&R's in its La'au development plans, following is a direct quote list of all the issues that the CC&R's will address (see page 81 and pages 29-30 in MPL's draft EIS):

- Landscaping and Irrigation. Landscaping irrigation systems will be from re-use water from the wastewater treatment plant or collected in catchments systems; only drip irrigation systems will be permitted. Landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations; xeriscaping aims to reduce water use.
- Storage Tank. All houses will be required to have at least a 5,000-gallon storage tank for water captured from roofs.
- Water covenants. Requirement of a dual-water system split into safe drinking and nondrinking water; safe drinking water will be limited to 500-600 gpd. Homes will be required to use double flush toilets and specially-designed showerheads for water conservation.
- Drainage Systems. Require drainage systems that retain any run-off within the disturbed area of the lot. Maximize recharge into the ground. Restore land areas that have eroded by re- establishing vegetative cover. Minimize impervious (paved) surfaces on the Lot.
- Restriction to prevent a gated community. Gates will be prohibited across roads and access roads. No street-facing walls or barriers may be higher than four feet.
- Subdivision. No further subdivision of lots will be allowed.
- Buildable area. Allow disturbance of no more than 30 percent of the lot. (2-acre Lot = +/-26,000 s.f. or about 1/2 acre). Require some level of maintenance of lot area to reduce fire hazard (remove dead wood). Building must be set back at least 50 feet inland from oceanfront property lines.
- Building code. Restriction on building height; maximum height of 25 feet and one-story. Restrictions on building envelope and footprint. Restriction on building materials, color, and roof; homes should blend into landscape.
- Green architecture. Require "green" architecture that incorporates recycled materials, energy efficient equipment, natural ventilation, solar and photovoltaic systems, etc.
- Solar power. Solar panel requirement for water heating and to supplement electric power for appliances.
- General energy. All energy systems shall be designed and constructed to meet United States Environmental Protection Agency conservation standards.
- Pesticide/Fertilizer restriction. Pesticide use will be prohibited. Only organic fertilizers will be allowed.
- Lighting. Exterior lighting must be shielded from adjacent properties and the ocean.

Subdivided Lot- Owner created 2 lots- 401-A and 401 B

401 B was being offered at 1.6 million, now at 1.9 million

## Exhibit E-6

Exhibit F-2



- Landscaping and irrigation. Landscaping irrigation systems will be from re-use water from the wastewater treatment plant or collected in catchments systems; only drip systems will be permitted. Landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations; xeriscaping aims to reduce water use.
- Storage tank. All houses will be required to have at least a 5,000-gallon storage tank for water captured from roofs.
- Water covenants. Requirement of a dual-water system split into safe drinking and nondrinking water; safe drinking water will be limited to 500-600 gpd. Homes will be required to use double flush toilets and specially-designed showerheads for water conservation.
- Drainage systems. Require drainage systems that retain any run-off within the disturbed area of the lot. Maximize recharge into the ground. Restore land areas that have eroded by re-establishing vegetative cover. Minimize impervious (paved) surfaces on the Lot.
- Soil erosion. No building allowed on slopes greater than 50 percent. Manage open space common areas to reduce/eliminate soil erosion by restoring the vegetative cover. Deer and livestock fence will be placed at the rear of the subdivision.
- Water quality monitoring. Water quality will be continuously monitored at stormwater drains and in the ocean for: temperature, salinity, total suspended solids, total nitrogen, ammonia nitrogen, nitrate and nitrite, total phosphorus, chlorophyll A and silicate.
- Land Trust easements. The State Conservation District, flood areas, archaeological sites, etc. are subject to easements from the Land Trust; the Land Trust will have adequate representation on the homeowners' association (HOA). Both the Land Trust and HOA will share the responsibility and cost to care for the area.
- Subsistence access. Perpetual right to subsistence gathering activities at La'au Point.
- Subsistence hunting. Buyers must accept that hunting occurs in the broader surrounding area.
- Fence to demarcate private property from public access areas. A clear physical demarcation, such as a log fence, running along the individual property lines will distinguish the private near-shoreline lots from the expanded public Conservation District areas.
- L?au Point community education. Every owner must commit to undergo a certain amount of education about the Moloka'i community and its desires and aspirations.
- Rentals. Renting properties to third parties will be prohibited.
- CC&Rs. The final CC&Rs cannot be changed.

November 1, 2007

Steve Morgan  
P.O. Box 72  
Maunaloa, Hawai'i 96770

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Morgan:

Thank you for letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, 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 its website at <[http://luc.state.hi.us/docs/luc\\_rules.pdf](http://luc.state.hi.us/docs/luc_rules.pdf)>.

1. *Where will the water resources for the aforementioned resort development come from and what would the cumulative impact on our island be? Please include the effect on the following - Cultural Impact Social Impact, Traffic Impact, Impact on natural terrestrial and marine environments, Impact on Community services including emergency services and all other impact issues found in the Draft EIS.*
2. *Where will the water resources for the aforementioned residential development come from and what would the cumulative impact on our island be? Please include the effect on the following - Cultural Impact, Social Impact, Traffic Impact, Impact on natural terrestrial and marine environments, Impact on Community services including emergency services, and all other impact issues found in the Draft EIS.*

**Response:** Discussion of the original Kaluako'i Master Plan, which you refer to in your comment, is not required as the development plans set forth in the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) superseded the Kaluako'i plan. There are no plans to develop the area north of the Kaluako'i Resort.

Analysis and discussion of cumulative impacts are restricted to those future actions that are reasonably foreseeable. The actual development of the area north of the Kaluako'i Resort zoned for hotels and multi-family units cannot be said to be reasonably foreseeable for the purposes of this EIS. At the time the development plans proceed for Kaluako'i Resort, you will have the opportunity for input through the disclosure and entitlement processes.

3. *With these type of assets combined with the over all financial health of BIL, the parent company, why is it that MPL can not afford to finance the refurbishing of their own Hotel?*

**Response:** MPL has no debt and no borrowing capacity because it is operationally cash negative and would not meet any bank's requirements for interest cover on any debt funding to re-open the hotel.

MPL estimates that to re-open the Kaluako'i Hotel will, in 2007 dollars, require \$30 million and additional cash costs of up to \$5 million to fund initial losses before the hotel operation becomes cash positive. Land sales cannot fund the re-opening of the hotel as well as fund operational losses.

The fact that a company has assets bears on relevance to its ability to raise funds or to meet interest payments. In fact the majority of MPL's assets produce no, and in many cases, negative earnings.

4. *How was it that BIL was able to purchase the well known gambling casino "Clermont Club" in London last August 2006 for the amount of \$60,450,000. and yet there were supposedly no monies to facilitate the \$35,000,000 refurbishment to Kaluako'i hotel?*

**Response:** BIL, not MPL, purchased a London Casino in 2006 with debt funding. The London operations have the ability to meet those debt repayments. Any surpluses available from the London operation will be used to pay down BIL debt.

Currently, MPL has no means of borrowing funds and no way of meeting debt commitments from such a venture as the Kaluako'i Hotel re-opening.

5. *The annual report by BIL shows Molokai Properties to be cash positive in 2005/2006 This is contrary to what has been told to the Molokai Community. Please explain?*

**Response:** The losses from operations include:

- The Lodge and Beach Village.
- The Kaluako'i Golf Course and costs associated with the Kaluako'i Hotel such as maintenance, water and land taxes.
- Maintenance of the property, such as maintenance of roads at Kaluako'i and coral roads throughout the property, and maintenance of parks etc in Maunaloa.
- Losses associated with keeping Lucky's Gas Station in Maunaloa.
- Losses from keeping 500 head of cattle and maintaining fences throughout the property.
- Losses from MPL's two water companies, Waiola and Molokai Public Utilities and losses from its sewer company, Mosco.

Both 2004/5 and 2005/6 years for MPL showed cash deficits from operations of \$ 4.6 million and \$5 million respectively. The Economic and Fiscal Impacts Report (Appendix J in the Draft EIS) outlined MPL accumulated deficits over the 2001 to 2006 period. MPL was able to remain cash positive only by the sale of land which offset the cash costs from operations.

6. *Can MPL provide a breakdown of the expenses that make up the 3.7 million dollar annual loss incurred by MPL?*

**Response:** The Economic and Fiscal Impacts Report (Appendix J in the Draft EIS) outlined MPL-accumulated deficits over the 2001 to 2006 period and their composition. This report summarizes accumulated losses in categories. A more detailed breakdown is considered to be commercially sensitive.

7. *Why has Molokai ranch eluded to the fact that the community will be the recipient of these 51,000 acres?*

**Response:** As provided by Master Plan, the Land Trust will be given over 55,000 acres in land donation and easements. The Land Trust, on behalf of the community, will oversee these lands.

No member of the Land Trust is from MPL. Most of the Land Trust's initial directors were part of a volunteer steering committee under the guidance of KAL for the purpose of creating a land trust that would protect culturally and environmentally important lands on Moloka'i. The committee members, who are all members of the Moloka'i community, spent several hundred hours educating themselves on the land trust model and working with consultants and experts in the land conservation field to create the Land Trust.

8. *Please include a thorough definition as to what "rural landscape refers to?"*

**Response:** It is stated in the Master Plan (page 35 of Appendix A, Draft EIS): "Maintenance of the rural landscape – to preserve the traditional Moloka'i character and to provide scenic viewsheds and open space buffers – is a principle objective. This designation applies to areas where multiple uses (e.g., traditional, recreational, scenic) are appropriate. Areas identified for this district should include those lands where various types of land use may be suitable, but that contain neither high-value development potential nor critical or highly sensitive resources."

9. *Molokai Ranch has maintained the position that the Molokai Community supports the Development at La'au, this despite the fact that meeting after meeting took place on Molokai with the vast majority in opposition to La'au Development, often being demonstrated by a show of hands at these meetings. On several occasions the recommendation was made to the EC board by it's own members to put the issue of La'au to a vote by the community. Strong opposition persisted by the Molokai EC with the most vocal opponent of the vote being Colette Machado, vice President of the EC at that time. The election process that took place on Jan 31 2007 was the first occasion in which the public was allowed to voice their opposition to the development of La'au in the form of some sort of elective process Supporters of MPL's project, have stated all along that a silent majority exists on Moloka'i that supports the development at La'au... In regard of the above information, does Molokai Ranch still maintain the position that the majority of residents on Molokai support the development of La'au as part of the community plan?*

**Response:** The election held on January 31, 2007 was for two board members to the Molokai Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and invalid ballots). This turnout, while record-

Mr. Steve Morgan  
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
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setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015). Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'āu" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'āu Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'āu Point. The EC election was for the Board of Directors that has no such regulatory power.

MPL does still maintain that the majority of the community, and in particular those from the ahupua'a, do support the Master Plan and its contingent parts.

As with any new proposal, some people will feel threatened by a change in lifestyle that they fear that change will bring. Many people fought the advent of Kaupoa Camp in the 90s. However now, its establishment has provided jobs for the community and every quarter the camp is available at \$25 per person per night for the community to enjoy. Many community members take advantage of that offer, including some of the same people who fought the establishment of Kaupoa a decade ago.

*10. In previous statements made by Molokai Ranch, Molokai Ranch claimed that it would only proceed with their plan, which includes the development of La'au, if the Molokai community supported it. Please respond to this.*

**Response:** There is clearly support for the project and the Master Plan. The Master Plan was created by participating community members who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'āu Point project and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the creation of the Master Plan document.

MPL still believes it has the majority of support from the island; and in particular by far the majority of support from the ahupua'a, the area mostly affected by the implementation of the Master Plan.

*11. The victory of two inexperienced candidates over Colette Machado, an established community leader, was overwhelming. Why did such a landslide victory occur?*

Mr. Steve Morgan  
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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**Response:** See our response to #9 above regarding the EC election.

*12. The official unemployment rate on Moloka'i is 3.2%. This is less than the nations average. So the question has to be asked "who will be receiving employment of the 100 new jobs created?"*

**Response:** Moloka'i has historically had the highest unemployment rate in the state, with decades of double digit unemployment up until the past few years (unemployment rate of 17% in the 1990s). We assume you are referencing statistics used in an article of the Moloka'i Island Times ("Molokai jobless rate hits new low," January 31, 2007) or similar article, which states that the unemployment rate was 3.2 percent in December 2006. In that same article, it is stated, "Leroy Laney, a consultant for First Hawaiian Bank, thinks it will be just a matter of time before that number starts to creep up," and "Kevin Kimizuka, manager of the Workforce Development office of DLIR in Wailuku, says his staff has the impression that many Moloka'i people have moved to Maui for work." We agree that this is a reasonable explanation and an argument for the need to create jobs on Moloka'i so that people do not have to leave to find work. It is expected that creating more jobs on Moloka'i will prevent a large out-migration of Molokai residents to other islands. With over 100 jobs to be created, residents will have the opportunity to return to Moloka'i to work and will give remaining residents a choice of job opportunities.

To reflect this unemployment rate statistic, Section 4.8.4 of the Final EIS has been amended to include the following:

Historically Moloka'i has had decades of double digit unemployment up until the past few years. Although the unemployment rate was reported as 3.2 percent in December 2006, this figure may be deceptively low. A consultant for First Hawaiian Bank thinks it is just a matter of time before that number starts to creep up and a manager of the Workforce Development office of DLIR in Wailuku believes many Moloka'i people have moved to Maui for work. Creating more jobs on Moloka'i will prevent a large out-migration of Moloka'i residents to other islands.

*13. How will the past failures of the Kaluako'i Hotel not be repeated? Does a unique business plan exist that will help guarantee the success of the renovated hotel?*

**Response:** MPL will work cooperatively with the EC to develop a business plan for Kaluako'i Hotel that will be acceptable to the EC's vision for economic development on Moloka'i. MPL intends to use best practices to ensure that the Kaluako'i is run and operated in a viable and efficient manner.

Business plans for the Hotel will be developed as the project progresses and we have firmer plans of what the Hotel will actually look like and the number of rooms and room types will be made available.

The re-opening of Kaluako'i Hotel, along with implementing the tourism industry plan set forth in the *Moloka'i Responsible Tourism Initiative Report* (McGregor 2006) regarding Moloka'i's community-based tourism model, will be the economic engine for achieving desired outcomes of

the project and Master Plan. The tourism report can be found at:  
<<http://huinet.hawaiiirdp.org/molokai/visitorindustry.htm>>

14. *If Molokai Ranch firmly believes that property taxes will not rise as a result of Development at La'au, would they be willing to guarantee this to the community in writing and be willing to compensate the community if they are found in error?*

**Response:** Property taxes are instituted by the County.

15. *Project #7 of the EC requires that a water moratorium to be in place prohibiting any new water transfer from East to West until a comprehensive water management plan exists. Why has this water moratorium been ignored?*

**Response:** The EC is a private, non-profit organization without any regulatory authority over water resources or water usage. To MPL's knowledge, neither the State Commission on Water Resource Management, which has regulatory authority over water resources, nor the County of Maui, which is responsible for developing a water use and development plan, has proposed a water moratorium for Molokai.

16. *Was Molokai Ranch aware of the deactivation of EC project #7 when it was deactivated? When did Molokai Ranch become aware of the deactivation of EC Project #7?*

**Response:** MPL was not aware of the deactivation of EC Project #7 (Water Use Plan). MPL became aware of the deactivation when other community members did around December 2006. To the best of MPL's knowledge, no community members expressed interest in implementing this project until December 2006.

17. *Does Molokai Ranch believe that there is a water crisis? Can Molokai Ranch respond to each of the aforementioned points demonstrated by the Molokai Water Task Force?*

**Response:** It should be clarified that the information cited is from the Report of the Moloka'i Water Working Group. The Water Working Group was originally appointed in 1992 by Bill Paty, who was then the Chairperson of the Water Commission. It was reconvened in 1995 by then Water Commission Chairperson Mike Wilson. The purposes of the Water Working Group were (1) to recommend to the Water Commission a plan for water development on Molokai that assists the county and community in developing its Water Use and Development Plan; and (2) to test a community "working group" model that, if it works, could be used elsewhere in the State when communities are faced with tough water issues. DLNR, and the Water Commission in particular, did not make the above-cited findings, e.g., that Molokai has only 33.5 mgd of sustainable water supplies.

Second, some clarification about, and updating on, the numbers contained in the Water Working Group report is warranted. 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 Molokai 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/Molokai 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.

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)"

18. *Three of Molokai's drinking water wells are going salty: County's well at Kawela (now above the legal limit for salinity in drinking water) County's well at 'Ualapu'e DHHL's well at Kualapu'u*

**Response:** Rising salinity in certain Moloka'i wells appears 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 the 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)."

*19. DHHL can't get approval to pump any of the 2.9 mgd of water that it reserved in the 1990's for Ho'olehuanua and Kalama'ula*

**Response:** DHHL's lack of success in obtaining a permit for additional pumping was due to the fact that it wanted to increase pumpage from its existing wells and not because of a lack of water resources in the Kualapu'u aquifer. In 1996, DHHL applied to increase its pumpage from its two Kualapu'u wells from its currently permitted 367,000 gpd to 1.247 mgd. The Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells.

DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

*20. In 2000, Molokai Ranch opposed DHHL's request for 500,000 gallons to serve Ho'olehuanua. DHHL still doesn't have approval to use this water from its legal reservation.*

**Response:** When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1996, DHHL was a party in a contested case proceeding on Waiola o Molokai's application for a new well and water use permit in the Kamiloloa aquifer. In the Waiola contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waiola well, which was more than 3 miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to

the bottom of its wells, thus the additional pumping by Waiola would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells. Waiola/Molokai Ranch did not oppose DHHL's application, but sought to explore this contradiction that through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

To MPL's knowledge, DHHL has not submitted any subsequent application for a water use permit for the Kualapu'u aquifer.

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)."

*21. In August 2006, the federal USGS hydrologist Delwyn Oki told DHHL that they won't be able to get their 2.9 mgd water reservation from Kualapu'u. He told DHHL it will have to go East for more water.*

**Response:** MPL's understanding is that Mr. Oki's statement was made in reference to a ground water model simulation that he conducted in 2006. USGS simulated the withdrawal of 2.905 mgd from four arbitrarily sited wells within the Kualapu'u aquifer. These arbitrarily chosen sites were spaced relatively close together and not far distant from the existing Kualapu'u well field. Under that scenario, USGS concluded that DHHL could not develop the full amount of its reservation 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.

The Kākalahale well site is hydrogeologically isolated also from other areas within the Kāmiloloa aquifer where there is a potential for developing potable water, such as the proposed Waiola well site. Thus, withdrawing 1 mgd from the Kākalahale well is unlikely to decrease the potential for developing potable water sources in the Kāmiloloa aquifer in the future.

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)."

22. *The county has also been told that it will have to go East to drill for any new water.*

**Response:** The Kākalahale well site is hydrogeologically isolated from other areas within the Kāmiloloa aquifer where there is a potential for developing potable water, such as the proposed Waiola well site. Thus, withdrawing 1 mgd from the Kākalahale well is unlikely to decrease the potential for developing potable water sources in the Kāmiloloa aquifer in the future.

23. *Existing lots at Kaluakoi can now be subdivided with two houses per lot. If all Kaluakoi landowners do this, there could be up to 784 lots with two houses on each lot (1,568 houses total). If just two people live in each house, the Ranch will have to supply more than 3,000 people with water. The Ranch has no plans on where this water would come from, but it is legally obligated to supply water to all Kaluakoi residents. At full occupancy, total water needed for these subdivided lots would be 2.4 mgd (3,000 gallons per household). (Source: Molokai Ranch LUC application Draft EIS, page 150)*

**Response:** This is speculative. The EIS cannot, and is not required to, analyze indefinite plans that are not reasonably foreseeable.

24. *La'au Point development will require one million gallons per day more water than is being used now.*

**Response:** We are requesting 1.0 mgd of brackish water for the implementation of the total Master Plan, not only Lā'au Point. Our potable water demand will be served by our existing water allocation permit.

25. *Molokai has only so much water. And all new development is limited by the availability of water. The shortage warning signs are already here. We must protect our limited water resources for future generations!*

**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.

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, desalinization is another 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.

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 Moloka'i 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.

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)."

*26. Does Molokai Ranch believe that native Hawaiian Seal Populations in the La'au area will be unaffected by the proposed residential properties in the area? Statements made by the National Marine Fisheries Service in regard to Native Monk Seal Populations appear to be in conflict with Statements made by Molokai Ranch in the EIS. Please comment in full regarding the letter provided by the National Marine Fisheries.*

**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 specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who

will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding impacts to fauna in the Final EIS, Section 3.7 (Fauna) has been revised as shown in the attachment titled, "Revised Section 3.7 (Fauna)."

*27. Is Molokai Ranch aware of any other single development that has used this much coastal area? In the last 10 years? 20 years? 50 years?*

**Response:** The Lā'au Point residential community should not be compared to other coastal developments because it is not directly on the shoreline, and not within the Special Management Area (SMA). The project proposes an expansion of the Conservation District by 254 acres along the shoreline and related resource areas. The residential lot lines will be set back at least 250 feet from the designated shoreline or high water mark. Using the current Conservation District boundary, which is approximately 150 to 200 feet inland from the shoreline, as a base, residential lot boundary lines for Lā'au Point were determined to be at least 50 feet beyond the current Conservation District. 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.

*28. How much profit does MPL hope to make from the sales of Lots at La'au?*

**Response:** MPL estimates it will cost \$80 million in construction costs for the Lā'au development and it anticipates that, over time, it will sell the 200 lots for approximately \$200 million. However in the current market that revenue estimated maybe over-stated by as much as between 10% and 20%.

Real estate agents fees, the cost of obtaining entitlements and the planned 5% of revenue that goes to the Land Trust from initial lots sales are likely to cost another \$30 million.

Added to that sum will be the interest costs on funding the construction over a two year period and uncertainty as to when there will be enough revenue to re-pay the debt and accumulated interests costs associated with the lots, road and infrastructure construction.

29. Can MPL please respond to this and explain Mr. Halls absence from La'au EIS meetings held on Molokai?

**Response:** As MPL's attorney, Isaac Hall will be present at meetings with regulators such as the Land Use Commission and the Molokai Planning Commission hearings. Mr. Isaac Hall was present at the August 25, 2006 meeting with EIS consulted parties. We do not understand what other meetings you are referring to which Mr. Hall should have attended.

30. Why was a cultural significance of this magnitude not mentioned in the EIS? MPL clearly understands the importance of cultural sights to the people of Molokai. Why has MPL not set aside and protected these areas in the past. It appears as though the preservation of these sights is being used as a bargaining tool. Please respond.

**Response:** The Cultural Impact Assessment (provided as Appendix F in the Draft EIS) contains a comprehensive discussion of the cultural significance of Lā'au Point.

The CIA includes this cultural significance on p. 100 as follows:

- Underwater Heiau: According to intervener Vanda Hanakahi, Lā'au is an important place for fishing. In ancient times, every ahupua'a (district) had an underwater heiau (temple) constructed in the ocean outside the ahupua'a. The first heiau along Molokai's southern coastline is located at Lā'au. Again, this meant La'au had great significance for our ancestors, who depended on the ocean for their survival.
- Lā'au is a Wahi Kapu Where Kahuna Gathered: According to intervener Vanda Hanakahi, Kahuna (expert teachers and practitioners) did not gather at just any place. But they gathered at Lā'au, which means that they regarded it as sacred. Lā'au is a wahi kapu (sacred place). Places that are sacred should be revered and left alone. Lā'au is a sacred place that should never be desecrated. Some families don't go down there because it is a kapu or sacred area. 'Ohana has mele about these places.
- Place of Mana: Informants spoke of Lā'au being a place of mana or spiritual power. They said that when they go to fish in the Lā'au area that there is a spiritual quality. There are ho'ailona or spiritual signs that guide them.
- Sightings: One informant said that at night, while camping near Kaupoa, she saw fireballs. She has also seen menehune through the trees at night in the same area. Another informant spoke of seeing an island offshore when they were camping overnight and fishing on the south coast at Lā'au Point. It was close enough to swim to.

Regarding your comment as to why MPL has not set aside and protected these areas in the past, we cannot respond to past non-practices because Molokai Ranch has been through several different ownerships. What is important now is our commitment to the Master Plan and the cultural protection measures provided in the Master Plan.

31. Has such legal advice been acquired as to ensure that CC&Rs can not be challenged in the future?

**Response:** Yes.

32. The CC&Rs are the legal lynchpin for all of MPL's promises to protect the area from environmental degradation. But it is in question as to whether MPL has yet even done its homework to determine whether they will work. MPL relies heavily on the CC&Rs in its La'au development plans...Please comment thoroughly on the previously aforementioned.

**Response:** The CC&Rs will be monitored and enforced by the Board of the Association of Owners of Lā'au Point, affected lot owners, and in certain circumstances, Molokai Properties Limited as the Declarant under the CC&Rs. 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 Molokai, 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 Molokai community and its desires and aspirations with kupuna and the Maunaloa community. This will be conducted under the guidance of the Molokai 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 Molokai 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.

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.

33. There are many provisions in the proposed CC&Rs of the proposed La'au development, among other things stating that residents will be educated to understand the culture and to take care of the land. Can MPL demonstrate a similar case where such CC&Rs have worked successfully?

**Response:** Lā'au Point will be unlike any other community in Hawai'i, and therefore, cannot be compared to other developments. What is unique about the Lā'au Point project is the community

planning that went into ensuring that exceptional views are preserved and that development would be environmentally and culturally sensitive. Lā'au Point aims to attract people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles.

34. *What is being done to enact State legislation to protect subsistence up to a quarter mile from the La'au shoreline?*

**Response:** Legislation is not required. Section 2.3.7 of the Final EIS will include the following:

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.

35. *If a second home is allowed on the lots at La'au, how large can the second home be?*

**Response:** The main residential dwelling and accessory structures are limited to 5,000 square feet in total.

36. *Can the second home be rented out on a full time basis? Can the main home be rented out on a full time basis?*

**Response:** As discussed in Section 2.3.6 of the Draft EIS, no rentals will be allowed at Lā'au Point.

37. *The roads owned and operated by Molokai Ranch in the Kaluakoi area have been neglected for years. What guarantee is there that the same will not take place in the La'au area?*

**Response:** The roads at Lā'au Point will be owned and maintained by the homeowners' association. They will be built to County standards and may be dedicated to the County.

38. *Why have no serious measures been taken or supported by Molokai Ranch to improve emergency services to the West End of Molokai?*

**Response:** Although addressed in Section 4.10.3 (Fire Protection) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

The project may impact fire protection services due to the increased demand generated by additional population, the presence of more structures, and potential increased activity at the parks and along the shoreline. The project area is about 25 to 35 minute response time from the Ho'olehua fire station and about 20 additional minutes from Kaunakakai's station. These response times are estimates and emergency response times may take longer. Currently access to the area is via unimproved and dirt roads. With the project, the access road will be paved, improving the road conditions, which may reduce emergency response times.

Most responses to the project area would probably be medical related given the older population. Further, there is a risk of brush fires in the area due to dryness and high winds, although fire breaks will be cut regularly during summer months.

A water storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection. Fire hydrants will be installed along the road spaced at intervals between 450 to 500 feet.

To provide increased fire protection at Lā'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the Lā'au Point Covenants, Conditions, and Restrictions (CC&Rs) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for Lā'au Point.

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluako'i to access Lā'au Point.

39. *In the EIS Molokai Ranch states that a fire truck could travel from Ho'olehua to La'au in 25 minutes. The fire department claims that it takes at least 25 minutes for a fire truck to arrive at Maunaloa and estimates that even with exceptional roads an additional 10-15 minutes should be added. Can Molokai Ranch please explain how the 25 minute figure was arrived at?*

**Response:** See our response to #38 above. The 25-minute response time is an estimate; we concur that emergency response time can take longer. Currently, access to the area is via unimproved and dirt roads. With this project, the access road will be paved, improving the road conditions, which in turn can reduce emergency response time. In addition, emergency response does not have to go all the way to Kaluako'i to access Lā'au Point. They can use the existing emergency access dirt road from Hale O Lono Harbor.

Mr. Steve Morgan  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 18 of 18

40. *Molokai Ranch states that as a result of the La'au Development, access to the La'au coastline for subsistence purposes will be made available. It is my understanding that because the coastal trail dates prior to 1893 that this trail can be freely accessed by the public with or without the development. Please respond.*

**Response:** We concur that the coastline can be freely accessed by the public with or without the project.

41. *Does Molokai Ranch believe that the community really understands what this means and that it includes the possibility of 6 hotels, 3 condo areas, one single family residential area, rural zoning for possibly another 400-500 homes and an additional golf course? Please comment.*

**Response:** We are committed to the plans set forth in the Master Plan. As previously addressed in #1 above, there are no plans to develop the area north of the Kaluako'i Resort.

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 4.9.2 (Water)  
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

Jeffrey Friedman  
Susannah Iott

1634 Clark Street  
Apt. D  
Honolulu, HI 96822

808.946.6215  
[fragzter@yahoo.com](mailto:fragzter@yahoo.com)  
[suseibluu@yahoo.com](mailto:suseibluu@yahoo.com)



November 1, 2007

Jeffrey Friedman & Susannah Iott  
1634 Clark Street, Apt. D  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Friedman and Ms. Iott:

Thank you for your letter dated December 28, 2006 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). You commented that development will dissolve Hawaiian cultural values, history, way of life, and Molokai's fragile ecosystem. Below, we respond to your comment.

Contrary to your assumptions, the Lā'au Point project and the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which the project is a part of, preserves many aspects of Hawaiian cultural values, history, and way of life. The Master Plan and project will prevent development on a majority of the land. Benefits include the donation of 26,200 acres (which include Native Hawaiian legacy lands) to a Moloka'i 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. Appendix A of the Draft EIS contains the Master Plan in its entirety.

Other than re-opening the Kaluako'i Hotel, the proposed development adjacent to Lā'au Point will be the last major development on Ranch lands forever.

We also expect that those who choose to buy a lot and build a house at Lā'au Point will be attracted to the beauty and mystique of the area. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This attitude among newer residents is already occurring, whereby recent residents, and others who share your values, are actively participating in environmental advocacy and protection efforts. It is also very likely that the new permanent residents will choose to live on Moloka'i because of the island's uniqueness, which includes a strong appreciation for local food gathering and other shoreline practices. The buyers' profile and CC&Rs will help to ensure that the qualities you value will be protected and enhanced.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Thursday, December 28, 2006

Office of Environmental Quality Control  
235 S. Beretania Street  
Suite 702  
Honolulu, Hawai'i 96813

Maui County Planning Department  
250 S. High Street  
Wailuku, Hawai'i 96793

06 DEC 29 PM 2:05  
DEPT OF PLANNING  
COUNTY OF MAUI  
RECEIVED

To Whom It May Concern,

Please accept this letter of two voices commenting *against* Molokai Properties Ltd. and their plans to develop Lā'au Point on Molokai. Though residing on Oahu, we fervently believe further land development on Molokai will ultimately dissolve Hawaiian cultural values, history, and way of life. Though traditional practices will face many obstacles as time wears on, facilitating this potential demise through active population growth and development is simply unnecessary. Furthermore, Molokai has a fragile ecosystem (e.g. watershed) and stressing this system is completely reprehensible in a day and age when energy and natural resource consumption is under ferocious public scrutiny.

Thank you for your time.

Best regards,

Jeffrey Friedman  
Susannah Iott

Jeffrey Friedman & Susannah Iott  
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 Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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February 1, 2007

To whom it may concern,

Welina mai me ke aloha e na kupuna, na makua, na 'opio a me na po'e hou a'e o Moloka'i nei.

My name is Tearo Keanini, I am a senior in the Hawaiian Language Immersion Program ('O Hina I ka Malama) within the Moloka'i high School. I am one of many concerned students here on our beautiful island of Moloka'i. Being a Hawaiian immersion student, I've learned a lot about how important our culture is and how we should malama ka 'aina.

I was concerned about our island's population and how much of an impact it would be if this project went through. According to this impact statement, report say's that there will be a maximum of 325 people. But if there is 200 lots and 2.9 people in each household (according to the report) there should be approximately 580 residence. Explain why the report says two different things.

According to the report, it stated that there would be 174 permanent residents and 325 seasonal residents but wouldn't all residents impact on our island whether they are seasonal or permanent? And how can they guarantee that these residents will be seasonal?

It's also stated in the report that these people will not need services but if you think about it, most of the residents will be retirees. They will need emergency services just as everyone else, and eventually they will need rubbish pick-up and other county services. Please explain why the report says that these residents will not need county services.

What is the impact to Molokai when these residents start selling their property to bigger and younger families?

I feel that this Draft environmental impact statement is not accurate and shouldn't be used as a standard for the La'au decision. As a future adult resident, I will have to live with the real impact of this La'au decision.

As a Hawaiian I believe that we have the rights to be respected. It is my hope that the La'au project will not be past. We need to preserve our culture and way of life. Thank you for listening to what we "The 'opio of Moloka'i have to say".

Mahalo...

A handwritten signature in black ink, appearing to read 'Tearo Keanini', written over a light-colored background.

Tearo Keanini

November 1, 2007

Tearo Keanini  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Keanini:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *I was concerned about our island's population and how much of an impact it would be if this project went through. According to this impact statement, report say's that there will be a maximum of 325 people. But if there is 200 lots and 2.9 people in each household (according to the report) there should be approximately 580 residence. Explain why the report says two different things.*

**Response:** The estimate of 325 persons is the estimated seasonal population during peak season. This is based on 80 percent of the residential units being occupied at one time during peak season. The permanent year-round population is projected to be 174 persons.

Your calculation of 580 residents is based on an assumption that 100 percent of the units are occupied. Given the market for the Lā'au Point project is for second and third homeowners, most of whom will not occupy their properties full-time, it is highly unlikely that 100 percent of the units will be occupied at any given time.

2. *According to the report, it stated that there would be 174 permanent residents and 325 seasonal residents but wouldn't all residents impact on our island whether they are seasonal or permanent? And how can they guarantee that these residents will be seasonal?*

**Response:** Yes, all residents, seasonal or permanent, have an impact. We cannot guarantee that residents will be seasonal; it is a projection. However, it is based on the experience of similar projects in other Hawaiian islands.

3. *It's also stated in the report that these people will not need services but if you think about it, most of the residents will be retirees. They will need emergency services just as everyone else, and eventually they will need rubbish pick-up and other county services. Please explain why the report says that these residents will not need county services.?*

**Response:** The Draft EIS states: "Low occupancy rates would minimize the need for County services" (page 68). County services, such as emergency service, may be required when homes are occupied. Unoccupied homes will not require regular County services.

Tearo Keanini  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 2 of 2

Other County services, such as rubbish pickup, are not available to other West End residents in Kaluako'i, etc. There are private entities available for trash pickup that will be utilized by homeowners.

4. *What is the impact to Molokai when these residents start selling their property to bigger and younger families?*

**Response:** This is a hypothetical question about a future occurrence that may or may not happen. However, at the prices anticipated, it is more likely that those buyers will not be young people, but those who are older in life and have had a considerable period in the workforce to accumulate the necessary capital to enable them to purchase such properties.

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

Alma,

1-9-07

I am a resident of Molokai & would like to request that an extension of 60 days be given to the Molokai Community to carefully review the material in the EIS. The EIS contains a lot of information that needs to be reviewed & the time that was given is not sufficient enough to ask for the community's input.

Mahalo,  
Tiare Ritte-Manangan

Tiare Ritte-Manangan  
PO BOX 2036  
K'Kai, HI 96748



January 16, 2007

Tiare Ritte-Manangan  
P.O. Box 2036  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Ritte-Manangan,

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,

A handwritten signature in black ink, appearing to read 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control



To whom it may concern:

I am a senior at Moloka'i High School and I am 17 years old, and I am writing this letter to you because this is one of the assignments in class that we have to do in our environmental class in our 7<sup>th</sup> period class, and it is to inform you about La'au Point. On the draft that I went read was about the building of 200 million dollar lots, and that the endangered species and all of the native plants will be destroyed and one of it is the pue'o, and if they will develop it then the pue'o will not have any place to live and will probably fly down town and make house over there and why cant we use the roads to go to the beach instead of just sharing it to the public.

Thank you and much mahalo's for thaking the time to read over my letter that I wrote to you and hope to be heard in the future.

From a concerned person,

A handwritten signature in black ink that reads 'Timothy Matross'.

November 1, 2007

Timothy Matross  
Moloka'i High School  
P.O. Box 158  
Ho'olehua, Hawai'i 96729

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Matross:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the endangered species and native animals, such as the pueo, at Lā'au Point.

Sections 3.6 and 3.7 (pages 42-45) of the Draft EIS provide a more detailed discussion the project's impacts and mitigation measures for flora and fauna, including native and endangered species. Appendices B and C contain the full flora and fauna reports.

In his full report, provided as Appendix C in the Draft EIS, the biologist states 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. To address the above information into the Final EIS, Section 3.7 (Fauna) of the Final EIS has been revised as shown:

No native land birds, native water birds, or seabirds were observed at the project site during an avifaunal and feral mammal survey (Appendix E) conducted in August 2006. The only native land bird species likely to forage in this area is the Hawaiian Owl or Pueo (*Asio flammeus sandwichensis*). This species is listed by the State of Hawaii as endangered on O'ahu but not elsewhere in the State. They hunt in grasslands, agricultural fields and forests and nest on the ground in habitats with tall grass.

With this project, the coastal ecosystem and shoreline habitats will be preserved by an expansion of the Conservation District by 254 acres along the shoreline and related resource areas. This proposed expansion will provide for a total of 434 acres of the project area to be protected in the Conservation District. The Land Trust will be in charge of managing Lā'au Point's Conservation lands.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Timothy Matross  
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 Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

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February 23, 2007

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI, 96813

Dear Mr. Witten:

I am writing this letter in concern for La'au point. The proposed plan of development at La'au point will drastically change the entire area. The plants, animals, water and spirit of La'au will not benefit from this proposed development, there is no denying that. I don't understand why development on La'au is the best idea. Are there no other ways of making money for the ranch? One possibility could be advertising the resort more and getting tourism to increase there. Why are the other lots not yet sold? Why cannot other areas be considered other than La'au point?

From my understanding of La'au it is a area very close to the hearts of most Hawaiians. With so many other locations already transformed by development, why not keep La'au as pristine and beautiful as it is? Where else in the world is that a place like La'au, untouched and natural?

Please consider other ways of making money before you decide to destroy another great area of Hawaii. Once the development begins La'au point will only be a memory.

Sincerely,

Trevor Gilligan



November 1, 2007

Trevor Gilligan  
2591 Dole Street, F905  
Honolulu, Hawai'i 96822

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Gilligan:

Thank you for letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about alternatives to the Lā'au Point project. We note that various alternatives to the project, including the same few ideas you mentioned, were previously considered and discussed in Section 6.0 of the Draft EIS.

The predecessors at MPL, prior to the appointment of Peter Nicholas in 2002, tried many different methods of generating revenue for the company. Most, if not all resulted in losses, although at least 140 community members have jobs and a livelihood as a result of those developments.

MPL would be eager to discover other methods of making profits, but has not heard or investigated any proposal or proposition from the community or from elsewhere that will enable the company to become sustainable as a business and re-open the Kaluako'i Hotel.

There have been many schemes proposed, but no person or company or entity has either proposed putting up the necessary funds or funding any project with MPL as a partner.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Nicholas'.

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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Trisha Kehaulani Watson

RECEIVED

FEB 26 2007

PBR HAWAII

PBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813  
Attention: Thomas Witten  
Telephone: (808) 521-5631  
Fax: (808) 523-1402

Molokai Properties Limited  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813  
Attention: Peter Nicholas and John Sabas  
Telephone: (808) 534-9502  
Fax: (808) 521-2279

State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Anthony Ching  
Telephone: (808) 587-3822  
Fax: (808) 587-3827

Office of Environmental Quality Control  
235 S. Beretania St., Suite 702  
Honolulu, HI 96813  
Fax: (808) 586-4185

February 16, 2007

Dear Peter:

This serves as my comments to the Draft Environmental Impact State (DEIS) for the Lā'au Point development project. In short, I am adamantly opposed to any development at Lā'au Point. Your DEIS is fatally flawed in that it fails to recognize serious problems regarding water, environmental justice, social and cultural impacts, the protection of endangered marine animals, and fails to seriously consider alternatives

PO Box 61395  
Honolulu, HI 96839  
Telephone: (808) 392-1617  
Fax: (808) 988-1792  
trishakwatson@hawaii.rr.com

to this project. It is entirely misleading as to community input and concerns. Further, it fails to offer mitigating measures as actually related to the impact area, instead it employs a "smoke and mirrors" tactic of using an irrelevant land swap from the master plan to justify the destruction of an area that must be protected.

#### Water

The plan fails to say where the water for this project is going to come from. Department of Hawaiian Homelands (DHHL) has already expressed opposition to this project, as the only possible water source is the DHHL water reserves. Your own DEIS acknowledges that "such a scheme appears overly optimistic, or even unrealistic." It is unrealistic. It is unrealistic as to the amount of water that will be used and the source of this water.

#### Environmental Justice

The increased encroachment of luxury development on the island of Moloka'i would be devastating. Whereas recent state legislation is calling for an increasing awareness of environmental justice issues in Hawai'i, the DEIS provides no analysis of the potential Diasporatic effect this development will have on the island of Moloka'i.

There is no doubt that such a development would impact surrounding land prices. On an island like Moloka'i, this means the entire island. Steeply increased property taxes would result in a severe negative impact on this island community. Would it force members of this primarily Native Hawaiian population off the island? I fundamentally disagree with the Hallstrom Group's analysis of the impact of development on real property taxes. Through the process of gentrification, we have seen how the development of new homes, even those "not [] comparable to the existing real estate" have been shown to eventually have a devastating impact on the existing real estate. Eventually, the needs of the new residents encroach upon the existing community. The reality of gentrification has been devastating for low-income and ethnically marginalized communities throughout the United States, and there is not evidence provided to even suggest that what has already begun throughout Hawai'i would not occur on Moloka'i with the La'au Point development.

#### Social Impacts and Cultural Impacts

PO Box 61395  
Honolulu, HI 96839  
Telephone: (808) 392-1617  
Fax: (808) 988-1792  
trishakwatson@hawaii.rr.com

Your social and cultural impact statement is completely inadequate. It is nothing short of baffling that the cultural impact statement supports the development when the author's own book does not. Therefore, exactly how much was you're the author of the cultural impact statement paid for her services? The author has made public claims that the money has gone into a trust, please submit evidence of that transaction.

In her book, *Nā Kua`āina*, McGregor acknowledges that traditional sources on the topic of Moloka`i "convey the image of Moloka`i as a child – small and fragile – that needs to be nurtured by the people who live there." Yet, the DEIS asks for outsiders to come in and care for the wahi pana of Lā`au Point. How could 499 strangers possibly care of a sacred place that's been in the care of Native Hawaiians for thousands of years?

Her book additionally points out a report from the University of Hawai`i that noted: "if tourist activities were expanded [on Moloka`i], they would encroach on traditional gathering spots. A resulting decline in supply of wild foods, coupled with a lessened interest in gathering due to competing forms of entertainment and increased demands on time, would effect a decrease in wild food exchange." Please specifically articulate a response to this statement and its apparent inconsistencies with the DEIS.

Her book also points out another study, which found "the 'preferred way of life on Moloka`i' was closely associated with rural living, Hawaiian culture, slow pace, everybody knowing everybody, family togetherness, and living off the land. Tourism, development, and high prices of were inconsistent with the preferred way of life on the island." This is consistent with the public outcry against the Lā`au Point development, so please explain how you can continue to justify a proposed development that is inconsistent with the Moloka`i way of life – as explained by the author of your cultural impact statement – and still claim this project has any public support.

Name one case in Hawai`i's history where a development has led to increased Native Hawaiian rights. The fanciful notion that any development would lead to enhancing indigenous rights is absurd. Despite claims made in the DEIS, it is far more likely and consistent with the history of development in Hawai`i that indigenous rights would be negatively affected by this development. Hopefully wishing that this project will someone bear different results than every other development that has ever come before it in Hawai`i simply is not enough to make it so.

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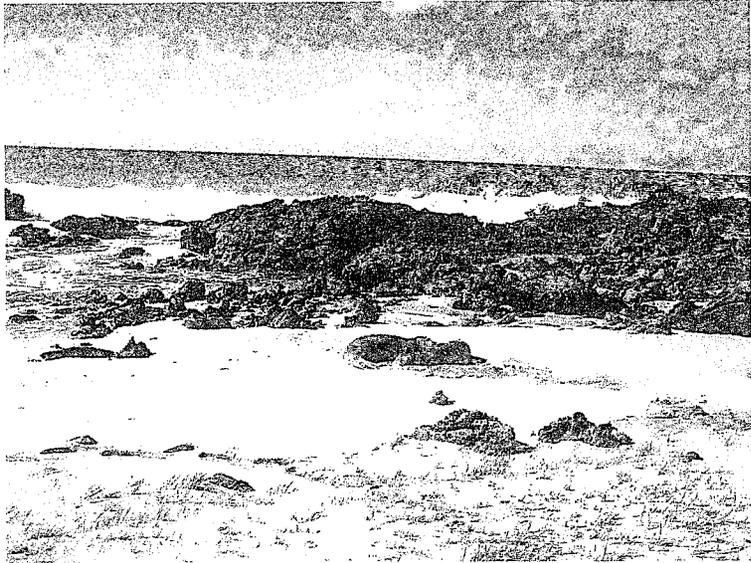
Further, the DEIS is completely inappropriate and insulting in its analysis of potential impacts and mitigation measures. The DEIS states that the social tension created by this proposed development "have been related to expectations and preconceptions of other social groups." They cite race as a factor. It's not race, it's culture. And it's insulting for the DEIS to imply that it's about anything else.

Moloka`i is unique. The kama`āina (the Native children of that place) are unique. There is culture to Moloka`i. It is different from O`ahu, Maui, Kaua`i and certainly places outside Hawai`i. And people who are not familiar with the ways of Moloka`i can upset that culture. Those of us who do not live on Moloka`i know and appreciate this. And the idea that culture and simply be taught in a few one-hour workshops is ridiculous. Culture is living and fluid; it cannot be bottled up into a CC&R or forced upon people. On one hand, they say the new residents will be isolated and not impact the culture. On the other, they say they're going to be forced to fit right in. All this double talk is just an effort to manage the overwhelming opposition to this project and hide the fact that MPL's snake-oil selling has disrupted this small island community. The only threat to the culture of Moloka`i is MPL. MPL knows this. And to turn around and say that the residents are inappropriately apprehensive is insulting to them. They are smart, wonderful, caring people. They are not easily swayed by "the media, experience, parents, authority, etc." They know what they have lived and what they have seen. They are rightfully apprehensive because they have lived through threats to their land and community. The social battles of the people of Moloka`i are historic. And the fact that the community has galvanized against this project only speaks to how wrong it is for this community.

#### Natural Resources

In looking at the DEIS response from NOAA, there is little doubt that this development will have serious negative impacts on the natural resources at Lā`au Point. Lā`au Point has a thriving monk seal population, as shown in these photos I personally took on the recent visit.

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It is mind-boggling to me that anyone would consider a development at this site when shark populations are being killed in the Northwestern Hawaiian Islands to protect monk seals there. As someone who sat on the Northwestern Hawaiian Island Cultural Working Group and was asked to vote on the taking of sharks from the Northwestern Hawaiian Islands to protect monk seals, I am greatly insulted that we are not affording this thriving monk seal population similar consideration. Why has there not been a more thorough study to look at the impact this development will have on this fragile population of monk seals? And why is development being considered in this area when we are going to such extreme measures to protect endangered animals and sites in other areas?

#### Mismanagement

MPL has mismanaged its Moloka'i properties for years. Now it's trying to whore off Lā'au Point to compensate for this mismanagement. One very viable alternative not explored in the DEIS, and one that must be considered, is having another company come in and manage the existing

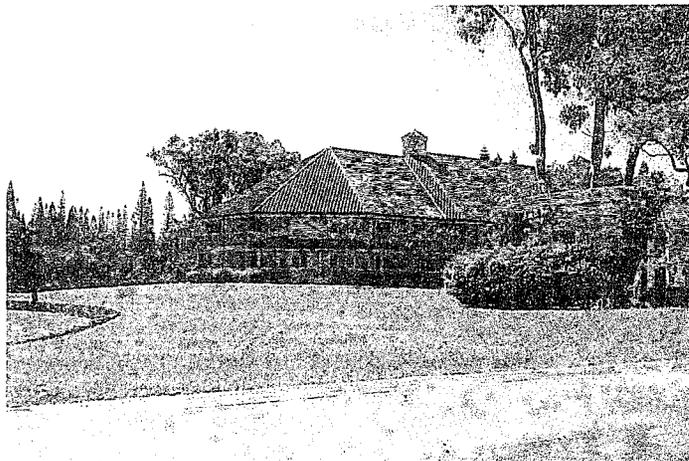
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properties. Why are the MPL properties failing while similar properties on Lana'i are thriving?

The comparisons between Lana'i and Moloka'i are extremely noteworthy. Both have small populations. Both have lodges and hotels. Lana'i thrives while Moloka'i falters. Yet, Moloka'i has more tourist traffic. More flights. More car rentals. More Hawaiian cultural sites and other historic sights. By all reasonable standards, Moloka'i's properties should be doing better. The difference is management.

MPL should follow Rupert Murdoch's lead. He owns the island of Lana'i, yet the hotels are managed by another group, currently the Four Seasons. As a result of proper management, the hotels on Lana'i are thriving. As someone who has been to the properties on both Moloka'i and Lana'i, and as someone who loves Moloka'i, the properties on Moloka'i are a shameful comparison to those on Lana'i. As the photo below shows, the Lodge at Koele is a beautiful well-kept property with exemplary service. The quality of service and facilities at Koele and Manele are leagues above those at MPL properties. And there is no doubting that the facilities at the MPL properties could easily be brought on par with those on Lana'i, therefore it is simply an issue of management. It is unclear to me why BIL International would think they could manage hotels. In its 2006 annual report, BIL provided no audited report from MPL. **Please from an audited report for MPL for the last five years, providing actual documentation as to MPL's current state of financial despair, which MPL has repeatedly used as justification for this development.**

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There is no doubting from their history that those currently in charge of the MPL properties are completely incompetent and this development project is sure to fail, like every other project undertaken by MPL in their misguided and ill-conceived efforts to "save the ranch." So please provide an explanation as to why a model taken from the model being used on Lana'i would not be a more suitable alternative to the one proposed. Please provide a full and complete analysis, including demographics from both properties and a full history of the management of MPL properties with an assessment as to why they failed.

#### Conclusion

The turnout for the recent EC election and its results (the supporters of the Lā'au Point development being voted out by an overwhelming margin) shows that this project has no community support, please provide a response to as how MPL can still maintain its position that this project has community support in light of the EC election.

Peter, you have stated at public hearings that the community would decide on Lā'au. They have said no. Yet, you have moved forward. I personally witnessed your verbal attacks on former MPL employees who were fired when they took a stand against this project. MPL's threats and strong arm tactics cannot be tolerated. Please provide justification

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at community meetings thus cutting off all discussions with the community regarding Lā'au Point.



BIL International, MPL's parent company, identifies MPL as a "land development" company. The business of land development is direct opposition to land conservation. MPL, as a domestic corporation, is legally obligated to maximize profits, thus it cannot ever put conservation or native rights above the bottom line. They have therefore been completely disingenuous in their promises to the community. Whereas MPL has done nothing but swindle the community, the LUC must act in the best interest of the land and community and not allow itself to also buy into the swindling of the MPL.

The purpose of the LUC is identified as:

In 1961, the Hawaii State Legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for the few while resulting in long-term loss to the income and growth potential of our State's economy. Development of scattered subdivisions, creating problems of expensive yet reduced public services, and the conversion of prime agricultural land to residential use, were key reasons for establishing the state-wide zoning system.

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To administer this state-wide zoning law, the Legislature established the Land Use Commission. The Commission is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.



Lā`au Point is already zoned appropriately. It need not be changed. **The petition area must be preserved and protected.** The master plan is irrelevant to this point and any of the trade-offs being offered by MPL should be completely disregarded by the LUC.

November 1, 2007

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Further, the DEIS is inadequate because it does not focus on the petition area. The mitigation measures are not sufficient, because they do not focus on the petition area. Mitigation and alternatives should be focused on Lā`au Point, not all of MPL's properties. What MPL does on its property outside the petition area should have no bearing on the LUC's decision regarding the boundary amendment. The LUC is obligated to only consider the impact on the petition area, nothing else.

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Watson:

Thank you for your letter dated February 16, 2007 regarding the Lā`au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

The LUC was created to stop "short term gain for the few" coming at the expense of the whole. Destroying Lā`au Point would only benefit a foreign parent company, while devastating the last truly Hawaiian island.

**Water**

1. *The plan fails to say where the water for this project is going to come from. Department of Hawaiian Homelands (DHHL) has already expressed opposition to this project, as the only possible water source is the DHHL water reserves. Your own DEIS acknowledges that "such a scheme appears overly optimistic, or even unrealistic." It is unrealistic. It is unrealistic as to the amount of water that will be used and the source of this water.*

I have had the privilege of going to Lā`au Point. I have conducted cultural activities there. I have subsistence gathered there. I did not require MPL's help in these processes. I don't need a company to help me be Hawaiian.

**Response:** We acknowledge your comments; however we respectfully disagree. DHHL has not formally expressed opposition to this project. Water sources have been clearly identified in the Draft EIS, Section 4.9.2. Potable water will be obtained from the already permitted 1.018 mgd from Well 17 and continued treatment of surface water from Molokai Ranch's mountain water system. Non-potable water sources include Molokai Ranch's mountain water system and, if permitted, the Kākalahale Well. Potential alternative sources of non-potable water include reclaimed wastewater, reclaimed water from the Pālā`au Shrimp Farm, and desalinating brackish or salt water.

You cannot imagine the majesty of Lā`au Point unless you have been there. And we Hawaiians have been finding our way there for thousands of years. What will exist there if this development occurs will not be Lā`au Point. Lā`au Point is the lack of electricity, the lack of running water, more fish than I have ever seen in my life circling my ankles as I stand in the shorebreak, monk seals sleeping on the beach with us. Its difficult access makes it sacred. Makes it special. So few places in Hawai'i like this still exist. It must be protected. And the only way to protect it is to leave it alone.

The Water Plan Analysis actually states: "At first blush, such a scheme appears overly optimistic, or even unrealistic. However, it is feasible because the Water Plan calls for (1) significantly decreasing current use of potable water for irrigation; (2) increasing efficiencies within existing systems; and (3) aggressive water conservation strategies." [Emphasis added.]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Trisha', written over a horizontal line.

Trisha Kehaulani Watson, JD, PhD (ABD)

**Environmental Justice**

2. *The increased encroachment of luxury development on the island of Molokai would be devastating. Whereas recent state legislation is calling for an increasing awareness of environmental justice issues in Hawaii, the DEIS provides no analysis of the potential Diasporatic effect this development will have on the island of Molokai. ¶There is no doubt that such a development would impact surrounding land prices. On an island like Molokai, this means the entire island. Steeply increased property taxes would result in a severe negative impact on this island community. Would it force members of this primarily Native Hawaiian population off the island? I fundamentally disagree with the Hallstrom Group's analysis of the impact of development on real property taxes. Through the process of gentrification, we have seen how the development of new homes, even those "not [] comparable to the existing real estate" have been shown to eventually have a devastating impact on the existing real estate. Eventually, the needs of the new residents encroach upon the existing*

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community. The reality of gentrification has been devastating for low-income and ethnically marginalized communities throughout the United States, and there is not evidence provided to even suggest that what has already begun throughout Hawaii would not occur on Molokai with the Lā'au Point development.

**Response:** We acknowledge that you disagree with the Hallstrom Group's analysis of the impact on real property taxes. We, however, agree with the Hallstrom Group's analysis provided in Appendix L of the Draft EIS. The analysis provides that Lā'au Point would not compete in the same market or market area of other Moloka'i properties. Therefore, in response to your question ("Would it force members of this primarily Native Hawaiian population off the island?"), no, Lā'au Point would not "force" any member of the population off the island.

#### **Social Impacts and Cultural Impacts**

3. *Your social and cultural impact statement is completely inadequate. It is nothing short of baffling that the cultural impact statement supports the development when the author's own book does not. Therefore, exactly how much was you're the author of the cultural impact statement paid for her services? The author has made public claims that the money has gone into a trust, please submit evidence of that transaction.*

**Response:** As stated on page 6 in the Cultural Impact Assessment (provided as Appendix F of the Draft EIS), Dr. Davianna Pomaika'i McGregor conducted the cultural impact assessment on a pro bono basis so that the fee she would have received can be contributed to the Moloka'i Land Trust to support its mission. Her book supports the protection of cultural kīpuka by the kua'āina who have lived in rural communities for generations. There are kua'āina on both sides of the project's proposal to develop a rural residential subdivision on the west and south shores adjacent to Lā'au Point. These kua'āina support different strategies to protect the island of Moloka'i as a cultural kīpuka.

4. *In her book, Na Kua āina, McGregor acknowledges that traditional sources on the topic of Molokai "convey the image of Molokai as a child- small and fragile — that needs to be nurtured by the people who live there." Yet, the DEIS asks for outsiders to come in and care for the wahi pana of Lā'au Point. How could 499 strangers possibly care of a sacred place that's been in the care of Native Hawaiians for thousands of years?*

**Response:** Given that the area proposed for development has been the private property of Molokai Ranch, the primary cultural practitioners of the area are current and former Molokai Ranch cowboys and employees, their 'ohana and longtime kama'āina residents of the Maunaloa community. The *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) outlines cultural principles and policies for the establishment and management of a Cultural Protection Zone and Subsistence Management Zone, including areas of the proposed Lā'au Point project. The Master Plan is provided in its entirety as Appendix A of the Draft EIS.

Extraordinary measures will be taken by the Moloka'i Land Trust in cooperation with the homeowners, to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families, to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes, and resources.

5. *Her book additionally points out a report from the University of Hawaii that noted: "if tourist activities were expanded [on Molokai, they would encroach on traditional gathering spots. A resulting decline in supply of wild foods, coupled with a lessened interest in gathering due to competing forms of entertainment and increased demands on time, would effect a decrease in wild food exchange." Please specifically articulate a response to this statement and its apparent inconsistencies with the DEIS.*

**Response:** If this concern addresses the planned re-opening of the Kaluako'i Hotel, the impact on the marine resources occurred with the original development of the Kaluako'i Hotel and resort complex and the Pāpōhaku Subdivision. Key informants noted that the opening of the West End of Moloka'i and off-island boaters severely impacted the marine resources along the West Coast from 'Īlio Point to Lā'au Point. In the Moloka'i Responsible Tourism Study conducted by Professor McGregor in 2006, 48 out of the 50 key informants interviewed supported reopening the Kaluako'i Hotel. At this point in time, there are only two hotels on Moloka'i, the Hotel Molokai and the Lodge and Beach Village. Otherwise, visitors stay in vacation rentals and bed and breakfast accommodations. The re-opening of Kaluako'i Hotel can serve as an important economic engine to the island's economy. These tourism issues were discussed in Section 4.8.4 of the Draft EIS.

6. *Her book also points out another study, which found 'the preferred way of life on Moloka'i was closely associated with rural living, Hawaiian culture, slow pace, everybody knowing everybody, family togetherness, and living off the land. Tourism, development, and high prices of were inconsistent with the preferred way of life on the island.' This is consistent with the public outcry against the Lā'au Point development, so please explain how you can continue to justify a proposed development that is inconsistent with the Moloka'i way of life - as explained by the author of your cultural impact statement - and still claim this project has any public support.*

**Response:** Many community leaders, who have been at the forefront of protracted grassroots battles against previous extravagant development schemes of Molokai Ranch, view the Master Plan as a reasonable and balanced approach that empowers the community to: manage premier Native Hawaiian legacy lands; control population growth; curb land speculation; and create economic opportunities. They firmly trust that they will be able to closely monitor and manage the proposed development at Lā'au Point, which they believe will be the last major development on Ranch lands – forever. They are committed to protecting the cultural sites as well as the natural resources needed for subsistence hunting and fishing.

Master Plan and project opponents continue to distrust the Ranch, reject any compromise, and have drawn a battle line at Lā'au. Some seek alternative sustainable development to finance the Master Plan. Others want to find a conservation buyer or believe that they can raise funds to buy out the Ranch at a projected \$100 million. And some zealously feel that the community has stopped the Ranch in the past, can stop the Ranch now, and can continue to fight against any development scheme of any future buyer or group of buyers.

The proposed Lā'au Point project would potentially increase the Maunaloa population back to the level that it was before the pineapple plantation phased out. According to the 1970 census, Maunaloa was a bustling town of 872 people. At that time, there was a full-service gas station, a large grocery store, restaurants, and a full elementary school. The 2000 census reported the

population of Maunaloa as 230 people. The gas station is only open for a few hours a day, the grocery store has a limited number of items, the only restaurant is part of the Molokai Ranch Lodge Hotel, and the elementary is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 1970s and 80s, the overall population of West Moloka'i only increased by 53 from 2,515 in 1970 to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai, or lengthening lines in the Kaunakakai grocery stores, the proposed project could breathe new economic life to revive Maunaloa and relieve the pressure on Kaunakakai.

In contrast to Maunaloa, the population of East Moloka'i nearly doubled from 2,574 in 1970 to 4,688 in 2000. Moloka'i families have been selling lands to persons from off-island, one-by-one, lot-by-lot. The cumulative impact of this unmanaged growth is that the prices of land, houses, and property taxes have risen beyond the reach of many of the upcoming generation raised on the island. Some of the newcomers are only seasonal residents, and rent out their homes as vacation rentals when they are away, which has changed the close-knit quality of neighborhoods. The demographic changes already witnessed in East Moloka'i have made the longtime residents of Moloka'i fearful of the proposed development of 200 new lots potentially priced at \$1 million or higher. These fears provide fertile ground for opponents of the Master Plan and their campaign against development on the south and west shores of the island. It is especially appealing to the young generation and those who are not from Moloka'i. They are either too young or unfamiliar with Moloka'i before the plantations closed to remember the level of the population and related social and economic activity in Maunaloa during that period.

The "no action" alternative (discussed in Section 6.1 of the Draft EIS), which opponents advocate, would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 full-time staff, tourist expenditures would be lost, and local businesses at Maunaloa and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "no action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au, but on all Ranch lands, and increase the demand for water. Under the existing Moloka'i Community Plan and County zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan (see Section 6.2 of the Draft EIS). If sold to an investment corporation, land can be developed beyond the proposed 200 two-acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development (see Section 6.6 of the Draft EIS). The "no action" would ultimately evolve into the worst case scenario for Moloka'i.

7. *Name one case in Hawai'i's history where a development has led to increased Native Hawaiian rights. The fanciful notion that any development would lead to enhancing indigenous rights is absurd. Despite claims made in the DEIS, it is far more likely and consistent with the history of development in Hawai'i that indigenous rights would be negatively affected by this development.*

*Hopefully wishing that this project will somehow bear different results that every other development that has ever come before it in Hawai'i simply is not enough to make it so.*

**Response:** You request that the EIS "name one case in Hawai'i history where a development has led to increased Native Hawaiian rights." The EIS makes no allusions to this assumption. In addition, it is not the responsibility of the EIS to cite cases or make comparisons and examinations to other projects. The purpose of the EIS is to disclose environmental effects of the proposed action (please refer to HAR §11-200-12 Significance Criteria).

The overall Master Plan will repatriate 26,200 acres to the community through the Moloka'i Land Trust and place 24,950 acres into protective easements which will be managed by the Moloka'i Land Trust. Among the lands to be donated to the Moloka'i Land Trust are cultural sites and landscapes that are important for all Native Hawaiians. As previously discussed in Section 4.2 of the Draft EIS, these include:

- The ancient burial ground in the sand dunes at Kawa'aloa Bay. This is one of the most famous and largest burial grounds in all of the islands. At one time, the Ranch allowed the mining of sand here and disturbed the burials. The Ranch also planned to develop a resort here. Now, these sacred grounds will be permanently protected under the Land Trust.
- Kā'ana, the birthplace of the hula, which originated on Moloka'i and spread to other islands. This sacred site will never be destroyed or commercialized.
- Nā'iwa, the only intact traditional makahiki grounds in the islands. This extensive area was once threatened by the development of a golf course. It will now be protected forever.
- Village sites at Kawākiu, which could be under threat from the current designation in the Moloka'i Community Plan, will now be permanently protected.
- Burial mounds at Kawela, which at one time were threatened by development, will be protected under the Land Trust.
- Key subsistence fishing grounds from Keonelele to 'Īlio Point and from Pālā'au over to Hale O Lono, including Hālena and Kolo.
- The historic Pāka'a house sites, upland sweet potato gardens, and connecting trails.
- Pu'u of Kaiaka, which was saved from development.
- Kamāka'ipō Gulch will be preserved.
- Under the Master Plan, commercial hunting will cease at the end of December 2007 and only subsistence hunting will continue.

The area proposed for development has been privately owned since 1875 and access to it has been restricted to the owners, shareholders, cowboys, and employees of Molokai Ranch and their families. Under the Master Plan, access to the area will be open by foot and the entry points will be located at Kamāka'ipō on the western shore and Pu'u Hakina, on the south shore. These access points are much closer than the current entry points at Dixie Maru on the west shore and Hale O Lono on the south shore.

8. *Further, the DEIS is completely inappropriate and insulting in its analysis of potential impacts and mitigation measures. The DEIS states that the social tension created by this proposed development "have been related to expectations and preconceptions of other social groups." They cite race as a factor. It's not race, it's culture. And it's insulting for the DEIS to imply that it's about anything else.*

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**Response:** The Draft EIS summarizes the findings of a full Social Impact Assessment (SIA) that is provided as Appendix M.

The SIA identifies "expectations of conflicting values and unfair treatment" as a potential impact on the social environment. We agree that social impacts are not about race, but about the various aspects that comprise culture. These may be influenced by gender, economic class, age, religion, politics, occupation, and lifestyle. The SIA further notes the bases for these expectations vary, including cultural mores, which you excluded in your comments, the media, experience, parents, authority, etc. The SIA found that people have many expectations of the new residents, and these expectations are especially negative for those who oppose the project.

Other impacts to the social environment that are discussed in the SIA include community conflict, social interactions, and relationships and community experience at Lā'au Point.

While we agree that the social battles of the people of Moloka'i are historic, we disagree that the community has galvanized against this project. Like other controversies, such as the proposal to allow cruise ships to land in Moloka'i and the University of Hawai'i patent applications for genetically-modified taro, there are at least two sides to the issue. Lā'au Point and the Master Plan are no exception. 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.

9. *Molokai is unique. The kamaaina (the Native children of that place) are unique. There is culture to Molokai. It is different from Oahu, Maui, Kauai and certainly places outside Hawaii. And people who are not familiar with the ways of Molokai can upset that culture. Those of us who do not live on Molokai know and appreciate this. And the idea that culture and simply be taught in a few one-hour workshops is ridiculous. Culture is living and fluid; it cannot be bottled up into a CC&R or forced upon people. On one hand, they say the new residents will be isolated and not impact the culture. On the other, they say they're going to be forced to fit right in. All this double talk is just an effort to manage the overwhelming opposition to this project and hide the fact that MPL's snake-oil selling has disrupted this small island community. The only threat to the culture of Molokai is MPL. MPL knows this. And to turn around and say that the residents are inappropriately apprehensive is insulting to them. They are smart, wonderful, caring people. They are not easily swayed by "the media, experience, parents, authority, etc." They know what they have lived and what they have seen. They are rightfully apprehensive because they have lived through threats to their land and community. The social battles of the people of Molokai are historic. And the fact that the community has galvanized against this project only speaks to how wrong it is for this community.*

**Response:** Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how

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to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

In addition, homeowners and the Moloka'i Land Trust, together with Ranch employees and longtime residents of the Kaluako'i ahupua'a, will jointly manage access and conservation of the natural and cultural resources along the west and south shoreline adjacent to Lā'au Point. This joint management responsibility will be ongoing in order to engender cooperation between the homeowners, the Moloka'i Land Trust, the Molokai Ranch employees and the longtime Maunaloa kama'āina in the management of the cultural and natural resources of the southwest coast of the island of Moloka'i.

#### **Natural Resources**

10. *In looking at the DEIS response from NOAA, there is little doubt that this development will have serious negative impacts on the natural resources at Laau Point. Laau Point has a thriving monk seal population, as shown in these photos I personally took on the recent visit. It is mind-boggling to me that anyone would consider a development at this site when shark populations are being killed in the Northwestern Hawaiian Islands to protect monk seals there. As someone who sat on the Northwestern Hawaiian Island Cultural Working Group and was asked to vote on the taking of sharks from the Northwestern Hawaiian Islands to protect monk seals, I am greatly insulted that we are not affording this thriving monk seal population similar consideration. Why has there not been a more thorough study to look at the impact this development will have on this fragile population of monk seals? And why is development being considered in this area when we are going to such extreme measures to protect endangered animals and sites in other areas?*

**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 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)." The SAMP has been included as an appendix to the Final EIS.

#### **Mismanagement**

11. *MPL has mismanaged its Molokai properties for years. Now it's trying to whore off Laau Point to compensate for this mismanagement. One very viable alternative not explored in the DEIS, and one that must be considered, is having another company come in and manage the existing properties. Why are the MPL properties failing while similar properties on Lanai are thriving? ¶The comparisons between Lanai and Molokai are extremely noteworthy. Both have small populations. Both have lodges and hotels. Lanai thrives while Molokai falters. Yet, Molokai has more tourist traffic. More flights. More car rentals. More Hawaiian cultural sites and other historic sights. By all reasonable standards, Molokai's properties should be doing better. The difference is management. ¶MPL should follow Rupert Murdoch's lead. He owns the island of Lanai, yet the hotels are managed by another group, currently the Four Seasons. As a result of proper management, the hotels on Lanai are thriving. As someone who has been to the properties on both Molokai and Lanai, and as someone who loves Molokai, the properties on Molokai are a shameful comparison to those on Lanai. As the photo below shows, the Lodge at Koele is a beautiful well-kept property with exemplary service. The quality of service and facilities at Koele and Manele are leagues above those at MPL properties. And there is no doubting that the facilities at the MPL properties could easily be brought on par with those on Lanai, therefore it is simply an issue of management.*

**Response:** We acknowledge your comments comparing the different management of Lāna'i and Moloka'i. Without getting into an unnecessary debate, we respectfully disagree with your opinions regarding how "Lāna'i thrives while Moloka'i falters." As previously referenced (HAR §11-200-12 Significance Criteria), we note that it is not within the scope of the EIS to make comparisons to the business plans other projects. This project is evaluated on its own merits.

In addition, the Social Impact Assessment (Appendix M of the Draft EIS) examined Lāna'i and found that the Lāna'i model illustrates how a rapid shift from a single-product agribusiness to a resort and luxury development caused significant social disruption. The social impact assessment further found that implementation of the Lā'au Point project would not result in similar social conditions. Moloka'i has traditionally exhibited self-reliance and independence, whereas Lāna'i residents historically accepted the decisions of the island's predominant employer. Also, whereas Lāna'i had only one option for change, Moloka'i has multiple options for change,

including economic forces and development projects. Therefore, the economic disparities that exist on Lāna'i are not expected to occur on Moloka'i due to the Lā'au Point project.

12. *It is unclear to me why BIL International would think they could manage hotels. In its 2006 annual report, BIL provided no audited report from MPL. Please from an audited report for MPL for the last five years, providing actual documentation as to MPL's current state of financial despair, which MPL has repeatedly used as justification for this development.*

Regarding your request to provide an audited report for MPL for the last five years, MPL is an operating subsidiary of BIL International and its accounts are not audited under Generally Accepted Accounting Principles (GAPP). In addition, MPL is a privately-held corporation not traded on public exchanges; therefore, we do not have to disclose our internal financial audits to the public.

13. *There is no doubting from their history that those currently in charge of the MPL properties are completely incompetent and this development project is sure to fail, like every other project undertaken by MPL in their misguided and ill-conceived efforts to "save the ranch." So please provide an explanation as to why a model taken from the model being used on Lanai would not be a more suitable alternative to the one proposed. Please provide a full and complete analysis, including demographics from both properties and a full history of the management of MPL properties with an assessment as to why they failed.*

**Response:** Although we acknowledge your comment regarding Lāna'i's tourism model, we disagree that it should be applied to Moloka'i. We direct you to read the *Moloka'i Responsible Tourism Initiative Report* (McGregor 2006) regarding Moloka'i's community-based tourism model. The report can be found at: <<http://huinet.hawaiiirdp.org/molokai/visitorindustry.htm>>

#### **Conclusion**

14. *The turnout for the recent EC election and its results (the supporters of the Laau Point development being voted out by an overwhelming margin) shows that this project has no community support, please provide a response to as how MPL can still maintain its position that this project has community support in light of the EC election.*

**Response:** 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. Therefore, an EC vote to put some opponents on the organization's board does not necessarily prove the community is against the Master Plan.

The election held on January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan community-based planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's

Ms. Trisha K. Watson  
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 10 of 12

Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of 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 Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for Board Directors that have no such regulatory power.

*15. Peter, you have stated at public hearings that the community would decide on Laau. They have said no. Yet, you have moved forward. I personally witnessed your verbal attacks on former MPL employees who were fired when they took a stand against this project. MPL's threats and strong arm tactics cannot be tolerated. Please provide justification at community meetings thus cutting off all discussions with the community regarding Laau Point.*

**Response:** We strongly disagree with your statements about MPL. Since Peter Nicholas became CEO in 2002, MPL has never fired any employee for taking a position against the Master Plan, nor taken "strong-arm tactics" against those who are against the Master Plan.

*16. BIL International, MPL's parent company, identifies MPL as a "land development" company. The business of land development is direct opposition to land conservation. MPL, as a domestic corporation, is legally obligated to maximize profits, thus it cannot ever put conservation or native rights above the bottom line. They have therefore been completely disingenuous in their promises to the community. Whereas MPL has done nothing but swindle the community, the LUC must act in the best interest of the land and community and not allow itself to also buy into the swindling of the MPL.*

**Response:** We disagree with your assumption. The Nature Conservancy and other land trust organizations often partner with large land owners and "land development" companies to preserve open space.

The Moloka'i Land Trust, a private, non-profit corporation organized under Hawai'i State Statute HRS-414D and with a determination from the Internal Revenue Service as a public charity under code 509(a)3, will receive over 50,000 acres from MPL in the form of land donations and easements. The Land Trust has adopted the same standards and practices of the

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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>>.

*17. The purpose of the LUC is identified as: In 1961, the Hawaii State Legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for the few while resulting in long-term loss to the income and growth potential of our State's economy. Development of scattered subdivisions, creating problems of expensive yet reduced public services, and the conversion of prime agricultural land to residential use, were key reasons for establishing the state-wide zoning system. ¶To administer this state-wide zoning law, the Legislature established the Land Use Commission. The Commission is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited. ¶Laau Point is already zoned appropriately. It need not be changed. The petition area must be preserved and protected. The master plan is irrelevant to this point and any of the trade-offs being offered by MPL should be completely disregarded by the LUC.*

**Response:** The current State land use zoning for Lā'au Point is Agricultural. Section 6.0 of the Draft EIS provided analyses of various alternatives that would not require a zone change. After examining these various alternatives, we consider the proposed project to be the preferred alternative.

*18. Further, the DEIS is inadequate because it does not focus on the petition area. The mitigation measures are not sufficient, because they do not focus on the petition area. Mitigation and alternatives should be focused on Laau Point, not all of MPL's properties. What MPL does on its property outside the petition area should have no bearing on the LUC's decision regarding the boundary amendment. The LUC is obligated to only consider the impact on the petition area, nothing else.*

**Response:** The Lā'au Point project is one of the elements of in the Master Plan. Successful implementation of the Master Plan depends on the Lā'au Point project. 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 Boundary Amendment Petition on Lā'au Point before the Land Use Commission, if approved, would not represent the LUC's approval of the Master Plan.

*19. The LUC was created to stop "short term gain for the few" coming at the expense of the whole. Destroying Laau Point would only benefit a foreign parent company, while devastating the last truly Hawaiian island.*

**Response:** We disagree. This project and the Master Plan provide benefits for the entire Moloka'i community. These benefits include the donation of 26,200 acres to the Moloka'i Land Trust and Community Development Corporation, restrictive easements on another 24,950 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.

Ms. Trisha K. Watson

SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 12 of 12

The Master Plan process set the stage for Moloka'i's future—a future in which self-determination by the island's residents is assured. It is from the implementation of this Plan and the Lā'āu Point project that more than 50,000 acres (85 percent) of MPL's property would be protected from development in perpetuity. It is also from this Master Plan and project that MPL's future as a major island employer is preserved.

20. *I have had the privilege of going to Laau Point. I have conducted cultural activities there. I have subsistence gathered there. I did not require MPL's help in these processes. I don't need a company to help me be Hawaiian. You cannot imagine the majesty of Laau Point unless you have been there. And we Hawaiians have been finding our way there for thousands of years. What will exist there if this development occurs will not be Laau Point. Laau Point is the lack of electricity, the lack of running water, more fish than I have ever seen in my life circling my ankles as I stand in the shorebreak, monk seals sleeping on the beach with us. Its difficult access makes it sacred. Makes it special. So few places in Hawaii like this still exist. It must be protected. And the only way to protect it is to leave it alone.*

**Response:** We acknowledge your comments. We note that during the Master Plan process, the Land Use Committee made multiple visits to Lā'āu Point as well.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas  
President and CEO  
Molokai Properties Limited

Attachment: Revised Section 3.7 (Fauna)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



January 16, 2007

Tyson K. Santiago  
c/o Walter Ritte  
P O Box 486  
Kaunakakai, HI 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. Santiago *John Sabas*

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

Thomas S. WITTEN,

The Santiago Ching request a 60 day extension to respond to EIS public comment process. Lā'au point is very special & to rush through this would deeply impact many. Your time is greatly appreciated.

Tyson K. Santiago & Ohana

SAVE LA'AU POINT

KEEP Molokai, Molokai

**VALERIE MONSON  
175 KEALALOA AVENUE  
MAKAWAO, MAUI, HAWAII 96768**

FAX SUBMITTAL (808)587-3837 (2-page letter)

January 23, 2007

Mr. Anthony Ching, Executive Officer  
State Land Use Commission  
PO Box 2359  
Honolulu, Hawaii 96804

SUBJECT: Comment on La'au Point Draft Environmental Impact Statement (DEIS)

Dear Mr. Ching,

I am writing to set the record straight on my so-called "active participation" in the development of Molokai Ranch's master land use plan that includes the development of 200 luxury lots at La'au Point.

In reviewing the Ranch's draft environmental impact statement, I was shocked to see that I was listed in Appendix A as a member of both the Economic Sub-Committee and the Environmental Sub-Committee that were apparently organized by the Ranch to gain community input on its plan.

I was even more surprised to read on Page 33 that the Ranch described the members of these sub-committees as "the most active participants during the process."

For the record, more than two years ago when I traveled to Molokai as a reporter for The Maui News, I recall attending one committee meeting, as background for a possible story. It was very early in the process. I did not actively participate in any meeting - in my 30 years as a reporter, I never actively participated or testified at meetings that I wrote about. I took some notes and photographs while on Molokai, and, if anything, asked questions after the meeting. Several months later, I wrote a story on the proposed plan, but I conducted fresh interviews over the phone. I did not use any information, or the photographs, from my earlier visit to Molokai.

Since I live on Maui, it would have been most difficult for me to be one of the "most active participants" of this process.

Mr. Anthony Ching  
January 23, 2007  
Page 2

Without taking a stand on whether I support the plan or not, what troubles me is that the Ranch continually claims in its publicity materials that the plan has broad-based community support and that it was developed by more than 1,000 people at many meetings. In the draft EIS, the Ranch states on Page vii: "More than 1,000 Molokai residents participated in the planning process, which involved long hours of impassioned debate, critical thinking and soul-searching."

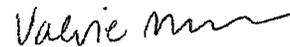
If I am one of the "most active participants" in the process, that would make me wonder how active the other 1,000 people were.

The Ranch was asked in the draft EIS to explain the extent of my participation. The ranch replied that it "is not possible to quantify the extent of Ms. Monson's participation regarding the development of the Plan." How can you describe me and other so-called members of these subcommittees as the "most active participants" in one breath and then say you can't quantify my level of participation in the next?

This is not an easy letter for me to write. I have friends on both sides of the La'au issue and, during my 18 years of covering Molokai for The Maui News, I have always tried to be fair and report all sides of a controversy. I did not intend to get involved in this very sensitive matter - and do not plan to get involved in it further, but when I saw my name used incorrectly by the Ranch, I had to write to set the record straight.

Thank you for your time.

Sincerely,



Copies:

- Genevieve Salmonson, Director, Office of Environmental Quality Control
- Danny Mateo, Maui County Council, Molokai
- Charmaine Tavares, Mayor, Maui County
- Jeff Hunt, Director, Maui County Planning Department
- Molokai Planning Commission
- Peter Nicholas, President and CEO, Molokai Ranch
- Isaac Hall, Attorney for Molokai Ranch
- Tom Whitten, President PBR Hawaii, Molokai Ranch Planning Consultant



November 1, 2007

Valerie Monson  
175 Kealaloa Avenue  
Makawao, Hawaii 96768

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Monson:

Thank you for your comments regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

We recognize your concern; however, as you know, sign-in sheets were provided at every meeting. Since you signed your name on the sign-in sheets, you were included as a participant, whether you spoke at the meetings or not. This was done in good faith.

We suggest that also you contact the Enterprise Community (EC) to record your concerns and seek a clarification of your participation in any future Master Plan document revision.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Nicholas', is written over a light blue horizontal line.

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

O:\JOB17\1733.10 Molokai Ranch-Laau Pt EIS\EIS\DEIS\Comment letters\Responses\Individuals\Final\Valerie Monson.doc

January 9, 2006  
P.O. Box 1962  
Kaunakakai Hi  
96748



Thomas S. Witten  
PBR Hawaii  
1001 Bishop Street  
ASB Tower Suite 650  
Honolulu, HI 96813

Dear Mr. Witten

Please extend the period of time to respond to your draft EIS on Lā'au Point as I have had 2 sets of family and will have another set of friends visiting the island since Christmas and the enormity of your EIS is overwhelming to read in such a short amount of time. I request 60 days beyond February 6, 2006.

Thank you for your courtesy & cooperation.

Sincerely,

Filiana Tui Kapuni

cc: Anthony Ching.

January 16, 2007

Mrs. Victoria Kapuni  
P.O. Box 1962  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mrs. Kapuni:

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,

A handwritten signature in black ink that reads 'John Sabas'.

John Sabas  
General Manager of Community Affairs  
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission  
Genevieve Salmonson, Office of Environmental Quality Control

Laau Point questions for EIS

Laau Point questions for EIS

Date: February 21, 2007

Regarding: Laau Point EIS Questions

To: Peter Nicholas,  
Thomas Witten,  
Anthony Ching  
Office of Environmental Control

Enclosed please find my questions on the Laau Point EIS.

They are assembled in nine (9) packets consisting of sections A through I totaling 524 questions and their subparts, and totaling 136 pages. They are described as follows:

Section A: questions 1-20 and their subparts (6 pages)  
Section B: questions 21-56 and their subparts (13 pages)  
Section C: questions 57-79 and their subparts (8 pages)  
Section D: questions 80-317 and their subparts (55 pages)  
Section E: questions 318-344 and their subparts (7 pages)  
Section F: questions 345-439 and their subparts (26 pages)  
Section G: questions 440-463 and their subparts (6 pages)  
Section H: questions 464-491 and their subparts (7 pages)  
Section I: questions 492-524 and their subparts (8 pages)



Victoria Kapuni  
P. O. Box 1962  
Kaunakakai, HI 96748

QUESTIONS SUBMITTED FOR DRAFT EIS ON LA AU POINT TO PBR HAWAII  
by Victoria Kapuni  
P. O. Box 1962  
Kaunakakai, HI 96748

SECTION A QUESTIONS 1 - 20 AND THEIR SUBPARTS

Questions Pertaining to 2.2

1. In December 2001 Molokai Ranch acquired holdings in Kaluakoi Hotel for what purpose if not to renovate? (see p. 17)
  - 1.a. Was the Ranch just going to allow the hotel to fall to ruin from neglect?
  - 1.b. Did the Ranch purchase the Kaluakoi Hotel for its water to develop the 'tentalo' on the beach?
  - 1.c. Did the Ranch purchase the Kaluakoi Hotel for its water to use elsewhere?
  - 1.d. If the Ranch, in 2001, was going to restore the Kaluakoi Hotel, how did it intend to do so?
    - 1.e. with what money?
    - 1.f. from where?
2. Please state or produce CDC's entire mission statement.
  - 2.a. From what document do you state this mission statement?
  - 2.b. I was under the impression that Molokai Land Trust was to receive 1160 acres of land Mauka Kaunakakai for expansion and affordable housing. Please explain in detail the legal relationship between CDC and the Land Trust.
    - 2.c. which entity will receive the 1160 acres?
    - 2.d. who has control over the 1160 acres? The ultimate say?

Laau Point questions for EIS

2. d. What are the purpose statements for each entity?  
Mission statements?

2.e, What is the purpose of the CDC?

3. List the names of the many Land Use Committee members who made at least 2 site visits to Laau Point.

3.a State time of day, how long they stayed and the date.

3.b. Who accompanied the land use members on these site visits? List names and how affiliated with the Ranch. ex. employee family member, former employee, etc.

4. List the many Land Use Committee members who may have made only one site visit to Laau Point.

4.a. State time of day, how long they stayed and the date.

4.b. Who accompanied the land use members on this site visit? List names of those persons and how they are connected to the Ranch. (ex.Ranch employees, contractors, etc.)

5. State each and every way and with full detail how you intend to educate Laau Point homeowners on conservation

5.a. with complete specificity state how you propose to ensure these homeowners will support conservation?

5.b.i. cultural site protection?

5.c.ii. subsistence?

6. Please produce in full the Laau Point Covenants (CC&RS)

6.a. Please be sure to include each and every way they can be enforced

6.b. How can they be ammended?

6.c. Who specifically will enforce them and by what means?

6.d. What is the controlling law in Hawaii on the issue of enforcement of CC&RS? Give cite and details of case law.

Laau Point questions for EIS

7. Please list each and every way naming the "extraordinary lengths" the Land Use Commission went to ensure that the Laau Point subdivision would be set apart from the typical subdivisions in Hawaii."

7.a. List each and every development of land and/or resorts and/or subdivisions that BIL or its successor or assigns or its subsidiaries in other counties has developed in the past ten years.

7.b. List the specific methods it used to gain community support for those developments.

7.c. What were the steps BIL did or it's subsidiary did to accomplish the development they accomplished on Figi? Who were the BIL employees who spearheaded that development and public input?

Questions pertaining to 2.1.9

8. Please Produce the document or state in its entirety the Articles of Incorporation for the CDC.

8.a. Who are all the Initial Board of Directors for CDC?

8.b. Who is the name or names of the incorporator(s) for CDC?

8.c. Who are all the shareholders?

8.d. state or attach by-laws?

8.e. What day where the Articles of Incorporation filed with the State of Hawaii.

8.f. If not filed with Hawaii, state specifically where and when it was filed elsewhere.

8.g. If not filed, why not?

8.h. Do you have draft documents? If so produce and attach them with this answer.

9. The CDC tasks are to develop affordable housing. Is that from the 1160 acres mauka of Kaunakakai or elsewhere? What are the procedures CDC intends to carry out to accomplish this task? Be specific in you detailed account of your intentions.

10. How is CDC to promote economic development? Fully explain all ways this will be accomplished. Listing in

Laau Point questions for EIS  
detail each and every way.

11. Explain fully how CDC is to expand educational opportunities. Be sure to state timetable and specifically where, how and by whom this is to be done.

12. How is the CDC to assist the Land Trust?

12.a. How are the two entities related?

12.b. What if any is their legal relationship between the two entities if there is one.

12.c. What lands (give specific detail ex. 200 lots, 26,200 acre easement) do the CDC and Land Trust have in ownership, management, control over?

12.c.i. What are the rights, duties and responsibilities the CDC and Land Trust have for that land?

12.c.ii. What are the CDC and Land Trust expected to do with the lands?

13. Since MPL will retain ownership of land around Kualapu u and Maunaloa; and since CDC will make decisions and timing of development, who will have the FINAL decision? and over these 200 acres?

13.a. How will the CDC and MPL interact? Through their sperate boards? Explain fully.

13.b. Will they be the same people on the boards?

14. Please explain the difference in your Molokai Ranch Plan selling 3.2 acres to our Community College and the original 10 acres in the MOLOKAI LAND USE PLAN that has precedence over your RANCH plan.

14.a. Why did you cut the amount of acres the community originally stated it wants (10 additional acres) to 3.2 for the college?

14.b. What is your plan for the 6.8 acres originally planned for the college?

15. List all names on the CDC Steering Committee that

Page 4  
*see A*

Laau Point questions for EIS  
is purportedly investigating legal and tax structures of the CDC's "mission"?

15.a. When do they meet?

15.b. Where do they meet?

15.c. What have they done thus far explain fully.

15.d. Does this Committee keep minutes? If so, attach all minutes to this answer.

Questions pertaining to 2.2.1

16. State with specificity each and every way the Molokai Land Use Plan creates a sustainable future for Molokai and compare it to each and every way the Molokai RANCH Plan creates a sustainable future for Molokai.

17. Please specify each and every NEW employment and training opportunity YOUR Molokai RANCH plan would provide our current Molokai residents.

17.a. Who will provide the training?

17.b. What is each and every new employment opportunity give job descriptions and anticipated wages or salary for each position.

17.c. What are the numbers or new jobs expected in each employment opportunity category.

17.d. Who will be the employer for all the new employment opportunities for our current Molokai residents?

18. State what is the difference in your report between "secure the role of the community in the management of MPL's 60,000+ acres" (p.23) and "more control of their future". (p18)

18.a. State specifically HOW THE "COMMUNITY" WILL HAVE A ROLE IN THE MANAGEMENT, and fully describe what you mean by community.

18.b. How specifically will the community manage? Give details and examples?

18.c. State specifically what additional control

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*see A*

Laau Point questions for EIS  
the COMMUNITY will have over its future.

18.d. Identify and list names of who would specifically have "more control of their future"

18.e. Specifically who's future?

18.f. In what capacity would the control be in? In what control would the mechanism be vested?

18.g. How would this control be accomplished. give exhaustive details of all examples possible.

19. what legal means are provided WITH CERTITUDE to provide a continuous stream of revenue for the funding of the Land Trust.

19.a. If the revenue is from the communication leases, what percentage of lease revenues are provided and specifically HOW are they provided.

19.b. What is the anticipated monetary dollar value of this percentage?

19.c. What are (list) all of all legal entities necessary to provide this certainty of continuous stream of revenue?

19.d. What are (list) all persons and entities who will control or be on the Board of Directors of all legal entities listed in 19.c. above.

20. Please list (giving name of homeowner association or contact and phone number and address) of ANY subdivision with CC&Rs that have no CC&R violations.

20.a. If there is a violation, how was it corrected?

20.b. Most homeowners' associations are financed by association dues, is this one?

20.c. What ensures the Homeowners will pay their dues?

20.d. Where would money come from to pay for attorneys to enforce the CC&Rs through the legal system?

Laau Point questions for EIS

CONTINUED QUESTIONS SUBMITTED FOR DRAFT EIS ON LAAU POINT TO: LUC, PBR HAWAII AND ASSOCIATES AND RANCH  
BY: Victoria Kapuni  
P. O. Box 1962  
Ksaunakakai, HI 96748

SECTION B QUESTIONS 21 - 56 AND THEIR SUBPARTS

Questions pertaining to 2.3

21. If you are unable to renovate Kaulakoi Hotel without developing Laau Point, why did MPL purchase Kaulakoi Hotel?

22. Will the Kaulakoi Hotel be economically viable after it is renovated?

22.a. why?

22.b. why not?

23. What is each and every reason you have for saying "Laau Point... is but one part of the comprehensive Molokai RANCH Plan which would be viable only as an integrated whole.

23.a. What are all the parts of the Plan that make it a viable integrated whole? Please list in detail ALL THE PARTS.

23.b. When you purchased the Kaulakoi Hotel were you not aware of the Molokai Land Use Plan.

23.b.i. why were you not aware?

Laau Point questions for EIS

23.b.ii If you were aware, why did you still purchase the Hotel?

23.b.iii Were you planning to renovate the Hotel some other way?

23.b.iv or were you always planning to develop Laau Point from the time of purchasing the Kaulakoi Hotel?

23.c. Does viable mean financial?

23.d. When you purchased the Kaulakoi Hotel were you not aware that Laau Point was not to be subdivided in the Molokai Land Use Plan, Maui County Land use plan? and specifically against the Maui County's policy of no more shoreline development?

24. Why do you state you will preserve natural drainage ways and gulches when you would not be able to build in natural drainage ways and gulches anyway?

25. Can the significant archeological, cultural and historical sites on your lands be preserved through other means through state and federal laws?

25.a. If so why do you say they will be placed in cultural preservation zones in your Ranch Plan?

25.b. Did you look into gifting or deeding protected areas to any entity other than the Land Trust?

25.b.i If so, whom?

25.b.ii If not, list all the ways they could be preserved other than the method you propose in the Ranch Plan.

26. How are the Land Trust and Laau Point Homeowners going to jointly control and pay for the maintenance, subsistence protection, archaeological site protection and resource management?

26.a. State how the finances will be available, who will spend the money, who will have the ultimate say over policies and decisions etc.

26.b. What is the percent of expenditures and contributions from each the Land Trust and Laau point Homeowners Association?

Page 2  
see B

Laau Point questions for EIS

27. Do you believe it is feasible to develop your lands on Molokai given the water scarcity on the island?

27.a. If not, what are your exact plans and intentions of acquiring sufficient water to develop? Give exact details.

27.a.i If it is a desalinization plant, what are the permits you must receive and the process you must go through to build such a facility on Molokai? Give exact details.

27.a.ii What is the estimated ENTIRE cost of such a project. i.e. to build a water desalinization plant?

27.b. If so, what land holdings on Molokai do you believe you can develop as of February 6, 2007 with the water amounts and rights you currently hold?

27.b.i. What is the percentage of your land holdings on Molokai you believe you can develop with your current amounts of water and rights you legally own?

27.c. How much water will be needed for each and every development facility (subdivision, condominium, hotel etc.) you intend to develop?

27.d. As you sell land and build lots in Monaloa, how much drinking and irrigation water do you anticipate for each developed lot? Be sure to give a breakdown on the number and size of lots and water needed for each size lot.

27.d.i. How many undeveloped lots do you have to sell?

27.d.ii. Where will the water come from to service all these lots AND the potential subdivided lot from each current lot?

Questions pertaining to 2.3.1

28. Who specifically (firm and individuals) conducted the archaeological inventory? Be sure to give names, addresses, education and other qualifications, employment history and background of all prior archaeological inventory experience.

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see B

Laau Point questions for EIS

28.a. What were specific job descriptions and directions the observers were given for their inventory taking. Give details please.

28.b. State ALL research preparation these individuals did prior to taking the inventory. Be sure to include all articles, books, periodicals read and persons spoken to.

28.c. For all persons spoken to regarding the inventory, what are their names and addresses and phone numbers?

28.c. For all observing of the archaeological inventory, what are the specific dates, times of day, in and out

28.c.i who accompanied the observers to Laau point and the sites?

28.d. What is a complete list of all archeological inventories made on all Ranch lands on Molokai including an exhaustive list of Laau Point.

29. Why did you choose the Land Trust to own and manage Conservation District lands rather than the State of Hawaii or Island of Molokai?

29.a. Why did you choose the Land Trust to own, protect, and manage Kamakoipo Gulch rather than some other entity or State, County or Federal government?

29.b. Did you look into gifting or deeding protected areas to any entity other than the Land Trust?

29.b.i If so, whom?

29.b.ii If not why not?

30. How are the Land Trust and Laau Point Homeowners Association going to jointly control and pay for the maintenance, subsistence, protection, archaeological site protection and resource management?

30.a. Fully explain the relationship between the two entities and explicitly explain the joint control between the two.

30.b. If none exists, so state.

30.c. What are their powers, jurisdictions, authority, specific duties for the Land Trust and Laau

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*See B*

Laau Point questions for EIS  
Point Homeowners Association?

31. You state the 434 acres of the expanded Conservation District "will be subject to an easement held by the Land Trust". How large is this easement geographically?

31.a. What is the scope of the easement legally.

31.b. In addition, give the legal description.

31.c. State the legal restrictive language in the easement and the grantor's grant.

31.d. Attach a copy and state where it is filed and when it was filed.

31.e. Who is the grantor and who is the grantee and for how long does the grant run?

31.f. Does the easement run with the land? parties? and what is the duration?

32. Give the legal description and legal language for the 4800 acres of the Laau parcel that is to be an easement held by the Land Trust.

32.a. Please state in layman language what specifically this easement is for.

32.b. What governs it?

32.c. How will it be maintained?

32.d. What are the anticipated costs involved and who will pay for them?

32.e. When you refer to Laau Point in your EIS to what does it refer? to this same 4800 acres or just this section of the EIS?

32.f. State and produce all documents that support your answers.

33. In your discussion of set backs determined by tsunami, protected sites, and limitations on building areas, you do not state that these demarcations are in rules and regulations already. Are they? Please state the controlling authority and sections of all those restrictions on the lots.

33.a. If this is not the case, please

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*See B*

Laau Point questions for EIS  
specify and state all those sets backs etc. that are not required by any rule or regulation code, law. (example, surely the Maui County Building Code does not allow building on rock cropings.)

33.b. In your calculations of building on shoreline, (which is contrary to Maui Co Planning policy, Molokai Land Use Plan, 1993 Governor's Task Force on Subsistence) has any planning been done to take into account the global warming which is occurring at an alarming rate presently?

34. Please describe the size of and vegetation cover of the open corridors between the cluster of lots.

34.a. who will maintain this space? Pay the costs? State specifically the page and document that addresses this area.

35. The land between the main subdivision access road and mauka will be designated as Open Space under County zoning. Does the County have to accept this land, or is it already designated Open Space?

35.a. what steps in your process have been taken to accomplish this designation as of February 23, 2007?

35.b. Does the State Rural District designation already restrict development on these lands? If so how?

36. You are intending to place a fence on the mauka side of the subdivision to "minimize conflicts" with adjacent subsistence hunting. what will be the rules for hunting on the subsistence lands? State specifically the hunting requirements adjacent to the subdivision.

36.a. what conflicts are you anticipating that necessitates the need for a fence? State all possible scenarios.

36.b. will you be placing a fence around the subdivision on the kai side of the subdivision also?

36.c. For what purpose are you enclosing the sub-division there?

36.c. Is the intent to totally surround those 200 lots by fencing for one reason or another?

Laau Point questions for EIS  
36.d. Who decides what type of materials are used and who builds and pays for the fencing?

36.e. who will maintain the fencing?

36.f. What prohibits the party who owns, cares for, is responsible for the fence from changing it to say a cement wall?

37. For each and every parcel of land you are speaking about in the EIS that is RANCH land whether it is the Laau Point parcel, Mamomi parcel, easements or whatever,

37.a. List

37.b. What is it's present use?

37.c. What are ALL the possible uses it can have restricted by current zoning?

37.d. what are all the possible uses it can have restricted by current water supplies to which the Ranch is entitled?

Questions pertaining to 2.3.2

38. what are all the reasons you have to make Hale O Lono and Kamakaipo Gulch into public parks? Please make an exhaustive list.

39. why do you want to rezone to Rural and back to Conservation District? State all reasons with specificity.

39.a. why do you want to avoid the State Board of Land and Natural Resources to obtain a permit? Please list all reasons with specificity.

39.b. what are all the possible circumstances under which added management control would NOT be necessary for completed parks?

40. The men's and woman's canoe races from Molokai to Ohau leave every year from Hale O Lono. Have you interviewed any canoists about this proposed change in their launching place and along

the pristine coastline?

Laau Point questions for EIS

40.a. would you be surprised that my husband and I did last fall during the 2006 races?

40.b. would you be surprised that ALL those participants from Hawaii and other countries encouraged our fight to save Laau Point?

40.c. would you be surprised that they do not want these changes to either Hala O Lono or the coastline? (My husband, on a team from Ohau won the men's 6-man race in the 60's.)

41. Are you trying to circumvent the Molokai Community Land Use Plan by coming to the State Land Use Commission? Explain why?

41.a. Do you think that the State Land Use Commission knows better than the people of Molokai as to how the land should be used on Molokai?

questions pertaining to 2.3.2

42. You are converting 1113 acres of pristine untouched coastal lands to areas that will be source and non-point source pollution of our reef. Do you agree irreparable damage will occur to the reef upon developing Laau Point subdivision?

42.a. Are your mitigation plans infalible? why, why not?

42.b. What did your experts use for this EIS and subdivision to estimate the potential damage?

42.i. what are the high and low figures in every parameter?

42.ii. what were the methods used for all predictions by your experts to predict the minimal effects of the 200 acres developed on Laau Point on the reef? What was the methodology? Describe fully.

42.c. Who are all ALL persons consulted on the reef damage and drainage problems associated with the reef from development of Laau Point? Give their full names, qualifications, and prior experience with the ranch, BIL and its successors and assignees, and PBR Hawaii and Associates, Inc.

42.d. Are there any additional ways you have

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Laau Point questions for EIS  
to mitigate reef damage other than the CC&Rs and educating the homeowners?

42.e. You elaborate drainage and catchment system is required by Maui County isn't it when you build near a shoreline?

42.f. Why do you tout it as making the reef better than it was before the development?

42.g. What is the cost of this system?

42.h. What is the cost to maintain such a system?

43. Did you make a baseline study of water quality, marine life and coral life that surround Laau Point?

43.a. Why did you not complete a baseline study? Please state each and every reason possible for not completing a baseline study, if you did not.

43.b. If you did complete such a study, describe fully the parameters studied including the physical area studied. Please attach a map of the study area.

43.c. Did you make a study of the silt overlaying corals in the reef surrounding Laau point?

questions pertaining to 2.3.5

43. The open space buffer zone may be zoned rural in your proposal and hence, still have a potential for further development -- 382 acres of open space zoned rural to be exact. Please explain all ways and methods you have to ensure that these additional 382 acres will not be developed.

43.a. If you have plans for developing these 382 areas what are the plans? Please give full description and progress on the plans, i.e. what is the status report on these 382... have plans been drawn on them?

44. You state a list of "possible" native plants appropriate for Laau Point that will be encouraged. Who will determine what will be planted?

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Laau Point questions for EIS

44.a Who will enforce the plantings of only these plants?

44.b Are these plants simply a suggestion to homeowners? or are they mandated? If mandated in what document? How will it be enforced?

45. Employment opportunities from the Development will be from Homeowners Association upkeep of common areas and two parks maintenance and upkeep administered by the county or Trust.

The third possible employment opportunity you state would come from stewardship of coastal Conservation District from the Land Trust and Homeowns Association. Aside from these few jobs, would any other jobs be created from developing Laau Point?

45.a what are the possible jobs created directly from the Development of Laau Point? Please list each and every possible job that could be created.

46. You state the "Land Trust and Homeowners will jointly manage Coastal Conservation District areas and although no land uses in this area are envisioned to involve fees charged,.. but there is a possibility fees will be charged".

46.a. why would fees be charged? Please list all the reasons and senarios to charge fees.

46.b. Do you understand Hawaiian culture will be harmed in charging fees for use of Coastal subsistence fishing?

46.c. If so, please explain why.

46.d. If not, please explain why.

46.e. what mechanism can be utilized to ensure there will be no user fees charged for Coastal subsistence fishing?

47. who will own all the privately owned roadways within the Laau Point community?

47.a. Can the owners of the private road gate them? Have the ability to gate them?

47.b. what is all the legal case law to support you answer?

47. c. If the Homeowners own their own roads or

Laau Point questions for EIS

the Ranch owns them, in the future, what will prevent the owners from gating the roads?

47.d. State all the legal case law to support your answer.

48. Will the only access gained by the public to the Laau Point shorelines be through the two proposed parks?

49. Specify how any one of the following will be determined: ocean temperature, salinity, suspended solids and/or nitrogen amonia, nitrogen intrate and nitrite and phosphous clorophyll A and silicate are increased?

49.a. Please state entire process by which this will be determined.

49.b Who will specifically be responsible for the testing and equipment.

49.c State with specificity what enforcement and penalty will be assessed and by whom for any violations?

49.d. who is responsible for cleanup?

50. State fully the "adequate representation" the Land Trust will have on the Homeowners Association over the State Conservation District flood areas, archaeological sits etc.

50.a. what are the number of board members in the Land Trust and Homeowners' Association?

50.a.i. How are the Board members elected to each board.

50.a.ii. How will decisions be made?

50.a.iii. what is the delineations of each Board over all their joint management control?

50.b. what duties and responsibilities over sites will each board (Land Trust and Homeowners Association) have? Please exhaust the lists.

50.c. what roll does the State play in costs and responsibillies over their State Conservation District? Explain fully.

Laau Point questions for EIS

questions pertaining to 2.3.6

51. Who specifically will educate potential buyers and when will this be done? What will be the course materials?

52. Who and how will enforcement of CC&Rs occur?

52.a. What penalties will be invoked for breaking the CC&Rs?

52.b. Exhaust all possible reasons you have for saying final CC&Rs cannot be changed?

52.c. Please attach a final CC&R to the Final EIS.

52.d. How much money do you estimate it will take for the Land Trust to enforce compliance to the CC&Rs on each infraction?

Questions pertaining to 2.3.7

53. Do you believe organic fertilizers will not pollute water or the reefs should they run off as either a point or non point source of pollution?

53.a. Why? Why not? Please give details to support your answer.

54. What agreement has been reached between MPL and EC to ensure Laau Point promotes importance of maintaining subsistence activities in the Conservation District areas.

54.a. Is this agreement verbal? Is it in writing? If so attach document(s) supporting your response.

55. Is it correct that the protection of the shoreline for subsistence gathering and subsistence fishing zone has yet to be sought?

55.a. ON page 59, you state the Land Trust and Homeowners' Association will work together to seek to establish a subsistence fishing zone which will REQUIRE SPECIAL LEGISLATION enacted by the State Legislature. What have you done to start this legislative process?

Laau Point questions for EIS

55.b. How long do you estimate this process will take?

55.c. What is the necessary legislation to protect this subsistence coastline, should this development be allowed? Describe fully.

55.d. Do you have a draft of the proposed legislation?

56. Is there a plan to achieve this legislative protection for subsistence fishing zone? Please state in detail what has been accomplished as of February 23, 2007 towards this goal.

Laau Point questions for EIS

QUESTIONS SUBMITTED FOR DRAFT EIS ON LAAU POINT TO  
PBR ASSOCIATES, LUC, RANCH  
BY: Victoria Kapuni  
P. O. Box 1962  
Kaunakakai, HI 96748

SECTION 2 QUESTIONS 57 - 79 WITH ALL THEIR SUBPARTS

Questions pertaining to 2.4

57. Regarding July 25, 26, 27, 28, 31  
2006, social impact assessment focus group  
meetings:

57.a. What are the full names of each  
and every person who attended each meeting?

57.b. How were they invited?

57.c. What was the criteria for being  
invited to these focus groups?

57.d. What time were they scheduled,?

57.e. Where were they held?

57.f. Were refreshments served? If so,  
what?

57.g. Who presided over the meetings?

57.h. Who spoke? About what?

57.h. Was there an agenda?, if so what  
was it? Was there a program? If so, what was it?  
What was the specific topics discussed?

57. i. Was the meeting taped? If so, who  
has the tapes?

58. Regarding June 1, 5, 6, 7, 8, 2006 focus  
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*see C*

Laau Point questions for EIS

meetings:

58.a. through 58.i. SAME QUESTIONS AS WAS  
ASKED ABOVE IN 57.a. through 57.i.

59. Regarding the August 25, 2006 meeting with  
EIS consulted parties. With respect to each consulted  
party listed or UNLISTED, please answer the following:

59.a. With whom did you meet?

59.b. Who have and/or what has consulted  
with PBR Hawaii & Associates regarding the Laau Point  
EIS irrespective of whether or not they were used or  
attended this meeting. Please list names and addresses.

59.c. What is each and every consultant's  
employment history, education, professional experience,  
connections with BIL its successors/agents/assigns  
or the Ranch?

59.d. How was the list of consultants made?

59.e. What, if any, was the input from the  
Ranch. If none, is the personnel and content used in  
this EIS totally that of PBR Hawaii & Associates?

59.f. For what purpose was the meeting  
called?

59.g. Please specify the directions PBR  
Hawaii & Associates (their staff, personnel or agents)  
gave to the consultants.

59.h. How many and who was interviewed and  
contacted to be a consultant that was NOT included  
as a consultant in this EIS of Laau Point?

60. Regarding December 1, 2006 meeting with the  
Police Department?

60.a. Who attended this meeting? Please  
list names of everyone.

60.b. Who called the meeting?

60.c. Why was the meeting called i.e. (purpose  
of the meeting).

60.d. What topics were discussed and what  
is a synopsis of the discussion on each topic.

61. For the 28 LUC, 8, environmental, 11 Tourism,  
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*see C*

Laau Point questions for EIS  
25 cultural, 10 economics 9 recreational meetings; what  
were the specific dates and places the meetings were held?

61.a. What were the topics discussed at each  
meeting. What decisions or conclusions were drawn, by  
whom?

62. Who chose and how were the representatives  
from the five committees chosen to form the LUC? Be  
sure to include what specifically was the criteria used  
for choosing some people over others.

62.a. Who were each and everyone chosen? List.

63. What are the names of each and every person  
attending EACH AND EVERY meeting focus group presentation  
that you state totaled 1000 "participants". Make sure  
you list each person by each meeting. Please list each  
name under each meeting date and committee.

64. If the 1000 participants were counted in other  
then these focus group meetings asked about in question  
63 above, what were the additional meetings that account  
for the "1000 participants"?

65. What are the names of the 1000 persons you have  
stated participated in making the Ranch plan.

65.a. What was the extent of each person's  
participation?

66. Regarding the Land Use Committee meetings from  
the period of May 2005 through July 2005 Specify with  
detail presentations made by "MPL planners".

66.a. Name the planners and what is their  
residence island, state, or country.

66.b. What were their topics for each meeting?

67. On page 33, you state that Appendix A, Section

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*see C*

Laau Point questions for EIS  
8 contains lists of the most active participants during  
the process. THIS INFORMATION IS NOT PROVIDED as you  
stated. Please provide each and every participant  
during the process.

67.a. What are the names of the most active  
participants during the process?

67.b. How did they participate? When?  
Doing what?

68. What were the names of all the members of  
the EC Land Use Committee on November 1, 2005?

68.a. Who were the 19 Land Use Committee  
members who voted for the Ranch plan on August  
1, 2005?

68.b. What is each person's connection  
to the Ranch, BIL, owners of the Ranch and/or  
subsidiaries e.g. ex. employee, family member  
employee, contract employee for each person listed  
above in question 68a?

69. Who were all the members of the EC  
Governance Board of Directors for the period from  
August 1, 2005 through November 1, 2005 and who  
were the names of all the officers of that Board?

69.a. Who were the 13 Board members  
who voted in favor of the Ranch Plan and who were  
the two who opposed it, and who was the 1 who did  
not vote.

69.b. What is each person's connection  
to the Ranch, BIL, owners of the Ranch and/or  
subsidiaries e.g. ex. employee, family member  
employee, contract employee for each person listed  
above in question 69a?

70. What are all the names and firm(s) who  
"requested to be a consulted party" to the EIS on  
August 25, 2006.

70.a. How specifically did they request?

70.b. How did they respond to the request?  
Written, verbally, or other to the solocitation.

70.c. For each consulted party what are  
all the other business each has done for the Ranch  
or it's owners, employees, Directors etc.

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Laau Point questions for EIS

71. Please describe in full detail what feedback you received on cultural assessment, social impact, water plans from PUBLIC COMMUNITY MEETINGS (NOT FOCUS GROUPS) since EISPN was filed.

71.a. who attended each public meeting and give dates and times for each meeting. List each and every person.

72. Please describe in full detail what feedback on cultural assessment, social impact, water plans from the FOCUS GROUPS since EISPN was filed.

72.a. who attended each and every focus group meeting and give dates and times for each meeting. List each and every person.

72.b. How were people chosen to be in a focus group?

Questions pertaining to section 2.4

73. How many residential households have presently received the DVD produced by the Ranch?

73.a. How many residential households will receive the DVD produced by the Ranch?

73.b. What is the purpose of the mailing?

73.c. Is this blanket mailing intended for comment? Propaganda? Clarification?

73.d. What was the total cost for this mailing? include production, writing, materials, mailing costs.

74. How is each speaker in this DVD connected to the Ranch? ex. employee, contract employee, relative of employee, or any other way?

74.a. who speaks in the DVD that is not in any manner connected with the Ranch, BIL, and their subsidiaries, affiliates, successors and assigns?

Laau Point questions for EIS

75. In the Cardboard Flyer in which the DVD was sent out:

75.a. You suggest that your water plan protects DHHL homesteader water rights, and further state that DHHL has approved allocation of 2.9 mgd from Kualapuu aquifer that is preserved forever for homesteaders. but did you forget to state that in 1999 the Ranch opposed DHHL's request from the CWRM for 500,000 mgd from that 'preserved forever' allocation and to date CWRM has not approved the DHHL request?

75.b. In regards to well 17, you purport to generously offer 500,000 gallons per day to DHHL, BUT... The water from this well does not belong to the Ranch, it belongs to DHHL anyway, not you, correct?

75.c. You imply that by giving DHHL 500,000 gpd from well 17, DHHL and the County would not need to go to the expense of replacing an antiquated delivery system. Are you saying DHHL and the homesteaders do not need to replace antiquated infrastructure?

75.d. By stating that the ranch plan will never use any more drinking water only brackish water that the homesteaders don't want on their lands because it is too salty, are you contradicting the Federal Environmental Protection Agency which designated the Island of Molokai a sole source aquifer. i.e. no matter where you pumped a well on the island, you were withdrawing it from the same source?

75.d.i. Doesn't that brackish water need to stay where it is to protect water levels at all other pumping wells? protect the level of popable water from the transition water?

75.d.ii. If your words in your flyer is NOT a contradiction, please explain what is it?

76. This question comes from the cardboard flyer accompanying the DVD also.

76.a. What is your backup authority for stating that only 30% of the homes will be occupied at any given time? Exhaust your support for this statement.

76.b. what is the required setback from the shoreline on rules and regulations you must follow for subdividing?

76.c. Do you have a map illustrating the 500 acres of shoreline fronting the homes and restricting it's land use to subsistence use by the community? If so attach to the answer.

Laau Point questions for EIS

76.c.i. What is the support for making this statement that the land will be used for subsistence by the community? The legislation that the Homeowners' association and Land Trust will have to have passed into law?

76.c.ii Isn't this already protected subsistence land by Molokai Land use Plan, Maui County Planning policy, 1993 governor's Task Force Subsistence designation?

76.c.iii. Wouldn't this subsistence land be best protected by not developing Laau Point at all?

76.d. What are the supporting documents to guarantee the roads in Laau Point will never be gated? and guarantee \$10 million will return to the community?

76.e. Wouldn't the protection of the archeological site preservation be better protected if no development occurred?

77. This question pertains to the cardboard flyer accompanying the DVD mailing.

77.a. I have requested elsewhere in my questions the names of the 1000 Molokai residents that participated in the plan preparation done by the Molokai Enterprise Community. Don't you believe that to state the words "Plan reflects the participation of more than 1000 Molokai residents", people assume there was public input? Doesn't public input imply that people's objections (to the plan) were heard and listened to and utilized in the Plan? were used in the Plan?

78. This question pertains to the cardboard flyer accompanying the DVD mailing.

78.a. I have requested elsewhere in my questions the Trust document and language, legal language of properties gifted to the Land Trust, etc. etc. In the EIS you also state ownership, control and management responsibilities of the CDC and the Homeowners' Association all working together to manage and control the 51,000 acres you say will be placed in the Molokai Land Trust. Which is the accurate interpretation of the ownership, control and management of these lands? Explain in detail exactly what lands will be gifted SOLELY to the Land Trust and what lands will the Land Trust have SOLE decision making powers over?

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Sec C

Laau Point questions for EIS

78.b. You state that Laau Point will be the "LAST development ON RANCH LANDS OUTSIDE THE RESORT AREA. Don't you think this statement is misleading? Please explain in detail all the development you are planning "Outside the Resort area"?

78.c. For everyone's clearer understanding of the Ranch Plan, what are the different entities that will either own, manage, (singularly or jointly) all of the MPL real property? It would be particularly helpful to give this information in table form with headings like parcel description, ownership, by fee simple, easement, etc. legal description of each parcel, duties and responsibilities of each entity over the land, purpose, etc. I am sure this would be helpful to everyone reading the EIS.

79. This is the last question pertaining to the cardboard flyer accompanying the DVD mailing. My other questions about the flyer have been dealt with other places in my questions.

79.a. The opening of Kaluako'i is positive and well received by the Molokai community. I dare say no one on Island opposes the re-opening of this Hotel which the Ranch closed. However, it has been touted as an economy boost for offering 100+ jobs (which is also a positive element). However, isn't Hawaii in good standing for unemployment generally and even nationally? What is the labor standard percentage for full employment taking into consideration the percentage of unemployable people? As of February 2007 isn't the unemployment of Molokai 3.2% and below the national average?

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Sec C

Laa Point questions for EIS

QUESTIONS SUBMITTED FOR DRAFT EIS ON LAAU POINT  
TO: LUC, PBR HAWAII, RANCH, and OEQ  
BY: Victoria Kapuni  
P. O. Box 1962  
Kaunakakai, HI 96748

SECTION D QUESTIONS 80 - 317 WITH ALL THEIR SUBPARTS

Questions pertaining to 3.3.3

80. How much water will be needed to prevent wind erosion?

80.a. How will you IRRIGATE with brackish water? Won't it kill the vegetation? Explain.

81. What are all the all erosion and construction techniques, steps and methods etc. that you will be doing over and above the State, County and Federal regulations you have to follow by law. Please be specific and detailed in your answer.

82. What permanent landscaping will be done? by whom? where? who will pay?

Questions pertaining to 3.4

83. What is each and every reason the Ranch had for ceasing agricultural activities in 1999?  
Page 1

Laa Point questions for EIS

84. Will the Molokai Land Trust or CDC or Ranch or home owners hold in fee simple title to the 26,200 acres mentioned in section 2.1.8?

85. What is the legal description and grant language for the easements and ownership on 14,390 acres designated restrictive agriculture easements. Please quote directly from the documents or produce the documents.

85.a. What figure in your EIS illustrates where these lands are located specifically. What is the legal description?

85.b. What water lines service this area? who owns them? where does the water come from? ex. well, catchment? BE SPECIFIC giving the amounts pumped and/or moved. How much water is allocated right now February 23, 2007 for use on these lands?

85.c. Where will the water come from for these single farm dwellings? Please be exact giving the gallons/day from what well and/or catchment or other, and how much will be needed in GPD for irrigation, drinking etc.?

85.d. What is the legal description and attach a map of the "Rural Landscape Reserve"?

Questions pertaining to 3.5

86. Were the TWO earthquakes experienced in Hawaii last fall caused by volcanic activity or plate tectonic activity?

87. Have you determined the 50 and 25 foot flood areas? Please submit a map of those marks.

88. What are all the references, site trips, dates, times, duration and all other things William Garnett used to make his report.

89. What is William Garnett's educational  
Page 2

Laau Point questions for EIS  
degrees, publications, employment history, and  
whatever else would qualify him to make a  
botanical survey of Laau Point.

90. What money will be used and what amount  
is needed to make and who will make the management  
plan?

91. Doesn't there need to be made a Federal  
Study for the critical habitate of Marsilea villosa?

91.a. What were all communication with  
the Federal government concerning this discovery.  
Attach letters, telephone calls, e-mails etc.  
regarding what the Ranch, BIL, its successor and  
assigns, William Garnett, PBR Hawaii & Associates  
did to report this?

91.b. What are all your concerns about  
the endangered plant? Give a detailed reponse.

91.c. To whom did you report this? List  
every person and organization and give their response.

81.d. Wasn't this plant listed as a critical  
habitate?

81.d.i. Wasn't this plant on the Game  
and Fish critical endangered list and Laau Point as  
a critical habitate for that plant until 2003 when  
it was inadvertantly left off?

81.d.ii. Do you know how it was  
inadvertantly left off?

92. "The Laau Point project will include  
landscaping appropriate to the coastal setting.  
where feasible, new landscaping will include  
drought tolerant native plants and grasses."

92.a. What do you mean by 'where  
feasible'?

92.b. What do you mean by landscaping  
appropriate to the coastal setting? Give examples.

92.c. What are the new landscaping  
drought tolerant native plants and grasses?

92.d. What land are you speaking about  
when you say Laau Point project? Be specific  
and state the easements lots other pieces of the  
Laau Point project.

Laau Point questions for EIS

93. Why do you intend to change the Kiawe  
using the "limited water resources" when the  
available water is saline and you have stated  
the Kiawe tolerates saline water?

Questions pertaining to 3.7

94. During what period of time were no native  
land or water birds or sea birds observed at the  
site? Give dates and time of observance and by  
whom?

94.a. Who was charged with the  
responsibility of this survey?

94.b. What is the name and qualifications  
and education, prior surveys completed for whom etc.  
of the observer(s)?

95. What were the 13 species of introduced  
alien birds observed. Where are these birds are  
originally from?

96. We saw two owls when we drove down to  
Hale O Lono through Ranch lands. Did your observer  
see any owls?

96.a. If so, when and where and how many?

97. How frequently have monk seals been seen?  
Give the times, dates, and persons seeing them.

97.a. How frequently do Ranch employees  
travel to Laau Point? Who are those employees and  
for what purpose are then sent?

97.b. Have they ever stated they saw  
seals? How many?

98. What is the back ground employment history  
of Philip Bruner that would qualify him as an  
observer of animals and birds. What is his  
education, publications, prior observation work  
and for whom. For whom is he employed now and at

the time of the study?

Laau Point questions for EIS

99. What is the name and current employer of each and every person who has written a report on Laau point or written anything for the EIS on Laau Point.

99.a. who does or has worked for PBR Hawaii & Associates and has contributed in anyway to this EIS on Laau Point.

100. What information is known to you about the remaining 1100 monk seals in the world.

101. What are the details of your knowledge of the laws that protect monk seals.

102. What education materials and courses will you provide homeowners on interaction with monk seals?

102.a. Will this be a requirement before a person can purchase a lot?

102.b. Will there be a test that must be passed on the education materials for the homeowners?

103. Where did you discover what the "appropriate protocol" is when encountering a monk seal and several monk seals on the beach.

104. Is there a permanent protection in place now for monk seals at Laau Point?

105. Why do you state impact of Laau Point Project on birds is not expected to be significantly adverse? List each and every reason.

105.a. How much will the Laau Point Project adversely impact the bird population of Laau Point should it be allowed to be developed?

105. b. What have your experts said about

Page 5

Laau Point questions for EIS  
how the birds will be adversely impacted?

106. What are the enforcing policies and procedures to be developed for subsistence and gathering?

107. What exactly are the landscaping restrictions and allowable plants at Laau Point? Please list completely.

107.a. Where are they so stated?

Questions pertaining to section 3.8

108. What are dates, time and duration of observation and specific locations of fish around Laau Point?

108.a. Who did the observing? What is the full list of education, prior experience, current and prior employment of the observer?

108.b. Has the observer ever been employed by PBR Hawaii & Associates prior to this EIS on Laau Point?

108.c. Was the observer(s) employed by a subsidiary or affiliate of the Ranch, BIL, PBR Hawaii & Associates. For how long?

109. Regarding the marine biological and water quality, how large an area was observed? Be specific in measurement and location. Supply map of observance.

109.a. Were baseline surveys ever done for marine biological and water quality? If so, supply data.

109.b. For each survey, give dates, times and duration and places, procedures by which survey was done and by whom done?

109.c. Fully explain why you believe these values are lower than large scale studies in Hawaii.

109.d. Give all possible reasons why you

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Laau Point questions for EIS  
believe your values are lower than large scale  
studies done statewide. Where were these other statewide  
studies done.

109.e. Can you explain why your values from  
Laau Point (presumably a relatively un-fished area  
compared to other parts of the State) have lower values  
than state wide studies.

109.f. How large are the statewide studies  
and contrast each function with the Laau Point study  
you had done.

109.g. Who and what firm(s) were the persons  
who did the studies associated with?

109.h. What are the qualifications for the  
person(s) doing the study, including publications,  
degrees and prior experience.

110.TEC, INC is incorporated where and does business  
where (see section 4.2 also)

110.a. What is the purpose clause of incorporation,  
who incorporated? who is on the initial Board, and who are  
the shareholders?

111. Who (individual, firm entity etc.) will install,  
oversee, manage and maintain the drainage plan?

112. How will a fishing subsistence resource, a  
subsistence fishing management zone be created?

112.a. Who will enforce it? and how?

112.b. Who will administer/manage it?

113. How does a community based fishing zone  
protect the Hawaiian cultural heritage? Please  
explain fully.

114. "Preservation of off shore and shoreline  
resources for subsistence gathering is of great  
importance to the people of Molokai." Do you  
believe you understand this statement in your EIS?

115. Do you believe a resource manager to  
Page 7

Laau Point questions for EIS  
maintain subsistence lifestyle will be paid for by  
the homeowners in the CC&Rs?

115.a. What is the language dealing with  
this issue in the CC&Rs? Attach a finalized copy  
of the CC&Rs.

116. Why do you think protection of the offshore  
coastal areas will be best achieved by controlling  
access areas?

116.a. Who will create the management plan?  
Fully explain or attach the legal language and  
explain how it will be enforced.

116.b. What specifically is the protocol,  
rules and "permitted activities for persons enjoying in  
subsistence shoreline fishing and gathering"?

116.c. What do you mean by the context in  
traditional subsistence gathering and access  
responsibilities? Fully explain.

116.d. Specifically state why you want to  
limit public access around the USA Lighthouse parcel.  
What are the limitations?

Questions pertaining to section 4.0

117. Please describe fully the methodology  
used in the archaeology report.

117.a. Fully give dates and time spent in  
the field and each and every thing done in the field.  
Use field notes if necessary.

117.b. How long did it take the archaeologist  
and what area was covered? Please be specific with  
maps or drawings, field notes etc.

117.c. Was the archaeology report made  
from paper research in the library and State  
archaeological records? If so, make a bibliography  
of what was read.

118. You state known archeological sites you  
want to preserve. What about preserving unknown  
sites?

118.a. What specifically did the Cultural  
Page 8

Laau Point questions for EIS  
Committee of EC do. Attach supporting documents  
like minutes etc to describe their actions.

119. What are the Cultural Protection zones?  
Supply detail maps etc.

120. How much time has been spent on searching  
for unrecorded archeological deposits or features  
visible from the surface.

121. How much time has been spent by an  
archaeologist to search for UNRECORDED sites  
features or deposits visible from the surface?

121.a. What were dates times duration  
of search?

121.b What were the results?

121.c If no effort was made to find  
additional visible by surface sites, why not?

122. How much time has been spent by an  
archaeologist to search for UNRECORDED sites,  
features or deposits NOT visible from the surface?

122. a. What were the dates, times  
duration of the search?

122. b. What were the results?

122.c. If no efforts were made to find  
additional not visible by the surface sites,  
why not?

123. Was there ANY archaeological  
excavation ever done even when there is "makai  
settlement pattern system prevalent in the Kaluaolo'i  
ahupua'a (p.49)

123.a. Was any excavation ever  
requested or suggested by your archaeologist?

123.b If so, where? Give detailed  
map please.

Laau Point questions for EIS  
123.c. If not, who not?

123.d. What were the instructions  
given to the archaeologists?

124. Considering the vast surface areas  
of sites seen from the surface what are the  
archaeologist projections of how much is under  
the surface?

124.a. Are you aware of modeling  
that can determine these projections?

124.b. What archaeological projections  
of sites under the surface have been made anywhere  
in the Molokai Ranch lands, Laau Point,  
agriculture easements etc?

125. What is the relevance of population  
from 1850 through the present when we are talking  
about archaeological sites much older than  
then that?

126. Weisler's work of discovering eleven  
sites lead to southwest Archaeological District  
site 803 includes 53, 54, 56. State of Hawaiian  
National Registers of Historic Places. Bishop  
Museum survey 6,350 Dixon and Major 1993 encountered  
"numerous features" new revelations of multi-roomed  
enclosures near the 100 ft. elevation. Each survey  
includes more and more discoveries and leads one to  
suppose logically more and more would be discovered  
with each and every survey. How many archaeological  
studies have been completed on ranch lands?

126.a When did they begin and when did they  
end?

126.b. Who conducted them and for how long?

126.c. How many studies have been requested  
and denied access by the Ranch, its owners,  
subsidiaries, affiliates or any entity controlling  
access to the Ranch lands over the past 20 years?

127. Now you know the earliest hypothesis that  
the inland features were marginal is incorrect  
don't you?

Laau Point questions for EIS

128. How can you ensure proper resource protection and management in the project area when you cannot even say whether or not surveys have shown sites that have not been excavated to examine the wealth of information and history of Hawaiians in the area?

128.a. If excavation occurred at those visible sites, is it not probable the ruins would continue below the surface and cover a considerable area?

128.b. Is it not probable that the multi-room enclosures were not in just one place and probably extended a substantial distance?

128.c. Is it not probable that if there is one multi-room enclosed site, that there would be others?

129. Can anything be done to protect sacred Hawaiian lands other than to not develop them?

130. Do you know of any surveys that have been followed up with excavation? If so, please state.

131. What percent of archaeological sites do you anticipate will be categorized Preservation? data recovery? or no action?

131.a. Do you believe there is no value to preserving "not significant" in the 1993 Bishop Museum inventory report? why? why not?

132. Who will be the approved archaeologist for construction time? Who are the people on the list of names you are considering for the job?

133. Will you re-route roads and re-plat lots as sites in road corridors are found and excavated? and if excavation leads to sites that run into land

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Laau Point questions for EIS

lots?

133.a. What say, if any, will the Molokai Burial Council have over disturbance of burial grounds?

133.a.i. Will the Burial Council have veto power over continued construction over the burial grounds?

133.a.ii. Will you cease developing on or around burial grounds?

133.a.iii. Who will have the final say to stop developing in a burial ground area?

133.a.iv. How many people will be observing the development to ensure ceasing work when a burial ground is discovered?

Questions pertaining to 4.2

134. As a professor of Ethnic Studies fully explain what you mean by the "significance of mythical and mystical qualities to area or people"?

134.a. How do these qualities interact and become part of the culture in society? Fully explain.

135. Explain fully why and when Laau Point as a raw and untouched land came to have a mythical quality.

136. How has "Laau Point become an icon of what Molokai represents? Please give a full explanation.

137. How has "Laau Point become a rural stronghold and reserve of Native Hawaiian culture-- a cultural kipuka." why?

138. You have said and I quote "If Molokai is the Last Hawaiian Island, then Laau is one of the

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Laau Point questions for EIS  
last untouched Hawaiian places on the Last Hawaiian  
Island". How is it that if this icon is developed,  
it will not destroy or irreparable damage the  
Hawaiian culture?

139. Do you agree subsistence has substantially  
contributed to the persistence of traditional Hawaiian  
culture, values, customs and practices.

140. Do you agree that many Molokai (particularly  
Hawaiian) families continue to rely upon subsistence  
fishing, hunting and gathering or cultivation for a  
significant portion of their food?

141. Since Hawaiian outlook shaping customs and  
practices (i.e. culture) is lokahi -- or maintaining  
spiritual, cultural and natural balance with elemental  
life forces, how is a development of an icon not going  
to destroy the last Hawaiian islands' culture?

141.a. Be sure to address the spiritual and  
natural balance with elemental life forces in your  
answer.

141.b. Roots and identity and spiritual  
belief are important elements of overcoming any  
addiction. We have our share of young people with  
addictions on Molokai. How is destroying one of the  
most mystical, spiritual places on island going to  
help Hawaiians overcome addictions? If they can't  
connect to their ancestors and their historic and  
traditional culture and roots, how will they overcome  
such things and addictions?

141.c. Won't you be adding to the social  
problems of the young adults and keiki on this island  
if you destroy their spirituality embodied in the  
essence of Laau Point?

Questions pertaining to 4.2

142. Beyond western grasp is "Molokai pule o 'o'.  
what is the spirituality of this island? what is  
the island of mana? Please explain thoroughly enough  
for a western person to understand.

Laau Point questions for EIS  
142.a. Does Laau Point and this proposed  
subdivision hold spiritual importance and culture for  
Hawaiians in reverence and respect? If so explain  
exactly how.

143. To the best of your knowledge as a professor  
of Ethnic Studies, what are ALL the spiritual importance  
aspect to Hawaiians surrounding Laau Point subdivision area...  
not just the Mo'o story.

143.a. Be sure to include and elaborate  
the mo'o story...if you know it.

144. Do you believe the spirituality of Hawaiians  
is natural to their cultural practices?

145. Please propose how you can separate the  
culture from the spiritual island Molokai is recognized  
to be by Hawaiians?

146. How does the "most marine resources" of Laau  
fit with other areas of your EIS that states the average  
or low undersea life? Which is a correct assessment of  
Laau Point reef?

147. What provisions in the plan preserve and  
protect the coastal trail Kealappu, Molokai?

148. You state three reasons of how Laau point  
was named. However, you omitted the third (P. 53).  
What is the third story and elaborate with specific  
detail.

149. The 1993 Governor's Molokai Subsistence  
Task Force declared the ENTIRE coastline of MPL lands  
important for subsistence fishing and ocean gathering  
coasts.

Laau Point questions for EIS  
149.a. What procedures must you go through to overcome this designation? State with specificity what you must do, by whom, and by when?

149.b. You refer to appendix A p 59 as the Governor's Task Force designation, but this map is NOT the Task Force designation map. It is labeled Molokai Ranch Master Use Land Cultural Resource Protection. Please supply the correct description from the 1993 Governor's Task Force and not a redone Ranch map.

Questions pertaining to section 4.2.3

150. What difference does it make if the swells in the ocean make the west and south shores of Laau Point used at one time of the year or another time of year. They are still alternated in the use from summer to winter aren't they?

151. Can you take boats to the back side of Molokai in winter? Does it matter that the back side is only used in summer?

152. When many of us went to Laau Point by ocean in September, 2006, it was not treacherous. All ages from young to old swam ashore, so please specify exactly WHEN (what months) the informants spoke of the ocean being treacherous at Laau Point

152.a who were they? give names please.

153.I quote 5 statements from your EIS 4.3.2

A Development of Laau Point "will spoil the experience of fishing in what is now an isolated, pristine, and spiritual area."

B If the development is allowed to occur, there would be a "lack of privacy fisherman would get".

C The development would "hinder if not abolish  
Page 15

Laau Point questions for EIS  
altogether, ongoing traditional gathering activities currently enjoyed at Laau Point".

D "Throw net fishermen required an undisturbed beach that allows fish to forage closer inshore".

E "Gathers of a'ama crabs require dark silent nights to ensure their nocturnal prey."

153.a For these five statements who were the persons interviewed who said each of these statement?

153.b What was the total number of persons interviewed by you on this subjects? What is each person's name interviewed and how were those interviewed persons chosen to be interviewed?

154. "Laau Point area is generally regarded as a special place of spiritual mana and power." State exactly why you do not think the development will spoil this spiritual resource?

154.a. Would placing this development in the middle of an Hawaiian spiritual place not be unlike placing a house in the great Mormon Tabernacle Temple in Salt Lake, or the Vatican in Rome?

154.b. If so why? If not why? Explain fully.

154.c. Different cultures have different spiritual practices, ways to worship and connect with their deity don't they?

154.d. Why do you think you have a right to interfere with Hawaiians practicing their ways to worship? and desecrating their place of worship?

155. Burials, fishing Koa and heiau were noted by community participants and key informants. who are the key informants? List by name.

155.a. Do you believe all the significant Hawaiian sites have been identified in this rich archeological and spiritual place?

Laau Point questions for EIS  
156. the Laau area is "a special place of spiritual mana and power." This spiritual quality can not be quantified can it?

156.a. If yes, explain fully giving mathematical formulas and explain each function of the formula.

156.b If it can not be quantified, how can you equate its' value with money and mitigating factors? It can't be done can it?

157. This spiritual quality of Laau deserves recognition and respect doesn't it?

157.a. The respect and recognition it deserves is a spiritual resource for Hawaiians and Hawaiian culture isn't it?

158. When one speaks of a spiritual resource like Laau, does not that equate for Hawaiians at the same level as the Blue Mosk in Estanbull or St. Peter's Cathedral in Rome?

158.a. Developing Laau Point for the Hawaiians would be like desecrating those two great spiritual edifices for muslims and catholics wouldn't it?

159. What were the specific community meetings where water was expressed as the primary cultural resource?

159.a what were the dates, places, times of such meetings and who specifically were the persons who expressed water was our primary cultural resource? Exhaust the list.

160. Won't drawing brackish water out of the Kakalahale Well, as proposed by the project have a huge impact on the culture and way of life on Molokai?

160.a. If so in what ways?

160.b. If not why not, give explicit  
Page 17

Laau Point questions for EIS  
hydrologic details and cultural details in your answer.

161. Will additional water proposed to be drawn out of the Kakalahale Well, even if it is brackish, strain and diminish the water table on Molokai?

161. a. If not, give specific hydrologic water data on the Molokai aquifer to justify your answer.

161.b. If so give specific hydrologic water data journal articles etc to support your answer.

162. Will additional water proposed to be drawn out of the Kakalahale well increase salinity levels of ocean discharge and neighboring wells?

162.a. If not, give specific hydrologic data and support for your answer.

162.b. If so, give specific hydrologic data and support for your answer.

163. What are each and every reason you have for why the findings on the Waiola well water use permit examining the impacts of withdrawing groundwater and affecting shoreline seepage important to the withdrawal of groundwater of the Kakalahale well?

163.a. What are all the reasons you might say there is no importance to the findings? Give hydrologic principles and data to support your conclusion for both 163. and this question.

164. What scientific data (hydrologic support) do you have for saying the withdrawal of 1,000,000 GPD will not take away water from DHHL for future expansion of agriculture and residential lots for homesteaders?

164.a. If you have no data, do you state that such a pumpage will infringe on the future expansion of agriculture and residential lots for homesteaders?

Laau Point questions for EIS

164.b. What are all legal arguments that you have for saying that you have a right to withdraw 1,000,000 GPD from Kakalahale Well? Give statutes and citations.

165. In your EIS you speak of the Ranch becoming a "partner" with the EC Board. What was the time frame of this collaboration or partnership?

165.a. When the Ranch became involved with the EC Board, did any Ranch employees, staff, directors etc. know of the EC project # 7?

165.b. On Page 140 of your Ranch Plan states "MPL water Plan will form part of the agreement between the EC and MPL on the Master Land Use Plan. To what agreement are you referring? Thoroughly explain?

165.b.i. Was it in writing? Are their minutes of a meeting forming this agreement?

165.b.ii. What is the other PART OF THE AGREEMENT?

165.c. On Page 140, last paragraph, did you test and apply for a permit?

165.c.i. Did MPL submit to the EC its proposal for transmitting brackish water to the West end for irrigation needs? If so, attach a copy of the proposal with the answer, If not, why not?

165.c.ii. Why do you want brackish water for irrigation?

166. What was the status of the # 7 EC project when you became involved as a partner with the EC and the 100 meetings held February 2004 through May 2004?

166.a. When did the Ranch first learn about the #7 EC project to place a moratorium of the transfer of water from the wet east end to the dry west end of the island?

167. Have you applied to the Water Commission for well permitting? You stated this would occur in late 2006. Why, why not?

Laau Point questions for EIS

168. This is 2007 and already Molokai's ground water system is at a critical stage and 600 homestead lots on island have yet to be leased because of lack of water availability. Do you agree the prudent management of the Molokai acquirer would be to assess what is available prior to proposing an additional 1 mgd for your Laau Project?

169. Who were the participants in community meetings who expressed "water is the primary cultural resource"?

169.a. Who were at what meetings when this was discussed?

169.b. Do you have tape recordings or films of these meetings. If so, please attach.

questions pertaining to 4.2.4

170. Why do you say "this assessment must endeavor to accommodate the competing interests of protecting native Hawaiian culture and rights on one hand, and economic development and security on the other?"

170.a. Since this is your premise for your assessment, if the premise is wrong, so is your analysis isn't it?

170.b. Who told you to direct your assessment in such a way..i.e. stating that you must accommodate competing interests etc.?

170.c. To what is the economic development you refer? Please be specific.

1670.d. To what is the "security" you refer? Be specific please.

170.e. Just like with dying out species of plants and animals, governments step in to protect them, so is the argument that dying out cultures must be protected also, don't you think?

170.e.i. Every culture in the history of the world made a contribution to the evolution of man and continues to today, isn't that true?

Laau Point questions for EIS  
171. You have said that "those responsible for the future of the land and natural resources of Molokai must weigh the cultural impacts and the benefits of the proposed development in CONSULTATION with the people of Molokai", did you?

172. Don't you think the people of Molokai were consulted when FINALLY given a chance to voice their opinion on the Laau development in the recent election of January 31, 2007, when the two new faces who were running for EC board members and who were absolutely against the Laau Point development outstated the two incumbents and two other pro Laau Point development candidates with a landslide victory of 68.3 and 63.6 percent of the vote?

172.a. The turnout for this election was almost 1000 more voters than last year's election of 200 when two more anti Laau candidates were elected to the Board, correct?

172.b. This year one of the Laau supporters on the Board (Vice-chairwoman) and Trustee for the Office of Hawaiian Affairs garnered a total of 374 votes for less than 30% of the vote correct?

172.c. What further proof do you need to show you that the people of Molokai DO NOT WANT THE DEVELOPMENT AT LAU POINT?

173. Since you are a professor of ethnic studies, surely you know Kapunas of Molokai say "before you speak of Molokai, always speak that it is 32 miles long and 10 miles wide. what affects one side of the island affects the whole island" don't you?

173. a. Knowing this, why do you choose to only speak to the Maunaloa and Kaluakoi ahupua'a families?

173. b. Did you learn in speaking with ahupua'a families that there are people all over the island who have ancestral connections to Laau Point? East end and central Molokai family burial grounds are there?

173.c. surely as a professor of ethnic studies, you realize at some level don't you, that all Native Hawaiian ancestry people from this island have a connection of place to Laau point don't you?

Laau Point questions for EIS  
174. The Ranch had been asked two times prior for an island wide election on the Laau Point Development and refused even though they have long touted the MIS-Fact that they had a silent majority hadn't they?

175. On two prior occasions the Ranch has been asked to put the Laau Point Development to the vote of the people weren't they? If your answer is no, see the Molokai Dispatch dated February 8, 2007 and affirm or deny.

175.a. Since the EC Board denied the second request after tabeling it is the same as saying the Ranch denied it, because the two are in "partnership", Isn't that true?

175.a.i. Did the EC ask the Ranch what it wanted to do about the request for a vote while not liking the "language of the motion"? If not, what was the discussion about it in Executive Committee? Are there minutes to Executive sessions?

175.a.ii. Since the EC is Federally funded, don't their Executive Sessions have to be open to the public? Don't they have to keep minutes open to the public? Please support your answer with legal authority.

176. Generally, the people interviewed and who came to the cultural assessment community meetings expressed reservations about Laau Point Development, and there were NO enthusiastic advocates while MOST were opposed, correct?

177. As a matter of fact the Maunaloa people who live in the ahupua'a were MOST concerned and reluctant about the development, right?

178. You stated that these Maunaloa residents felt the CC&Rs could manage some of their concerns, but did anyone ever tell those same residents that CC&Rs can't legally be enforced in Hawaii?

178.a what would they say then?

Laau Point questions for EIS  
179. Who specifically were the Maunaloa kupuna with whom you spoke? Who were each and every Kupuna with whom you spoke in your ENTIRE study of speaking with kapuna on island?

179.a. Did you accurately represent their opinions, or did you delete things they said that would be detrimental to the assessment for the Ranch?

180. Who specifically are the longtime adversaries of Molokai Ranch, who were involved in developing the Plan? what did they do to develop the Plan?

180.a. what specifically and give details of the "extravagant development schemes and the extractive use of millions of gallons of water"?

180.b. Did anyone ask where these millions of gallons of water would come from? By the way, is that GPD?

180.c. In the planning process, when was the water discussed? How was it present, by whom? Where are the minutes of the meetings and when and where can they be obtained?

180.d. Who were the people who withdrew their support for the Plan and withdrew? Give a complete list.

180.e. Who were the majority of the planning group who persisted with their support of the plan?

181. Specifically how is the Plan going to control population growth? what do you mean?

181.a. If you can't be specific in answering question 181 then is this just another unsubstantiated general statement in your EIS?

181.b. This island is already 10 years ahead of projected population growth now and you expect, to control population with more development? Explain.

181.c. Isn't the real control of population on this island the amount of water it has for development?

Laau Point questions for EIS  
182. You state one of the 'potential impacts' may be that the people who purchase these lots will not understand the Molokai lifestyle and subsistence practices, yet you do not state in the following pages how you will mitigate that? Can you mitigate that?

182.a. People who can afford a \$1-2 million lot and place a \$5-6 million home on it can never understand the Molokai lifestyle can they?

182.b. It's rather like attending all these meetings and taking to Ranch people and not being heard isn't it?

183. Elsewhere I have asked questions about the Land Trust and how it will operate and therefore will not duplicate the questions again as you duplicate the paragraphs in your EIS over and over again, rather, what specifically have the Ranch, BIL, all the business entities that are associated in anyway whatsoever with either, done to protect the Native Hawaiian legacy lands in anyway whatsoever?

183.a. Do you believe they need to be protected?

183.b. What are your plans for these lands should your Laau Point development not be approved? Be specific in your answer please?

184.c. Why have you not initiated any protection thus far? or have you? and if so what? Be specific please.

185. Are you placing the burden of protecting the subsistence fishing zone on Appendix A. p. 59 solely on the Land Trust, homeowners and community to 'work together' to obtain a special law from the State Legislature?

185.a. What have YOU the Ranch, BIL and all legally connected entities of whatever nature done to begin securing this Law? Protecting the subsistence of Native Hawaiians?

186. This subsistence Fishing Zone is the same zone marked as such in 1993? Correct? by the Governor's Task Force?

187. In your Plan, to ensure access to the shoreline, it will only be available by foot through two parks, correct?

Laaupoint questions for EIS

188. What "experienced Resource Group, will be RECOMMENDING open AREAS FOR SUBSISTENCE FISHING?

188.a Isn't all the coastline subsistence fishing areas?

189. who will give educational courses on traditional fishing methods, practices, after the Management Zone is established to those provided access to fish and gather?

189.a. Who decides who will be provided access?

189.b. How long will it take to determine the management zone and establish it?

190. It is no longer true that MPL is working with DHHL on any level is it?

190 a. As a matter of fact the Hawaii Attorney General told DHHL that it could not negotiate Homesteaders water rights in any way didn't it?

191. How are you MPL working with the County of Maui Department of Water Supply and the USGS to comprehensively evaluate Molokai's long term water demands?

191.a. I understood that the Maui Water Department had employed the USGS to model Molokai's aquifer because we are at a "critical stage". Do you understand that also?

191.b. IS MPL paying for the USGS model? Exactly HOW is MPL working with Maui Water Department and USGS? Be specific in the role MPL is playing.

191.c How many meetings have you had with either? and when and where and who initiated it?

192. Molokai water issues will be addressed by a comprehensive modeling analysis that the USGS is doing, correct?

192.a. This is a two-dimensional water model isn't it?

Laaupoint questions for EIS

192.b. Don't you think a three dimensional model would give better more accurate data?

192.c. Is MPL supplying any money for this modeling? Offered to pay any money for this modeling?

193. Development of Laaupoint will destroy the spiritual man and power of the place won't it?

194. The spiritual quality of Laaupoint as a wahi puna and wahi kapu cannot be quantified can it?

195. The Laaupoint project will have an impact upon the solitude and spiritual resources not existing.

196. You really believe the Land Trust, whose directors are many of the very same EC directors that just suffered a crushing defeat (not even reaching 30% of the vote) January 31, 2007 in the defeat of two directors who supported Laaupoint development (including the vice president) AND who never listened to the community about the water issue and the Laaupoint Development issue and were under the delusion that a majority of the island supported the Laaupoint development, will EVER be able to "bring various sectors of the community together" in a working relationship?

197. How will these same directors every be trusted by the Molokai community at large again?

198. Do you believe that the Molokai community believes any of these directors possess the spiritual qualities and integrity to see that the physical and natural resources of Laaupoint are properly cared for?

199. You speak of respect for the area, do you believe that anti Laaupoint supporters believe that if you respected the aina and native Hawaiian culture,

Laau Point questions for EIS  
you would never even want to develop Laau Point?

200. Do you know of any laws, violation of which, brings jail time for destroying the critically endangered plant found in Kamakaipo Gulch?

200.a. Disturbing important cultural findings in this Gulch might lead to destroying one of the last few places on earth this plant is found and thus jail time, wouldn't it?

Questions pertaining to 4.3

201. What protection is afforded this trail from Moomomi to Ilio Point and then along the west coast to Laau Point? Is this the shell trail?

202. Why is hunting only permitted to Ranch employees and their families?

203. There are no surf spots in Appendix 8 of Appendix A as stated in your EIS. There is no surf ledgend on Appendix 8. What are the surfing spots?

204. Why do you state MPL recognizes the rights customarily and traditionally exercised for subsistence cultural and religious purposes by descendants of Native Hawaiians when it is in our Hawaiian laws anyway? You HAVE to respect these things don't you?

205. What's wrong with the Maui County code about 1500 feet right aways so there would be 16 public access rights of way in the Laau Development?

205.a.If you are going to break up the ground anyway, why make it only exclusive for the homeowners?

205.b. How would allowing more public access to Laau Point shoreline not be condusive to protecting the coastal resources any more then 200 developing 200

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Laau Point questions for EIS  
lots on the coastline? Explain in detail.

205.c. By allowing only two access points for the public to the shoreline, while allowing exclusivity of the homeowners to the shorelines in front of their lots is a contradiction to Hawaiian culture and values isn't it?

205.c.i. It is taking away traditional Native Hawaiian values and rights to use ALL island lands by allowing rich people to "buy" a piece of coastline which only they have access to, isn't it?

205.c.ii. This development just moves one step more into intruding into the culture of Hawaiians not only owning and purchasing land, but owning and purchasing land and making it exclusive for non-Hawaiians, correct?

205.c.iii. You state that increased public access will 'diminish the uniqueness of the coast', but aren't you really saying diminish the exclusivity and uniqueness of the property and thereby decreasing it's value?

206. You again are bringing up the Conservation District shoreline areas controlled by the Land Trust and homeowners, resource managers and security guards etc. all questions I have previously asked. Just as it is not necessary for me to ask the questions again, it is not necessary for you to repeat your paragraphs again and again is it?

207. Regarding the access plan i.e. Appendix A which is: restrict shoreline to foot travel, CC&RS to protect plan and no parking except at each end in the new parks. This is essentially all of the substance stated in three paragraphs of verbage and likewise to say it again at this page in the EIS. What is the reason for all the fluff in your style of writing?

208. You state that the shoreline access "plan will be developed and adopted to regulate through legal and enforceable means". What are the enforceable means?

209. Once again this is repeated information you state, but what specific protocol, rules and

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Laau Point questions for EIS  
permitted activities for subsistence fishing and  
gathering will be made? by whom? for what reason?

209.a. Who administers, develops the  
class, decides who passes the mandatory educational  
classes in traditional subsistence gathering and  
access responsibilities, safety and protocol in  
order to obtain access?

209.b. How is this promoting and not  
devaluing the Native Hawaiian culture?

209.c. How is requiring courses of  
native Hawaiians to obtain permission to hunt and  
subsistence fish promoting and not devaluing the  
Native Hawaiian culture?

209.c. How is it promoting and not devaluing  
the Hawaiian culture to have a steward supervise  
access to traditional and sacred Native Hawaiian  
shorelines and reefs?

210. Regarding emergency access and kapuna  
and special needs persons access, and the need  
for the road to Hale O Lono Harbor to be maintained,  
Perhaps you acknowledge there is a need for these  
things; however, you make no statements as to how  
whom when means these will be done by you?

210.a. You even refer the reader to  
a "further" discussion (when there was not a  
discussion at all yet) to Section 4.10.3 of your  
EIS. There is no discussion in this section about  
emergency access is there? There are statements  
about fire stations on island, but NO DISCUSSION  
about emergency access is there?

210.b. What is your discussion of  
emergency access? what are the plans etc?

Questions pertaining to 4.4

211. What specifically is the "build-out of the  
Kaluakoi Resort? Give exactly the details of 'the  
build-out'.

Laau Point questions for EIS  
212. Do you project approximately 300 additional  
cars per day at the main intersection of Maunaloa  
Highway at Kaluakoi Road?

212.a. If not, what is the total amount  
of additional cars which would cross this intersection  
per day at build out of Kaluakoi?

213. What day or days did you do your study?

213.a. During your study, what is the amount  
of cars you observed per day that crossed the Maunaloa  
Highway at Kaluakoi Road intersection?

214. What was your methodology for your study?  
Explain in detail.

215. Did you do a baseline study measuring what  
is currently occurring at the major west island intersection?

215.a. If not, why not?

216. When you measure or assess an impact on an  
area do you not measure the increase in traffic activity  
from a quantifiable baseline to determine the impact?

217. What is YOUR standard for acceptable level  
of service?

217.a. Is it a percentage increase from the  
baseline, which appears the most logical approach?

218. What level of service standard should apply  
to Molokai?

218.a. The same level of service should not  
apply to Molokai as applies to the other islands should

it? why, why not?

Laau Point questions for EIS

218.b. What is each and every reason you have for choosing the LOS you did?

219. Regarding the traffic study, what has been all prior experience in your field of expertise? Please state employment history education, prior associations for PRB Hawaii, Ranch it's affiliates, subsidiaries, shareholders etc.?

218. Have you spent much time on Molokai other than the study time?

219. Did you notice the number of cars backed up at our major stop sign in Kaunakakai?

219.a. how many?

219.b. Did you speak to any of the local people about how crowded the island has become with all the cars now?

219.c. Have you ever heard of a traffic situation where people complain because there are five cars in front of them at a stop sign?

219.c.i. If so where and under what situation?

220. MPL will fund costs for all Laau Point roads so that in the future they could be dedicated to the County correct?

220.a. But the County must first accept the roads for maintenance correct? What is the process for that to occur?

221. You state the coastal jeep road will be

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Laau Point questions for EIS  
abandoned to avoid archaeological sites and erosion. Do you know exactly all the archaeological sites at the Laau Point development? or were you just given that information by the Ranch or PBR Hawaii or someone else? Please explain.

221.a. What portions of the jeep road may be used to provide emergency access and foot trail access to the shoreline?

221.b. Have those portions been identified to be free of archaeological sites?

221.c. Do you have a map of the 'free of archaeological sites for the jeep trail? If so produce please.

Questions pertaining to 4.5

222. IS the only noise you heard on your study that of wind, birds, ocean and occasional distant aircraft?

223. Is impact measured by a baseline of what noise is currently occurring? Or is it measured against a state, national or otherwise standard?

224. Did you investigate any noise impact or the wildlife, particularly the monk seals and owls?

225. Are you aware the CC&Rs are worthless as an enforceable measure for noise equipment etc.?

Questions pertaining to 4.6

226. Laau Point can be very very windy can't it?

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Laau Point questions for EIS

226.a. And construction dust will be blown everywhere also, won't it?

226.b. If dust measures are acted upon, it would take much more water to water down construction dust then elsewhere on the island wouldn't it?

227. Explain in detail what the effective dust control plan would be? how much water will be needed?

228. Now in this section you state at full build out, the vehicles per hour will be 200. Does that mean at the major intersection? or on the highway?

228.a. Does that mean over 3 cars per minute?

228.b. Is this 200 additional cars after build-out or total cars?

Questions pertaining to 4.7

229. You realize the lack of enforcement afforded by CC&RS don't you?

230. You state that 30% of a 2-acre lot is around 26,000 sq. ft. is the maximum percent of the lot that can be built upon? That means on the average size lot, houses can be built as large as approximately 26,000 sq. ft doesn't it?

230.a. Or it means two houses can be built at a total size of approximately less than 26,000 sq ft doesn't it?

Laau Point questions for EIS

Questions pertaining to 4.8

230. What are all the qualifications of the Knowledge Based Consulting Group and Earthplan.

230.a. What is their educational background, prior work experience, how long in business, what work do they do, for whom?

230.b. What prior associations or business have you had with PBR Hawaii, Ranch (subsidiaries, owners, affiliates, shareholders etc.

230.a. What are the names of all the individuals who worked on appendix M and Earthplan? and where do they reside?

231. You say most of the population growth occurred in the East end during those 30 years, What is the percentage of growth on the east end and the west end?

231.a. Was there a population NET drop in the west end from companies pulling out? If so what was that drop.

231.b. Are you stating that the population increase is a NET increase?

232.a. Is there a current population record of the west end now? of the east end now? of Kaunakakai now?

233. When was this report done? what date?

233.a. Are there other projections available other than the State Department of Business EC AND Tourism?

233.b. Are their projections the same?

233.c. You state that the projection for Molokai in 2010 will be 7276, but Molokai has already by 2000 reached 7257 correct?

233.d. Since the projections are approximately 10 years behind the actual, shouldn't your report for this EIS reflect these trends?

Laau Point questions for EIS

234. You base your population projections on a potential Laau Point development using demographic patterns at other seasonal communities in Hawaii. List all the communities in Hawaii, you utilized in your analysis to determine the permanent and seasonal residents at Laau Point?

234.a. List the comparable similarities of those communities with Laau Point? What are they?

234.b. Now, state what are all the possible dissimilarities of those communities when compared with Laau Point?

234.c. What are the comparisons between the islands you chose and Molokai? Use as many factors as you can think of.

235. State all the reasons you have for stating the occupancy rate of 30% would apply to Laau Point should it be developed?

Questions pertaining to 4.8.2

236. How do you explain housing units more than doubled while population only increased by 43% during that same period of time?

236.a. From where did the housing figures come, and are there other data banks on Molokai housing figures which differ?

237. Why did west Molokai increase in population less than 43%, but increased 75% in housing units during the same period of time?

238. What is your source for saying the majority of Molokai real estate buyers is from Hawaii? What is  
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Laau Point questions for EIS

the percentage?

238.a. Why do you think that is? Speculation or is it the last Hawaiian island? or something else? If something else, explain?

239. Isn't the exact reasons for the Ranch wanting to develop Laau Point because 'it is a unique product in the state'?

239.a. It is anticipated that Laau Point development will attract people who appreciate privacy, natural value of the land and a primarily native Hawaiian community, correct?

239.b. Don't you think all the housing sales on Molokai and the 10 year under-projected population growth have occurred because of those things listed in 239a above?

239.c. Don't you think the fast sales of Ranch lands at Monaloa have occurred because of those things listed in 239a above?

239.d. Why then do you think it is necessary to develop one more subdivision when there is so much already subdivided but not built upon land in Molokai?

239.e. What is the number of lots already platted and subdivided on Molokai, but not yet built upon?

239.f. What is the number of lots already platted and subdivided on Molokai and built upon AND can be yet subdivided again for future building?

239.f.i. When these lots are subdivided, won't they require additional water also?

240. You state 'based upon market data from comparable non resort settings' to what comparable non resort settings are you referring? List each and every one and the location of each.

241. There is anticipated a very great demand for lots at Laau Point because of limited availability, of low-density oceanfront, don't you?

Laau Point questions for EIS  
241.a. what are the special conditions and requirements associated with ownership at Laau Point? List each and every one in detail.

242. You anticipate great increases in the value of the project don't you?

242.a what do you mean when you say residential market values for the project will be \$34.4 million in the first year of lot sales?

242.a.i. What includes the project?

242.a.i. How many lots have to sell?

242.b. what do you mean when you say " and increase to \$211.9 million when lot sales are completed?

242.b.i. When all lots are sold and approximately 10% of lots built upon?

242.c. Will each residence be expected to increase in value by \$16 million per year then or the project in its' entirety?

242.d. When all residences are built, what is it that you project to increase in value to \$352 million?

242.e. If someone purchases a lot for \$2 million and constructs a modest \$4 million house, and in twenty years what can that person expect to sell that house for?

242.f. This encourages real estate speculation which everyone knows in a real estate market is how taxes and property values are driven up isn't that so?

243. What percent of people who might purchase at Laau should it make it to development stage do you anticipate will be from this transfer market you speak about?

244. Regarding Appendix L, and assessing property not adjacent to Laau Point lots will not be directly affected, but it will be indirectly  
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Laau Point questions for EIS  
affected won't it?

244.a What are the indirect affects the Molokai property owners feel should this development proceed? Please give an extensive list.

245. Molokai is a very small island 32 miles by 10 miles wide and what affects one side of the island affects all of the island and probably more quickly then in a hugh island like Oahu don't you think?

245.a. Thus the domino affect of adjacent lands and like lands will occur more quickly throughout the whole small island as lands are re-sold, isn't that correct?

246. You did a paired assessment of expanding developments and non-adjacent land holdings where? what areas did you look at?

246.a What is the "period of time" you chose to look at in your assessment?

246.b. Did you do an assessment over time between expanding development and adjacent land holdings?

246.b.i. If so what were the results? if not, why not?

246.c. Do you have the papers on which you did your analysis?

246.d. What was your methodology? i.e. specifically, how did you do this analysis?

247. Who were the people you had discussions with at Maui County and Oahu tax offices. Please give names.

247.a. What was the essence of the discussions? and where were they held?

248. Having been a property owner on Molokai for some time, I noticed a great change in sales prices mainly driven by the west end (which has always lead the way in prices) but nevertheless, a dramatic increase in value and taxes I have observed! Are you saying that the rest of the island does not trail in prices and taxes after the west end?

Laau Point questions for EIS

248.a. Are you saying taxes throughout the island have not increased as sale prices have increased in the west end?

248.b. Have you discussed your findings with local Molokai realators? If so with whom? Do they agree?

248.c. Have you sold property on Molokai? If so when and what?

249. Are you saying that sales of property in a 300 square mile area do not affect each other in value and taxes assessment?

249.a. Particularly when the 300 square mile area is the only game in town?

250. Are you saying that mansions next to other less valued realstate, does not increase their value (of the no non-masions....location location?

251. Are you saying that eventually the whole island will not feel the effect of these lots, should this development procede?

252. Are you saying that the easments created around the Laau Point isolates and distinguishes it from the rest of Molokai? Making it exclusive?

253. who contacted you to make a comment on real estate tax impact on Molokai?

254. Do you have any experience in tax assessment? previous to this task?

255. Have you done these sorts of comment letters in the past? For whom and why were you asked of you?

Laau Point questions for EIS

256. you state 'only Molokai residents will decide future expansion of existing communities' What exactly does that mean?

256.a. Doesn't the Molokai Planning Commission plan and pass expansions of existing communities?

256.b. Or are you referring to drafting and planning an expansion of the community to be presented to the Planning Commission?

256.c. Your words sound nice but don't really explain anything in detail, what is the detail? Does the CDC act like a developer of these lands it will receive? whose ownership etc. (as I have asked the legal language and corporation documents to better understand this role of the CDC) before but you never get specific...

256.d. What is the relationship and interaction going to be of the CDC and the Molokai Planning Commission?

267. After reading the discussion on the tremendous value of this project, what EXACTLY is the percentage of the profits going to be shared with the community? and how will it be shared? Give specifics.

268. Will the 100 acres around Kualapuu and Maunaloa be deeded over to an entity? What entity and when?

269. Nice verbage BUT : "Ohana Neighborhood Communities" developed by various community resources like Habitat and self-help housing ? by whom organized? how? what procedures, when? documents for authority etc.

270. The "1100 acraa will be gifted to CDC"? Has this been done?

270.a. when will it be done?

LaaU Point questions for EIS

270.b. What portion specifically will be for community homes?

270.c. Will this CDC be running fee simple houses or leased housing?

270.c.i. If leased, where is the mechanism for managing the leases? a sub-management company within the CDC or will it be run by MPL?

270.c.ii. Without the corporation documents and initial filing of the corporation, is it really possible to see what is intention of the Ranch other than to keep their fingers in the pie? (see other questions relating to the relationship of the various entities discussed in this EIS.)

271. You actually reference p. 69 Appendix A that 'HOUSING PROJECTS may be development and managed by the Land Trust and/or MPL! do you not?

271.a. Are you planning what the state is currently doing for homeless Hawaiians in Honolulu with housing projects?

271.b. You state that there is a need for affordable housing on Molokai. Do you anticipate your Laau Point development, should it be allowed to develop, will necessitate additional affordable housing for native Hawaiians on Molokai?

271.c. Do you anticipate this increased need for affordable housing for native Hawaiians to occur because you will be destroying their current method of living off the land and ocean as historically they have done?

272. What exactly do you mean by "balanced community"?

273. How much of the 'gifted lands' for the 'Ohana Neighborhood Communities' will MPL retain land ownership (of)?

273.a. What decisions are you speaking about that will be made by the community? Please be specific and give examples.

LaaU Point questions for EIS

273.b. decisions made by the CDC whose board is primarily made up of the EC board which the community soundly rejected in the recent elections?

274. What specific VALUE and LAND DONATIONS and INCOME are you speaking about?

274.a. How much is the value of the land worth that you are donating?

274.b. what and how much are you donating fee simple? how much is leased?

274.c. What is the breakdown to account for \$10 million?

274.c.i. How much is cash?

274.c.ii. How much is land value?

274.c.iii. How much of land value will be written off on taxes?

275. What do you mean the importance of development timing? Please explain that concept.

275.a. What is the reason you have referenced Appendix A p. 67. at this point?

Questions pertaining to 4.8.3

276. Molokai is known as a place where the pace is slow, the land and style are rural, and Hawaiian culture and values form the foundation of all facets of island life, and how and why do you think this has happened? keeping development off our island? correct?

276.a. We have not one single traffic light and have avoided the urbanization and mass development that has become evident on other islands, and how and why do you think this has happened? Keeping development off our island? correct?

Laa Point questions for EIS

276.b. Molokai is still governed by the old ways of life with relatively few land corporations, trusts, housing authorities, government boards, etc. running the island; and how do you think this has happened? keeping development off our island? correct?

276.c. Many residents continue to nourish their family in the same vein as the early maoli subsistence activities ( hunting, gathering, fishing and agriculture) which plays an important role to Molokai's culture (Hawaiian culture) and lifestyle; and how do you think this has happened? keeping development off our island? correct?

276.d. If you have ANY POSSIBLE REASONS to questions 276 - 276.d. with an answer OTHER THEN keeping development off our island, what are they? State each and every reason you have?

276.d.i. If you have possible other reasons, rank them in importance and state the keeping development off island in your priority list.

277. Regarding appendix M discussed on page 72 of the EIS, what type of entity is Earthplan? and who owns it?

277.a. who are the employees and what are all the qualifications of each? ex. (education, degrees, employment history, what have they published e.g. thesis, dissertations etc.)

277.b. list all the meetings you attended for this Appendix M giving names of attendees, places at which meetings were held.

277.c. Who specifically did the research for Appendix M? who did what sections? Periodical research? surveys, opinion surveys? what else?

277.d. What was the methodology for your report? List ALL research Earthplan did for this report.

277.d.i. What data and research did you collect or find and specifically EXCLUDE

from your report?

Laa Point questions for EIS

277.b.ii. Were you given specified directions for your employment contract to do this report? If so, what were they?

277.b.iii. Did you have a specific written contract of employment for this report? if so, with what person or entity?

278. Who were the individuals you spoke to to obtain you data? who were not suggested to you by PBR HI or the Ranch? YOU stated 2 persons were recommended by those you interviewed. Who were they?

278.a. Molokai style is "malama aina and aloha aina isn't it? The ohana portion is typical of all Hawaiians isn't it and not necessarily unique to Molokai style is it?

278.a.i. Taking care of and loving the Aina is a foundation for molokai style isn't it?

278.a.ii. Ohana is also a mark of Molokai style also isn't it? including the ancestors burried at Laau Point?

278. b. Other attributes you state of being Molokai style is being patient and accepting, knowing everyone and taking care of each other as ohana, correct?

278. c. Sociologists recognize all these forgoing attributes you mention of Molokai lifestyle in one shape or another as being generally attributes of lifestyles in most small communities or isolated community styles where people have to depend on one another isn't that true?

278.d. The significant difference between Molokai and other small communities is the LOVING the aina and TAKING CARE of the aina isn't it?

279. Another distinctive, and probably unique, attribute of Molokai style is "Homelessness is virtually non-existent". Correct? If you disagree, state why and list all other communities that you know that have virtually no homeless, and state why you believe they have no homeless.

279.a. You state the reason is people look out for those in need, correct? This also comes

Laau Point questions for EIS  
under the category of ohana and looking to care for  
one another isn't it?

279.b. Not only are those "in need" looked  
after, but they can look after themselves, and in  
fact do through subsistence living as their ancestors  
did, don't they?

279.c. You stated people were "comfortable,  
if not DEPENDENT, on outdoor living and the island's  
natural resources to provide subsistence living,  
correct?

279. d. People trust each other on Molokai  
and barter don't they? This is part of their  
survival isn't it?

280. Molokai style is being comfortable with  
yourself regardless of your economic situation isn't  
it?

280.a. This includes not being ashamed of  
being poor and if you are affluent being satisfied  
with a modest house isn't that correct?

280.b. How will it be possible for Laau  
Point homeowners to be satisfied with a modest home  
when they are allowed to build up to 26,000 square  
foot houses?

280.c. Or the alternative side of the  
discussion, should this development be approved,  
why do you think that the type of people with  
residences valued at millions at build out is  
not going to make a divide between the haves  
and the have nots on Molokai?

280.d. What are all the reasons you  
could possibly have to say that should this  
development be approved, it will not change  
Molokai life style, values, subsistence living?

280.e. What are all the reasons you  
could possibly have to say that should this  
development be approved, it is not going to  
make native Hawaiians homeless on this  
island?... the last Hawaiian island?

281. Who was each and every Kapuna who noted  
they did not teach rudeness at public meetings.

281.a. who noted increasing antagonism  
associated with controversial matters? and were  
these controversial matters associated with the  
proposed Laau Point development?

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Laau Point questions for EIS

281.b. Have these kapuna attended EC  
board of directors' meetings and observed the  
rudeness exhibited by EC board members to the  
public attending their meetings?

282. Since all sociologists are required in  
their curriculum to take a certain amount of  
psychology classes, can you understand the  
frustration the people of this island have felt  
when they have not been heard at any of these  
Ranch meetings or EC meetings about not wanting  
the development at Laau Point?

282.a. wouldn't you say that the  
overwhelming landslide vote on this island against  
Laau Point development...almost 70% against and  
30% for...would explain the anger and frustration  
acted out in rudeness at meetings?

282.b. wouldn't you also say that the loss  
of aloha and respect and friendliness on the island  
would return once again, if the Ranch withdrew its  
plan to develop Laau Point?

283. What are the logical steps in your research  
which lead you to find "that a significant impact  
on the social environment is embodiment of negative  
expectations related to Laau Point residents and  
the public controversy"?

283.a. You precede this statment about  
Kapuna concern about disharmony and stress behavior  
don't you?

284. But, aren't you speaking of social impacts  
RIGHT NOT PRIOR TO THE DEVELOPMENT?

284.a The at leaset 70% population against  
Laau development (I say at least because approximately  
50% of the island is illiterate; and therefore, don't  
vote) is against it now prior to development, wouldn't  
you expect this antagonism to grow should this  
development be approved or contruction actually start?

285. where is all the research in your report  
that has been done by other socialogists and probably  
psychologists showing the NEGATIVE SOCIAL IMPACT on

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Laau Point questions for EIS  
native Hawaiians AFTER DEVELOPMENT occurs? What  
happens to their lifestyle? WHAT HAPPENS TO THEM?

285.a. Shouldn't the focus of your  
assessment be on FUTURE IMPACT of the possible  
Laau Point development?

285.b. Isn't this a glaring omission  
of your research and preparation in your evaluation?

285.c. Did you omit these studies because  
they will illustrate how devastating this development  
would be to this island?

285.d. What are the social impact studies you  
found regarding native Hawaiians from developments? If  
you found none, so state.

285.e. If you did not look, so state and  
tell why?

285.f. Have you completed other  
'assessments' on developments for BIL, Ranch, it's  
subsidiaries, owners, or any other entities or  
persons associated in any way with the Ranch?

285.g. What are all other assessments  
you have made for development in the Hawaiian  
islands? What islands and development did you  
previously report on for an EIS and where can  
your documents be found?

286. Aren't you speaking about the Molokai  
people's expectations and pre-conceptions about  
the homeowners on Laau Point who would be different?

287. Shouldn't a social impact assessment  
concern itself with WHAT WILL BE THE SOCIAL IMPACT  
on the island if in the future such a construction  
as Laau Point is allowed to be developed? why?  
why not?

288. Shouldn't the social impact be  
emphasized on the future not now?

288.a. Aren't you observing the social  
impact of the Ranch designing an independent plan  
with the help of their partner, the EC Board WHICH  
brought up neither Laau Point development nor the  
water issues on island UNTIL THE LAST MINUTE so to  
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Laau Point questions for EIS  
speak over the process they took to develop the plan?

289. Generally speaking, as a sociologist,  
who has some psychological background and does  
research know research that would either directly  
show or indirectly show through extrapolation,  
that people with lots of money (particularly  
people with money to spend \$2million on a lot)  
would be materialistic with no 'poor friends'?

289.a. following question 289...have  
little appreciation for subsistence living?

289.b. following question 289 and 289.a  
have little understanding of loving and caring  
for land?

290. In your meetings on Molokai you heard,  
did you not, how the island had already changed  
and the people felt already impacted and alienated  
from their own land? Do you think that is because  
the new wealthy people on island cause these  
feelings in us of strangers in our own land?

291. What do you mean by the Molokai style  
is still persistent? Be specific please.

291.a. Do you mean still no homeless  
here?

291.b. Do you mean aloha and malama  
the aina?

291.c. Do you mean bartering and  
caring for one another? Please tell me all  
the affluent people on island that barter with  
locals and care for them in any manner? Be  
specific.

291.d. Is the native Hawaiian population  
still a majority on our island? If so, is that  
a contributing factor in your answers to all 291  
questions?

292. What meetings was future growth and  
development discussed? Not at my meeting on  
social impact on island.

292.a. List all meetings and people  
Page 48

Laau Point questions for EIS  
attending and where the meetings were held  
that discussed future growth on a social impact  
meeting?

292.b. What are the details to support  
your statement 'there was a strong consensus  
that growth needs to be planned slow, and  
controlled'?

292.c. What is the synopsis of this  
consensus? specifically who spoke about this  
where did they speak, how many were there, how  
many expressed opinions?

292.d. What is the 'right type of growth'?

292.e. What do you mean by 'right type  
of growth'?

293. Weren't the people's concern about  
Laau Point residences fitting in? or people living  
in these residences having values that conflict  
with Molokai style correct? or justified?

293.a. Don't you think there are people  
on Molokai who have met and experienced extremely  
affluent people and learned their values; and hence,  
have justification for these opinions?

294. Aren't the fences in front of and behind  
these residences to make the residences more  
exclusive?

295. List all sociologic studies you have  
found or known about that suggest a native Hawaiian  
community such as Molokai were NOT affected by  
development of luxury homes and affluent residents?

296. What luxury homes say \$2 million and up  
that do NOT have tall fences, walls, gates etc.  
to protect their property?

Laau Point questions for EIS

297. As a sociologist, don't you agree,  
structures of the kind expected at Laau Point,  
would be offensive to Native Hawaiians...particularly  
on Molokai?

297.a. Wouldn't a native Hawaiian much  
rather see the shoreline to their ocean natural  
rather than developed?

298. Are you aware of the Hawaiian law that  
allows the public access on Hawaiian shorelines  
50 feet from the highwater mark? what would make  
you think any of the Laau Point shoreline was  
inaccessible? It has always been accessible by  
boat hasn't it?

299. Were any of the focus group meetings  
attended open to the public?

299.a. what was the criteria used to be  
invited to a focus group meeting?

300. To mitigate the disparities in income  
between the Laau Point and population of the  
island you say "there needs to be social  
integration on a regional level. what is a  
regional level mean? Explicitly explain.

300.a. what do you mean social  
integration? Do you mean Molokai residents  
need to be integrated into social mores  
values etc. of a more general population?

300.b. wouldn't this dilute the  
Hawaian culture? YOU suggest an  
integration? Maybe you haven't heard,  
Molokaian like themselves, are comfortable  
with themselves and want to NOT be assimilated  
into the mainstream.

300.c. Molokaian enjoy being like they  
are. Do you really believe that homeowners at  
Laau Point would actually want to understand  
and assimilate into Molokai culture anymore  
then Molokaian would want to assimilate into

their culture?

Laau Point questions for EIS

300.d. You are placing enforcement abilities in CC&RS, why? They are not capable of assisting you in any mitigating affects on he native Hawaiians circumstances for impact are they?

300.e. The directors of the Land Trust are very similar to those of the EC Board which was just handed a no confidence vote by the people of Molokai! What makes you think that these same people would be able to enlist support for much of anything from 'the people'?

300.f. Don't you think it is degrading and insensitive to request native Hawaiians, who resent the thought of any Laau Point homeowners to 'share authentic Hawaiian culture? Don't you know that traditionally, native Hawaiians must trust a person prior to sharing much of anything of import from their culture?

300.g. Isn't it one thing to say the aim is that homeowners will have to support conservation, cultural site protection, and subsistence, and then quite another to ensure this occurs?

300.g.i. Your dependency of CC&RS enforcing much of anything in Hawaii is bogus isn't it? If you don't think so, cite case law which consistently upholds CC&RS.

300.g.ii. Wouldn't it be impossible to require purchasers of property to 'adhere to values consistent with the Molokai community? For one thing this language would be unenforcable due to vagueness wouldn't it?

300.h. Aren't you asking a little too much of mutual acceptance when the very center of the Hawaiian culture is a stake let alone many individuals' traditional subsistence survival? albiet it Molokai Style?

301. Existing residents are respectful and appreciate other peoples' right to enjoy Laau Point; however, not live there. That is an appropriate Molokai Style stance isn't it?

Laau Point questions for EIS

302. If the Ranch and it's owners truly understood and recognized and respected traditional native Hawaiian culture, it wouldn't want to develop Laau Point would it?

303. Existing residents can visit Laau Point shorelines anyday, whenever they want by boat; however, the Ranch only allows ranch employees and their families to hunt on MPL property. This is an alien concept to traditional native Hawaiian culture isn't it?

304. what does "expectation managment will be incorporated in the recourse managment program orientation so that shoreline visitors are comfortable with the new development." mean???? Elaborate and define just about every word so that someone can understand what you are saying?

305. won't the set backs you provide augment the value of the residence by making it more exclusive then hiding the residence from the shoreline? Did you take into account the rising oceans from global warming in deciding your setbacks?

306. You have stated what Molokai Style is on page 72. You stated 5 elements: foundation of Hawaiian values, laid back, social interaction, survival, self-identify. How does protecting 55,000 acres (which are otherwise unable to be developed by water limitations and cultural sites) in a Trust run by ex. Ec board members administering once again without listening embody Molokai Style?

306.a. How does providing jobs embody the molokai style? particularly when unemployment on the island is 3.2% and the national average is 4.6%?

306.b. How does establishing MPL as a housing project manager and owner embody Molokai style?

Laau Point questions for EIS

306.c. How does the plan assist or promote subsistence survival more than it hinders with courses, rules and regulations for people allowed to be subsistence fishing and gathering hunting?

306.d. If there is a possibility the Plan will protect lands from further development, although the lack of water and current laws can protect them; how does the Plan embody Molokai Style as defined by you on p. 72?

307. Wouldn't a better way to ensure rural lifestyle be to not develop Laau Point at all and not change the zoning?

308. Again, why tout CC&Rs as ensuring anything that you want, when they are unenforcable? It is a moot point isn't it?

Questions pertaining to 4.8.4

309. Does Molokai have a cyclical economy? If so, it is not very unuaua is it? After all, most of the mountain states in the mainland have boom and bust cycles also don't then?

310. Jobs is not critical at this point in Molokai's economic cycle is it?

311. The Kuluakoi resort was bought and then subsequently closed by the Ranch wasn't it?

312. How many jobs were lost at Molokai's

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Laau Point questions for EIS  
hospital? The hospital is currently making an addition isn't it? Will that provide additional jobs to the already good job market in Molokai?

313. Molokai's unemployment rate has dropped once again to 3.2% now hasn't it? Although this is the highest in the State (3.2%), it is still substantially lower than the national average (4.6%) isn't it?

314. It is not unusual for a community to have one primary employer is it? Government is a stable employer isn't it? and actually the primary employer for the entire state of New Mexico isn't it?

315. You have recognized tourism and agriculture as two additional economic sources for the island. Tourism is actually increased on the island hasn't it? why don't you give those current figures in your EIS?

315.a. why have you used two year old data? There are more current figures than 2004 for purposes of discussing the economy of Molokai aren't there? what are they? All the 2004 figures should be updated shouldn't they? Is it possible that the 2006 figures are approaching the additional 56,000 visitors needed to make Kualakoi Resort a breakeven operation?

315.b. We all want Kualakoi hotel to reopen, however, it no longer is essential to the island's tourism economy now is it? If you update your data from 2004 to 2006, you would see the rising figures of tourism on Molokai are occurring in spite of Kualakoi being closed.

316. Since agriculture is an important economic source for the island, why hasn't the Ranch developed their capability of increasing instead of decreasing their agriculture business potential?

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Laau Point questions for EIS

317. You state MPL employs 140 people, yet CEO Peter Nicholas at an OHA public hearing gave a lower figure for both the ranch and Kaulakoi. What is the correct current number of employees?

318.

Laau Point questions for EIS

Question on Laau Point EIS submitted to:  
PBR Hawaii, LUC, OEQC, and Ranch by:  
Victoria Kapuni  
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SECTION E QUESTION NUMBER 318 THROUGH 344 and  
ALL THEIR SUBPARTS

Regarding section 4.8.4 and Appendix J

318. MPL is a wholly owned company by BIL International a company worth approximately \$2 Billion according to their financial sheets listed on the EISPN submitted to the LUC April 27, 2006 isn't that correct?

318.a. In that EISPN, the Ranch claimed they were operating at a "cash deficit of \$3.7 million per annum" and that was the reason they needed the money from the sale of the 200 Laau Point lots to open Kaulakoi hotel. However, that same document page 04 Exhibit 3 BIL international stated: "The Molokai Properties operation managed to remain cash positive during 2004-2005". Isn't that correct?

318.a. What occurred in 2006 to make the cash flow return to a deficit? what was the change in numbers to make this occurrence?

318.b. What is the total amount of capital expenditures the Ranch has made over the last 5 years?

318.b.i. Are these capital improvements being amortized over years?

318.b.ii. How many?

318.b.iii. If they are not being amortized

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why not?

Laau Point questions for EIS

318.c. Isn't the hotel business able to show a cash flow as a negative balance, but in fact, the cash continues to fund the business and the assets increase in value, as capital expenditures are made, isn't that true?

319. What, if any, real estate offers has the MPL it's subsidiaries, affiliates or owners received for sale of the 'Ranch on Molokai' over the last 4 or 5 years? If any, what was the price offered?

319.a. Did the Ranch counter offer?

319.b. Has there been any attempt to sell MPL? If not why not? since the financial condition is made to look so bleak?

320. Has the Ranch continued to sell property and develop land they own in 2006? If so, what have been the closings completed in 2006?

320.a. What were the number and the amounts of closings through February 2007?

321. Who told you there was "intensive input from the community" for the Laau Point plan development? Do you think that the community of Molokai supports the Laau Point development? If so why?

321.a. Did you know that there was a strong referendum January 31, 2007 against the Laau Point development here on island? Almost 70% of the island voted against Laau Point ousting two 'pro Laau Point development encumbants from office -- one an OHA Trustee even!

321.b. Does that sound like intensive community input for Laau Point development?

322. Who owns Knowledge Based Consulting Group? and who are the individuals who wrote this Appendix?

322.a. Who ran the programs for the tables

Page 2  
SEE

Laau Point questions for EIS  
and supplied the data? and what is that person's background work and education and experience?

322.b. What is the business of KBCG? Has it or anyone else in the office had prior business dealings with BIL, MPL, PBR Hawaii, or any of their affiliates, subsidiaries, or employees thereof? If so, what has it been?

322.c. Did you work under a contract to create these documents for the EIS?

323. You said regarding economic history of the Ranch "It is not a pretty picture". How much compensation did your or your company and/or both receive for your work on the EIS?

324. why do you say the average residence will be 3,500 sq ft? What is your basis of saying that?

324.a. Isn't that small for 2 acre lot which costs up to \$2 million?

324.b. Another section of the EIS states that buildings can be up to 26,000 sq ft.? How is it that your estimate is so small?

325. Capital expenditures, although a cost, are ammortized over time and increase the property value don't they?

325.a. What was the \$800,000 capital expenditure on over five years? How much was taken as an expense each year? for 2006, 2005, 2004, 2003, 2002?

326. Is it MPL or BIL International that is subsidizing the operations?

326.a. If the Ranch is operating at a net loss, where is the money coming from to subsidize the operations? Please explain thoroughly.

Page 3  
SEE

Laa Point questions for EIS

327. MPL is in the business to sell land isn't it? It has platted and subdivided lots to sell doesn't it? It is part of their operations isn't it?

328. The Ranch has been owned by BIL Internation or it's precedessors for over 19 years hasn't it? Has the Ranch EVER showed a net cash flow? If so, what years, and what amounts?

329. Has the Ranch ever operated in the black? Had a positive cash flow in it's history? History from the time the present owners purchased the Ranch has there been a positive cash flow?

329.a. If not, why did BIL purchase the Ranch?

330. I was unaware Molokai needs it's tourism revitalized? was tourism down in 2006? What are the figures for tourism in 2006 and 2005 and 2004?

331. Isn't the gifting of anything including land a tax write off?

332. Has all the tax information you have generated been passed on to politicians at any or all levels of government?

332.a. What are the political campaigns the Ranch MPL, BIL International any of their subsidiaries, affiliates, successors or assigns or directors etc thereof made over the past six years to politicians running at any level of government office for Hawaii? If so, what amounts? And to whom?

Questions regarding 4.9 and 4.9.2

Page 4  
see 4

Laa Point questions for EIS

333. What is your authority support that there would be an addition of 60 new on-going jobs upon full build-out?

334. Why didn't Morihara Lau & Fong LLP place their name on Appendix P?

335. Is the statement "MPL is currently working with the DHHL, the County of Maui DWS, and USGS to comprehensively evaluate Molokai's long-term water demands and resources." still true as of February 23, 2007?

335.a. Is this outdated information? If not, to what extent is MPL working? Give dates meeting places, discussions etc. anything to support your statement.

335.b. What are any future meetings etc being planned?

335.c. You state you will seek to use existing pipeline easements across DHHL's Hoo'olehua lands for the transmission of Kakalahale water. What meetings have you held with DHHL on this request? When have you met, have you requested meeting? Will you have any future meetings on this issue? Why, why not?

336. Isn't it misleading to say "According to the Water Plan Analysis, MPL's plans are reasonable and realistic," and add "from a regulatory standpoint"? All the analysis CAN be is from a regulatory standpoint? Isn't that so? Because you have disclaimed any validity or reliability in sustainability for water sources in your first page; and in addition, said there would be no opinions made on that basis correct? If not explain.

337. Why are you stating Laau point safe drinking water demand is projected at 96,000 gpd at full build-out... at "80% occupancy"? Other experts in the EIS are stating 30% occupancy?

336.a. When did you write this on page 80?

338. Given your figures on the Kakalahali well (which  
Page 5  
see 4

Laa Point questions for EIS  
is a source of water you do NOT currently have in hand) you have 660,000 GPD left with future demands yet to come from:

1. existing developed lots (How much will that take and how many future lots are you talking about?);
2. renovation of Kaluakoi Hotel how much is that? (do you mean simply the renovation or the Hotel operating in its capacity of 884,000 GPD?);
3. existing Ranch uses? (Is that the 191,000 GPD spoken of elsewhere in your report?)

338.a. After you give the above GPD needed for 1, 2, and 3 above, will they total less than 660,000 GPD?

338.b If not, where will the additional water come from?

338.c. wouldn't it be easier and simpler for all to comprehend and understand the water resources and needs, if you placed all needs and all future needs in a table along with all the sources of water from which you expect to fulfill those needs?

338.d. Don't you think any decision maker would appreciate clarity on the water issue?

339. In your cost analysis, you give the cost in dollars/kgal, but no one has given the cost to actually construct and maintain a desalination plant, cost of maintenance AND amount of water to construct and maintain such a facility. what are those costs?

340. You state all lots will be metered? Does that mean you will dig trenches into the lots for pipes in order to place meters on each lot? How many cubic yards of earth will be needed to excavate in order to do this?

340.a. what is a fire flow? How large will the larger pipes be? How much additional trenches will be needed for this system? where will it be placed and how many cubic yards of earth will be needed to excavate in order to do this?

341. The electrical, telephone and cable distribution systems will be underground and extended from Kaluakoi. How many cubic yards of earth will be needed to excavate in order to lay these utilities? and where? and what is the route from Kaluakoi?

342. Who will improve the roads for a mitigating measure? AT what cost and for how long?

Laa Point questions for EIS

343. Is the new fire station for Kaunakakai on the land originally designed in the MOLOKAI LAND USE PLAN for the expansion of the Community College?

343.a. If the Ranch sold this land designated for the Community College to Maui County for the fire station, what land is the Ranch replacing it with in their Ranch Plan?

344. How do you intend to have a recreational facility at Kamaka'ipo Gulch when that is the sight of a CRITICAL HABITATE for a rare plant species--Marsilea villosa?

344.a. You further state "the purpose of the park is to provide parking and foot access to the shoreline and the Archaeological Preserve for cultural, recreation, and subsistence activities? How will this purpose be able to protect this environment for a plant that grows only a VERY few places in the entire world?"

Laa Point questions for EIS

Questions on Laau Point EIS  
Submitted to: LUC, PBR Hawaii, Ranch  
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P. O. Box 1962  
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SECTION F QUESTIONS NUMBER 345 THROUGH 439  
WITH ALL THEIR SUBPARTS

Questions pertaining to Appendix P  
Water Plan Analysis

345. Why do you call this appendix P an analysis?  
Give each and every reason.

346. Wouldn't it be more aptly called a discussion?

347. Why do you call this a community-based  
plan? Give each and every reason.

347.a. WHO ARE the 1000 people in the community  
that attended meetings and developed the Plan? List  
each and every one.

348. What is each and every reason you call your  
appendix P an enterprise community/Moloka'i Ranch  
Master Land Use Plan?

348.a. In your NEIS, you included BOTH  
your Ranch Plan And the Molokai Community Land Use  
Page 1

Laa Point questions for EIS  
Plan which supercedes your Ranch plan doesn't it?

348.b. Why did you delete the Molokai  
Plan?

348.c. It would be important for any  
decision makers to be able to see the Community's  
Plan compared to your Ranch Plan, wouldn't it?

348.d. What are all the points of  
divergence between the Molokai Plan and the Ranch  
Plan? Presenting this information in table form  
would be most clear wouldn't it?

349. Why do you call this appendix an analysis?  
Give each and every reason.

350. Who wrote appendix P? What are the  
qualifications of the person writing this  
appendix P?

350.a. Give education, all past employment  
experience? associations with the Ranch, any  
of the Ranch Business entity Connections, BIL  
International, its subsidiaries and assigns, PBR  
Hawaii, etc.?

351. What was each and every document periodical,  
case law, law, regulation etc. reviewed by the author  
in preparation to write this analysis?

352. To write this appendix P what were each and  
every case, document, periodical, case law, law,  
regulation etc. reviewed by the author in preparation  
to write this analysis that was NOT used or referred  
to in the Appendix P??

353. Did the author have any questions about pages 1-8  
in this appendix P as you apparently put it together?  
Did it make sense to the author?

353.a. Did you think the water resources and uses  
could have been explained more clearly in a table form?

Laau Point questions for EIS

354. Is the author an expert on water in any other way? since the admission is made "not a hydrologist, geologist or engineer" and the law section is well written and developed.

355. Did PRB Hawaii, and or the Ranch, it's owners subsidiaries, or any other business entity have any hydrology reports or data generated on Molokai ground water at any time prior to the EIS?

355.a. Did PRB Hawaii, and/or the Ranch it's owners subsidiaries, or any other business entity have any preliminary hydrology report made?

356. The disclaimer is made that no reliability of water resource data is made and no sustainable yields estimates on the Molokai aquifer is made. Is that correct? If not, please state more exactly what the disclaimer is for this appendix P?

356.a. If you can't state the amount of resources available isn't that like building your case on a foundation of sand? Where are the pillars on which any opinions or arguments can stand?

357. What does this appendix purport to do then? If no opinions are expressed, and no reliability or resources or estimates of acquirer yields, can be made, what use is it to any decision makers?

357.a. what is the purpose of this appendix?

357.b. no analysis is made in this appendix right?

357.c. in a legal sence?

357.d. But we can't draw any conclusions for a legal water analysis can we?

357.e. You can't draw any conclusions either if there is no reliability of water resources or estimates of aquifer yields can you?

Laau Point questions for EIS

357.f. no opinion is expressed in this appendix right?

357.g. you state no opinion is expressed about economic feasibility either correct?

357.h. what do you exactly mean by economic feasibility?

358. Is this appendix simply a copy of prior outdated old reports?

358.a. Do you agree the data is incomplete?

358.b. Do you agree the documents referenced need updating?

359. Are you aware there is a Molokai Land Use Plan?

360. wouldn't it be more appropriate for you to specify that the Master Land Use Plan to which you refer is the Ranch Plan?

361. Where is Pala'au Industrial Park with it's expansion using double its potable water consumption to 297,000 GPD?

361.a. Where will this potable water come from? Where exactly will the water be allocated from?

362. At the bottom of page 2 in this appendix, you state there are 3 MPL water systems. You have stated elsewhere in your report that MPL also bought Kukui Inc. another water system? which is correct in your EIS. Is it two or three?

363. When you speak of the permit for 1,018,000 GPD from well 17, don't you think it is misleading

Laau Point questions for EIS  
not to mention in the text that this is on appeal  
to the Hawaii Supreme Court? Instead of footnoting  
it?

364. What are the answers to my questions on the  
water table I prepared for my question 324?

365. Regarding the EC #47 water plan dated December  
2004, Exactly what people were involved with that  
water plan?

365.a. Who authored EC# 47 and who researched it?

365.b. Was the author(s) paid to do it? If  
so, by whom?

365.c. What are the names of each and  
every Board Member of the EC who voted for this  
EC#47 plan? What was the exact date the plan was  
adopted?

365.d. Did the EC fund EC#47? If so, how much?

366. ON page three you state current demand is  
approximately 195,000 PGD. What is that demand for?  
Be specific.

367. An example of the need for clarity in supply  
and demand comes from page 3 second to last paragraph:  
what water developed by the Mountain Water System is  
still remaining?

367.a. What 1,000,000 GPD of brackish water  
from Kakhale well is available to you? How? What  
permit is that from?

367.b. Irrigation water for the golf  
course will be from treated wastewater? When  
will the treatment facility be operational?  
and how much water will it take to run the  
wastewater facility a second one I presume, it is  
not the one for the Laau lots is it?

367.c. For where will the other  
non-potable uses obtain water?

Laau Point questions for EIS

368. Regarding the EC#47 project, who was  
the secretary preparing the minutes of any  
meeting that may have adopted this EC project?

369. What Board members voted to drop the EC #7  
project which placed a moratorium on the transfer  
of water to the west end of the Island? When and  
who voted to delete EC# 7 from the list of projects  
on the original grant?

370. You have already disclaimed the accuracy  
of what you say are Molokai Water Resources so  
no one needs to even read the outdated authority  
of you acquifer tables...correct?

370.a. Isn't it only confusing the water  
situation with unreliable data?

370.b. The Federal government now says there is  
only one acquifer on Molokai doesn't it?

370.c. The USGS two dimensional model currently  
being utilized by Maui County uses one acquifer simulation  
doesn't it?

371. The studies you speak of on surface water are  
17 years old aren't they?

371.a. You have already disclaimed their accuracy  
haven't you?

371.b. You haven't spoken to anyone who has  
recently hiked the east mountains have you?

371.c. You wouldn't be surprised to learn the  
streams don't run anymore would you?

371.d. Or surprised to learn the vegetation  
is dying out because the streams are dry from the  
catchment system for Molokai Ranch Mountain Water  
System would you?

372. Your representations on page 6 are misleading  
Page 6

Laau Point questions for EIS  
when you speak about DHHL having a reservation of 2.905 MGD, and fail to mention that the Ranch stopped the 500,000 GPD permit DHHL requested by OBJECTING to DHHL's own water withdrawal, aren't they?

373. Your discussion is a little misleading to anyone trying to understand your appendix when you discuss the wai'ola's well permit granted by CWRM but failed to say the permit was overturned and remanded to CWRM by the Hawaii Supreme Court because the Ranch could not prove the well permit would not impact on Hawaii Homes isn't it?

374. You state that due to changes in land use plans, the Ranch has not tried to obtain the permit again. What are the exact change in plans are you referring to and which plan are you referring to?

375. Isn't the water you are attempting to take and transport over 40 miles to Laau Point development for the the same area as this original wai'ola well permit?

375.a. If not, state specifically how far it is from that well permit site? Give distances and directions and slope of the land.

375.b. How deep is the well?

376. You state that "MPU under common ownership with Molokai Ranch" when actually elsewhere in the EIS it is stated MPL inherited ownership of MPU. Which is the truth? Explain.

377. On page 8 you state "Although the existing system is denominated the "first phase," there are no NEAR-TERM plans for expansion of the MIS." What is the difference between near-term plans and first phase? Explain in detail please.

378. Molokai has been designated by the Water Commission (CWMA) as a special management area

Laau Point questions for EIS  
hasn't it?

379. In order to obtain the permits you need, you must meet seven criteria:

379.a. you can be accomodated with the available water source, which is hard to do since no one really knows how much water is in the acquifer do they?

379.b. You must show reasonable-beneficial, which shows efficient utilization of the water, and this will be hard to do because you base your efficiency on CC&Rs which are unenforcable in this state aren't they? If you do not agree, give case law which says they are enforcable.

379.c. And you will need to show that the use is both reasonable and consistent with the state and county land use plans which will be next to impossible to show unless you obtain a zoning change from the State correct?

379.d. And because a Governor's Task Force designated the waters around Laau Point a protected subsistence fishing zone, you will need a law from the legislature which will protect this zone for subsistence, correct? Have you introduced a bill in this Legislature yet?

379.e. And the criteria of PUBLIC INTEREDT, will be extremely difficult to show won't it, now that the two encumbant Enterprise Community (EC) board members for the Laau Point development were on January 31, 2007 voted out of office by two anti Laau Development candidates by a substantial margin?

379.f. And you won't interfere with existing legal uses. This likewise will be difficult for you to show in that pumping from our one acquifer will effect most every well on Molokai won't it?

379.g. And the use is in the public interest is given another criteria...this time on it own. See my question 279.e. above.

379.h. And the water complies with the state and county general plans and land use designations. Clearly present land use designations are incompatable with any water to be obtained for a Laau Point Development isn't it?

Laau Point questions for EIS

379.i. And the use must comply with county land use plans and policies. CLEARLY, the Maui County policy as stated in their Land Use Plan is to NOT develop coastline property. Hence, the change of zoning for Laau Point is against Maui County planning policies isn't it?

379.j. and lastly you need to meet the criteria of your use to not interfere with the rights of DHHL. This would be difficult for you to do wouldn't it? Since your Waiola well permit was overturned by the Supreme Court because you could not show that your well wouldn't infringe on these DHHL rights.

380. In reference to page 13, what are the guidelines for domestic use for amount of water GPD established by the county?

381. Clearly there is a PUBLIC TRUST duty placed on the water Commission to protect a reservation of water for DHHL future needs, correct?

381.a. And clearly protecting such a reservation means not only subtracting the amount of the reservation from the sustainable yield of the aquifer, but also assuring that other water developments do not otherwise jeopardize DHHL's ability to access the reserved water in the future, correct?

382. You have made a disclaimer as to any knowledge of sustainable yield of the aquifer. Do you know of anyone who has that information?

382.a. Has the Ranch attempted to quantify the sustainable yield in the aquifer with any hydrolic studies?

382.b. Doesn't the Ranch need that information to obtain additional water when their last well was reversed by the supreme court because they failed to prove it would NOT infringe on DHHL water rights?

382.c. You will need the information for the water Commission, have you started to have a hydrologist model the aquifer? why not? If you did what were the results?

Laau Point questions for EIS

382.d. Is this appendix P written to allow everyone to assume you have done a water study? For demands and sources?

382.e. Do you agree that sustainable yield is valuable information necessary to have before any intelligent decisions can be made on Laau Point Development?

382.f. Isn't it like drawing from your bank account before you know how much you have?

383. Aren't you forcing the State Land Use Commission into a difficult decision? Asking them for a zoning change to develop Laau Point before you even know if the project is feasible? Isn't that a waste of everyone's time?

384. Is there any case law which states all the criteria used to issue a water permit is to be held to a much more stringent standard if the permit is in a special management area? If so, what are the cites?

384.a. Is there any case law which states all the criteria used to approve a zoning change is to be held to a much more stringent standard if area requesting a change is in a special management area?

385. You stated all decisions by the water Commission are overlain by the public trust doctrine which the Supreme Court has identified four uses to protect: 1) purity and flow, ...and preservation of the water...2) domestic uses..., 3) preserve Native Hawaiian and traditional and customary rights, and (4) reservations of water to DHHL...

386. You agree don't you that the projected water needs in central and west Molokai exceed the estimated sustainable yield of the aquifer, don't you? If not, what authority do you have to back up your response?

387. What are the detailed uses to back up your assertion that only existing sources at currently permitted amounts will be used? Be specific stating all uses and amounts and from where the water will

come?

Laau Point questions for EIS

388. Your conservation efforts are nice, but unless you have another way to enforce them other than the CC&Rs, they are unenforceable aren't they? What case law in Hawaii upholds enforcement of CC&Rs?

389. Do you really believe a person who spends \$1-2 Million on a lot and \$4-6 million on a home is worried about paying \$100 or even \$1000 more a month for water if conservation inconveniences them?

390. Your percentages of the ranch cutting back 45% is admirable, however what is the actual figure in GPD and you did not even give a percentage for the other uses., what is their percentage of decrease after your rate change?

Questions pertaining to Appendix Q  
Wastewater Treatment Design

391. Who wrote Appendix Q? Give name and employment history, all educational background, prior experience with wastewater treatment, years of experience, where?

392. What water treatment permits are required?

393. What is the construction timeline for building the recycled water treatment?

394. What irrigation water will be used for selected areas where?

394.a. erosion control where and how and

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Laau Point questions for EIS  
when? certainly not during the construction periods?

395. where would this be built?

396. what sort of fence would be built to restrict public access?

397. Do you intend to design the facility with anything additional to the Guidelines from the Department of Health?

397.a. If so, what, if not, why not?

398. You state you will need 60,000 GPD of water initially plus an additional 60,000 GPD at a later stage of build out and an additional 60,000 GPD of final build out. Where is this water going to come from? I did not see this 180,000 GPD in your tables on water use? Please explain why?

Questions pertaining to RANCH MASTER PLAN  
Chapter 6 water plan

Questions from 6.2.

399. why do you state you are changing the 'current use' to average daily use over a one year period? When 'existing' use is in gallons per day?

399.a. Doesn't this equate apples to oranges? Doesn't this create confusion? If not, then can you use the same quantification when discussing water in the entire EIS?

399.b. You state allocation for Kaluako'i  
Page 12

Laau Point questions for EIS  
total 'then existing uses' is 848,000 GPD. Then you state that the Kaluako'i Hotel is currently closed and it's use is approximately 800,000 GPD! If the Hotel was allotted and used 848,000 GPD when it was open, why does it need 800,000 GPD currently when it is CLOSED?

399.b.i Where is the 800,000 GPD currently being used? and for what?

400. When you purchased the Kaluako'i Hotel and inherited from the previous owners the Consent Order...I presume to comply with the Federal Clean Drinking Water Standards, you knew about the non-compliance of water standards when you purchased the Hotel, Didn't you?

400.a. As a matter of fact, the order MUST have been a negotiable term in the purchase of the property otherwise you could come back on the seller under warranties in your purchasing agreement is that not true?

400.b. The Ranch's management made the choice to purchase new filtration equipment rather than using a dedicated pipeline from Well 17 to comply with the order didn't it?

400.c. Making this choice, the Ranch then used the MIS System to transport the water which would then need to be treated again, correct?

Question from 6.3

401. What upgrades were accomplished? by whom? and at what cost? and when (dates)?

Question from 6.4.

402. How specifically did the ranch 'inherit'  
Page 13

Laau Point questions for EIS  
drinking water systems from Maunaloa and Kualapuu? People didn't die and bequest the systems to the Ranch did they?

402.a. What other means or mechanism(s) was(were) used to acquire those systems?

403. Prior to 1993 there were no drinking water standards imposed by court order on the Ranch were there? Even though the Clean Drinking Water Act was passed some years prior and the standards were phased in over several years? Correct?

404. How much do you pay for the 20,000 GPD purchased from DHHL for water to Kipu/Kalae? Total amount/20,000GPD?

405. How much do you pay for the 76,000 GPD for the bulk water purchase from well 17 for Kualapuu system?

406. What does MRL stand for? Molokai Ranch Land? Is that another company or subsidiary under the Ranch?

Questions from 6.6

407. Did Molokai Properties Limited purchase Kiukui (Molokai) Inc. and MPU in December 2001? How much was paid and what was received for the amounts paid?

407.a. What are all the assets MPL acquired from MPU in December 2001. List and how much was paid for them?

408. What were the damages incurred when MPL changed the Detroit diesel engine with a Caterpillar  
Page 14

Laa Point questions for EIS  
four-stroke diesel? How much water and for how long  
was shut down? From whom?

408.a Did you give any warning to those  
who lost water during your down time? If so how?

409. Have you or your analysts done wear  
and tear studies on resevoirs and their system  
facilities on 100 million additional gallons of  
storage a day a year? If so give results, if not,  
why not when you are asking MIS to carry the weight  
and wear and tear on the system by 100 additional  
million gallons in their total system?

questions from 6.7 chapter 6 - water Plan

410. You state you will abandon the waiola  
well application. Is this the well applicaiton  
you won from the CWRM but was OVERTURNED on appeal  
by the State Supreme Court?

410.a. you have no rights to that well  
application as of February 23, 2007? Do you?

410.b. If not, what waiola well application  
are you speaking about? A new one?

410. c. What covenants are you speaking  
about? From ever seeking further water permits?  
Please fully explain.

410.d. what is the leading state legal  
precedence supporting that this can be done in  
Hawaii?

410.e. How do they or will they hold up  
in court?

410.f. Will they run with each and every  
parcel of land currently owned by MPL it's successors  
and assignes, subsidiaries affiliates etc. as of  
February 6, 2007?

411. You say on page 118 and 119 you don't need  
any more drinking water than is currently allocated.  
This allocated water is listed on page 119 as 1,018,000  
GPD from well 17 and 500,000 GPD from the Mountain  
System for a total of 1,518,000 GPD. Is this 1,018,000  
GPD from well 17 the same 1,018,000 GPD from well 17  
listed on page 115 section 6.2?

Laa Point questions for EIS

411.a. Earlier on page 115 you stated that  
the Kaluako'i development's water source was well 17  
in Kualapu'u under MPU. Is the Kukui Inc. now the  
holder of the permit on this well?

411.a.i. If so, isn't it the permit that  
is held up in the Supreme Court on appeal from the  
CWRM earlier decision AGAIN?

411.b. This is confusing and no one wants  
to count the same water two times. Perhaps you could  
explain it better by preparing a table with the  
heading of: GPD; WHERE FROM, permit number, allocation  
amount in GPD etc.; where currently used; status of  
permit etc. (example: actually in hand, not being  
used; stored in 'x' reservoir etc.); and where to  
be used in the future.

411.c. This was stated as a "then existing  
use" and the CURRENT use of the MPU system with the  
Kaluako'i Hotel CLOSED is approximately 800,000 GPD.  
I previously questioned where this 800,000 GPD goes  
currently. You need to subtract this 800,000 GPD  
from the 1,018,000 use from well 17 showing you  
currently have UNUSED drinking water in the amount  
of 718,000 GPD (218,000 + 500,000) instead of the  
1,518,000 (1,018,000 + 500,000 ) as stated at the  
top of page 119 don't you?

412. You seek to obtain 1,000,000 GPD of  
non-potable water from the abandoned Kakalahale  
brackish water well. Do you respect the Federal  
government and groundwater models which speak of  
a single groundwater aquifer under Molokai?

412.a. Do you disagree with these agencies?  
which say in essence when one part of the aquifer  
is pumped, it affects all areas and all wells on  
the Island in some way?

412.b. Did your respresentatives not  
hear the presentation by the Maui County water staff  
in the DHHL conference room in the summer of 2006 on  
Molokai showing on a power point presentation when  
one well is pumped on Island, the effects throughout  
the Island shows on the water table and each well?

412.c. Did you not hear two wells have  
dramatically increased in their salinity levels  
on Molokai and this is a critical stage for water  
on Molokai?

412.d. Have you investigated the effects of  
rising ocean levels from global warming on Molokai

wells?

Laau Point questions for EIS

413. What do you mean "by gradually moving current non-potable USES such as the golf course, irrigation of the hotel, condos and large lots to NON-POTABLE water"? Why are you moving non-potable uses to non-potable water? Is this a misprint?

413.a Then the very next sentence in the SAME paragraph of non-potable water, you switch (with figure 1,500,000 GPD which should be 718,000 GPD to potable water discussed above in 411.a-c. Please explain more clearly what you are talking about?

414. THEN you state "NON-Potable needs can be supplied by a combination of use of MPL's existing mountain system (which you have already used half a page above under the potable water section as one of the two means of acquiring potable water...how many times are you going to count the same water towards your water needs?) and the unused Kakalahale well". What specific amount of the unused well are you speaking about?

414.a. How much and what is the status of the Kakalahale well permit?

414.b. Isn't it part of the total aquifer system? In pumping it won't all the other wells on Island be affected? How many will be affected out of how many?

415. What remaining gallons are left on the Kakalahale well? Don't you mean 1,000,000 GPD and not MGD? This well ceased being used. Why and by whom? and what date?

416. Doesn't your statement "drawing water from the Kakalahale well will have no impact on the yield of the Kualapu'u aquifer" fly in the face of statements made by Federal and State and County agencies and governments about Molokai having a sole source aquifer, the critical stage of this aquifer at this present time, about the County of Maui needing to drill more wells because two are currently turning salty? Yes or no? and why or why not?

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Laau Point questions for EIS

417. You state previously 3 large land owners Molokai Ranch, Alpha USA and Kukui (Molokai), Inc. all were developing plans in need of massive amounts of water. You purchased Kukui (Molokai), Inc. didn't you?

417.a. As the owner of Kukui Inc. and making only two large land owners on Island now, what are your intentions of developing the lands of this new company?

417.b. What permits (water and other), tracts of land, buildings, etc. did you acquire in this purchase?

417.c. What are your plans for development with or for this company?

417.d. What entity actually owns Kukui Inc.?

417.e. What is the purpose clause in the Articles? Has it been amended since you purchased it?

417.f. Who are the Board members, shareholders?

Questions from Chapter 6 - Water Plan section 6.8

418. What are your assurances that only 40% of the owners of your proposed Laau Point development will live year round on Molokai?

418.a. What studies do you have to support that figure other than the neighboring subdivision?

418.b. Why is the figure given elsewhere in the EIS 30%?

418.c. Have any studies been done to see the effects of terrorism on the world and where people choose to live?

418.d. What relevance is it that only 40% of the owners will live there full time? If the LUC approves your zoning request, the land will be subdivided, building will be done, reefs will be damaged, endangered species and fauna habitats will be irreparably altered (if not permanently eradicated),

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Laau Point questions for EIS  
 sacred Hawaiian places will be desecrated, won't they?

418.e. What relevance is it that the dwellings lag lot sales? The end result is the same isn't it?

419. A GLARING OMISSION IN YOUR WATER PLAN IS WATER FOR FIRE PROTECTION. What are the provisions for that?

419.a. Did you have any studies done on that aspect?

419.b. Will you be placing fire hydrants in the subdivision? and sewers? Elsewhere in the EIS, it states a tank will be maintained for fire water. Which is correct statement?

419.b.i. Where and who will construct and maintain the water tank?

419.b.ii. Will the exclusivity of the development be lost with a big water tank containing water for fires sit on the development?

419.c. Where will this water come from?

419.d. What meetings did you have with Molokai Fire Department? When, where, with whom? What was discussed?

419.e. What were the Fire Department's recommendations? Why aren't they included in this EIS?

420. Where will the water come from for the construction time" 150,000 GPD and the "erosion measures" 100,000 GPD?

421. Where are the estimates for water consumption on the proposed parks?

Questions from Ch. 6 Water Plan Section 6.9

422. The tables are very helpful, however, another Page 19

Laau Point questions for EIS  
 few columns would help even more. Why do you not place a column for where the water comes from so that we can see that the water allocations add up to all the water consumptions needed? A table presents the material more clearly don't you think?

423. Under current water use you list various descriptions. What do you mean by current? Certainly the Kaluakoi Hotel is closed according to page 115 of your report.

424. Because I believe tables clarify confusion, I have taken the liberty to compare your two tables of current water use one listed on page 115 and the other on page 121.

DESCRIPTION	PAGE 121 JOINING THE POTABLE AND NON POTABLE BECAUSE THEY WERE NOT PAGE 115		FULLY DEVELOPED	WATER USE
	ADDED TOGETHER	ON	ON 115	
Hotel + Golf Course	467,000 GPD	407,120 GPD	306,640 GPD**	
condos	186,000 GPD	187,130 GPD	187,130 GPD	
Residential	51,000 GPD	214,325 GPD	862,325 GPD	
Beach Park	26,000 GPD	OMITTED	OMITTED but should include at least 26,000 GPD now that Kaluakoi is open	
Nursery	18,000 GPD	OMITTED	OMITTED but should include at least 18,000 GPD now that Kaluakoi is open	
Filter backwash	100,000 GPD	You OMITTED this from your table, but admit prior to an upgrade, it was 100,000 GPD. Although you don't give a number of filter backwash after improvement.	OMITTED, but probably 100,000 GPD	
Molokai Ranch	-0-	191,500 GPD	191,500 GPD	
System loss	-0-	You OMITTED from Page 20	OMITTED AGAIN but probably	

		Laau Point questions for EIS	
		your table, but admit a 200,000 GPD loss on page 116 section 6.3	200,000 GPD
Maunaloa/ Industrial Park -0-		161,850 GPD	322,350 GPD
Kualapuu	76,000 GPD	76,000 GPD	OMITTED, BUT 76,000 GPD
MIS System Use Charge	94,000	you have OMITTED THIS FIGURE IN YOUR TABLE, HOWEVER, YOU HAVE STATED ON PAGE 118 that for every 1,111,111; you take 1,000,000, thus leaving 111,111 for the MIS System.	YOU OMITTED this again probably 94,000 to 111,111 or more
3 items need to be added for Fully Developed Water Use column:			
Laau Point Lots			396,000 GPD
Laau Point Parks			41,000 GPD
Long term community growth in Kualapuu and Maunaloa			200,000 GPD
Total	* 1,018,000 GPD	2,611,925 GPD probably more likely estimate	4,100,945 GPD probably more likely estimate
		YOUR stated figure is: 1,237,925	YOUR stated figure is: 2,482,945

\* This figure is not yet explained because it is a figure for the Hotel being open and it is closed and the adjustment figure for the hotel being closed is stated on page 115 to be 800,000 GPD.

\*\* you subtract 100,000 GPD from the Kaluakoi Golf Course upon recycling reuse. However, you do not mention the amount of water necessary to build and operate a reuse facility which is 180,000 GPD per your appendix Q NOR do you mention where the 800,000 GPD is being used? If the 800,000 GPD is being used for the tenalos which was left off all columns, there will be a need to place that amount back in columns 2 and 3.

Laau Point questions for EIS

424. you have stated that "you will not exceed the existing permits plus the 1,000,000 GPD of brackish water from the Kakalahale well." What are the total amount of existing permits and allocations of water that you hold in GPD units as of February 6, 2007?

425. Since this Island is a monitored water supply, (a Special Water Management Area-- one of two or three in the State) everyone knows how important every gallon is; therefore, what exactly are the shifting of non-potable sources over time freeing up water for new uses. Please fully describe and illustrate quantitatively.

425.a. Has any modeling been done or any quantitative figures been worked up to demonstrate the accuracy of your statements? If not why not?

425.b. Given the future planning for DHHL lands and other building sites already approved and scarcity of water on this Island, wouldn't accuracy of figures about water be essential in planning any development?

425.c. What assurances are you willing to make about your water plan? Are you willing to indemnify all present and future water users for damages they may sustain on Island due to inadequate water supplies should Laau Point development be approved without sufficient knowledge of the Molokai aquifer and water resources?

Question from 6.10

426. You noted a drop of 45% on Ranchlands, but you did not state and percentages in dropped ...consumption. What are all the other drops in consumption by water users you supply since September 2003?

Question from 6.11

427. you state you will only need

Laau Point questions for EIS

upon total buildout of Laau Point 2,500,000 GPD. That may or may not be accurate, until you can explain the differences and omissions on the quantities you will need as shown in my table in question 324.

A. The water SOURCES may be in question also. The 1,000,000 GPD from well 17 may or may not be available to you as it is on appeal with the Supreme Court; you do have the 500,000 GPD from your Mountain system; however, the 1,000,000 GPD brackish water from the Kakalahale Well may or may not be available for you either due to the scarce water situation on Island.

B. All this is complicated by the fact there is incomplete data about water supply and the island is considered to have one water source (computer modeling of ground water on island assumes one aquifer) so that pumping at one area will affect all other areas.

C. As if we don't have enough difficult issues with our ground water, global warming will enter our ground water system equations and accelerate our difficulty with high salinity levels in our wells.

427. a. Given all of the above, and the current critical stage of the Island right now determined by the County of Maui, don't you think you owe all decision makers to be honest and clear on all your water uses and sources?

428. You state you will never ask for more water even for agriculture because you will use brackish water from Prawn Farm at Pala'au. All the previous problems brought up in previous questions apply here for drilling additional water from our same aquifer. That leaves your second alternative Desalination.

428.a. What is your desalination proposal? Do you have plans drawn up, a builder-contractor? begun the permitting system, where will it be located?

428.b. Don't you think you should wait until the technology improves and costs decline on a desalination plant before you bring your Ranch Plan at this point?

428.c. Exactly how much money will a desalination plant cost to produce 4,000,000 GPD?

Laau Point questions for EIS

428.c. Without adequate water sources to develop, isn't that rather like putting the cart before the horse?

Questions from 6.12

429. What is your authority to say there is an estimated 33.5 million gallon sustainable yield of the Island (its aquifer)?

429.a. In your Appendix P Water Plan Analysis, is not there a disclaimer of sustainable yield estimates as it relates to water resource reliability? (page 1).

429.b. So why do you even state a sustainable yield that you have disclaimed the accuracy of on your very first page?

430. How can DHHL use every reasonable effort to develop its 2,905,000 GPD allocation when DHHL applied for a permit to use 500,000 GPD to lease 85 lots for Hawaiian homesteads, and the RANCH filed an objection to set it into a contested case and DHHL withdrew its application?

430.a. Should DHHL reapply, will the Ranch AGAIN object and force a contested case?

431. Please explain what scenario will occur? WE HAVE A POTENTIAL OF 600 Homesteader LOTS available to lease, but it cannot because there is no water available for them.

432. Don't you think the USGS work should be done FIRST to determine water availability?

432.a. Then your economic feasibility of the project can be determined in your report couldn't it?

432.b. The you would know if you need  
Page 24

Laa Point questions for EIS  
a desalinazation plant for sure wouldn't you?

432.c. Wouldn't that be the logical  
order to proceed?

433. Do you believe any decision maker will  
want to make a decision on water without a clear  
understanding of the availability and amount of  
source? A CLEAR understanding of the quantitative  
amount needed for a development?

#### Questions on Appendix P Water Plan Analysis

434. Who wrote this Appendix? Give full name  
and address. What is that person's profession?

434.a. What are the qualifications of  
the author who is NOT A HYDROLOGIST, GEOLOGIST  
OR ENGINEER? List degrees, publications, employment  
history. What date was this Analysis written? Who  
was/is this author's employer at the time of writing  
this paper?

434.b. What are all the reading and  
documents (with dates) used to write this paper?  
Please list.

Questions pertaining to Preliminary Engineering  
Report by Warren S. Unemor date: July 2006  
Revised November 2006

435. The Mountain System has a storage capacity of 39,000,000  
gallons to compensate for seasonal flow. What was the amount of  
water stored in that storage facility in July 2006 and in November  
2006 at the two times of your report?

436. The water use allocation of 1,018,000 GPD from well 17  
for Kauakoi water system is approximately 800,000 GPD with the  
Hotel totally closed. What is the 800,000 GPD currently used  
for? (for what purposes) Please be explicit in GPD?

Laa Point questions for EIS

437. The storage capacity at PuuNana reservoir is 7,000,000.  
What was the stored amount of water in this reservoir in July 2006  
and November 2006 at the two times of your report?

438. How much water is being used for irrigation in Maunaloa  
in GPD?

439. Where exactly will the project sewer system be located?

Questions on La'au Point EIS submitted to PBR Hawaii, LUC and Ranch  
by Victoria Kapuni  
PO Box 1962  
Kaunakai, HI 96748

SECTION G. QUESTIONS NUMBERED 440 THROUGH 463 AND ALL THEIR  
SUBPARTS

Regarding pages 1-74

440. The draft EIS claims that the planning process for the La'au Point development was a successful effort to unite the community behind the Plan. There is much opposition on the island to the Plan and to the La'au Point development.

a. What is the evidence that the development was "a successful effort to unite the community?"

441. Populations of the water plant *Marsilea villosa* are present in the proposed La'au Point development. *Marsilea villosa* is an Endangered Species and the US Fish and Wildlife Service cites development as the primary threat to its survival.

- a. What steps will be taken to prevent siltation and other degradation of *Marsilea villosa* habitat at La'au Point during the years of construction that will occur?
- b. How do plans for construction at La'au Point compare to other developments in its efforts to prevent extinction of the *Marsilea villosa* populations and other populations of Threatened and Endangered species at the La'au Point site?
- c. The draft EIS does not provide a specific plan for protection of Threatened and Endangered species at the La'au Point development site. What are the actual plans to protect the species?
- d. How will the species be monitored?
- e. Who will do the monitoring?
- f. If the species start to decline, what steps will be taken to remedy the situation?
- g. What methods are used to measure reproductive fitness of the endangered plant *Marsilea villosa*?

442. The Hawaiian Monk Seal is an Endangered marine mammal and known to use La'au Point.

- a. How will disturbance of these animals be prevented during construction at the site?

- b. In what way are steps taken to prevent disturbance of the endangered Hawaiian Monk Seal consistent with the Marine Mammal Protection Act?
- c. Who will monitor fitness and survival of the monk seals that frequent the La'au Point area?
- d. How will monk seal survival be monitored?
- e. What is the plan if the monk seals stop visiting the island?

443. The Green Sea Turtle is an Endangered Species and occurs commonly near the La'au Point site.

- a. How will erosion during construction negatively impact Green Sea turtles in the area?
- b. Who will monitor fitness and survival of the green sea turtles that frequent the La'au Point area?
- c. How will green sea turtle fitness and survival be monitored?
- d. What is the plan if the green sea turtle population begins to decline?

444. The barrier reef of Molokai is the largest barrier reef in the United States and one of the few in the world that continues to be healthy. Reef systems such as the barrier reef of Molokai are essential to fish populations in the surrounding area. Coastal development is well established as the primary cause of the reef degradation that is occurring around the world.

- a. How will erosion, siltation, and other pollution from the La'au Point development that would damage the nearby reef be prevented during the construction phase of the project?
- b. How will the reef be monitored during construction? What is the baseline data that will be used to assess health of the reef before and after construction?

445. Of all aspects of the development plan, re-opening the existing hotel on west end of Molokai would have least environmental impact and provide the maximum number of jobs for the Molokai community. The draft EIS claims repeatedly that the La'au Point development must be completed before the hotel is re-opened.

- a. What makes development of La'au Point so essential to re-opening of the hotel?

446. The draft EIS states that existing regulations regarding runoff and non-point source pollution will be followed at La'au Point.

- a. What evidence is there that these existing regulations will be adequate to protect the Threatened and Endangered plant species at the site and the adjacent marine environment?

447. Use of water is based on outdated studies.

- a. What evidence is there that the La'au Point development will not consume ground water needed for future activities on Hawaiian Homelands?
- b. How will the La'au Point development cease its water usage if it is determined that water rights of the Hawaiian homelands are being infringed in the future?

448. All discussion of water in the La'au Point draft EIS are based on a 1996 update of a 1993 water study on Molokai. It is now 2007. Water use on the island has increased since that time. Moreover, climate change is predicted to raise sea levels, salinizing coastal groundwater, and possibly perturbing rainfall patterns.
- How can the La'au Point development be legitimately based on an outdated study of water on the island?
  - Why has a new water study not been completed before plans for the La'au Point development were made?
  - Who will monitor water use and conditions for use?
449. Solid waste will be generated by the development.
- How much solid waste will be generated annually by the La'au Point development at full build-out?
  - How much will it accelerate the filling of the Molokai landfill?
  - What is the plan for handling solid waste from the development?
450. Electric Power use will increase.
- What will the electric power consumption of the La'au Point development be at full build-out?
  - How will it impact the power generation and distribution infrastructure on Molokai?
  - How much new power generation facilities or electrical substations be necessary to support the La'au point development?
451. The draft EIS claims that tax revenues from the La'au Point development will offset its burden on public infrastructure on Molokai.
- What tax revenues are predicted from the development?
  - What fraction of existing tax revenues will they represent?
452. In its proposed mitigation for negative impacts on local fishing, the draft EIS proposes a subsistence fishing (no commercial take) zone in the La'au Point area. This subsistence fishing zone must be cast into law by the Hawaii state legislature.
- How will the developer force the Hawaii state legislature to make these laws that are favorable to the La'au Point development?
  - Since it is unlikely that a single developer can have total influence over the legislature, what backup plan does the developer have for protecting the fishing zone?
453. Access to the beach will not be public.
- Will the private roads of the La'au Point development be marked "No Trespassing"?
454. The draft EIS claims that paved surfaces will be minimized so as to reduce pollution draining from the La'au Point development.
- What is the maximum paved area per lot that will be allowed at the La'au Point development?

p3 sec 6.

- How will this maximum paved area be enforced during design and construction of the luxury homes at La'au Point?
  - Who will monitor the construction to make sure the paving is controlled?
  - What will be the punishment to the millionaire owners in case they decide to pave more than requested by the developer?
455. The draft EIS claims that the La'au Point development will continuously monitor storm and ocean water for a variety of pollutants.
- Who will supervise this monitoring?
  - What monitoring equipment will be used and where will sensors be located?
  - What steps will be taken if pollution is observed to occur?
  - Will fines be imposed when homeowners or builders create pollution?
  - What levels of pollution will be considered actionable?
456. The draft EIS describes the periodic "red water events" at La'au Point, in which red soil is washed into the ocean by heavy rainfall.
- How will exacerbation of these events be prevented during construction at La'au Point?
457. The draft EIS claims that impacts of the La'au Point development on the environment, culture, and county services on Molokai will be minimized by strict CC&Rs and that these will be unchangeable. Normally, such CC&Rs and all relevant procedures could be changed by a vote of the La'au Point Homeowner's Association.
- What is to prevent this from occurring?
  - Will the CC & Rs be a binding legal agreement with the Molokai Land Trust?
  - Who will monitor adherence of homeowners to the CC&Rs for La'au Point?
  - What penalties will be imposed for violation of the CC&Rs?
  - What entities will have the authority to change the CC&Rs?
458. Homeowners are expected to be interested in maintaining the environment and culture of Molokai.
- How will such homeowners be selected?
  - What governing body will interview for these types of homeowners?
  - How will these homeowners specifically prove that they are of the right type? Will there be a test?
  - What if a homeowner does not want to be environmentally conscious but is willing to pay \$4 million instead of \$2 million for the property?
459. As noted by the EIS, the island of Molokai represents a unique setting in which Hawaiian culture is vibrant.
- How can the developer assure that an influx of 200-400 + multi-millionaires on this island of 5,000 people will not disrupt the cultural life and needs of the community?
  - If the culture is disrupted what will the developer do about it?
  - How will the developer know if the culture has been disrupted?

p4 sec 6

460. The developer proposes that requirements for beach access within the La'au Point development be waived in order to protect the beaches. The millionaire residents of La'au Point are the most likely to impact the beaches negatively since they have sole access to the beaches. Lack of the usual required access will simply protect them from enforcement of environmental regulations and provisions of the CC&Rs.

- a. How is it not better to have the usual beach access required by the county and then empower the proposed Land Trust Steward to enforce environmental regulations and the CC&Rs?
- b. Who will be enforcing environmental regulations?
- c. What is the punishment for lack of adherence to regulations?
- d. What exactly are the regulations?
- e. What will compel the millionaire owners to follow the regulations or care about them?

461. The draft EIS calculates the negative impacts of the La'au Point Development based on an occupancy rate of 30% in the development.

- a. How will this low occupancy rate be enforced?
- b. Who will monitor the occupancy?
- c. How must the plan be modified to account for the fact that occupancy rates are likely to rise within 10 years?

462. It is likely the development at La'au Point will raise property values and rents on the island. It will also likely promote other luxury developments elsewhere on the island. This will most certainly be harmful to the permanent island inhabitants who will be negatively impacted by increased property and rental rates.

- a. How will this be avoided this situation?
- b. If there is no idea for how this will be avoided, then how is it that the developer can claim the development will not impact the livelihood and culture of Molokai?

463. In a Federal rule published on April 5, 2002, La'au Point was designated as potential Critical Habitat for the Hawaiian clover, *Marsilea vilosa*. Then in the final ruling in 2003, the Critical Habitat of La'au Point for *M. vilosa* was "inadvertently left out of the designation" (Federal Register volume 68, March 18, 2003 page 13007). The Federal Register states on 13007:

*"We have proposed crucial habitat for this species on the island of Molokai. We will publish a separate rule incorporating this suitable habitat for the species after completing the final rules for the other Hawaiian islands."*

The news release from this Federal Bulletin states:

*Critical habitat was not designated for one species, Marsilea villosa, because Service inadvertently left the area containing its primary constituent elements [La'au Point] out of the proposed rule. Critical habitat for this species will be considered at a later time.* US Fish and Wildlife Service News Release, March 18, 2003.

p 5 see 6.

Questions related to this issue of redesignation of Federal Critical Habitat are:

- a. It has been four years since the omission. When will the investigation be reopened?
- b. Why was the designation inadvertently left off the review?
- c. Who was in charge of the original review and who is now in charge of reactivating the review?
- d. What has the follow-up been, since US Fish and Wildlife stated they planned to reconsider at a later time?
- e. It is clear that all development will need to stop until the Federal decision is made. How can the developer continue with this process if the designation of critical habitat has not yet been finalized?
- f. What group is overseeing that federal laws are being followed with respect to the designation of Critical Habitat of *M. vilosa*?

p 6 see 6.

Laau Point questions for EIS

Questions on the Laau Point EIS  
to PBR Hawaii and Land Use Commission  
Ranch and Office of Environmental Control  
by Victoria Kapuni  
P. O. Box 1962  
Kaunakakai, HI 96748

SECTION H QUESTIONS NUMBER 464 THROUGH 491  
AND ALL THEIR SUBPARTS

Questions from appendix N & M

464. You did not state there were any runoff catchment plans on the project site. Are there any plans for this now?

465. How much water in GPD is expected to be acquired from the sewer system for common area landscape? Where will the storage reservoir be and what is the holding capacity for this water?

466. What is the GPD of water available from surplus mountain system for fire protection and irrigation?

466.a. fire protection for what?

466.b. what irrigation area will be serviced by this water?

467. What if the brackish water from Kahalehale well is unobtainable? what is the back-up plan for water?

467.a. what exactly will be irrigated with brackish water?

468. How large will the storage tank or reservoir be that will hold

Page 1

Laau Point questions for EIS  
the storage requirements for fire protection?

467. When was it decided to place fire hydrants at 450 to 500 feet intervals along the road. Will they be standard hydrants? How big will the pipes be in the road?

468. What are alignments under considerations to bring non-potable water from Kahalehale well? What size are the pipes expected to be? What alternative source of water is being considered should the Kahalehale well be unavailable?

468.a. At this time, what have been all the 'alignments' considered?

469. At full build out non-potable water demand will be 300,000GPD. From where will this source come?

469.a. Specifically, what is each demand for this 300,000 GPD? Please list in table form.

470. At full build out potable water demand will be 96,000 GPD. To what exactly does the build out refer to: the 200 residences?

470.a. This calculation was made on 80% occupancy of the 200 residences, correct? You are assuming 600 GPD per residence is that correct? what is the additional 14000 GPD for?

470.b. This projection appears low doesn't it? Isn't it usually 1000 GPD per residence?

470.c. This projection is made exclusive of irrigation on two acres per residence isn't it? What is your expectation of irrigation per residence?

471. Regarding potable water, does the new system extended from Kaluakoi to the project have a separate reservoir? If so, how large?

471.a. Will the water be a portion of the allotment for Kaluakoi hotel? what is the projected amount?

471.a. If this takes the remainder of the Kaluakoi water, what water will be left to open the Kaluakoi Hotel?

472. Because of your engineering background, you will probably be able, where others have failed, to make a table of all the sources of water demands of water for the Ranch in order to clarify the water situation. What are the sources and demands for water by MPL?

Page 2  
sectH

Laau Point questions for EIS

473. In your revised report, was the project average occupancy of 30% added from the July 2006 report?

473.a. If not, what did you change for the November 2006 report from the July 2006 report?

473.b. What and why did you change/update your report?

473.c. Were you given new information? If so what?

474. If the anticipated occupancy rate for the project is 30%, will the amount of wastewater generated from that amount of people be sufficient to recapture and use as waste water? Is that the intention of the Ranch?

475. 4.3 appears to be a newer section with more information to catch runoff. Is it newer plans for runoff?

475.a. The development, if allowed to move forward, will create 123 cfs additional runoff from pre development grounds correct?

475.b. How much additional underground space will be needed to accommodate subsurface storage and filtration systems required by Maui County's Storm Drainage Standards?

475.c. How many cubic yards of earth will be needed to be excavated by the additional storage and filtration systems' installation?

475.d. How many cubic yards of earth will be needed to be excavated in order to accommodate the culverts and drainage systems for the roads?

475.e. Are you aware your appendix on drainage does NOT speak of catchment, but only speaks of fire hydrants and underground pipes? Why, why not?

questions pertaining to social impact, this time from appendix M

476. Maui County General Plan endorses the following themes: Protect the county's AGRICULTURE identity, Protect the county's shoreline and even has a general underlying POLICY of NOT DEVELOPING shorelines at all doesn't it?

Page 3  
see H

Laau Point questions for EIS

477. Maui County supports efforts by the Molokai community to evaluate the feasibility of Molokai becoming its own County, doesn't it? Do you have any idea why?

477.a. This is a unique island is it not? Not like any other Hawaiian island let alone any other island.

478. You listed me as a participant in your PUBLIC meeting. I did not speak except to ask you two questions, because this was my first meeting on the Plan. You would have, therefore, assumed you did not know my opinion, Correct?

478.a. Who was told that they could submit written statements? Who informed participants of that option?

478.b. You should know by now shouldn't you that the community is solidly against the Plan which includes Laau Point development and no amount of propagandizing the Plan will change their minds when almost 70% of the island voted for two EC board positions that ran on the platform against Laau Point development trouncing the two pro Laau Point development proponents?

478.c. You spoke of "those who are not strongly aligned with either side, and it is likely a large part of the community, the prominent issue is the Laau Point Project". Wouldn't you say that having nearly 1200 people turn out to vote for EC candidates that were against Laau Point Project when roughly one half the island is illiterate and in all likelihood did not vote, that is a strong statement that most people are clearly aligned against Laau Point?

478.d. What do you attribute your misunderstanding of the breadth and depth of the feelings and beliefs of the Molokai Community against the Laau Point development? Could it be that you did not interview a broad enough cross section of the community? and were only given hand picked individuals to interview?

478.e. You state that "It is to their advantage to know about the Plan and the Project so that they understand the full implication of both", yet, given the vote, wouldn't you say that you underestimated the importance the mana of Laau Point to the native Hawaiians over any thing else?

478.f. CEO, Peter Nicholas, gave the community the question it could take the Plan and live with it's down side. I guess the community gave him his answer January 31, 2007 by saying it couldn't live with it's down side didn't it?

Page 4  
See H

Laau Point questions for EIS

479. The OPONENTS of this Plan and Laau Point development were the very SAME INDIVIDUALS who fought and won the cruise ship battle and Taro battle...not proponents, as you state, isn't that correct? If you do not believe this is correct list each and every person to which you are referring i.e who fought the cruise ships and taro issue and are proponents for Laau Point development? BE SURE TO INCLUDE in your answer the GMO/corn meetings those individuals attended.

480. You refer to direct and indirect impacts as being population and public services and CDC, Land Trust and reopening Kaluakoi Hotel; however, you do not take into account the social importance of Laau Point...it's spiritual mana, do you, and what impact developing Laau Point would have on native Hawaiians in this respect?

480.a. After January 31, 2007, you understand its importance now, don't you?

481. Name any Hawaiian study that did NOT show that the new outside values clash with traditional ones, thereby upsetting the social fabric as drastic demographic and ecological shifts have been shown to affect other Hawaiian communities.

482. How is Molokai like west Maui?

482.a. Don't you have economic disparity and racial tension, exacerbated feelings of helplessness and social stress and increased crime when you extract from the Hawaiian culture the means of sustaining their life without money and take away their spiritual life?

questions on 5.1.2; 5.1.3; 5.1.4

483. Your use of "EXPAND the Conservation District along the shoreline" doesn't tell the whole truth does it? While the actual volume of land in acres may be larger, the PLACES of the volume of acres changes so that the shoreline is no longer the Conservation District as designated in both the Maui County and State Land Use Plans let alone Molokai the island on which the development is proposed is it?

Page 5  
see H

Laau Point questions for EIS

484. The criteria for decision making as set forth in HS Section 205-17, the reclassification must conform to the applicable goals, objectives and policies of the Hawaii state plan and the adopted functional plans. You're reclassification, however, is contrary to:

the Hawaii state plan i.e. shoreline is completely conservation,

Maui co. zoned agriculture with policy against developing on shoreline property,

and Molokai Land Use Plan which zones the area conservation along the shoreline and agriculture throughout the remainder of the proposed development

isn't it?

484.a. How can you possibly say Laau Point application for reclassification conforms to goals, objectives and policies of the Hawaii State Plan AND FUNCTIONAL PLANS? Explain concisely without repeating rhetoric but detailing with specificity how Laau Point CONFORMS.

485. How does the reclassification preserve and maintain the important natural systems of habitats for the Critical Habitate of the Marsilea villosa and the endangered Monk Seals in a colony of 17 (8 of which were born on Molokai)?

485.a. It can't possibly preserve those areas of habitat for those two very important species when you place people continually within their environment can it?

486. How can the development of Laau Point maintain valued cultural, historical, or natural resources when one of the centers of native Hawaiian spirituality and mana is on Molokai...at Laau Point.

486.a. After all, Molokai is the last Hawaiian island isn't it?

486.b. The southeast corner of the island was designated a subsistence Zone i.e. a natural resource wasn't it?

487. How can the development of Laau Point maintain valued cultural and historical resources when as you admit on page 157 "with respect to archeological sites, the area has had only limited analysis done to date, and where surveys have been conducted, sites have always been found. Based on the limited surveys, it is likely that extensive archaeological survey work would identify culturally-sensitive areas."?

487.a. How can excavating this area for roads, sewers, water, utility pipes, fire hydrants, water meters etc etc. maintain any cultural and historical resources you admit are there?

Page 6  
see H

Laa Point questions for EIS

488. Since when is this reclassification reasonably necessary for urban growth?

488.a. There is no growth in that near vicinity is there?

488.b. You have lots of lots still available for sale don't you?

489. The State encourages an increase in economic activities ...CONSISTENT WITH COMMUNITY NEEDS AND DESIRES. This community neither needs for desires the development does it? The employment rate on island is GOOD...under the national average by 1.4% unemployment. The opening of Kaulakoi would be nice, however, the Ranch closed this hotel in the first place didn't it? AND the January 31, 2007 election results speak for themselves don't they?

490. on page 140 you said the "SMA Permit is granted by the Molokai Planning Commission". when did this happen at what planning commission meeting? and who voted for it?

491. An objective and policy for the Economy of the State is to have "the agriculture industry that continues to constitute a dynamic and essential component of Hawaii's strategic, economic and social well being" How can taking land out of agriculture into rural for luxury homes ever help maintain and continue the agriculture industry the State wants?

Laa Point questions for EIS

Questions on Laa Point EIS  
to: PBR Hawaii, Land Use  
Commission, Ranch, & OEQC  
by: Victoria Kapuni  
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Kaunakakai, HI 96748

SECTION I QUESTION NUMBER 492 THROUGH 524  
AND ALL THEIR SUBPARTS

These are general questions and  
don't pertain to any particular  
section of the EIS

492. Why are the following pages intentionally left blank from the Ranch Plan? 141, 126, 108, 106, 96, 84, 90, 88, 82, 80, 76, 60, 36, 12, 10.

492.a. why are these pages intentionally left blank from the main text: viii, 14, 36, 48, 142, 176,

These are a few questions about the appendixes to the Ranch Land Use Plan:

493. RE: Appendix 2:  
cultural sites of Kaulakoi Map and Laa Point  
cultural resource protection zone map--the  
USGS map cannot be read. What is the  
significance of this map and can you  
produce a better larger one that can be read?

494. RE: Appendix 3:  
what is the Aquatic/Coral Reef Protection?  
who designated it as such?

Laau Point questions for EIS  
who protects it as such?  
why is it designated as such?  
who made the map?  
for what purpose was it made?  
why is the reef designation smaller on this  
map than on say the maps for appendix 6 & 8?  
where is there marked on the natural resource map  
The FEDERAL CRITICAL HABITATE LANDS?  
why were they omitted?  
Did you place them on another map somewhere in the EIS?

495. RE: Appendix 5:

The dark line is proposed for the Land Trust isn't it?  
BUT the XXX portion of the black line enclosure  
is IN NEED OF FRUTHER STUDY isn't it?  
where is the designation for the original 15 acres  
of expansion for the Maui Community College as  
stated in the MOLOKAI Land Use Plan?

496. who is the Conservation Fund which made these maps? where are they located? who funds them?

Question on Chapter 7 of Ranch Plan

497. why has not your Timetable been edited and made current? Don't you think that would have been appropriate for this EIS? Was this EIS put together piecemeal in haste with no one reviewing it in its total content?

498. You have yet to approach the Maui County and Molokai Planning Commissions for zoning changes reflecting the Land Trust zonings is that correct?

498.a. How can you assure "zoning is for all time"?

498.b. Particularly when you want a zoning change for this Special Management area of Laau Point for your development?

498.c. What specifically is the zoning you need for the Land Trust lands for special NEEDS?

498.d. Give ALL your reasons why the LUC should overturn the SMA designation for your development? Weigh your reasons against protecting the County's coastline and resources as of upmost importance not only to the island of Molokai and the County of Maui, but, I dare say to the State of Hawaii at this point, given the diminished amount of undeveloped shorelines.

Laau Point questions for EIS  
499. When and where does the Land Trust directors meet? Can the public attend? Why, why not?

Questions from Chapter 5 of the Ranch Plan

500. Chapter 5 has a Ranch proposed development map which includes a very large expansion of the Kaulakoi Hotel. Do you have an enlarged area of the Kaulakoi Hotel expansion? If so, include it with the answer. I am asking for information in exact detail of all the development to occur in this expansion of the RESORT.

500.a. What are the details of this expansion of the Kaulakoi resort? Be very specific with details of buildings, hotels, restaurants, all facilities, new golf course etc.

501. The Natural Resource Protection map in chapter 5 once again omits the FEDERAL CRITICAL HABITATE of the endangered species Marsilea Villosa WHY?

502. Since, elsewhere in the EIS, you have stated JOINT control of the Land Trust easements, would you explicitly state for each of the 65,000 acres the ownership, management and control and how the specific entities (Trust, MPL, homeowners, and CDC) interact? And who owns fee simple title of each segment of the lands?

Questions from Chapter 4 of Ranch Plan

503. You state the relative importance of the MANAGEMENT AREA 'As time spent in subsistence fishing cultivates intimacy and harmony with nature that is the foundation of Hawaiian spirituality and religion.' How high on a level of 1-10 with 10 being the highest priority would you rank the management area's importance to Hawaiian spirituality and religion?

504. I quote further from the EIS, "To Hawaiians, the land and natural elements are the foundation of subsistence, cultural and religious beliefs, customs, and practices. The land and the natural environment are alive, respected, treasured, praised, and even worshiped. The land has provided for generations of Hawaiians, and will provide for those yet to come.

Laa Point questions for EIS

Hawaiian subsistence practitioners speak of their cultural and spiritual relation to the lands of their region and their commitment to take care of it and protect it for future generations. THE LAND IS NOT VIEWED AS A COMMODITY; IT IS THE FOUNDATION OF THEIR CULTURAL AND SPIRITUAL IDENTITY AS HAWAIIANS. The land is a part of their ohana and they care for it as they do the other living members of their families."

504.a. How is it that you can print in your Plan the essence of Hawaiian culture and not understand it?

504.b. Don't you believe that the Hawaiian culture, spirituality and connection with the land is PRICELESS?

504.c. You state that land is not a commodity to Hawaiians so how can you ever expect the Molokai community (the most Hawaiian island) to ever accept the development of Laau Point?

504.c. It is priceless, isn't it, to the Hawaiians?

505. What is the title of the Molokai map on page 37? It has no legend no title other than it is the Island of Molokai?

506. Has the Land Trust developed it's management Plan? to obtain it's 501c3 status? why? why not?

506.a. If the Trust has been formed, this is to happen immediately isn't that so?

506.b. Where was the public input? who are on the committees? or is this like the operation of the EC...pre-selected people on the committees, unresponsive to the community? The two boards (EC and Trust) are very similar in the composition of the people aren't they?

506.c. Who are on the two Boards now? List.

506.d. Who was on the EC board each year of its existence?

507. What EXACTLY is EC project #47? When was it voted upon at what meeting, by whom?

507.a. In your Schematic of process you show committees and PUBLIC INPUT to develop the RANCH Master Land Use Plan, which by now everyone knows was NOT developed with public input surrounding the two fundamental issues of Laau point and water; how would this board for the Trust be run any differently to obtain and USE PUBLIC INPUT?

507.b. Aren't the BOARDS VERY SIMILAR? What assurances are

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Laa Point questions for EIS

in place to prevent the dictatorial stance of the EC Board members on the trust Board?

507.c. Who, what, and where is the Conservation Fund?

507.d. Why is the Conservation Fund, EC and MPL all inputting into the Ranch Master Land Use Plan?

507.e. Why do those three entities have dashed lines about them instead of solid lines?

507.f. What is the significance of the dashed lines?

508. Should we expect the same amount of public input in the Trust as we received on the Ranch Master Plan?

508.a. Does the Trust have all the minutes from the EC Committee meetings? or are the Board members similar enough to the EC to remember the committee input of which they were a part?

509. Why has the Trust Board met in secret and been hidden from the public and news? What is it hiding?

510. The list of names on the EC committees has changed from the original EC Land Use publication sent out to all the committee members to thank them for their work and the EISPN sent to the Land Commission. What names did you delete? add and why?

Questions from 11.0

511. Why did William Akutagawa, Richard Cooke, Cheryl Corbiell, David Lunney, Colette Machado, Edwin Misaki and Stacy Helm Crivello receive copies of the EIS along with all the state, federal and county agencies and commissions?

512. Why did Daniel Inouye and the Land Trust Steering Committee receive a copy?

512.a. Who is on the Land Trust Steering Committee

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See I

Laau Point questions for EIS

Question from 10.0

513. You have 25 references for your EIS and 19 or approximately 80% of them are papers written for MPL for the EIS isn't that correct?

513.a. Why did you basically have your own supporting documents written by your own employee-contractors? Wouldn't it have lent more credibility to your EIS to have more impartial third party references?

questions from 7.0

514. What is the partnership between EC and MPL? Explain EVERY facet of it.

515. What is the difference between Brierly Investments previously not consulting with the community on its development plans and what MPL has done with this development plan in NOT consulting the community about Laau Point and Water?

515.a. Both have met with STRONG community opposition haven't they? However, this time, Molokai economy is NOT suffering. It has a good unemployment rate at 3.2% well under the national average doesn't it?

516. Does MPL think that water is the ONLY unresolved issue? I will not go through all my water questions again, even though you simply repeat the same paragraphs over and over again in your EIS. Why? Do you believe that if someone reads or hears it enough, they will believe it?

516.a. Do you think withdrawal of an additional 1,000,000 GPD of brackish water from the Kakalahale well will take away water that DHHL will need to support future expansion of agriculture and residential lots on their Molokai lands? If not, FULLY explain why not?

517. Do you admit that water resource issues have yet to be identified?

517.a. If so, why are you bringing this to LUC? Before you have your water resource determined?

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See I

Laau Point questions for EIS

Questions from 6.5

518. Who is Clark Stevens and his company New West Land Company? Qualifications, background etc?

518.a. Where are they from? What are they in the business of doing?

518.b. Who recommended the EC use them? Did the EC pay for the services? How much? What were they contracted to do?

518.c. What was the meeting date and those in attendance from the Board who decided to use Clark Stevens?

518.d. What prior associations had Clark Stevens and/or New West Land Company had with any Board members? BIL, MPL, BPR Hawaii, subsidiaries affiliates etc.?

518.e. Did the EC receive a written report from Clark Stevens? If so where is it? Attach it for the answer in a final EIS as alternatives to the Ranch Plan please.

519. The EC rejected a motion to delay the vote on the Plan until alternatives could be investigated?

519.a. The EC rejected an alternative because there was no financial evaluation provided? Why didn't the EC use Clark Stevens to financially evaluate it? or someone else? Why was the EC Board determined to push the vote?

520. Why did the EC reject Stevens' proposed purchase of Laau Point and land of the trust? because they would have that land which was already planned for fee donation to them under the Ranch Plan?

520.a. Now the EIS is not giving the Trust in fee as much land as they originally thought is it?

520.b. The trust is nearly going to manage the lands, but the ownership even with the CDC will be STILL with MPL isn't that true? If not, what is the total amount of acres the Trust will hold in fee simple?

521. Did MPL ever come up with a purchase price of Laau Point? What was it? is it? I'm sure they would consider their cost per

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Laau Point questions for EIS  
lot is \$360,000/lot to develop Laau Point if they sold it out right  
wouldn't they?

521.a. Apparently there was no response from MPL on a price and  
willingness to keep the alternative open was there?

521.b. MPL's response was they would take an equivalent return  
on the development, but who ever bought it would have to protect  
the areas for subsistence as proposed? why was that a stipulation?  
Maybe the new purchaser would NEVER place parks etc. on the shoreline.  
or even subdivide the property at all?

521.c. why was there the stipulation that an endowment income  
must be provided to the Land Trust and CDC to keep them functioning  
presumably? Or was it to allow MPL to continue it's intent to be  
a housing authority in leasing the lands through the CDC for a continuing  
cash flow?

522. What does this sentence mean? "MPL will seriously consider  
offers but after an extensive two-year community process does not  
desire to indicate a price for the parcel because of the many variables  
involved?" What variables are involved?

523. Has a serious buyer emerged? If so, did MPL enter into  
negotiations?

524. Since MPL is cash poor and the "shareholders will not permit  
this to continue without a solution," has MPL taken any initiative  
to find itself a buyer? If not, why not, if the shareholders want  
a solution?



November 1, 2007

Victoria Kapuni  
P.O. Box 1962  
Kaunakakai, Hawai'i 96748

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Ms. Kapuni:

Thank you for your letter dated February 21, 2007 regarding the Lā'au Point Draft  
Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *In December 2001 Molokai Ranch acquired holdings in Kaluako'i Hotel for what purpose if not to renovate? 1.a. Was the Ranch just going to allow the hotel to fall from neglect? 1.b. Did the Ranch purchase the Kaluako'i Hotel for its water to develop the 'tentalo' on the beach? 1.c. Did the Ranch purchase the Kaluako'i Hotel for its water to use elsewhere? 1.d. If the Ranch, in 2001, was going to restore the Kaluako'i Hotel, how did it intend to do so? 1.e. With what money? 1.f. From where?*

**Response:** The purchase of Kaluako'i Hotel was a business decision. Along with implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which includes the Lā'au Point project, we are also working on our plans to renovate and re-open the Hotel.

2. *Please state or produce CDC's entire mission statement. 2.a. From what document do you state this mission statement? 2.b. I was under the impression that Molokai Land Trust was to receive 1160 acres of land Mauka Kaunakakai for expansion and affordable housing. Please explain in detail the legal relationship between CDC and the Land Trust. 2.c. Which entity will receive the 1160 acres? 2.d. Who has control over the 1160 acres? The ultimate say? What are the purpose statements for each entity? Mission statements? 2.e. What is the purpose of the CDC?*

**Response:** The CDC has yet to be formed, but a steering committee is examining the best type of organization that suits its mission. It will be a separate entity from MPL and have no connection with MPL. According to the Moloka'i Enterprise Community (EC) 2006 annual report (found at: <http://www.molokaiec.org/resources/ecdocs.htm>): "A CDC Steering Committee was formed to begin organizing for the incorporation of a Moloka'i CDC. Fundraising efforts have been initiated, and leading nonprofit lawyers and accounting specialists have been contracted to begin the work of securely structuring the gifted land (1,100 acres), easements (200 acres) and revenues (approximately \$10 million dollars)."

The CDC will have no legal relationship with the Moloka'i Land Trust and will be a completely separate organization from the Land Trust, with a different mission. The steering committee has set the mission statement for the CDC as: "A community-based non-profit organization working to enhance the quality of life for residents primarily in the areas of affordable homes for the

community, as well as economic development, education, health care, leadership, culture, and the environment, while preserving Molokai's rural character."

The CDC will be the organization accepting the 1,160 acres in fee. Questions as to the future plans of the Land Trust and the CDC, outside the broad guidelines given for MPL lands and revenue from Lā'au Point as outlined in the EIS and in the Master Plan, are matters for both those organizations, not MPL.

To reflect the above information in the Final EIS, Section 2.1.9 of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.1.9 (CDC)."

3. *List the names of the many Land use committee members who made at least 2 site visits to Lā'au Point. 3.a State time of day, how long they stayed and the date. 3.b. Who accompanied the land use members on these site visits? List names and how affiliated with the Ranch. ex. employee family member, former employee, etc.*

**Response:** We recall the following members made at least two site visits to Lā'au Point: Colette Machado, Stacy Crivello, Rikki Cooke, Barbara Kalipi, Zhanell Dudoit (former staff member), Ed Misaki, David Lunney, Jimmy Duvauchelle (employee), Halona Kaopuiki, and John Sabas (when not an MPL staff member). All members were accompanied by Peter Nicholas.

4. *List the many Land use Committee members who may have made only one site visit to Lā'au Point. 4.a. State time of day, how long they stayed and the date. 4.b. Who accompanied the land use members on this site visit? List names of those persons and how they are connected to the Ranch. (ex. Ranch employees, contractors, etc.)*

**Response:** We recall the following members having made at least one site visit: DeGray Vanderbilt, Walter Ritte, Matt Yamashita, Ella Alcon, Pat Benda, Dewitt Jones, William Akutagawa, Cheryl Corbiell, Dewitt Jones, at various times accompanied either by Peter Nicholas, or sometimes on visits on their own.

5. *State each and every way and with full detail how you intend to educate Lā'au point homeowners on conservation. 5.a. With complete specificity state how you propose to ensure these homeowners will support conservation? 5.b.i. cultural site protection? 5.c.ii. subsistence?*

**Response:** The Shoreline Access Management Plan (SAMP) for the area sets forth an education program required of all homeowners and visitors to the area that covers: cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

6. *Please produce in full the Lā'au Point Covenants (CC&Rs). 6.a. Please be sure to include each and every way they can be enforced. 6.b. How can they be amended? 6.c. Who specifically will enforce them and by what means? 6.d. What is the controlling law in Hawaii on the issue of enforcement of CC&Rs? Give cite and details of case law.*

**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 reflect this information in the Final EIS, as well as to address other questions and concerns regarding the CC&Rs, Section 2.3.6 (Covenants) will be revised as shown on the attachment titled, "Revised Section 2.3.6 (Covenants)."

7. *Please list each and every way naming the "extraordinary lengths" the Land Use Commission went to ensure that the Lā'au Point subdivision would be set apart from the typical subdivisions in Hawaii." 7.a. List each and every development of land and/or resorts and/or subdivisions that BIL or its successor or assigns or its subsidiaries in other counties has developed in the past ten years. 7.b. List the specific methods it used to gain community support for those developments. 7.c. What were the steps BIL did or it's subsidiary did to accomplish the development they accomplished on Fiji? Who were the BIL employees who spearheaded that development and public input?*

**Response:** The comprehensive Community-Based Master Land Use planning process is unprecedented in Hawai'i. The Land Use Committee, comprised of the chairpersons and deputy-chairpersons of the five sub-committees under the EC's Project # 47 and others, met 28 times in addition to their own sub-committee meetings during the planning process to create the various components of the Master Plan. The strict covenants (provided in Section 2.3.6 of the Draft EIS) to be attached to the Lā'au Point project set this subdivision apart from other subdivisions in Hawai'i. The covenants respect the environment, character, and cultural resources of the area.

The questions relating to BIL developments in the past ten years and in Fiji have no relevance to this EIS. Other BIL subsidiaries, such as the one in Fiji, are separate, unrelated entities from MPL.

8. *Please produce the document or state in its entirety the Articles of Incorporation for the CDC. 8.a. State all the Initial Board of Directors for CDC 8.b. State the name or names of the incorporator(s) for CDC 8.c. State all shareholders 8.d. State or attach by-laws. 8.e. State day the Articles of Incorporation were filed with the State of Hawaii. 8.f. If not filed with Hawaii, state specifically where and when it was filed elsewhere. 8.g. If not filed, why not? 8.h. Do you have draft documents? If so produce attach them with this answer.*
9. *The CDC tasks are to develop affordable housing. Is that from the 1160 acres mauka of Kaunakakai or elsewhere? What are the procedures CDC intends to carry out to accomplish this task? Be specific in you detailed account of your intentions.*
10. *How is CDC to promote economic development. Fully explain all ways this will be accomplished. Listing in detail each and every way.*
11. *Explain fully how CDC is to expand educational opportunities. Be sure to state timetable and specifically where, how and by whom this is to be done.*
12. *How is the CDC to assist the Land Trust? 12.a. How are the two entities related? 12.b. What if any is their legal relationship between the two entities if there is one. 12.c. What lands (give specific detail ex. 200, lots, 26,200 acre easement) do the CDC and Land Trust have in ownership, management, control over? 12.c.i. What are the rights, duties and responsibilities the CDC and Land Trust have for that land. 12.c.ii. What are the CDC and Land Trust expected to do with the lands?*

**Response:** As addressed in #2 above, the CDC has yet to be formed. MPL cannot respond to questions on behalf of the CDC regarding CDC procedures. These questions should be directed to the CDC.

13. *Since MPL will retain ownership of land around Kualapuu and Maunaloa; and since CDC will make decisions and timing of development, who will have the final decision and over these 200 acres? 13.a. How will the CDC and MPL interact? Through their separate boards? Explain fully. 13.b. will they be the same people on the boards?*

**Response:** The CDC will be able to plan its own affordable housing without having to include MPL. In other words, MPL will not influence CDC decision-making for community expansion or affordable housing, but cooperate with it in making land in Maunaloa and Kualapuu available for community housing at affordable prices. See Section 4.8.2 of the Draft EIS.

14. *Please explain the difference in your Molokai Ranch Plan selling 3.2 acres to our Community College and the original 10 acres in the Molokai Land Use Plan that has precedence over your Ranch plan. 14.a. why did you cut the amount of acres the community originally stated it wants (10 additional acres) to 3.2?*

**Response:** The Master Plan reflects the agreement made with Maui Community College-Moloka'i during the planning process. MPL acknowledges the Moloka'i Community Plan's land designation to the College; however, this land is to be donated to the Moloka'i Land Trust and this issue will eventually be addressed by the Land Trust.

15. *List all names on the CDC steering committee that is purportedly investigating legal, and tax structures of the CDC's "mission"? 15.a. When do they meet? 15.b. Where do they meet? 15.c. What they have done thus far explain fully. 15.d. Does this committee keep minutes? If so, attach all minutes to this answer.*

**Response:** The chairperson of the CDC steering committee is Stacy Helm Crivello. MPL only deals with the chairperson and is unaware of the other members of the committee, or the names of its legal and other advisers. MPL is not privy to information regarding the CDC meetings or minutes.

16. *State with specificity each and every way the Molokai Land Use Plan creates a sustainable future for Molokai and compare it to each and every way the Molokai Ranch Plan creates a sustainable future for Molokai.*

**Response:** We are assuming you that your reference to "Molokai Land Use Plan" is the *Molokai Community Plan*, and that your reference to "Molokai Ranch Plan" is the *Community-Based Master Land Use Plan for Molokai Ranch*. Section 5.2.2 of the Draft EIS discusses the project's compliance with the *Molokai Community Plan*.

17. *Please specify each and every new employment and training opportunity your Molokai Ranch plan would provide our current Molokai residents. 17.a. Who will provide the training 17.b. list each and every new employment opportunity giving job descriptions and anticipated wages or salary for each position. 17.c. list the numbers or new jobs expected in each employment opportunity category. 17.d. Who will be the employer for all the new employment opportunities for our current Molokai residents?*

**Response:** Section 4.8.4 of the Draft EIS discusses employment opportunities. In response to your comment, as well as to address other questions and concerns received regarding employment, Section 4.8.4 (Economy) in the Final EIS has been revised as shown below:

Proceeds from the sale of the Lā'au Point lots will fund the renovations and upgrading of the Kaluako'i Hotel and Golf Course. These facilities are crucial to revitalizing the Moloka'i tourism economy and are projected to provide over 100 jobs for Moloka'i residents. 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. However, the direct impact of Lā'au Point on tourism will be limited since no vacation rentals are allowed under the Lā'au Point CC&Rs.

MPL is now totally managed on the island by members of the community, with many Native Hawaiians in key roles. Over the past five years there has been a conscious effort to promote local people into management positions within the Molokai Ranch Lodge and Beach Village. Local people, including a majority of Native Hawaiians, now hold all key management positions at the hotels and within the MPL management structure for maintenance and other on-island activities. Those individuals will form the core nucleus of the future management team in other MPL enterprises such as the Kaluako'i Hotel.

Regarding specific new jobs created by the Lā'au Point project, these jobs will be a mix of construction, maintenance, and service jobs at prevailing wages. Some will be short-

term, depending on the length of time for full build-out, and some will permanent and long-term. Many jobs will be contracted, therefore, for the contracted jobs during construction or after build-out, MLP will not be providing direct training and employment opportunities. Several positions also will be available for the operation and maintenance of the wastewater treatment plant. As mentioned above there will also be jobs re-created upon the re-opening of the Kaluako'i Hotel.

18. State what is the difference in your report between "secure the role of the community in the management of MPL's 60,000+ acres" (p.23) and "more control of their future". (p18) 18.a. State specifically how the community will have a role in the management, and fully describe what you mean by community. 18.b. How specifically will the community manage? Give details and examples? 18.c. State specifically what additional control the community will have over its future. 18.d. Identify and list names of who would specifically have "more control of their future" 18.e. Specifically Who's future? 18.f. In what capacity would the control be in? In what control would the mechanism be vested? 18.g. How would this control be accomplished. give exhaustive details of all examples possible.

**Response:** The Master Plan was created by participating community members who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i and the future land uses of Molokai Ranch's 60,000+ acres. Key points of the Master Plan are summarized in Section 2.1.7 of the Draft EIS, which includes preventing development on 55,000 acres of Ranch land in perpetuity through the form of land donations and restrictive conservation easements to the Moloka'i Land Trust.

The Moloka'i Land Trust is an entity sponsored by the Moloka'i Enterprise Community (EC). The EC is part of the federal U.S. Department of Agriculture EC/EZ Program. The EC process in the U.S. began in 1998, which included the participation from the Molokai community to develop a 10-year strategic plan for Moloka'i. The EC Board is an all-volunteer, community elected board responsible for setting operating policies, allocating USDA Enterprise Community funds, and working with the community to implement and update the EC Strategic Plan.

19. What legal means are provided with certitude to provide a continuous stream of revenue for the funding of the Land Trust. 19.a. If the revenue is from the communication leases, what percentage of lease revenues are provided and specifically how are they provided. 19.b. What is the anticipated monetary dollar value of this percentage? 19.c. List all of all legal entities necessary to provide this certainty of continuous stream revenue? 19.d. List all persons and entities who will control or be on the Board of Directors of all legal entities listed in 19.c. above.

**Response:** When title for the 26,200 acres passes to the Land Trust, the communications leases on those properties will pass to the Land Trust; MPL will merely assign the leases to the Land Trust. The revenue from the leases is currently approximately \$150,000 per annum.

20. Please list (giving name of homeowner association or contact and phone number and address) of any subdivision with CC&RS that have no CC&R violations. 20.a. If there is a violation, how was it corrected? 20.b. Most homeowners associations are financed by association dues, is this one? 20.c. What ensures the Homeowners will pay their dues? 20.d. Where would money come from to pay for attorneys to enforce the CC&Rs through the legal system?

**Response:** Giving information about other "subdivisions with CC&Rs that have no CC&R violations" is not relevant to this project and not within the EIS scope. As addressed in #6 above, the Lā'au Point CC&Rs will be enforceable. The homeowners' association will be financed through monthly dues.

21. If you are unable to renovate Kaluako'i Hotel without developing Lā'au Point, why did MPL Purchase Kaluako'i Hotel?

**Response:** See our response to #1 above.

22. Will the Kaluako'i Hotel be economically viable after it is renovated? 22.a. Why? 22.b. Why not?

**Response:** As discussed in Section 4.8.4 of the Draft EIS, the hotel will need 60 percent occupancy, or 56,000 visitor nights annually to break even. The *Moloka'i Responsible Tourism Initiative Report* (2006) discusses an effort to revitalize Molokai's tourism economy, which includes the re-opening of Kaluako'i Hotel, creation of a visitor coordinator position, and the promotion of community tourism. With this overall effort, we have confidence that the Hotel can be economically viable.

23. What is each and every reason you have for saying "Lā'au Point...is but one part of the comprehensive Molokai Ranch Plan which would be viable only as an integrated whole. 23.a. What are all the parts of the Plan that make it a viable integrated whole? Please list in detail all the parts. 23.b. When you purchased the Kaluako'i Hotel were you not aware of the Molokai Land use plan. 23.b.i. why were you not aware? 23.b.ii If you were aware, why did you still purchase the Hotel? 23.b.iii Were you planning to renovate the Hotel some other way? 23.b.iv or were you always planning to develop Lā'au Point from the time of purchasing the Kaluako'i Hotel? 23.c. Does viable mean financial? 23.d. When you purchased the Kaluako'i Hotel were you not aware that Lā'au Point was not to be subdivided in the Molokai Land Use Plan, Maui County Land use plan? and specifically against the Maui County's policy of no more shoreline development?

**Response:** See Section 2.0 of the Draft EIS for the project description and its relationship with the overall Master Plan. Appendix A of the Draft EIS contains the Master Plan in its entirety. Section 5.2.2 of the Draft EIS contains full discussion of the project's relationship to the *Molokai Community Plan*.

24. Why do you state you will preserve natural drainage ways and gulches when you would not be able to build in natural drainage ways and gulches anyway?

**Response:** The project is careful to not disturb natural drainageways and gulches. Not every reviewer may be aware of the fact that natural drainageways and gulches should not be built in. Therefore, it is not incorrect to state this.

25. Can the significant archeological, cultural and historical sites on your lands be preserved through other means through state and federal laws? 25.a. If so why do you say they will be placed in cultural preservation zones in your Ranch plan? 25.b. Did you look into gifting or deeding protected areas to any entity other than the Land Trust? 25.b.i If so, whom? 25.b.ii If not, list all the ways they could be preserved other than the method you propose in the Ranch Plan.

**Response:** Yes, significant archeological, cultural, and historical sites can be preserved through other means. The Land Use Committee and the cultural committee decided a Moloka'i Land Trust cultural management plan, administered by the people of Moloka'i for the people of Moloka'i, was the best way to supplement the existing laws that protect cultural sites. In the proposed project, large areas adjacent and around the sites are also preserved in "cultural protection zones" to ensure there is maximum protection of the cultural sites and cultural areas. This was previously discussed in Sections 2.3.1 and 4.1 of the Draft EIS.

26. *How are the Land Trust and Lā'au Point Homeowners going to jointly control and pay for the maintenance, subsistence protection, archaeological site protection and resource management? 26.a. State how the finances will be available, who will spend the money, who will have the ultimate say over policies and decisions etc. 26.b. What is the percent of expenditures and contributions from each the Land Trust and Lā'au point Homeowners Association?*

**Response:** The homeowners will contribute to the maintenance, protection, and upkeep of the expanded Conservation District through association dues. The funds will be managed by a council represented equally by the Land Trust and the homeowners. This council will prepare a budget and spend the dues and any other funds the Land Trust believes will protect and enhance the cultural sites and maintain subsistence fishing as presumed by the Master Plan. The CC&Rs binds certain fees on landowners. To clarify management duties in the Final EIS, Section 2.3.5 of the Final EIS has been revised as follows:

**Operations & Management** – As previously discussed in Section 2.3.1, the Moloka'i Land Trust will have an ownership and a management role in all Conservation District land, with the possible exception of the two public parks (total of 17 acres), which could either be conveyed to Maui County Department of Parks and Recreation or held by the Land Trust. The Land Trust would solely own and manage the Kamāka'ipō Gulch (128 acres), and jointly own and manage the remaining 306 acres of Conservation District land with the Lā'au Point homeowners' association on a council. The homeowners' association will own and manage the 382 acres of Agricultural District lands that will be reclassified to Rural and contain the common areas between lot clusters and the mauka buffer zone of the project area (see Figure 40 13).

There are no commercial businesses proposed for Lā'au Point. Operations and management are primarily related to tasks associated with the community common areas' maintenance and upkeep, which would be administered through the Lā'au Point homeowners' association. The responsibility of the shoreline park maintenance and upkeep will be provided by the County Department of Parks & Recreation or the Land Trust, depending on ownership of the parks, and may include a live-in caretaker Resource Manager for the South Park. The Resource Manager will be responsible for community access and protection of the subsistence resources within the Lā'au shoreline, MPL and the Land Trust believe that providing on-site accommodation and having a Resource Manager on-site full-time will add additional protection to the marine resources at Lā'au Point. The management (land stewardship) of the coastal Conservation District areas would be administered jointly by the Land Trust and homeowners' association. Beyond this, Lā'au Point does not propose any other uses that require employees.

27. *Do you believe it is feasible to develop your lands on Molokai given the water scarcity on the island? 27.a. if not, what are your exact plans and intentions of acquiring sufficient water to develop? Give exact details. 27.a.i If it is a desalinization plant, what are the permits you must receive and the process you must go through to build such a facility on Molokai? Give exact details. 27.a.ii What is the estimated entire cost of such a project. i.e. build a water desalinization plant? 27.b. If so, what land holdings on Molokai do you believe you can develop as of February 6, 2007 with the water amounts and rights you currently hold? 27b.i. what is the percentage of your land holdings on Molokai you believe you can develop with your current amounts of water and rights you legally own? 27.c. How much water will be needed for each and every development facility (subdivision, condominium, hotel etc.) you intend to develop? 27.d. As you sell land and build lots in Maunaloa, how much drinking and irrigation water do you anticipate for each developed lot? Be sure to give a breakdown on the number and size of lots and water needed for each size lot.*

**Response:** Appendix P of the Draft EIS contains the Water Plan analysis for the project and the overall Master Plan. According to the analysis, there are sufficient water resources to implement the Master Plan and Lā'au Point project. Section 4.9.2 of the Draft EIS discusses water for the project, as well as the option of desalinization.

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)."

28. *Who specifically (firm and individuals) conducted the archaeological inventory? Be sure to give names, addresses, education and other qualifications, employment history and background of all prior archaeological inventory experience. 28.a. what were specific job descriptions and directions the observers were given for their inventory taking. Give details please. 28.b. State ALL research preparation these individuals did prior to taking the inventory. Be sure to include all articles, books, periodicals read and persons spoken to. 28.c. For all persons spoken to regarding the inventory, what are their names and addresses and phone numbers? 28.c. For all observing of the archaeological inventory, what are the specific dates, times of day, in and out 28.c.i who accompanied the observers to Lā'au point and the sites? 28.d. what is a complete list of all archaeological inventories made on all Ranch lands on Molokai including an exhaustive list of Lā'au Point.*

**Response:** The full archaeological reports and plans, provided as Appendix E of the Draft EIS, were prepared by Maurice Majors of Cultural Landscapes Hawai'i. The archaeological inventory was completed by Bishop Museum's Applied Research Group (then the contract archaeology branch of the Anthropology department). The following Bishop Museum employees participated in field work: Project Principal Investigator – Boyd Dixon, PhD; Project Field Supervisor – Michael Price; Field Crew: Alan Carpenter, Bruce Longton, Maurice Major, and Cary Stine. The following Moloka'i residents, many of whom were active members of the organization "Ahupua'a o Kaluako'i" at the time, also participated to varying degrees: Randy Abafo, Harry Aki, Paul Auna, Mahi Bush, Kama Han, Hālonā Ka'opuiki, Kaleo LenWai, and Tom Manangan.

That report details field methods, which may be summed up as follows: The 6,348-acre Lā'au parcel was divided into smaller portions that could be easily identified on USGS maps (using roads, ridges, etc. as verifiable landmarks). Crews walked along set compass bearings, spaced 5 meters apart in heavily vegetated areas and more widely in open areas. When archeological sites

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were encountered, vegetation was cleared and the features were described, mapped (methods varied according to site complexity, ranging from tape and compass to plane table and alidade, photographed in B/W negative and color slide formats, and their locations plotted in USGS maps. Sites were identified with temporary numbers written on flagging tape attached to apporation of the site. Selected sites were excavated to provide data regarding the age and function of sites; age and function was estimated for all features based on surface indicators such as style of walls, the character and age of surface artifacts, and the archaeologists' experience. The remainder of your comments are beyond the scope of a EIS, especially given that the inventory report (Dixon and Major 1993) underwent SHPD review and was approved. We refer you to the "History," "Previous Archaeology," and "Oral History" sections of the inventory report (Dixon and Major 1993), as well as the bibliography of that document.

Previous archaeology information for the Lā'au Point area is contained in the inventory report (Dixon and Major 1993), and is covered again in the "History and Archaeology" section of the current Preservation and Data Recovery Plans (Appendix E of the Draft EIS). Weisler's work in the 1980s and Bishop Museum's 1991 survey are by far the most detailed and comprehensive archaeological studies of the Lā'au Point area.

29. *Why did you choose the Land Trust to own and manage Conservation District lands rather than the State of Hawaii or Island of Molokai? 29.a. Why did you choose the Land Trust to own, protect, and manage Kamāka'ipō Gulch rather than some other entity or State, County or Federal government? 29.b. Did you look into gifting or deeding protected areas to any entity other than the Land Trust? 29.b.i If so, whom? 29.b.ii If not why not?*

**Response:** Donating these lands to the Land Trust was what was agreed upon during the community-based planning process. It was important to maintain local control of the lands for the community to own and manage. We believe the State or County may not be prepared to take on management of additional lands; they lack the resources, funding, and manpower to do so.

30. *How are the Land Trust and Lā'au Point Homeowners Association going to jointly control and pay for the maintenance, subsistence, protection, archaeological site protection and resource management? 30.a. Fully explain the relationship between the two entities and explicitly explain the joint control between the two. 30.b. if none exists, so state. 30.c. what are their powers, jurisdictions, authority, specific duties for the Land Trust and Lā'au Point Homeowners Association?*

**Response:** See our response to #26 above.

31. *You state the 434 acres of the expanded Conservation District "will be subject to an easement held by the Land Trust". How large is this easement geographically? 31.a. What is the scope of the easement legally 31.b. In addition, give the legal description. 31.c. state the legal restrictive language in the easement and the grantor's grant. 31.d. Attach a copy and state where it is filed and when it was filed. 31.e. Who is the grantor and who is the grantee and for how long does the grant run? 31.f. Does the easement run with the land? parties? and what is the duration?*

32. *Give the legal description and legal language for the 4800 acres of the Lā'au parcel that is to be an easement held by the Land Trust. 32.a. Please state in layman language what specifically this easement is for. 32.b. What governs it? 32.c. how will it be maintained? 32.d. What are the anticipated cost involved and who will pay for them? 32.e. When you refer to Lā'au Point in your*

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*EIS does it always refer to this same 4800 acres? 32.f. State and produce all documents that support your answers.*

**Response:** The exact legal language for the easement lands are ancillary documents related to a business transaction, and is not required to be provided in the EIS. Some of these agreements are currently being drafted and being negotiated with the Moloka'i Land Trust, and will be available at the time of Land Use Commission hearings on the State Land Use District Boundary Amendment petition. These include:

- The Expanded Conservation District easement to the Land Trust.
- The Easements over the Rural Reserve and Agricultural lands.
- The Shoreline Access Management Plan.

In general, the easement to be held by the Land Trust will be on land title, which has not been conveyed yet. It will cover the area of the existing Conservation zone and the 254 additional acres to be rezoned from agricultural to conservation. The grantor of the easement is MPL and the grantee is the Moloka'i Land Trust.

The easement will be consistent with the Master Plan, tie in with the CC&Rs covering lot use and covenants, and reflect the Shoreline Access and Management Plan (SAMP) for the expanded Conservation District. The easement aims are to protect the expanded Conservation District from ever being developed, protect the rights of subsistence fishermen, protect archaeological sites and cultural preserves and ensure the area is managed consistent with the Master Plan. The easement will run in perpetuity.

33. *In your discussion of set backs determined by tsunami, protected sites, and limitations on building areas, you do not state that these demarcations are in rules and regulations already. Are they? Please state the controlling authority and sections of all those restrictions on the lots. 33.a If this is not the case, please specify and state all those sets backs etc. that are not required by any rule or regulation code, law. (example, surely the Maui County Building code does not allow building on rock cropping.) 33.b. In your calculations of building on shoreline, (which is contrary to Maui Co Planning policy, Molokai Land Use Plan, 1993 Governor's Task Force on subsistence) has any planning been done to take into account the global warming which is occurring at an alarming rate presently?*

**Response:** Maximum setback required by Maui County is 150 feet. This project's setbacks exceed that. Figures 15 and 16 of the Draft EIS contain the tsunami inundation zone and flood zone maps, respectively. No development will occur within these hazardous zones.

34. *Please describe the size of and vegetation cover of the open corridors between the cluster of lots. 34.a. Who will maintain this space? Pay the costs? State specifically the page and document that addresses this area.*

**Response:** The Lā'au Point homeowners' association will own and maintain common areas. This is stated in Section 2.3.5 of the Draft EIS. Also, see our response to #26 above for the revision to Section 2.3.5 in the Final EIS.

35. *The land between the main subdivision access road and mauka will be designated as Open space under county zoning. Does the County have to accept this land, or is it already designated Open Space? 35.a. what steps in your process have been taken to accomplish this designation as of February 6 2007? 35.b. Does the state Rural District designation already restrict development on these lands? If so how?*

**Response:** The Open Space areas you refer to will owned and maintained by the Lā'au Point homeowners' association. The area is currently County-zoned in Agricultural. A Change in Zoning application was submitted to Maui County Planning Department and transmitted to other agencies for review on December 20, 2006. Section 5.1.2 of the Draft EIS contains discussion of the State Rural District designation.

36. *You are intending to place a fence on the mauka side of the subdivision to "minimize conflicts" with adjacent subsistence hunting. What will be the rules for hunting on the subsistence lands? State specifically the hunting requirements adjacent to the subdivision. 36.a. What conflicts are you anticipating that necessitates the need for a fence? State all possible scenarios. 36.b. will you be placing a fence around the subdivision on the kai side of the subdivision also? 36.c. For what purpose are you enclosing the sub-division there? 36.c. Is the intent to totally surround those 200 lots by fencing for one reason or another? 36.d. Who decides what type of materials are used and who builds and pays for the fencing? 36.e. Who will maintain the fencing? 36.f. What prohibits the party who owns, cares for, is responsible for the fence from changing it to say a cement wall?*

**Response:** The Land Trust will manage the subsistence hunting areas mauka of the project. A discussion of the reasons for the fencing is contained in Section 2.3.1 (Protected Areas) on page 25 in Draft EIS. Fences will be constructed of materials sufficient to prevent feral animals from entering the property. The fence will be constructed and maintained by the homeowners' association.

37. *For each and every parcel of land you are speaking about in the EIS that is Ranch land whether it is the Lā'au Point parcel, Moomomi parcel, easements or whatever, 37.a. List 37.b. state it's present use 37.c. State all the possible uses it can have restricted by current zoning. 37.d. State all the possible uses it can have restricted by current water supplies to which the Ranch is entitled.*

**Response:** Appendix A of the Draft EIS contains the Master Plan in its entirety, which discusses all of Molokai Ranch's land and the proposed Water Plan.

38. *What are all the reasons you have to make Hale O Lono and Kamakaipo Gulch into public parks? Please make an exhaustive list.*

**Response:** To clarify, the South Park will be west of Hale O Lono at Pu'u Hakina, and the West Park will be at the Kamāka'ipō shoreline, not in the Gulch. The reasons are contained in various sections of the Draft EIS, such as Section 2.3, 4.3, and 4.10.5.

To clarify the South Park's location, Section 4.10.5 in the Final EIS has been revised as follows:

The Lā'au Point community is not expected to have a significant impact on public regional recreation facilities. To provide access for the shoreline and help manage the coastal resources, the Lā'au Point project will include two public parks (totaling

approximately 17 acres), one by Kamāka'ipō Gulch (2 acres) on the west end of the community, and the other (15 acres) at Pu'u Hakina, west of Hale O Lono Harbor at the south end.

39. *Why do you want to rezone to Rural and back to Conservation District? State all reasons with specificity. 39.a. Why do you want to avoid the State Board of Land and Natural Resources to obtain a permit? Please list all reasons with specificity. 39.b. What are all the possible circumstances under which added management control would not be necessary for completed parks?*

**Response:** Discussion of the reclassification of the proposed south shore beach park's nine acres from Conservation to Rural has been expanded to the following in Section 5.1.2 of the Final EIS:

A reclassification of nine acres from Conservation to Rural District is also proposed for the public shoreline park on the south shore. While park-type uses are compatible with the standards set forth in §15-15-20, HAR, the reclassification to the Rural District will facilitate implementation of park improvements (such as a comfort station, a parking lot, a Resource Manager's residence, an individual wastewater system, a drainage system, and footpaths) without the need for a Conservation District Use Application (CDUA). In their comment letter dated February 23, 2007, the DLNR Office of Conservation Coastal Lands confirmed that a petition to re-district the nine acres from Conservation to Rural for the park development would not require a Conservation District Use Application (CDUA).

40. *The men's and woman's canoe races from Molokai to Oahu leave every year from Hale O Lono. Have you interviewed any canoeists about this proposed change in their launching place arid along the pristine coastline? 40.a. Would you be surprised that my Husband and I did last fall during the 2006 races? 40.b. Would you be surprised that all those participants from Hawaii and other countries encouraged our fight to save Lā'au Point? 40.c. Would you be surprised that they Do Not want these changes to either Hale O Lono or the coastline? (My Husband won the men's 6-man race in the 60's.)*

**Response:** No changes will be made to Hale O Lono. The proposed South shoreline park will be located west of Hale O Lono at Pu'u Hakina. See our response to #38 above.

41. *Are you trying to circumvent the Molokai Community Land Use Plan by coming to the State Land Use Commission? Explain why? 41.a. Do you think that the State Land Use Commission knows better than the people of Molokai as to how the land should be used on Molokai?*

**Response:** We are not circumventing the *Moloka'i Community Plan*. Section 5.2.2 of the Draft EIS provides discussion of the project's relationship with the *Molokai Community Plan*. The State Land Use Commission (LUC) is the accepting authority for the EIS because they are the first agency to address land use approvals for this project. A petition for a State Land Use District Boundary Amendment was submitted to the LUC in May 2006. Following the State Land Use petition, MPL will have to come before the County Council and Moloka'i Planning Commission for approvals on the County applications.

42. You are converting 1113 acres of pristine untouched coastal lands to areas that will be source and non-point source pollution of our reef. Do you agree irreparable damage will occur to the reef upon developing Lā'au Point subdivision? 42.a. Are your mitigation plans infallible? Why, why not? 42.b. What did your experts use for this EIS and subdivision, estimate the potential damage? 42.i. What are the high and low figures in every parameter? 42.ii. What were the methods used for all predictions by your experts to predict the minimal effects of the 200 acres developed on Lā'au Point on the reef? Describe fully the methodology. 42.c. who are all persons consulted on the reef damage and drainage problems associated with the reef from development of Lā'au Point? Give their full names, qualifications, and prior experience with the Ranch, BIL and its successors and assignees, and PBR Hawaii and Associates, Inc. 42.d. Are there any additional ways you have to mitigate reef damage other than the CC&Rs and educating the homeowners?
43. Did you make a baseline study of water quality, marine life and coral life that surround Lā'au Point? 43.a. Why did you not complete a baseline study? Please state each and every reason possible for not completing a baseline study, if you did not. 43.b. If you did complete such a study, describe fully the parameters studied including the physical area studied. Please attach a map of the study area. 43.c. Did you make a study of the silt overlaying corals in the reef surrounding Lā'au point?

**Response:** We do not agree that "irreparable damage will occur to the reef upon developing Lā'au Point...." The baseline marine biological survey (Appendix D of the Draft EIS) indicates that the area is not particularly unique or sensitive. It is accustomed to episodic inundations of sediment-laden "red water," which the proposed action will reduce.

Responses to your questions have been previously addressed in the marine biological and water quality baseline survey report (Appendix D of the Draft EIS). The methodology employed for the assessment is sound as the following statement will be indicated in Section 3.8 of the Final EIS:

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."

The marine biological survey was done by Alan Friedlander, Ph.D., Marine Biology and Cindy Hunter, Ph.D., Marine Biology. The water quality survey was done by George Krasnick, M.S., Biological Oceanography.

43. The open space buffer zone may be zoned rural in your proposal and hence, still have a potential for further development – 382 acres of open space zoned rural to be exact. Please explain all ways and methods you have to ensure that these additional 382 acres will not be developed. 43.a. if you have plans for developing these 382 areas what are the plans? Please give full description and progress on the plans, i.e. what is the status report on these 382...have plans been drawn on them?

**Response:** We first note that you had two comments numbered #43. This is in response to the second #43. The open space buffer area will be zoned rural on the State Land Use map, but County-zoned Open Space. There are no plans to develop this area. The County's zoning designation will prevent further development in the open space buffer zone.

44. You state a list of "possible" native plants appropriate for Lā'au Point that will be encouraged. Who will determine what will be planted? 44.a. Who will enforce the plantings of only these plants? 44.b. Are these plants simply a suggestion to homeowners? or are they mandated? If mandated in what document?

**Response:** Section 2.3.5 of the Draft EIS includes a conceptual landscape plant palette for Lā'au Point. Appropriate landscaping would include native plant species known from coastal dry plant communities on Moloka'i. The Lā'au Point Design Guidelines (to be drafted pending project approval) will contain the list of approved native plant species from coastal dry plant communities. Any species not listed in the approved list are prohibited.

45. Employment opportunities from the Development will be from Homeowners Association upkeep of common areas and two parks maintenance and upkeep administered by the County or Trust. The third possible employment opportunity you state would come from stewardship of coastal Conservation District from the Land Trust and Homeowners Association. Aside from these few jobs, would any other jobs be created from developing Lā'au Point? 45.a. What are the possible jobs created directly from the Development of Lā'au Point? Please list each and every possible job that could be created.

**Response:** Other than those you have already listed, other new job opportunities will be a mix of construction, maintenance, and service jobs at prevailing wages. See our response to #17 above.

46. You state the "Land Trust and Homeowners will jointly manage Coastal Conservation District areas and although no land uses in this area are envisioned to involve fees charged... but there is a possibility fees will be charged". 46.a. Why would fees be charged? Please list all the reasons and scenarios to charge fees. 46.b. Do you understand Hawaiian culture will be harmed in charging fees for use of coastal subsistence fishing? 46.c. If so, please explain why. 46.d. If not, please explain why. 46.e. What mechanism can be utilized to ensure there will be no user fees charged for coastal subsistence fishing?

**Response:** As it is stated in Section 2.3.5 of the Draft EIS, no fees will be charged for the parks.

47. Who will own all the privately owned roadways within the Lā'au Point community? 47.a. Can the owners of the private road gate them? Have the ability to gate them? 47.b. State all the legal case law cites to support your answer. 47. c. If the Homeowners own their own roads or the Ranch owns them, in the future, what will prevent the owners from gating the roads? 47.d. State all the legal case law to support your answer.

**Response:** The homeowners' association will own the roads. As stated in Section 2.3.6 of the Draft EIS, the covenants prohibit a gated community at Lā'au Point.

48. Will the only access gained by the public to the Lā'au Point shorelines be through the two proposed parks?

**Response:** Yes.

49. Specify how any one of the following will be determined: ocean temperature, salinity, suspended solids and/or nitrogen ammonia, nitrogen intrate and nitrite and phosphorus chlorophyll A and

*silicate are increased? 49.a. Please state entire process by which this will be determined. 49.b Who will specifically be responsible for the testing and equipment. 49.c State with specificity what enforcement and penalty will be assessed and by whom for any violations?*

**Response:** With the intent is to observe changes to the offshore marine community brought about by the presence of the proposed development, the strategy would be to first develop a hypothesis about how such a change would be brought about, and then monitor the proximate cause, e.g., runoff, nutrient loading, increased fishing pressure, etc.

Subsequent monitoring activities will be conducted by the Land Trust. In the Final EIS Section 3.8 (Marine Environment) will be 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 Hākina and Kamāka'ipō (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.

50. *State fully the "adequate representation" the Land Trust will have on the Homeowners Association over the State Conservation District flood areas, archaeological sites etc. 50.a. What are the number of board members in the Land Trust and Homeowners' Association? 50.a.i. How are the board members elected to each board. 50.a.ii. How will decisions be made? 50.a.iii What is the delineations of each Board over all their joint management control? 50.b. What duties and responsibilities over sites will each board (Land Trust and Homeowners Association) have? Please exhaust the lists, 50.c. what roll does the State play in costs and responsibilities over their State Conservation District? Explain fully.*

**Response:** The Land Trust currently has nine members on its 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 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.html> >.

The Lā'au Point homeowners' association will not be formed until the project is built.

The State does not own the Conservation land at Lā'au Point, so it does not have financial obligation to the management of the area. The State, however, does have legal jurisdiction over permitted uses in the Conservation District.

For further information concerning your questions, particularly concerning the relationship between the Land Trust and expanded Conservation District, we refer you to response #31 above.

51. *Who specifically will educate potential buyers and when will this be done? What will be the course materials?*

**Response:** See our response to #5 above.

52. *Who and how will enforcement of CC&Rs occur? 52.a. What penalties will be evoked for breaking the CC&Rs? 52.b. Exhaust all possible reasons you have for saying final CC&Rs cannot be changed? 52.c Please attach a final CC&R to the Final EIS. 52.d How much money do you estimate it will take for the Land Trust to enforce compliance to the CC&Rs on each occurrence?*

**Response:** See our response to #6 above.

53. *Do you believe organic fertilizers will not pollute water or the reefs should they run off as either a point or non point source of pollution? 53.a. Why? Why not? Please give details to support your answer.*

**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 near shore and offshore water quality. All lots will be required to retain runoff of their lot in surface or subsurface retention basins onsite per State DOH requirements. This applies to all runoff, whether it contains organic fertilizers or not.

To reflect your comment regarding organic fertilizer, Section 2.3.6 (Covenants) in the Final EIS includes the following revision:

- **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.

54. *What agreement has been reached between MPL and EC to ensure Lā'au Point promotes importance of maintaining subsistence activities in the Conservation District areas. 54.a. Is this agreement is verbal? Is it in writing? If so attach documents (s) supporting your response.*

**Response:** See our response to #31 above.

55. *Is it correct that the protection of the shoreline for subsistence gathering and subsistence fishing zone has yet to be sought? 55.a. On page 59, you state the Land Trust and Homeowners' Association will work together to seek to establish a subsistence fishing zone which will require special legislation enacted by the State Legislature. What have you done to start this legislative process? 55.b. How long do you estimate this process will take? 55.c. What is the necessary legislation to*

*protect this subsistence coastline, should this development be allowed? Describe fully. 55.d. Do you have a draft of the proposed legislation?*

*56. Is there a plan to achieve this legislative protection for subsistence fishing zone? Please state in detail what has been accomplished as of February 23, 2007 towards this goal.*

**Response:** The designation of "subsistence fishing areas" is subject to agreement by the DLNR and other organizations outside of its control. To reflect this information in the Final EIS Section 2.3.7 (Access for Subsistence Gathering) will be revised to include the following:

The 1994 Hawai'i State Legislature created a process for designating community-based subsistence fishing areas (Act 271/94). The guidelines for a community-based subsistence fishing management area in *Community-Based Master Land Use Plan for Molokai Ranch* would need to be developed into a management plan and draft administrative rules for adoption by the Department of Land and Natural Resources (DLNR) Division of Aquatic Resources (DAR) working in coordination with the landowners, the community and the subsistence fishers and gatherers. The administrative rules would need to undergo a public hearing process on Molokai, O'ahu and other neighbor islands. Overall, the process would take from 18 months to 2 years. The development of guidelines and policies for such a management area within the *Community-Based Master Land Use Plan for Molokai Ranch* is the first step toward its establishment.

Once the community-based subsistence fishing management area is established through the DAR rule-making process, the rules will be enforced by DOCARE in conjunction with the shoreline resource managers who will be hired jointly by the homeowners and the Molokai Land Trust.

*57. Regarding July 25, 26, 27, 28, 31 2006, social impact assessment focus group meetings: 57.a. What are the full names each and every person who attended each meeting? 57.b How were they invited? 57.c what was the criteria for being invited to these focus groups? 57.d. What time were they scheduled? 57.e. Where were they held? 57.f. Were refreshments served? If so, what? 57.g. Who presided over the meetings? 57.h. Who spoke? About what? 57.h. was there an agenda?, if so what was it. Was there a program? if so, what was it? What was the specific topics discussed? 57.i. Was the meeting taped? if so, who has the tapes?*

*58. Regarding June 1, 5, 6, 7, 8, 2006 focus meetings: 58.a. through 58.i. same questions as was asked above in 57.a. through 57.i.*

**Response:** a) Tables 9 through 13 of the Social Impact Assessment (SIA), provided as Appendix M in the Draft EIS, contain participants that signed in at each session.

Each session had one person coordinated invitations and meeting arrangements. Section 4.1.2 of the SIA discusses the purpose of each focus group and describes the participants. The session coordinator invited those who fit the criteria, as discussed in Section 4.1.2. The session coordinators determined the times and dates of the sessions.

The Maunaloa Residents session was held at 6:00 PM in the Lokahi Room at the Molokai Lodge on July 25, 2006. The West End Residents session was held at 6:30 PM at the Molokai Lodge

on July 31, 2006. The Filipino Residents session was held at 7:00 PM in a private residence on July 27, 2006. The ALDC session was held at 10:00 AM in Kaunakakai on July 28, 2006.

Coffee and water were served at the Maunaloa Residents and West End Residents session. Refreshments were served by the session coordinator of the Filipino Residents session. No refreshments were served at the ALDC session.

Berna Cabacungan of Earthplan facilitated all of the sessions.

The agenda for all focus group sessions is as follows:

1. Welcome and Pule
2. Meeting Purpose
  - a. Social Impact Assessment in the Environmental Impact Statement process
  - b. Meeting Approach and Protocol
3. Molokai Style and Future Generations
  - a. What is Molokai Style?
  - b. What is not Molokai style?
  - c. What do you hope for your future and future generations on Molokai?
4. Overview of Proposed Actions
  - a. Community-Based Master Land Use Plan for Molokai Ranch
  - b. Proposed actions at Lā'au Point
  - c. Relationship of Lā'au Point proposal to the Master Plan
5. Relationship to Molokai Style and Future Generations
  - a. If the Plan is carried out, what happens to Molokai Style? How does this affect future generations?
  - b. If the Lā'au Point proposal is carried out, what happens to Molokai Style? How does this affect future generations?
  - c. Do you have suggestions on how to make the Plan and the Lā'au Point proposal more consistent with Molokai Style?

The meetings were not taped.

*59. Regarding the August 25, 2006 meeting with EIS consulted parties. With respect to each consulted party listed or unlisted, please answer the following: 59.a. With whom did you meet? 59.b. Who have and/or what has consulted with PBR Hawaii & Associates regarding the Lā'au Point EIS irrespective of whether or not they were used or attended this meeting. Please list names and addresses. 59.c. What is each and every consultant's employment history, education, professional experience, connections with BIL its successors/agents/assigns or the Ranch? 59.d. How was the list of consultants made? 59.e. what, if any, was the input from the Ranch. If none, is the personnel and content used in this EIS totally that of PBR Hawaii & Associates? 59.f. For what purpose was the meeting called? 59.g. Please specify the directions PBR Hawaii & Associates (their staff, personnel or agents) gave to the consultants. 59.h. How many and who was interviewed and contacted to be a consultant that was not included as a consultant in this EIS of Lā'au Point?*

**Response:** The following is a list of the attendees at the August 25, 2006 meeting: Brennan Purtzer, Kathy Davis, Bree Ullmann, Wayne Lee, Tom Hollomon, Glenn Teves, DeGray Vanderbilt, Yama Kaholooa, Steve Morgan Isaac Hall, Harold Edwards, Tom Schnell, Alan

Suwa, and John Sabas. This meeting was called to consult with those individuals that requested to be a "consulted party to the EIS." Attendees were invited by letter. Section 9.0 of the Draft EIS provides a list of EIS preparers, including the consultants.

60. *Regarding December 1, 2006 meeting with the Police Department? 60.a. Who attended this meeting? Please list names of everyone. 60.h. Who called the meeting? 60.c. Why was the meeting called i.e. (purpose of the meeting). 60.d. What topics were discussed and what is a synopsis of the discussion on each topic.*

**Response:** We consulted with Police Department to verify the department's technical information provided in Section 4.10.2 of the Draft EIS. This was incorrectly listed in Section 2.4 of the Draft EIS under community involvement and meetings. To reflect this change, Section 2.4 of the Final EIS will be revised as shown in "Table 2" of the attachment titled, "Revised Section 2.4 (Community Meetings and Involvement)."

61. *For the 28 LUC, 8, environmental, 11 Tourism, 25 cultural, 10 economics 9 recreational meetings; what were the specific dates and places the meetings were held? 61.a. what were the topics discussed at each meeting. What decisions or conclusions were drawn, by whom?*

**Response:** Section 2.1.6 of the Draft EIS contained summarized information concerning those meetings. Details regarding dates and minutes of meetings are available from the Moloka'i Enterprise Community, P.O.Box 1634, Kaunakakai Ph 553-8188.

62. *Who chose and how were the representatives from the five committees chosen to form the LUC? Be sure to include what specifically was the criteria used for choosing some people over others.*

**Response:** The Land Use Committee (LUC) members were chosen from the chairpersons and deputy-chairpersons of the five sub-committees under the EC's Project #47. Other than those people, some asked to be members of the LUC, such as De Gray Vanderbilt and Walter Ritte. Others were asked to be members because of their special positions in the community, their opposing views on the process or skills they would bring to the table. This latter group included Matt Yamashita (concerned with Alternatives), Lawrence Aki and Moke Kim (because of their knowledge of archeology and cultural matters), Kekama Helm (as a young adult leader), and Vannie Ainoa and Kuulei Perez (respected kupuna).

63. *What are the names of each and every person attending each and every meeting focus group presentation that you state totaled 1000 "participants". Make sure you list each person by each meeting. Please list each name under each meeting date and committee.*

**Response:** MPL estimates that there were around 1,000 participants in the master planning process based on attendance sheets and other documents. The lists of attendees at the EC meetings on the Master Plan are held by the EC. As such, any questions or requests for the lists should be directed to them.

As discussed in Section 2.4 of the Draft EIS, sign-in sheets were provided at every meeting, but there were individuals who chose not to sign in as they did not want their names to be published. Therefore, a complete list of names for every participant cannot be included. The Master Plan

(Appendix A of the Draft EIS) and Section 8.0 of the Draft EIS, however, contain lists of active participants during the processes.

The participants who took part in the committee discussions are named in the Master Plan. The acknowledgements to the Master Plan outline those people who took part in the process and the process that was undertaken. Section 2.4 of the Draft EIS entitled "Community Meetings and Involvement" details all the meetings and timetables for these discussions.

Again, it is stressed all meetings were open to the public and participation from the entire island was encouraged.

64. *If the 1000 participants were counted in other than these focus group meetings asked about in question 59 above, what were the additional meetings that account for the "1000 participants"?*

**Response:** The estimated 1,000 participants count refers to the Master Plan process. Question #59 refers to EIS consulted parties. Therefore, the 1,000 participants does not include the meeting referred to in #59.

65. *What are the names of the 1000 persons you have stated participated in making the Ranch plan. 65.a. What was the extent of each person's participation?*

**Response:** See our response to #63 above.

66. *Regarding the Land use committee meetings from the period of May 2005 through July 2005 Specify with detail presentations made by "MPL planners". 66.a Name the planners and what is their residence island, state, or country.*

**Response:** The presentations to which you refer to were made by the planning firm, PBR HAWAII, based on O'ahu. Presentations were made on Shoreline distance of lots from the shoreline under various scenarios, the economics of pushing the lots too far back from the shoreline and the resultant failure of the project, potential placement of lots, areas that could be retained for subsistence access, and explanations and answers to many questions posed by Land Use Committee members.

67. *On page 33, you state that Appendix A, Section 8 contains lists of the most active participants during the process. This information is not provided as you stated. Please provide each and every participant during the process. 67.a. What are the names of the most active participants during the process? 67.b. How did they participate? When? Doing what?*

**Response:** The "Acknowledgements" section of Appendix A and Section 8.0 of the Draft EIS contain participant lists of the active participants during the planning process.

68. *What were the names of all the members of the EC Land use Committee on November 1, 2005? 68.a. Who were the 19 Land Use committee members who voted for the Ranch plan on August 1, 2005? 68.b. What is each person's connection to the Ranch, BIL, owners of the Ranch and/or subsidiaries eg. ex. employee, family member employee, contractemployee for each person listed above in question 64a?*

69. *Who were all the members of the EC Governance Board of Directors for the period from August 1, 2005 through November 1, 2005 and who were the names of all the officers of that Board? 69.a. Who were the 13 Board members who voted in favor of the Ranch Plan and who were the two who opposed it, and who was the 1 who did not vote. 69.b. What is each person's connection to the Ranch, BIL, owners of the Ranch and/or subsidiaries e.g. ex. employee, family member employee, contract employee for each person listed above in question 65a?*

**Response:** The members of the Land Use Committee are listed in the "Acknowledgements" section of the Master Plan (Appendix A of the Draft EIS). Those with connections to the Ranch at the time were Peter Nicholas, CEO, Harold Edwards, at the time senior vice-president, and Jimmy Duvauchelle, livestock manager. No other person was an employee contractor or received any payment from MPL at the time of the vote, although Zhantell Dudoit was an ex-contract employee.

On the motion in order to advance the "Community-Based Master Land Use Plan for Molokai Ranch," the Land Use Committee approves the Lā'au Development portion of the plan based upon and accepting the circulated Principles and Policies, Cultural Resource Protection Zones, and Design Guidelines and CC&Rs for the Lā'au Subdivision, the vote was: 19 Yes, 6 No, 2 Abstain. The "Yes" voters were Vannie Ainoa, Ella Alcon, Billy Akutagawa, George Benda, Rikki Cooke, Cheryl Corbiell, Stacy Crivello, Zhantell Dudoit, Jimmy Duvauchelle, Harold Edwards, Dewitt Jones, Barbara Kalipi, David Lunney, Colette Machado, Davianna McGregor, Ed Misaki, Peter Nicholas, Milton Pa, and John Sabas (source: "Lā'au Point a Go," *The Molokai Island Times*, Vol. 01, Issue 28, August 3, 2005)

The members' "connection to the Ranch" was not relevant to the selection of Board members as those people were voted into the board by the total community. However, those at the time who were Ranch employees were John Pele and Raymond Hiro. Zhantell Dudoit had been a contract employee previously.

70. *What are all the names and firm(s) who "requested to be a consulted party" to the EIS on August 25, 2006. 70.a. How specifically did they request? 70.b. How did they respond to the request? written, verbally, or other to the solicitation. 70.c. For each consulted party what are all the other business each has done for the Ranch or it's owners, employees, Directors etc.*

**Response:** Section 8.0 of the Draft EIS lists the consulted parties to the EIS. Section 11.0 of the Draft EIS contains their comment letters. "All the other business each has done for the Ranch" is not required to be included by EIS rules.

71. *Please describe in full detail what feedback you received on cultural assessment, social impact, water plans from public community meetings (not focus groups) since EISPN was filed. 71.a. Who attended each public meeting and give dates and times for each meeting. List each and every person.*  
72. *Please describe in full detail what feedback on cultural assessment, social impact, water plans from the Focus groups since EISPN was filed. 72.a. Who attended each and every focus group meeting and give dates and times for each meeting. List each and every person. 72b. How were people chosen to be in a focus group?*

**Response:** This information was summarized in Sections 4.2 and 4.8 of the Draft EIS, and full details were provided in Appendices F (Cultural Impact Assessment) and M (Social Impact Assessment) of the Draft EIS.

73. *How many residential households have presently received the DVD produced by the Ranch? 73.a. How many residential households will receive the DVD produced by the Ranch? 73.b. What is the purpose of the mailing 73.c. Is this blanket mailing intended for comment? Propaganda? Clarification? 73.d. what was the total cost for this mailing? include production, writing, materials, mailing costs.*

**Response:** We first want to note that the DVD is not specifically part of the EIS. The DVD was sent to all mail post office boxes on Molokai. The Social Impact Assessment recommended that MPL conduct more education into the aspects of the Master Plan. Therefore, MPL contracted a film company to produce a DVD explaining aspects of the Plan. The cost of mailing is not relevant information to provide in the EIS.

74. *How is each speaker in this DVD connected to the Ranch? ex. employee, contract employee, relative of employee, or any other way? 74.a. who speaks in the DVD that is not in any manner connected with the Ranch, BIL, and their subsidiaries, affiliates, successors and assigns?*

**Response:** Speakers in the DVD are supporters of the community-based planning process and the Master Plan. The speakers' connection to the Ranch is not required to be included by EIS rules.

75. *In the cardboard flyer in which the DVD was sent out: 75.a. You suggest that your water plan protects DHHL homesteader water rights, and further state that DHHL has approved allocation of 2.9 mgd from Kualapuu aquifer that is preserved forever for homesteaders, but did you forget to state that in 1999 the Ranch opposed DHHL's request from the CWRM for 500,000 mgd from that 'preserved forever' allocation and to date CWRM has not approved the DHHL request? 75.b. In regards to well 17, you purport to generously offer 500,000 gallons per day to DHHL, BUT... The water from this well does not belong to the Ranch, it belongs to DHHL anyway, not you! 75.c. You imply that by giving DHHL 500,000 gpd from well 17, DHHL and the County would not need to go to the expense of replacing an antiquated delivery system. Are you saying DHHL and the homesteaders do not need to replace antiquated infrastructure? 75.d. By stating that the ranch plan will never use any more drinking water only brackish water that the homesteaders don't want on their lands because it is too salty, are you contradicting the Federal Environmental Protection Agency which designated the Island of Molokai a sole source aquifer. i.e. no matter where you pumped a well on the island, you were withdrawing it from the same source? 75.d.i If your words in your flyer is NOT a contradiction, please explain what is it?*

**Response:** We disagree with your conclusions and assumptions about what you believe the flyer implies about water and/or DHHL. The Water Plan (provided in the Master Plan and as Appendix P of the Draft EIS) is fully transparent of its intent.

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, "DHHL's Future Water Needs" and "Molokai's 'Sole Source Aquifer' Designation."

76. *This question comes from the cardboard flyer accompanying the DVD also. 76.a. What is your backup authority for stating that only 30% of the homes will be occupied at any given time? Exhaust your Support for this statement. 76.b. What is the required setback from the shoreline on rules and regulations you must follow for subdividing? 76.c. Do you have a map illustrating the 500 acres of shoreline fronting the homes and restricting its land use to subsistence use by the community? If so attach to the answer. 76.c.i. What is the support for making this statement that the land will be used for subsistence by the community? The legislation that the Homeowners' association and Land Trust will have to have passed into law? 76.c.ii Isn't this already protected subsistence land by Molokai Land use Plan, Maui County Planning policy, 1993 governor's Task Force subsistence designation? 76.d. What are the supporting documents to guarantee the roads in Lā'au Point will never be gated? and guarantee \$10 million will return to the community? 76.e. Wouldn't the protection of the archeological site preservation be better protected if no development occurred?*

**Response:** All your above questions about the cardboard flyer in the DVD have been answered by Draft EIS. a) The occupancy rate is based on the Economic and Fiscal Impacts Report provided as Appendix J in the Draft EIS; b) The County's required shoreline setback is 150 feet; c) See Figure 1 in the Draft EIS; c) The *Community-Based Master Land Use Plan for Molokai Ranch*; cii) The land is legally open for subsistence activities, but the area is not yet legally protected with subsistence legislation; d) The CC&Rs; e) No development does not necessarily equate to protection. Currently, the archaeological sites in the area are afforded no protection from feral animals or trespassers. With the project, the archaeological sites will be designated into Cultural Protection Zones, and placed under the protection and management of the Land Trust.

77. *This question pertains to the cardboard flyer accompanying the DVD mailing. 77.a. I have requested elsewhere in my questions the names of the 1000 Molokai residents that participated in the plan preparation done by the Molokai Enterprise Community. Don't you believe that to state the words "Plan reflects the participation of more than 1000 Molokai residents", people assume there was public input? Doesn't public input imply that people's objections (to the plan) were heard and listened and utilized in the Plan? were used in the Plan?*

**Response:** See our response to #63 above.

78. *This question pertains to the cardboard flyer accompanying the DVD mailing 78.a. I have requested elsewhere in my questions the Trust document and language, legal language of properties gifted to the Land Trust, etc. etc. In the EIS you also state ownership, control and management responsibilities of the CDC and the Homeowners' Association all working together to manage and control the 51,000 acres you say will be placed in the Molokai Land Trust. Which is the accurate interpretation of the ownership, control and management of these lands? Explain in detail exactly what lands will be gifted solely to the Land Trust and what lands will the Land Trust have sole decision making powers over? 78.b. You state that Lā'au Point will be the "LAST development on ranch lands outside the resort area. Don't you think this statement is misleading? Please explain in detail all the development you are planning "Outside the Resort area"? 78.c. For everyone's clearer understanding of the Ranch Plan, what are the different entities that will either own, manage, (singularly or jointly) all of the MPL real property? It would be particularly helpful to give this information in table form with headings like parcel description, ownership, by fee simple, easement,*

*etc. legal description of each parcel, duties and responsibilities of each entity over the land, purpose, etc. I am sure this would be helpful to everyone reading the EIS.*

**Response:** See our response to #26 above.

79. *This is the last question pertaining to the cardboard flyer accompanying the DVD mailing. My other questions about the flyer have been dealt with other places in my questions. 79.a. The opening of Kaluako'i is positive and well received by the Molokai community. I dare say no one on Island opposes the re-opening of this Hotel which the Ranch closed. However, it has been touted as an economy boost for offering 100+ jobs (which is also a positive element). However, isn't Hawaii is in good standing for unemployment generally and even nationally? What is the labor standard percentage for full employment taking into consideration the percentage of unemployable people? As of February 2007 isn't the unemployment of Molokai 3.2% and below the national average?*

**Response:** Moloka'i has historically had the highest unemployment rate in the state, with decades of double digit unemployment up until the past few years (unemployment rate of 17% in the 1990s). We assume you are referencing statistics used in an article of the Moloka'i Island Times ("Molokai jobless rate hits new low," January 31, 2007) or similar article, which states that the unemployment rate was 3.2 percent in December 2006. In that same article, it is stated, "Leroy Laney, a consultant for First Hawaiian Bank, thinks it will be just a matter of time before that number starts to creep up," and "Kevin Kimizuka, manager of the Workforce Development office of DLIR in Wailuku, says his staff has the impression that many Moloka'i people have moved to Maui for work." We agree that this is a reasonable explanation and an argument for the need to create jobs on Moloka'i so that people do not have to leave to find work. It is expected that creating more jobs on Moloka'i will prevent a large out-migration of Molokai residents to other islands. With over 100 jobs to be created, residents will have the opportunity to return to Moloka'i to work and will give remaining residents a choice of job opportunities.

To reflect this unemployment rate statistic, Section 4.8.4 of the Final EIS has been amended to include the following:

Historically Moloka'i has had decades of double digit unemployment up until the past few years. Although the unemployment rate was reported as 3.2 percent in December 2006, this figure may be deceptively low. A consultant for First Hawaiian Bank thinks it is just a matter of time before that number starts to creep up and a manager of the Workforce Development office of DLIR in Wailuku believes many Moloka'i people have moved to Maui for work. Creating more jobs on Moloka'i will prevent a large out-migration of Moloka'i residents to other islands.

80. *How much water will be needed to prevent wind erosion? 80.a How will you water with brackish water? Won't it kill the vegetation? Explain.*

**Response:** Water from Kākahale Well is considered "slightly brackish" with chloride levels of approximately 400 mg/L. In contrast, seawater is about 19,500 mg/L, and the County's Kawela Shaft (a drinking water source) has chlorides of about 200 mg/L. We disagree that brackish water will "kill the vegetation." There are many salt-tolerant plant species able to withstand irrigation with brackish water, such as beach heliotrope, naupaka, kou, and kiawe.

81. *What are all the all erosion and construction techniques, steps and methods etc. that you will be doing over and above the State, County and Federal regulations you have to follow by law, please be specific and detailed in your answer.*

**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 near shore and offshore water quality. All lots will be required to retain runoff of their lot in surface or subsurface retention basins onsite per State DOH requirements.

In the Final EIS, the Section 4.9.1 (Drainage) will be revised to include the following information:

Perforated risers will be added to the inlets of these culverts as shown in Exhibit 7 of Appendix R. In addition, subject to the availability of boulders from the roadway excavation, boulder berms will be constructed upstream of some of the inlets to reduce the velocity in the drainway and also to induce gravitational settling of water borne silt and debris before it enters the culverts. Energy dissipators will be constructed at the outlets of these drainage culverts to keep the velocities equal to or less than pre-development velocities, in accordance with the provisions of Article 15-04-06 subparagraph (8) of Title NC-15. A Rules for the Design of Storm Drainage Facilities in the County of Maui.

82. *What permanent landscaping will be done? by whom? where? who will pay?*

**Response:** See our response to #44 above.

83. *What is each and every reason the Ranch had for ceasing agricultural activities in 1999?*

**Response:** Section 3.4 of the Draft EIS states: "No ranching activities have occurred at the site since 1999." [emphasis added] MPL did not cease agricultural activities in 1999, but around that time, it reduced its cattle herd because of high losses on the sale of animals. Other similar events took place by other landowners in the early 2000s evidenced by the fact that the total Moloka'i cattle herd now numbers less than 2,000 animals, which is a 200 percent drop in 10 years.

84. *Will the Molokai Land Trust or CDC or Ranch or home owners hold in fee simple title to the 26,200 acres mentioned in section 2.1.8?*

**Response:** The Land Trust will hold the 26,200 acres fee simple.

85. *What is the legal description and grant language for the easements and ownership on 14,390 acres designated restrictive agriculture easements, please quote directly from the documents or produce the documents. 85.a. What figure in your EIS illustrates where these lands are located specifically. What is the legal description? 85.b. What water lines service this area? Who owns them? Where does the water come from? ex. well, catchment? Be specific giving the amounts pumped and/or moved. How much water is allocated right now February 6, 2007 for use on these lands? 85.c.*

*Where will the water come from for these single farm dwellings? Please be exact giving the gallons/day from what well and/or catchment or other. 85.d. What is the legal description and attach a map of the "Rural Landscape Reserve".*

**Response:** As addressed in #31 above, the exact legal language for the easement lands are ancillary documents related to a business transaction, and is not required to be provided in the EIS. However, these documents will be available at the LUC hearings on the State Land Use District Boundary Amendment petition.

The land proposed for agricultural easement is shown as "Proposed Agricultural Easement Land" map in the appendices of the Master Plan (Appendix A of the Draft EIS).

Water lines that service the area are non-potable water lines currently providing water to MPL's cattle herd. The Water source and transmission system, under the legal entity Waiola O Moloka'i, is owned by MPL. MPL believes it supplies approximately 80,000 gallons per day to those lands.

The Rural Landscape Reserve is defined distinctly in the Map on Page 9 of the Master Plan contained in this EIS document and which is entitled "Proposed Land Trust and Land Use Districts."

86. *Were the two earthquakes experienced in Hawaii last fall caused by volcanic activity or plate tectonic activity?*

**Response:** Earthquakes are natural hazards that cannot be predicted or prevented. Whether the earthquakes were caused by volcanic or plate tectonic activity is not affected by this project and therefore not relevant to the EIS.

87. *Have you determined the 50 and 25 foot flood areas? Please submit a map of those marks.*

**Response:** The Floor Insurance Rate Map was provided as Figure 16 in the Draft EIS.

88. *What are all the references, site trips, dates, times, duration and all other things William Garnett used to make his report.*

**Response:** See Appendix B of the Draft EIS for the William Garnett's Botanical Survey report. The botanical survey was carried out over a period of six months (late November 2005 to early June 2006) to assure detecting *Marsilea villosa* and other seasonally ephemeral species. Bill Garnett visited the site ten times during this period for a total of six full field days, including surveys after the heavy rains of 2006, so that the populations could be found and mapped under the best possible conditions. In addition, a 2.5 hour helicopter survey was conducted on May 15, 2006. To assure complete coverage, detailed GPS track logs were kept to record both ground and air survey routes. A detailed log of survey dates and times was not required or maintained.

To be aware of any possible rare plants from the area, a list of historical plant collections made from within the survey area was provided by the Bishop Museum herbarium. However, it is

always possible that additional populations could appear in other seasonal wetlands under different conditions in future years.

References for this survey included:

- A trip to the Bishop Museum Herbarium to review all historic collections from the area
- Review of the field notes of Noah Pkelo, former District Forester from Molokai.
- Review of the Hawaii Biodiversity and Mapping Program's map and records for the study area.
- Personal communications with Marie Bruegman, USFWS, a specialist in *Marsilea villosa*.

89. *What is William Garnett's educational degrees, publications, employment history, and whatever else would qualify him to make a botanical survey of Lā'au Point.*

**Response:** William Garnett is a recognized expert in native Hawaiian plants and the recovery of rare and endangered plants in the state of Hawaii. Since 2002, he has worked as the Endangered Plant Horticulturalist for Kalaupapa National Historic Park on the island of Molokai. He has worked in Hawai'i as a botanist, ecologist and horticulturalist for more than 22 years and has conducted botanical surveys and collected endangered and rare native Hawaiian plants on O'ahu, Lāna'i, Molokai, Maui, and Hawai'i Island. His primary work focuses on the recovery of Hawai'i's most endangered plants and restoration of Native Hawaiian ecosystems on O'ahu, Lāna'i and Molokai. He has also assisted with recovery and restoration projects on Kaho'olawe and Laysan. His specialty is the ecology and restoration of Hawaiian coastal plant communities.

In these projects, Mr. Garnett has worked for the Hawai'i Division of Forestry & Wildlife, University of Hawai'i, The Nature Conservancy, US Army, US Fish & Wildlife Service, and Waimea Arboretum as a field botanist, ecologist, and manager on lands owned by the US Department of Defense, US Dept of Interior, Hawai'i Department of Land and Natural Resources, Department of Hawaiian Home Lands, and numerous private landowners.

Mr. Garnett has 20 years of field survey experience on Molokai and has participated in previous rare plant surveys of coastal areas, including the Lā'au Point region.

90. *What money will be used and what amount is needed to make and who will make the management plan?*

**Response:** The flora management plan has been incorporated in the Shoreline Access Management Plan (SAMP), which will be appended to the Final EIS. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding flora, Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

91. *Doesn't there need to be made a Federal study for the critical habitat of Marsilea villosa? 91.a. What were all communication with the Federal government concerning this discovery. Attach letters, telephone calls, e-mails etc. regarding what the Ranch, BIL, its successor and assigns, William Garnett, PBR Hawaii & Associates did to report this? 91.b. What are all your concerns about the*

*endangered plant? Give a detailed response. 91.c. To whom did you report this? List every person and organization and give their response.*

**Response:** We confirm that *Marsilea villosa* 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.

This fern was federally listed as endangered on June 22, 1992. *Marsilea villosa* is the only federally listed endangered plant known from the Lā'au Point area. The Kamāka'ipō population of this rare fern is not a new discovery. This population is known from historic accounts and recent surveys. Flora collections were reported to state and federal agencies as part of required collection permit reporting. In the past, collections from this population have also been distributed to botanical gardens in Hawaii with programs dedicated to endangered plant conservation.

A proposed rule to designate critical habitat for listed species on the island of Molokai was published in the Federal Register in December 2000. We also note that the map indicating the general locations for the 46 endangered plant species on Molokai from USFWS (retrieved from <http://www.fws.gov/pacificislands/CHRules/molokai.reproposal.fs.pdf>) does not indicate Lā'au Point as a "critical habitat." According to the USFWS map, the critical habitat areas are along the northern coastline and East end of Molokai.

As noted in the Draft EIS, this is one of five known populations of this fern. Due to its unique requirement for flooded areas, 'ihi'ihī can be very difficult to find. Hence, the survey for the 'ihi'ihī was specifically conducted over a six month period (28 November 2005 to 6 June 2006), including surveys after the heavy rains of 2006, so that the populations could be found and mapped under the best possible conditions. The biologist checked all potential habitat in the area multiple times this year and no additional 'ihi'ihī populations were observed.

The 'ihi'ihī population at Kamāka'ipō is currently expanding vegetatively, despite some impact from occasional foot traffic. Samples are being preserved in three endangered plant collections around the state. The surrounding habitat is no longer the intact native shrubland that would have existed there hundreds of years ago.

All plants observed in the Kamāka'ipō population were found within the coastal setback area identified for special management and the adjacent area designated public recreational access (Conservation District and Public Park/Shoreline Accesses shown on Figure 1 in the Draft EIS). Possible management activities to protect this endangered plant include: 1) rerouting the coastal trail; 2) creating a boardwalk through the 'ihi'ihī habitat, which would discourage deer; 3) fencing if the boardwalk is not sufficient to restrict deer access, and 4) some alien plant removal to help stabilize the site. The key to protecting this population is the development and implementation of a management plan to protect the fern from grazing, trampling, erosion, fire or other habitat changes.

Mr. Garnett's collections were reported to state and federal agencies as part of required endangered species collection permit reporting to the Division of Forestry and Wildlife

(DOFAW). A copy of this report must be requested from the State Botanist at DOFAW, if needed.

Specifically, the updated status of this *Marsilea* population was reported to the State Botanist at the DLNR Division of Forestry and Wildlife and the USFWS Rare Plant Recovery Coordinator.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding 'ihi'ihilauakea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

92. "The Lā'au Point project will include landscaping appropriate to the coastal setting. Where feasible, new landscaping will include drought tolerant native plants and grasses." 92.a. What do you mean by 'where feasible'? 92.b. what do you mean by landscaping appropriate to the coastal setting? Give examples. 92.c. What are the new landscaping drought tolerant native plants and grasses? 92.d. What land are you speaking about when you say Lā'au Point project? Be specific and state the easements lots other pieces of the Lā'au Point project.

**Response:** See our response to #44 above.

93. Why do you intend to change the Kiawe using the "limited water resources when the available water is saline and you have stated the Kiawe tolerates saline water?"

**Response:** It is not stated that the Kiawe will be changed. Existing Kiawe will remain as a buffer for the lots and the shoreline conservation area.

94. During what period of time were no native land or water birds or sea birds observed at the site? Give dates and time of observance and by whom? 94.a. Who was charged with the responsibility of this survey? 94.b. What is the name and qualifications and education, prior surveys completed for whom etc. of the observer(s)?

95. What were the 13 species of introduced alien birds observed, where are these birds originally from?

96. We saw two owls when we drove down to Hale O Lono through Ranch lands. Did your observer see any owls? 96.a. if so, when and where and how many?

**Response:** Observed fauna and avifauna were listed in Appendix C of the Draft EIS; Section 3.7 in the Draft EIS contains a discussion.

Phillip L. Bruner conducted the survey. Phillip L. Bruner is an Assistant Professor of Biology and the Director of the Museum of Natural History at BYU-Hawaii. His research includes: Ornithological Survey of French Polynesia 1970 – 1971; Ornithological Survey of Micronesia 1976 – 1978; Ornithological survey of Samoa, Fiji, Tonga 1977; Behavioral Ecology of Pacific Golden-Plover (*Pluvialis fulva*) in Hawaii and Alaska 1979 – present. He has had numerous publications since 1972; the most recent featuring the breeding biology in Pacific Golden-Plovers nesting on the Seward Peninsula of Alaska.

97. How frequently have monk seals been seen? Give the times, dates, and persons seeing them. 97.a. How frequently do Ranch employees travel to Lā'au Point? Who are those employees and for what purpose are they sent? 97.b. Have they ever stated they saw seals? How many?

**Response:** Lā'au Point is known to be frequented by Hawaiian monk seals. According to the NOAA National Marine Fisheries Service comment letter dated February 5, 2007, since 1984, a total of 169 monk seal sightings have been documented on the shorelines of the project area. Most of these sightings (125) were documented in 2005-2006 when increased observation effort occurred. A total of 18 uniquely identifiable individual seals have been documented among these sightings, demonstrating that this area is used by a significant number of animals, rather than just a few seals accounting for the many sightings. It should be noted that because not all seals are tagged or well-identified by natural marks, these 18 represent a minimum number of individuals that have used the area.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding Hawaiian 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 frequency and purpose that Ranch employees travel to Lā'au Point and the name of them is not relevant information to be included in the EIS.

98. What is the back ground employment history of Phillip Bruner that would qualify him as an observer of animals and birds. What is his education, publications, prior observation work and for whom. For whom is he employed now and at the time of study?

**Response:** See our response to #94 above

99. What is the name and current employer of each and every person who has written a report on Lā'au point or written anything for the EIS on Lā'au point. 99.a. Who does or has worked for PBR Hawaii & Associates and has contributed in anyway to this EIS on Lā'au Point.

**Response:** Section 9.0 of the Draft EIS contains the list of preparers of the EIS.

100. What information is known to you about the remaining 1100 monk seals in the world.

**Response:** See our response to #97 above.

101. What are the details of your knowledge of the laws that protect monk seals.

**Response:** The Hawaiian monk seal is protected under the Endangered Species Act and the Marine Mammal Protection Act.

102. What education materials and courses will you provide homeowners on interaction with monk seals? 102.a Will this be a requirement before a person can purchase a lot? 102.b Will there be a test that must be passed on the education materials for the homeowners?

103. Where did you discover what the "appropriate protocol" is when encountering a monk seal and several monk seals on the beach.

**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 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)." The SAMP has been included as an appendix to the Final EIS.

104. *Is there a permanent protection in place now for monk seals at Lā'au point?*

**Response:** Yes. As stated in #101 above, the Hawaiian monk seal is protected under the Endangered Species Act and the Marine Mammal Protection Act.

105. *Why do you state impact of Lā'au Point Project on birds is not expected to be significantly adverse. List each and every reason. 105.a. How much will the Lā'au Point Project adversely impact the bird population of Lā'au Point should it be allowed to be developed. 105. b. What have your experts said about how the birds will be adversely impacted?*

**Response:** This was discussed in Section 3.7 and Appendix C of the Draft EIS.

106. *What are the enforcing policies and procedures to be developed for subsistence and gathering?*

**Response:** See our response to #54 above.

107. *What exactly are the landscaping restrictions and allowable plants at Lā'au Point? Please list completely. 107.a. where are they so stated?*

**Response:** See our response to #44 above.

108. *What are dates, time and duration of observation and specific locations of fish around Lā'au Point? 108.a. Who did the observing? What is the full list of educations prior experience, current and prior employment of the observer? 108.b. Has the observer ever been employed by PBR Hawaii & Associates prior to this EIS on Lā'au Point?. 108.c. Was the observer(s) employed by a subsidiary or affiliate of the Ranch, BIL, PBR Hawaii & Associates. For how long?*

**Response:** See Appendix D of the Draft EIS for the complete Marine Biological report prepared by TEC, Inc. The marine biological survey was done by Alan Friedlander, Ph.D., Marine Biology and Cindy Hunter, Ph.D., Marine Biology. The marine biologists who performed the baseline survey are among the most well-respected researchers in Hawai'i; they are as knowledgeable of the taxonomy and habitats of endemic species as any marine scientists in Hawai'i. Each has conducted research for many years throughout the Hawaiian Islands and other Pacific Islands as well. One of the researchers, Dr. Alan Friedlander, has been instrumental in development of the community-based management regime in place at Mo'omomi, and is intimately familiar with the marine biota of Moloka'i.

Information whether the observer was previously employed by PBR or the Ranch was not solicited during the request for proposal process.

109. *Regarding the marine biological and water quality, how large and area was observed? Be specific in measurement and location, supply map of observance. 109.a. Were baseline surveys ever done for marine biological and water quality? If so, supply data in appendix 109.b. for each survey, give dates, times and duration and places, procedures by which survey was done and by whom done? 109.c. Fully explain why you believe these values are lower than large scale studies in Hawaii. 109.d. Give all possible reasons why you believe your values are lower than large scale studies done statewide. Where were these other statewide studies done. 109.e. can you explain why your values from Lā'au Point (presumably a relatively low fishing area compared to other parts of the State have lower values than state wide studies. 109.f. How large are the statewide studies and contrast each function with the Lā'au Point study you had done. 109.g. Who and what firm(s) were the persons who did the studies associated with? 109.h. What are the qualifications for the person(s) doing the study, including publications, degrees and prior experience.*

**Response:** These comments were previously addressed in the Marine Biological report, provided as Appendix D of the Draft EIS. 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. If the intent is to observe changes to the offshore marine community brought about by the presence of the proposed development, a better strategy would be to first develop a hypothesis about how such a change would be brought about, and then monitor the proximate cause, e.g., runoff, nutrient loading, increased fishing pressure, etc.

The methodology used in the baseline marine biology survey was quantitative transects. The 1984 Moloka'i Coastal Resource Atlas was developed from a combination of aerial photo interpretation and extensive, rapid, qualitative surveys to ground-truth the photo interpretations. A coarse description of bottom types and fairly detailed information of resource uses resulted. The Atlas was used in planning the locations of transects for the current study, but no attempt was made to reproduce an area-wide bottom type survey, such as might be done by towing divers along the coast. The two methods are designed for different purposes and the results are not directly comparable. The other recent South Moloka'i investigations are those of the USGS. Because of the well-documented "red water" plumes that appear along South Moloka'i after heavy rains, the USGS is using the area as a test ground for benthic habitat mapping using remote sensing technology (multispectral imaging) and underwater videography. They are also looking at sedimentation using various instrument packages to measure oceanographic conditions. Again, the purposes of the surveys and the methodologies are different between the Laau baseline and the USGS studies. The post-storm water quality samples and observations showed that a red water plume extended throughout the study area following that event. The area of coverage and concentration of suspended sediments will vary with the storm intensity and duration, wind direction, tidal state and other factors. The essential conclusion to be reached is that any improvement of the drainage pattern to reduce runoff and sediment delivered to the ocean, as proposed in the Draft EIS, will improve long-term water quality.

110. *TEC, INC is incorporated where and does business where (see section 4.2 also) 110.a What is the purpose clause of incorporation, who incorporated? Who is on the initial Board, and who are the shareholders?*

**Response:** TEC Inc. is incorporated in the state of Virginia and has had an office in Honolulu since 1991. TEC does business in all 50 states and many foreign locations.

111. *Who (individual, firm entity etc.) will install, oversee, manage and maintain the drainage plan?*

**Response:** The drainage plan will be implemented during construction. Maintenance of the drainage structures will be managed by the homeowners' association.

112. *How will a fishing subsistence resource, a subsistence fishing management zone be created? 112.a. Who will enforce it? and how? 112.b. Who will administer/manage it?*

**Response:** See our response to #55 above.

113. *How does a community based fishing zone protect the Hawaiian cultural heritage? Please explain fully.*

**Response:** As stated in Section 4.2 of the Draft EIS, the subsistence fishing zone for Lā'au would be modeled after the Hui Malama O Mo'omomi Subsistence Fishing Zone which has proven to be most successful in protecting the coastal resources at Mo'omomi. To reflect this information in the Final EIS, Section 4.2 (Cultural Resources) has been amended to include the following:

- Seek to establish a subsistence fishing zone (see Appendix A, p. 59), which will not require special legislation to be enacted by the State legislature (as previously discussed in Section 2.3.7). The zone would encompass the areas stretching from the shoreline to the outer edge of the reef on the Southern coast, and where there is no reef on the western shoreline, out a quarter-mile from the shoreline along the 40-mile perimeter of MPL's coastline property. The subsistence fishing zone for Lā'au would be modeled after the Hui Malama O Mo'omomi Subsistence Fishing Zone which has proven to be most successful in protecting the coastal resources at Mo'omomi. As with the Mo'omomi Community-Based Subsistence Fishing Management Area, the objectives are: 1) Regulate fishing activities that are incompatible with sustainable use of marine resources in the marine waters and submerged lands traditionally utilized for subsistence; 2) Prevent depletion of subsistence fishery resources by managing on the side of caution; 3) Maintain and restore customary fishery practices that are consistent with subsistence uses and values; 4) Establish a cooperative management system in which authority and responsibility are shared by the fishing community and the State of Hawai'i and there is a fusion of customary management practices with contemporary government regulations; 5) Train volunteer resource managers, recruited from the community, to monitor harvesting activities and resource conditions and assist the State of Hawai'i in enforcing regulations in the management area; 6) Design and implement an educational program to perpetuate subsistence fishing methods and values through initiation of novice fishermen of the young generations; 7) Integrate local knowledge of natural history and fishermen's experience with conventional scientific data collection to monitor and manage the fishery ("Proposal to Designate Mo'omomi Community-Based Subsistence Fishing Area," Northwest Coast of Moloka'i, Hui Malama O Mo'omomi, April 1995, p. 5).

All of these objectives are aimed at the perpetuation of traditional Native Hawaiian subsistence practices and customs.

114. *"Preservation of off shore and shoreline resources for subsistence gathering is of great importance to the people of Molokai." Do you believe you understand this statement in your EIS?*

**Response:** Yes, and this will be accomplished working in conjunction with the Moloka'i Land Trust, together with Ranch employees, longtime residents of the Kaluako'i ahupua'a, and the homeowners.

115. *Do you believe a resource manager to maintain subsistence lifestyle will be paid for by the homeowners in the CC&Rs? 115.a. What is the language dealing with this issue in the CC&Rs? Attach a finalized copy of the CC&Rs.*

**Response:** Resource managers will be hired by Land Trust. The specific language regarding the resource manager is outlined in the SAMP, which is appended to the Final EIS. The CC&Rs will be available at LUC hearings on the petition.

*116. Why do you think protection of the offshore coastal areas will be best achieved by controlling access areas? 116.a. Who will create the management plan? Fully explain or attach the legal language and explain how it will be enforced. 116.b. What specifically is the protocol, rules and "permitted activities for persons enjoying in subsistence shoreline fishing and gathering"? 116.c. What do you mean by the context in traditional subsistence gathering and access responsibilities? Fully explain. 116.d. Specifically state why you want to limit public access around the USA Lighthouse parcel. What are the limitations?*

**Response:** The largest impact upon cultural and natural resources on Moloka'i, such as at Hale O Lono or along the Kaluako'i Resort and Pāpōhaku subdivision has been from overharvesting by Moloka'i residents and offshore boats. Restricting vehicular access and limiting shoreline access to foot access will limit what is harvested to what can be carried out by individuals, rather than in coolers in vehicles.

A detailed plan to inventory, monitor and manage the cultural and natural resources of the west and south coastal areas will be developed and implemented by a committee that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

The lighthouse property is owned by the US Government and is under the jurisdiction of the US Coast Guard. The shoreline and ocean area around this parcel can be treacherous and is not advisable for inexperienced users. MPL recognizes that it cannot exercise control over or prevent access along the shoreline below the high water mark. The area controlled by the Land Trust and the Homeowner's Association can be subject to conditions and rules of access. As the area near the lighthouse is hazardous, the conditions themselves will discourage inexperienced users. This could be supplemented by warning signs and educational materials.

*117. Please describe fully the methodology used in the archaeology report 117.a. Fully give dates and time spent in the field and each and every thing done in the field. use field notes if necessary. 117.b. How long did it take the archaeologist and what area was covered? Please be specific with maps or drawings, field notes etc. 117.c. Was the archaeology report made from paper research in the library and State archaeological records? If so, make a bibliography of what was read.*

**Response:** See our response to #28 above. Field notes are archived in Bishop Museum.

*118. You state known archeological sites you want to preserve, what about preserving unknown sites? 118.a. What specifically did the cultural Committee of EC do. Attach supporting documents like minutes etc to describe their actions.*

**Response:** Since the inventory was approved in 1993, we feel that most, if not all, sites have been documented. As set forth in the Data Recovery Plan, Monitoring Plan, and Preservation Plan of Appendix E in the Draft EIS, should the proposed re-survey of lots and

infrastructure/road corridors turn up any new sites, they will be documented, their significance evaluated, and if they are significant, will be recommended for Preservation or Data Recovery. Preservation is the preferred treatment, but is not guaranteed for sites that have not yet been documented.

As stated in Section 4.0 of the Draft EIS, 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.

As stated on page 24 of the Master Plan (Appendix A of the Draft EIS), the Cultural Committee's function was: "Collect and map locations and significance of archaeological sites. Identify areas of traditional use, such as hunting, fishing, gathering, and ongoing cultural activity." We do not have documents from EC committee meetings.

*119. What are the Cultural Protection zones? Supply detail maps etc.*

**Response:** This was explained in Section 2.3.1 of the Draft EIS. Cultural Protection Zones are areas where groupings of archaeological and historic sites exist were denoted (zones total approximately 1,000 acres). See Figure 10 in the Draft EIS for a map.

*120. How much time has been spent on searching for unrecorded archeological deposits or features visible from the surface.*

*121. How much time has been spent by an archaeologist to search for unrecorded sites features or deposits visible from the surface? 121.a. what were dates times duration of search? 121.b. What were the results? 121.c. If no effort was made to find additional visible by surface sites, why not?*

*122. How much time has been spent by an archaeologist to search for unrecorded sites, features or deposits not visible from the surface? 122.a. what were the dates, times duration of the search? 122.b. What were the results? 122.c. If no efforts were made to find additional not visible by the surface sites, why not?*

**Response:** The inventory survey took six months; very few of the sites recorded then were previously known. In addition, the Data Recovery and Preservation Plans accompanying the Draft EIS commit to a re-examination and supplemental data collection of the Lā'au Point subdivision road and infrastructure corridor prior to construction.

It should be noted that the 1991 survey was thorough, covering 100 percent of the 6,348-acre Lā'au (then referred to as the Alpha USA) parcel. The re-examination is intended to provide greater intensity of coverage aimed at finding small, unobtrusive features or artifacts that might not have been visible in 1991 due to vegetation. It is anticipated that there will be additional small finds, but not substantial new finds.

*123. Was there any archaeological excavation ever done even when there is "makai settlement pattern system prevalent in the Kaluako'i ahupua'a (p.49) 123.a. Was any excavation ever requested or*

*suggested by your archaeologist? 123.b If so, where? Give detailed map please. 123.c. If not, who not? 123.d. What were the instructions given to the archaeologists?*

**Response:** Yes, some excavation was done as part of the inventory. Excavation, although it may provide good data, also consumes intact cultural deposits, and is thus “destructive.” Despite the potential for learning, excavation should be carefully controlled, not just in the context of a particular hole (i.e., good technique), but also in its scope and extent, since archaeological deposits are a non-renewable cultural resource. For that reason, the plans in the Draft EIS do not propose much excavation, except for the purpose of site discovery and to answer specific research questions.

Specific locations are not yet determined. To do so, the archaeologist should know the overall scope of excavations being contemplated, the questions that excavation is being called upon to answer, and the field conditions. The precise location of a dig, even when we might know a site or area where we want to dig, should come down to a decision made in the field, rather than a predetermined spot on a map.

*124. Considering the vast surface areas of sites seen from the surface What are the archaeologist projections of how much is under the surface? 124.a. Are you aware of modeling that can determine these projections? 124.b. what archaeological projections of sites under the surface have been made anywhere in the Molokai Ranch lands, Lā'au Point, agriculture easements etc?*

**Response:** It is not clear whether “how much” refers to abundance of archaeological deposits in known sites, or the vertical or horizontal extent of deposits associated with features, or deposits that may be unaccompanied by surface features. Modeling methods used in accepted practice would indicate that in some areas (southwest) only small amounts of material can be expected, some are likely to be found on the coast and in the gulches. The modeling used predicted deposits at the moist general level. For example, all of the coastal flat, up to any flat land immediately atop ridges or cliffs mauka of the coastal flat, are “high probability,” whereas former pineapple fields and areas eroded down to hardpan are “low probability.” These projections also suggest relatively high probability in gulches and along their rims, as well as the summit region from Maunaloa town east to Pu'u Nānā and Kā'ana. These projections played a part in the establishment of the Cultural Protection Zones, expansion of the Conservation District, and the Cultural Resource District overlay.

*125. What is the relevance of population from 1850 through the present when we are talking about archaeological sites much much older than then that?*

**Response:** One factor is that SHPD requires a discussion of historic era patterns of land use and settlement. Another is that post-1850 settlements and land use have an effect on the older sites. Sometimes people re-occupied older sites and altered them (as likely happened when a lighthouse was built at Lā'au, and the Burrows family lived there for years). In other cases, we can look at the Ranch and military structures and see that they may have utilized stone from earlier structures, and that we may want to search below surface for older deposits. Often, though, it is just a matter of people re-using the same places over many generations—if we see

intensive historic occupation of the sort around Hakina or Kamāka'ipo (a.k.a. “Egusas”), we can predict that older occupations occurred as well.

The post-1850 population is not reliable as a reflection of the overall earlier population. We know that the West End population dropped drastically in the 1790 – 1820 timeframe as a result of devastating raids by an O'ahu chief, emigration of Hawaiians to developing urban centers, and a host of other possible factors including Kamehameha's occupation of central Moloka'i, foreign diseases, changing economic forces, and drought.

*126. Weisler's work of discovering eleven sites lead to Southwest Archaeological District site 803 includes 53, 54, 56. State of Hawaiian National Registers of Historic Places. Bishop Museum survey 6,350 Dixon and Major 1993 encountered “numerous features” new revelations of multi-roomed enclosures near the 100 ft. elevation. Each survey includes more and more discoveries and leads one to suppose logically more and more would be discovered with each and every survey. How many archaeological studies have been completed on ranch lands? 126.a When did they begin and when did they end? 126.b. Who conducted them and for how long? 126.c. How many studies have been requested and denied access by the Ranch, its owners, subsidiaries, affiliates or any entity controlling access to the Ranch lands over the past 20 years?*

**Response:** Basically, the 20th Century saw the first scientific documentation of sites on Moloka'i. In 1909, John Stokes of Bishop Museum documented some of the archaeology, but was focused entirely on shrines and heiau. Weisler's study in the 1980s focused on some sites he documented, and although he was aware that more existed, it was the size and quality of the 11 mentioned that caused him to nominate them for inclusion in the National Register of Historic Places (NRHP) as the District (which then got one all-inclusive number, 803). The Bishop Museum survey covered a larger area, and included not just major sites such as those documented by Weisler, but also things as small as a concentration of a few basalt flakes. For these reasons, the Bishop Survey documented 596 features in 163 sites.

Despite that fact that each of these studies found more than the earlier ones, it is false to conclude that the next one would continue this trend. The reason is that the 1991 Bishop Museum study systematically covered the entire 6,348-acre Lā'au parcel, and we cannot expect to find much more. Any additional finds will almost certainly be small things previously hidden in vegetation, such as low features or midden and artifacts scatters. Some may be isolated enough to get a new site number, but others may just be outliers of previously identified sites. Although the Bishop study did have a major unexpected find—the multi-roomed enclosures mauka of the expected location for bug features—these were large, easily visible, and nothing of their scale remains undiscovered at this point.

Previous studies were mentioned in both the 1993 inventory report, and in the 2006-2007 Archaeological plans (provided as Appendix E in the Draft EIS).

*127. Now you know the earliest hypothesis that the inland features were marginal is incorrect don't you?*

**Response:** Since “inland” and “marginal” have different degrees, it is difficult to know exactly what is meant here. In terms of overall settlement patterns, it is the far makai (the coastline and

coastal flats) and far mauka (the area above 900-foot elevation) that are most intense in terms of archaeological sites. In between, sites tend to cluster around resources such as water, high quality stone sources, and agriculturally useful settings; most of the area between the coast and the summit, however, has few sites and would be called by most archaeologists "marginal." This does not mean that sites inland of the coastal flat are unimportant or uninformative; just that they do not appear to have been the center of stable habitations or most daily activity.

On the scale of coastal settlements, the most massive and well-constructed features are often closer to the shore, and the inland edge of coastal sites tends to have features whose construction is not quite as nice, and frequently not as substantial. However, important activities such as agriculture and burial are frequently associated with the inland edge of coastal sites, and so the frequent lack of outstanding architecture does not translate to functional "marginality." In some cases, such as at Hakina, where a large heiau is located mauka of the village core, the inland edge is decidedly not "marginal," and of course the multi-roomed enclosures mentioned by the commenter as well as the quarry complexes and mauka-makai trails show that areas inland of the main habitations were sometimes important.

*128. How can you ensure proper resource protection and management in the project area when you cannot even say whether or not surveys have shown sites that have not been excavated to examine the wealth of information and history of Hawaiians in the area. 128.a. If excavation occurred at those visible sites, is it not probable the ruins would continue below the surface and cover a considerable area? 128.b. Is it not probable that the multi-room enclosures was not in just one place and probably extended a substantial distance? 128.c. Is it not probable that if there is one multi-room enclosed site, that there would be others?*

**Response:** We interpret this question to be asking how we can manage cultural resources without having data from excavations. First, there are two management purposes for excavating to collect data: to recover data a way of mitigating impact to a site (in other words, learning what you can before a site is destroyed), or to collect data to guide interpretation. Only 20 - 23 of the sites in the project area will experience data recovery, because the subdivision and road were already re-drawn to avoid sites. The focus at this stage is conservation of cultural resources. Excavation can then occur later in the preserve.

There are few places where it is likely that ruins, in the sense of stone walls or other architectural features, can be hidden beneath the thin soil. It is true that most of the sites in the 1993 inventory are described based on only surface features, and it is possible that buried cultural deposits extend beyond the edges of those features. The re-survey proposed in the "Introduction" to the Data Recovery and Preservation Plans resolves this issue by proposing transects or grids of excavations with the purpose to more accurately define site boundaries. It is expected that in certain settings, such as the coastal flats around the small bays of the west coast, for example, may have buried cultural layers.

Heavy erosion has occurred in much of the project area, and this frequently exposes stone, shell, bone, and other cultural materials where there are buried cultural deposits. This was not observed in the project area very far beyond the surface sites, and so the "considerable area" would still fall within the Cultural Protection Zones.

As discussed in the archaeological reports (Appendix E of the Draft EIS), there are four multi-room enclosures Upper Kamāka'ipō. Two are in Site 771, and one each at Sites 772 and 775. Somewhat similar, but much closer to the coast near Lā'au Point, is Site 764. It is extremely unlikely that the multi-room enclosures extended substantial distance given the fact that when those features were found, during the total coverage of the area for the 1993 inventory, similar surrounding areas were examined, which no more multi-room enclosures were found.

*129. Can anything be done to protect sacred Hawaiian lands other than to not develop them?*

**Response:** Yes. The Preservation Plan (provided in Appendix E of the Draft EIS) confines development activity to the areas where it will have the least impact. All ko'a (fishing shrines) and heiau are being protected and preserved, and Lā'au Point itself, since it is under control of the US Coast Guard, is not being developed at all. In the residential development itself, there are many rules and restrictions that will help preserve the appearance of the landscape, and will also help halt erosion that has been happening for generations.

*130. Do you know of any surveys that have been followed up with excavation? If so, please state.*

**Response:** The inventory survey report of 1993 describes the excavations done for that project.

*131. What percent of archaeological sites do you anticipate will be categorized Preservation? data recovery? or no action? 131.a. Do you believe there is no value to preserving "not significant" in the 1993 Bishop Museum inventory report? why? why not?*

**Response:** As indicated in Appendix E of the Draft EIS, there are 197 sites included in the archaeological plans with the following recommended treatments: 1) Preservation – 160 sites (81.2%); 2) Data recovery – 23 sites (11.7%); and 3) No Further Action – 14 sites (7%).

It is likely that the number of sites being preserved will rise by 3 or more after the re-survey of the road corridor and subdivision lots. It is extremely rare for a development project to commit to such a high proportion of preservation sites, and because the sites are being preserved within large Cultural Protection Zones that protect not just sites, but their context.

The sites deemed "not significant" in 1993 were too recent to merit preservation treatments; no Hawaiian pre-Contact features were included in this category. Below are the reasons for each site's "not significant" determination:

- 661 (BPBM B6-111) – Military training features
- 677 (BPBM B6-127) – Radio Tower foundation
- 740 (BPBM B6-154) – Deer hunting blind, modern
- 758 (BPBM B6-171) – Military training feature
- 759 (BPBM B6-173) – Deer hunting blind, modern
- 766 (BPBM B6-180) – Deer hunting blinds, modern
- 767 (BPBM B6-181) – Deer hunting blind, modern
- 1129 (BPBM B5-89) – Ranching features
- 1135 (BPBM B5-94) – Deer hunting blind, modern

- 1137 (BPBM B5-96) – Historical stone alignment, just 1.1-meter long
- 1138 (BPBM B5-97) – Deer hunting blind, modern
- 1140 (BPBM B5-99) – Deer hunting blinds, modern
- 1159 (BPBM B5-118) – Ranching features
- 1165 (BPBM B5-124) – Ranching features

In addition, the majority of these sites are outside of the proposed development area, and will likely be preserved as-is. The reason these are not placed in the Preservation status is that they are remote and isolated, and therefore would be more difficult to stabilize and interpret.

*132. Who will be the approved archaeologist for construction time? Who are the people on the list of names you are considering for the job?*

**Response:** There is not yet a contract with any archaeological firm for construction time, but MPL will choose from the list of approved archaeological contractors with current SHPD permits; a list is available from the SHPD office and website. We note that since 1997, Cultural Landscapes and its Principal Investigator, Maurice Major, has been the archaeological consultant for Molokai Ranch and MPL.

*133. Will you re-route roads and re-plat lots as sites in road corridors are found and excavated? and if excavation leads to sites that run into land lots? 133.a what say, if any, will the Molokai Burial council have over disturbance of burial grounds? 133.a.i. Will the Burial council have veto power over continued construction over the burial grounds? 133.a.ii Will you cease developing on or around burial grounds? 133.a.iii Who will have the final say to stop developing in a burial ground area? 133.a.iv How many people will be observing the development to ensure ceasing work when a burial ground is discovered?*

**Response:** Re-examination of the proposed road corridor and subdivision lots has as its primary goal the location and delineation of sites so that development can be planned to avoid impacts to sites. In fact, the planning process has already taken into account the known sites, leading to re-routing the road, decreasing and re-defining the subdivision footprint, and applying to the LUC to change 254 acres of agricultural land to conservation district.

Should the re-examination find additional sites or expand known sites within the project area, the preferred response will be to preserve the sites in place. In some cases, this may not be possible, and sites may undergo data recovery mitigation. Examples include cases where re-routing the road would create an undue safety risk, unfeasible engineering, or would cause impact to a more significant site. Sites in lots will be shown on parcel plats, and preservation sites will be protected with buffers; all future buyers will be informed of preservation sites on their parcels, and will have to respect the preservation commitments.

All currently known burials and possible burials are to be preserved in place, as specified in the draft Burial Treatment Plan (Appendix E of the Draft EIS). This plan is currently being reviewed by the Burials Program of SHPD, which has the initial responsibility for review, after which the Moloka'i Island Burial Council (MIBC) will review the plan. The position of Cultural Landscapes and MPL is that the MIBC, especially where it is stating the views of lineal and

cultural descendants, should be the main voice in the process. The rules assign this authority to the BC only for previously identified human remains, reserving the inadvertent finds to SHPD determinations. Although the MIBC has not met in years, we look forward to the opportunity to present the plan to them and receive their mana'o.

As stated above, the ultimate legal responsibility, as stated in the Burials Act of 1990 and subsequent State rules (HAR 13-300), lies with the SHPD Burials Program for inadvertent burial discoveries. However, the MIBC will be a key player in the SHPD forming its recommendations in these cases, and is the body responsible for determining treatment of previously identified burials. Again, MPL does not intend to ask permission to move burials or damage them in any way.

It is not possible to provide an absolute number for "how many people will be observing the development to ensure ceasing work when a burial ground is discovered." The Monitoring Plan included in Appendix E of the Draft EIS specifies that there shall be enough monitors to keep watch on whatever ground-disturbing activity is being done. Therefore, if one or more machines are working in a small area, one monitor may suffice. More machines distributed over an area too large for one person to watch will require multiple monitors. Whenever work is being done in the vicinity of a known burial or known possible burial, at least one monitor will be present, and a crucial part of his or her responsibility will be to protect the burial buffer zone.

To reflect your comment in the Final EIS, Section 4.1 (Archaeological Resources) has been revised to include the following:

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 archeologist will occur. In their July 5, 2006 comment letter on the EISPN, 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.~~

134. As a professor of Ethnic studies fully explain what you mean by the "significance of mythical and mystical qualities to area or people"? 134.a. How do these qualities interact and become part of the culture in society?

**Response:** Professor McGregor did not use the phrase "significance of mythical and mystical qualities to area or people." Professor McGregor stated in the Cultural Impact Assessment (Appendix F of the Draft EIS), "It is so isolated that most of the residents of Moloka'i have never even been there and have no direct experience with the place. This factor gives Lā'au an almost mythical quality." As written, it means that although many persons have no direct experience with the area, that they idealize its qualities because of what they have learned of the place from legends, myths, oral histories, work-of-mouth, photos, news accounts, or what they see when they have flown over the area or driven within its proximity.

135. Explain fully why and when Lā'au Point as a raw and untouched land came to have a mythical quality.

**Response:** The Cultural Impact Assessment (CIA) does not state that Kalacokalā'au (Lā'au Point) has a mythical quality because it is a raw and untouched land. The CIA states that it is mythical because most of the people on the island have no direct experience walking, fishing, gathering or hunting at Lā'au Point or along the western and southern shores adjacent to the point. Nevertheless, as previously stated in #134 above, many people idealize the area as significant based upon what they have learned of the place from legends, myths, oral histories, work-of-mouth, photos, news accounts, or what they see when they have flown over the area or driven within its proximity.

136. How has "Lā'au Point become an icon of what Molokai represents? Please give a full explanation.

137. How has "Lā'au Point become a rural stronghold and reserve of Native Hawaiian culture— a cultural kipuka." Why?

**Response:** The actual statement in the EIS and CIA is: "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." It is Moloka'i, the island, which is a rural stronghold and reserve of Native Hawaiian culture, not Lā'au itself. Opponents to the proposed development on the west and south coasts adjacent to Lā'au Point promoted this notion of Lā'au Point being an "icon" or symbol of the island beginning around Summer 2004.

138. You have said and I quote "if Molokai is the Last Hawaiian Island, then Lā'au is one of the last untouched Hawaiian places on the Last Hawaiian Island". How is it that if this icon is developed, it will not destroy or irreparable damage the Hawaiian culture?

**Response:** The proposed development will not destroy the cultural resources of the area. It is first important to note that Lā'au Point, itself, can be considered a significant cultural property. Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lae O Ka Lā'au is within the 51 acres owned by the federal government. This property will not be disturbed or developed on by the proposed project.

The west and south shorelines adjacent to Lā'au Point, Keawakalani on the southeast and Kamāka'ipō on the northwest, is where the proposed development is projected. According to the archaeological surveys and ethnographic documents, there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka'ipō as an important cultural and spiritual place.

Molokai Ranch has applied to the State Land Use Commission to re-district these areas from Agricultural to Conservation district in order to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā'au Point, notably at Kamāka'ipō, Kapukuwahine, and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

A Shoreline Access Management Plan, included in the Final EIS, sets out management guidelines for the Lā'au shoreline area, which includes an expanded conservation district zone between the makai boundary of the proposed residential lots and the shoreline, and two parks at the culturally significant Kamāka'ipō Gulch and Pu'u Hakina areas. Access will be limited to foot travel in these areas to limit the amount of traffic and disturbance.

In addition, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. These cultural guidelines are provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

139. Do you agree subsistence has substantially contributed to the persistence of traditional Hawaiian culture, values, customs and practices.

140. Do you agree that many Molokai (particularly Hawaiian) families continue to rely upon subsistence fishing, hunting and gathering or cultivation for a significant portion of their food?

**Response:** Yes, we agree.

141. Since Hawaiian outlook shaping customs and practices (i.e. culture) is lokahi -- or maintaining spiritual, cultural and natural balance with elemental life forces, how is a development of an icon not going to destroy the last Hawaiian islands' culture? 141.a. Be sure to address the spiritual and natural balance with elemental life forces in your answer. 141.b. Roots and identity and spiritual belief are important elements of overcoming any addiction. We have our share of young people with addictions on Molokai. How is destroying on of the most mythical, spiritual places on island going to help Hawaiians overcome addictions? If they can't connect to their ancestors and their historic and traditional culture and roots, how will they overcome such things and addictions? 141.c. Won't you be adding to the social problems of the young adults and keiki on this island if you destroy their spirituality embodied in the essence of Lā'au Point?

**Response:** As addressed in #138 above, the proposed development will not destroy the cultural resources of the area. As discussed in Section 4.2 of the Draft EIS, the Master Plan will repatriate and protect 24,900 acres of sacred cultural sites and subsistence resources, which include the following:

- The ancient burial ground in the sand dunes inland of Kawa'aloa Bay. At one time the Ranch allowed the mining of sand and planned to build a resort here. Now these sacred grounds will be permanently protected.
- Kā'ana is the birthplace of the hula that originated on Moloka'i and spread throughout the islands. This sacred site will never be destroyed or commercialized.
- Nā'iwa, the only traditional makahiki grounds that remain intact in the islands. This extensive area, once threatened by the development of a golf course, will be protected forever.
- Village sites at Kawākiu, which would be destroyed under current zoning in the Moloka'i Community Plan, will now be permanently protected.
- Burial mounds at Kawela, which at one time were threatened by development, will be protected.
- Key fishing grounds from Keonelele to 'Īlio Point and from Pālā'au over to Hale O Lono, including Hālena and Kolo will be protected for subsistence.
- The historic Paka'a house site, upland sweet potato gardens and connecting trails will be preserved.
- Kaiaka Rock will not be developed.
- Kamāka'ipō Gulch and the fishing village north of Kaupoa Camp will be preserved.
- These places are widely acknowledged and recognized as culturally significant. Moreover, many Moloka'i residents have direct experience with these areas.

In addition to providing 150 Moloka'i residents employment in current Ranch operations, the plan proposes to re-open the Kaluako'i Hotel, creating stable jobs for an additional 100 Moloka'i residents. The outsourcing of hotel functions such as the laundry, gift shops, beach shack, spa and outdoor recreation and committing to use local produce, will create opportunities for small businesses on the island.

In addition, 1,300 acres will be donated to a Moloka'i community-based corporation - development rights on 200 acres will be donated for community housing around Kualapu'u and Maunaloa, and 1,100 acres will be donated fee simple for community expansion around Kaunakakai.

Regarding your comments about addiction in young people on Moloka'i (141.c. and 141.d.), we do not believe this existing social problem of the island can be attributed to this project, nor can the project be blamed for adding to the problem. A discussion on this topic is beyond the scope of this EIS.

142. *Beyond Western grasp is "Molokai pule o 'o'. What is the spirituality of this island? What is the island of mana? Please explain thoroughly enough for a western person to understand. 142.a. Does Lā'au point and this proposed subdivision hold spiritual importance and culture for Hawaiians in reverence and respect? If so explain exactly how.*

**Response:** See our response to #138 above.

143. *To the best of your knowledge as a professor of Ethnic studies, what are all the spiritual importance aspect to Hawaiians surrounding Lā'au Point subdivision area... not just the Mo'o story. 143.a. Be sure to include and elaborate the mo'o story.. if you know it.*

**Response:** The Cultural Impact Assessment (Appendix F of the Draft EIS) previously addressed this comment in Sections 3.4, 3.5, and 3.6, pages 58 - 102. We are not sure which mo'o story you are specifically referring to. Halona Kaopuiki has shared one tradition which is quoted on p. 58 as follows:

Beyond their grasp was that "Moloka'i pule o'o (Moloka'i of the potent prayers)," a "figurative reference to Moloka'i's fame in sorcery" (Pukui and Elbert, 1957:266; cited in Summers:15) was a spiritual island, an island of mana. Halona Kaopuiki shares with us the mana of Molokai.  
"... when you look at Molokai, when you look at the island, it's a mo'o, it's a mama lizard, and all the valleys is the babies, that she is carrying on her back, of Molokai. My father use to tell us, where the mana stay, where's the defense of the lizard, the mo'o? The tail, the West End!" (Enos et al., 2005:24)

144. *Do you believe the spirituality of Hawaiians is natural to their cultural practices?*

**Response:** This comment is unclear. Most of Native Hawaiian cultural practices are spiritual in nature.

145. *Please propose how you can separate the culture from the spiritual island Molokai is recognized to be by Hawaiians?*

**Response:** This comment is unclear. The Cultural Impact Assessment, Sections 3.4, 3.5, and 3.6, pages 58 - 102 relates these distinct qualities and their interrelationship.

146. *How does the "most marine resources" of Lā'au fit with other areas of your EIS that states the average or low undersea life? Which is a correct assessment of Lā'au Point reef?*

**Response:** As you have pointed out, the opinions of the cultural assessment interviewees may vary with the opinion of the marine biologist. Regardless, the mitigation measures proposed will reduce the potential adverse impacts to the reef.

147. *What provisions in the plan preserve and protect the coastal trail Kealappu, Molokai?*

**Response:** While the actual location of the historic Kealaakapupu is not known, informants indicated their belief that the Kealaakapupu trail coincides with the historic trail drawn on the 1886 and 1897 Monsarrat Maps. The trail from these maps is reproduced in Figure 5 of the CIA (Appendix F). The legend for Figure 5 labels this historic trail as the "Keala Pupū Coastal Trail."

Informants suggested that there be a physical demarcation between the property line and the ocean, along which the access trail would run. The trail would follow the contour, following the

old traditional historic trail as much as possible, to respect traditional access for subsistence, cultural and spiritual purposes. The existing kiawe would serve as a buffer between the trail and the sand and ocean. This can help reduce impact of the trail on the beach and ocean. The kiawe can be pruned. It is a nitrogen fixing plant and will help other plants to grow around it. The trail should be placed back from the ocean so that it won't wash out. The trail will only be for walking and not for ATVs or even bicycles. The trail should not be paved but kept clear and maintained (CIA, p. 20).

148. *You state three reasons of how Lā'au point was named. However, you omitted the third (p. 53). What is the third story and elaborate with specific detail.*

**Response:** The third was included. See page 53 of the Draft EIS, or pages 69 – 70 of the Cultural Impact Assessment, Appendix F in the Draft EIS.

149. *The 1993 Governor's Molokai Subsistence Task Force declared the entire coastline of MPL lands important for subsistence fishing and ocean gathering coasts. 149.a. What procedures must you go through to overcome this designation? State with specificity what you must do, by whom, and by when? 149.b. You refer to appendix A p 59 as the Governor's Task Force designation, but this map is NOT the Task Force designation map. It is labeled Molokai Ranch Master Use land cultural Resource Protection. Please supply the correct description from the 1993 Governor's Task Force and not a redone Ranch map.*

**Response:** See response to #55 above regarding the designation of the subsistence fishing zone.

The Draft EIS, the Cultural Impact Assessment, and the Master Plan all acknowledge the importance of the coastline fronting MPL lands as important for subsistence fishing and ocean gathering and project the establishment of a Community-Based Subsistence Fishing Management Area to protect these cultural and natural resources for subsistence. The 1993 map of subsistence activities from the Governor's Molokai Subsistence Task Force is in the Cultural Impact Assessment (Appendix F of the Draft EIS) on p. 39, Figure 1.

150. *what difference does it make if the swells in the ocean make the west and south shores of Lā'au Point used at one time of the year or another time of year. They are still alternated in the use from summer to winter aren't they?*

**Response:** We note that this is stated as informational content in the EIS. Yes, the ocean swells along the west and south shores alternate from summer to winter.

151. *Can you take boats to the back side of Molokai in winter? Does it matter that the back side is only used in summer?*

**Response:** Boats can go to the back side of Molokai on calm days in winter. It is important to know when the back side is generally accessible, in order to manage its resources.

152. *When many of us went to Lā'au Point by ocean in September, 2006, it was not treacherous. All ages from young to old swam ashore, so please specify exactly when (what months) the informants spoke of the ocean being treacherous at Lā'au Point 152.a who were they? give names please.*

**Response:** Generally, during winter (December through March) months, many north and northwest swells bring large waves and treacherous ocean conditions for the north- and west-facing shores of all the Hawaiian Islands. All of the key informants spoke of the ocean off of Lā'au Point and along the west and south shores as being treacherous. They speak of an especially strong current that has pulled even the best divers out into the deep.

The names of the 18 key informants are on pp. 46-47 of the Cultural Impact Assessment (Appendix F in the Draft EIS). The key informants are longtime kama'āina with multi-generational knowledge of the west and south coasts adjacent to Lā'au Point. Dr. McGregor agreed to keep their mana'o anonymous.

153. *I quote 5 statements from your EIS 4.3.2 A Development of Lā'au point "will spoil the experience of fishing in what is now an isolated, pristine, and spiritual area." B If the development is allowed to occur, there would be a "lack of privacy fisherman would get". C The development would "hinder if not abolish altogether, ongoing traditional gathering activities currently enjoyed at Lā'au Point". D "Throw net fishermen required an undisturbed beach that allows fish to forage closer inshore". E "Gathers of a'ama crabs require dark silent nights to ensure their nocturnal prey." 153.a For these five statements who were the persons interviewed who said each of these statement? 153.b What was the total number of persons interviewed by you on this subjects? What is each person's name interviewed and how were those interviewed persons chosen to be interviewed?*

**Response:** We note that the statements you cite are from the Cultural Impact Assessment (CIA) provided as Appendix F of the Draft EIS, and are cultural respondents' shared mana'o. These are not proven potential impacts.

The names of the 18 key informants are on pp. 46-47 of the CIA. The key informants are longtime kama'āina with multi-generational knowledge of the west and south coasts adjacent to Lā'au Point. Dr. McGregor agreed to keep their mana'o anonymous so that they would feel free to share their thoughts without fear of intimidation. Not all of the above statements, however, were from key informant semi-structured interviews. Most of these comments were from someone who filled out and mailed in a questionnaire that had been distributed at the community meetings. Some of the comments were shared in the community meetings and were documented in the notes for those meetings.

In addition, community meetings to receive input were held throughout the island in Maunaloa, Ho'olehua, Kaunakakai, and East End, as well as for fishers, gatherers, and hunters. Everyone was invited to give mana'o in the meeting, to fill out and turn in their comments on a questionnaire, or to make an appointment for a key informant interview.

154. *"Lā'au Point area is generally regarded as a special place of spiritual mana and power. 'State exactly why you do not think the development will spoil this spiritual resource? 154.a. Would placing this development in the middle of an Hawaiian spiritual place not be unlike placing a house in the great Mormon Tabernacle Temple in Salt Lake, or the Vatican in Rome? 154.b. If so why? If not*

*why? Explain fully. 154.c. Different cultures have different spiritual practices, ways to worship and connect with their deity don't they? 154.d. Why do you think you have a right to interfere with Hawaiians practicing their ways to worship? And desecrating their place of worship?*

**Response:** As addressed in #138 above, the proposed development will not destroy the cultural resources of the area. 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 sets out a managed area, which includes an expanded Conservation District 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 are on pp. 116-117 of the Cultural Impact Assessment (Appendix F in the Draft EIS).

Community concerns have centered on impacts to subsistence and cultural customs and practices and upon historic cultural and religious sites. No one has indicated that they conduct religious ceremonies of worship in the area where the residential subdivision will be developed. The cultural and religious sites, such as fishing ko'a, heiau, and burials, are primarily located in the area proposed for rezoning from agricultural to conservation, and will be managed as a protected area. Individual sites outside of the managed protected area will also be protected.

*155. Burials, fishing Koa and heiau were noted by community participants and key informants, who are the key informants? List by name. 155.a. Do you believe all the significant Hawaiian sites have been identified in this rich archeological and spiritual place?*

**Response:** As addressed in #153 above, the key informants are identified on pages 44 - 47 of the Cultural Impact Assessment (Appendix F of the Draft EIS).

The archaeological survey was thorough, systematic, and comprehensive; however, it is still possible that additional sites will be found during the course of the development. This potential is addressed in the Archaeological Plans (Appendix E in the Draft EIS).

*156. The Lā'au area is "a special place of spiritual mana and power." This spiritual quality can not be quantified can it? 156.a. If yes, explain fully giving mathematical formulas and explain each function of the formula. 156.b. If it can not be quantified, how can you equate its' value with money and mitigating factors? It can't be done can it?*

*157. This spiritual quality of Lā'au deserves recognition and respect doesn't it? 157.a. The respect and recognition it deserves is a spiritual resource for Hawaiians and Hawaiian culture isn't it?*

**Response:** As addressed in #138 above, the proposed development will not destroy the cultural resources of the area. The Cultural Impact Assessment (Appendix F of the Draft EIS), p. 12 and p. 99 states, "The overall spiritual quality of the Lā'au area as a wahi pana and wahi kapu cannot be quantified and deserves recognition and respect."

*158. When one speaks of a spiritual resource like Lā'au, does not that equate for Hawaiians at the same level as the Blue Mosque in Istanbul or St. Peter's cathedral in Rome? 158.a. Developing Lā'au*

*Point for the Hawaiians would be like desecrating those two great spiritual edifices for Muslims and Catholics wouldn't it?*

**Response:** We acknowledge your comparisons to the other spiritual edifices, but do not agree that Lā'au Point can be compared to these structures. As discussed in #138 above, the 51 acres that is Kalaeokalā'au (Lā'au Point), which is the focal point of concern as a southwestern point of the island, will not be developed, as it is owned by the federal government.

*159. What were the specific community meetings where water was expressed as the primary cultural resource? 159.a what were the dates, places, times of such meetings and who specifically were the persons who expressed water was our primary cultural resource? Exhaust the list.*

**Response:** The dates, times, locations, and topics of the community meetings are provided on page 45 of the Cultural Impact Assessment (Appendix F in the Draft EIS). Again, input received was noted, but not attributed to individuals, so that persons would feel more free to give their mana'o.

*160. Won't drawing brackish water out of the Kāalahale well, as proposed by the project have a huge impact on the culture and way of life on Molokai? 160.a. If so in what ways? 160.b. If not why not, give explicit hydrologic details and cultural details in your answer.*

**Response:** The assessment of the proposed water plan's impact on cultural resources was previously discussed in the Cultural Impact Assessment (Appendix F in the Draft EIS), Sections 6 and 7, pages 126 - 134.

*161. Will additional water proposed to be drawn out of the Kāalahale Well, even if it is brackish, strain and diminish the water table on Molokai? 161. a. If not, give specific hydrologic water data on the Molokai aquifer to justify your answer. 161.b. if so give specific hydrologic water data journal articles etc to support your answer.*

*162. Will additional water proposed to be drawn out of the Kāalahale well increase salinity levels of ocean discharge and neighboring wells? 162.a. If not, give specific hydrologic data and support for your answer. 162.b. If so, give specific hydrologic data and support for your answer.*

**Response:** 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.

The Kākahale Well site, however, is hydrogeologically isolated by subsurface intrusive structures. The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u. Pumping water from the Kākahale Well will not draw down on the fresh water lens underlying the Kualapu'u wells or cause a rise in the transition zone.

The water proposed to be drawn out of the Kākahale Well will not increase the salinity levels of neighboring wells. 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.

Regarding ocean discharge, ground water pumped from the Kākahale 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 Waiola 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 would 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.

In response to your comments, 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)." See the section of the attachment titled, "Additional Information on the Kākahale Well."

*163. what are each and every reason you have for why the findings on the Waiola well Water use permit examining the impacts of withdrawing groundwater and affecting shoreline seepage important to the withdrawal of groundwater of the Kākahale well? 163.a. What are all the reasons you might say there is no importance to the findings? Give hydrologic principles and data to support your conclusion for both 163. and this question.*

**Response:** Withdrawal of groundwater, whether from the proposed Waiola well or the Kākahale well, will reduce by approximately the same amount the groundwater discharge along the south shore or 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 Waiola 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 would 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.

Given the relative locations of the Waiola and Kākahale wells, the modeling of shoreline discharge from proposed pumping of more than 1 mgd from the Waiola well provides a good indication of anticipated impacts from pumping 1 mgd from the Kākahale well.

In response to your comments, 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)." See the section of the attachment titled, "Waiola Well Issues Raised."

*164. What scientific data (hydrologic support) do you have for saying the withdrawal of 1,000,000 GPD will not take away water from DHHL for future expansion of agriculture and residential lots for*

*homesteaders? 164.a. If you have no data, do you state that such a pumpage will infringe on the future expansion of agriculture and residential lots for homesteaders? 164.b. What are all legal arguments that you have for saying that you have a right to withdraw 1,000,000 GPD from Kākahale Well? Give statutes and citations.*

**Response:** 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 Kākahale 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 Kākahale 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.

In order to pump 1 mgd from the Kākahale Well, MPL will have to obtain a water use permit from the Commission on Water Resource Management. To obtain such a permit, MPL will have to meet all the criteria set forth in HRS §174C-49.

In response to your comments, 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)." See the section of the attachment titled, "DHHL's Future Water Needs."

*165. In your EIS you speak of the Ranch becoming a "partner" with the EC Board. What was the time frame of this collaboration or partnership? 165.a. When the Ranch became involved with the EC Board, did any Ranch employees, staff, directors etc. know of the EC project # 7? 165.b. on Page 140 of your Ranch Plan states "MPL water Plan will form part of the agreement between the EC and MPL on the Master Land Use Plan. To What agreement are you referring? Thoroughly explain? 165.b.i. Was it in writing? Are their minutes of a meeting forming this agreement? 165.b.ii. What is the other part of the agreement? 165.c. On Page 140, last paragraph, did you test and apply for a permit? 165.c.i. Did MPL submit to the EC its proposal for transmitting brackish water to the West end for irrigation needs? if so, attach a copy of the proposal with the answer, If not, why not? 165.c.ii. Why do you want brackish water for irrigation?*

**Response:** The Master Plan is very specific about the events leading up to Project #47 and the partnership that began between the EC and MPL on developing the Master Plan (see Section 1.1 of the Master Plan provided as Appendix A in the Draft EIS).

The Water Plan you refer to is included under Section 6 of the Master Plan, which forms part of this document. The EC adopted the Master Plan and the Water Plan contained therein. No plan was submitted to the EC for transmission of brackish water to the West End, and the Water Plan is specific in saying this was a matter outstanding. The Water Plan is specific in how that brackish water is to be used to replace current potable water being used for irrigation.

*166. What was the status of the # 7 EC project when you became involved as a partner with the EC and the 100 meetings held February 2004 through May 2004? 166.a. when did the Ranch first learn about the #7 EC project to place a moratorium of the transfer of water from the wet east end to the dry west end of the island?*

**Response:** We were not aware of the status of EC Project #7 at the time we started the process. Regarding the moratorium on water transfer to the West End by seeking a new pipeline to replace transmission through the MIS, this was an MPL initiative taken in 2004, and not a decision by the EC, as outlined in the Water Plan.

*167. Have you applied to the Water Commission for well permitting? You stated this would occur in late 2006. Why, Why not?*

**Response:** We have not applied to the Water Commission yet because MPL is currently working with all parties on future water solutions.

*168. This is 2007 and already Molokai's ground water system is at a critical stage and 600 homestead lots on island have yet to be leased because of lack of water availability. Do you agree the prudent management of the Molokai aquifer would be to assess what is available prior to proposing an additional 1 mgd for your Lā'au Project?*

**Response:** 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.

At a presentation to a stakeholder group in June 2007, DHHL's water consultants indicated that even with a build-out under the DHHL Moloka'i Island Plan, DHHL would still have 800,000 gallons remaining in reserve of their 2.905 million gallon reservation.

In response to your comments, 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)."

*169. Who were the participants in community meetings who expressed "water is the primary cultural resource"? 169.a. who were at what meetings when this was discussed? 169.b. Do you have tape recordings or films of these meetings. If so, please attach.*

**Response:** As discussed in #153 above, notes were taken on the concerns and mana'o, but not attributed to individuals. This policy was announced at the community meetings so that participants would feel free to express their mana'o. Dr. McGregor did not tape record or film the meetings.

*170. Why do you say "this assessment must endeavor to accommodate the competing interests of protecting native Hawaiian culture and rights on one hand, and economic development and security on the other? 170.a. since this is your premise for your assessment, if the premise is wrong, so is your analysis isn't it? 170.b. who told you to direct your assessment in such a way. i.e. stating that*

*you must accommodate competing interests etc.? 170.c. To what is the economic development you refer? Please be specific. 170.d. To what is the "security" you refer? Be specific please. 170.e. Just like with dying out species of plants and animals, governments step in to protect them, so is the argument that dying out cultures must be protected also, don't you think? 170.e.i. Every culture in the history of the world made a contribution to the evolution of man and continues to today, isn't that true?*

**Response:** The quotation you refer to is from the Cultural Impact Assessment (CIA), Appendix F, p. 9, which quotes the findings of the Supreme Court in the *Ka Pa'akai O Ka 'Āina* ruling. The CIA states:

This report has especially been designed to fulfill the mandate to the Land Use Commission from the Hawai'i State Supreme Court in its ruling, *Ka Pa'akai O Ka 'Āina v. Land use Commission, State of Hawai'i / 94 Haw. 31 (2000)*. The specific section of the ruling that served to guide the development of the report is as follows:

"In order for the rights of native Hawaiians to be meaningfully preserved and protected, an appropriate analytical framework for enforcement is needed. Such an analytical framework must endeavor to accommodate the competing interests of protecting native Hawaiian culture and rights on the one hand, and economic development and security, on the other . . .

In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, the LUC, in its review of a petition for reclassification of district boundaries, must – at a minimum – make specific findings and conclusions as to the following: (1) the identity and scope of 'valued cultural, historical, or natural resources' n27 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 LUC to reasonably protect native Hawaiian rights if they are found to exist. n28"

*171. You have said that those responsible for the future of the land and natural resources of Molokai must weigh the cultural impacts and the benefits of the proposed development in consultation with the people of Molokai", did you?*

**Response:** The statement in the Cultural Impact Assessment reads: "In the final analysis, the government agencies responsible for decisions about the future of the land and natural resources of Moloka'i must weigh the cultural impacts and benefits of the proposal to develop the west and south shorelines of the island of Moloka'i in consultation with the people of Moloka'i who depend upon these resources for subsistence, cultural and spiritual purposes. In particular, the kama'āina families who have lived in Maunaloa and the Kaluako'i ahupua'a for generations and the longtime employees of Moloka'i Ranch and their relatives have been the primary users of these resources and will be the most directly affected by the proposed development."

In the report, Dr. McGregor faithfully reported and disclosed the concerns and issues conveyed by participants in the public meetings and by informants in interviews so that the government

agencies would be able to take these concerns and perspectives into account when making their decision.

*172. Don't you think the people of Molokai were consulted when finally given a chance to voice their opinion on the Lā'au development in the recent election of January 31, 2007, when the two new faces who were running for EC board members and who were absolutely against the Lā'au Point development ousted the two incumbents and two other pro Lā'au Point development candidates with a landslide victory of 68.3 and 63.6 percent of the vote? 172.a. The turnout for this election was almost 1000 more voters than last year's election of 200 when two more anti Lā'au candidates were elected to the Board, correct? 172.b. This year one of the Lā'au supporters on the Board (Vice-chairwoman) and Trustee for the office of Hawaiian Affairs garnered a total of 374 votes for less the 30% of the vote correct? 172.c. what further proof do you need to show you that the people of Molokai do not want the development at Lā'au Point?*

**Response:** We believe that all points of view deserve to be heard, even if they are not in the majority. We also 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 formal mandate for the Lā'au Point project.

In addition, the cultural assessment is not based upon majority or minority votes. It is based upon input from those persons who have direct experience with the place that will be affected.

The election held on January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan community-based planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of Moloka'i's eligible voting age population.

To assume that an election for Board Directors of a private nonprofit corporation is equivalent to a referendum on the Master Plan or a mandate for the Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be

seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for Board Directors that have no such regulatory power.

*173. Since you are a professor of ethnic studies, surely you know Kupunas of Molokai say "Before you speak of Molokai, always speak that it is 32 miles long and 10 miles wide. What affects one side of the island affects the whole island" don't you? 173. a. Knowing this, why do you choose to only speak to the Maunaloa and Kaluako'i ahupua'a families? 173. b. Did you learn in speaking with ahupua'a families that there are people all over the island who have ancestral connections to Lā'au Point? East end and central Molokai family burial grounds are there? 173.c. surely as a professor of ethnic studies, you realize at some level don't you, that all Native Hawaiian ancestry people from this island have a connection of place to Lā'au point don't you?*

**Response:** We agree the Master Plan for this project will affect the whole island. It is for this reason that community meetings to receive input were held throughout the island in Maunaloa, Ho'olehua, Kaunakakai, and the East End, as well as for a broad community base which included fishers, gatherers, and hunters. Everyone was invited to give mana'o in the meeting, to fill out and turn in their comments on a questionnaire, or to make an appointment for a key informant interview. Dr. McGregor invited input from everyone.

*174. The Ranch had been asked two times prior for an island wide election on the Lā'au Point Development and refused even though they have long touted the MIS-fact that they had a silent majority hadn't they?*

**Response:** The regulatory process for approval of the Lā'au Point development is the State and county approved process for deciding such issues. It is not required anywhere in Hawai'i to have public elections on planned development of private property.

*175. On two prior occasions the Ranch has been asked to put the Lā'au Point Development to the vote of the people weren't they? If your answer is no, see the Molokai Dispatch dated February 8, 2007 and affirm or deny. 175.a. Since the EC Board denied the second request after tabling it is the same as saying the Ranch denied it, because the two are in "partnership, Isn't that true? 175.a.i. Did the EC ask the Ranch what it wanted to do about the request for a vote while not liking the "language of the motion"? If not, what was the discussion about it in Executive Committee? Are there minutes to Executive sessions? 175.a.ii. Since the EC is Federally funded, don't their Executive Sessions have to be open to the public? Don't they have to keep minutes open to the public? Please support your answer with legal authority.*

**Response:** See response to comment #172 above regarding your request for a vote. Since MPL is not a member of the EC Board, we have no knowledge of their deliberations in their Executive Session. These questions to the EC are outside of the purview of the EIS.

*176. Generally, the people interviewed and who came to the cultural assessment community meetings expressed reservations about Lā'au Point Development, and there were no enthusiastic advocates while most were opposed, correct?*

**Response:** The report states that the most "vocal" were opposed. Dr. McGregor did not take a vote or a poll in the public meetings so we do not know if most of those present were opposed.

*177. As a matter of fact the Maunaloa people who live in the ahupua'a were most concerned and reluctant about the development, right?*

**Response:** As it is stated in the Cultural Impact Assessment (Appendix F of the Draft EIS), the Maunaloa kupuna and larger community and longtime employees of Moloka'i Ranch have the most direct and longtime experience with the area proposed for development. What is striking is that while they are very concerned and reluctant about the development, they are also willing to acknowledge and support the right and the need of the Ranch to seek the development. They feel that the negative impacts could be managed if the development would conform to the strict covenants, conditions and restrictions outlined in the Master Plan. They are confident that their community can work together with the project's resource managers to provide stewardship over the marine resources that they rely upon for subsistence. They also felt that the negative impacts would be offset with the gifting of important legacy lands to the community.

*178. You stated that these Maunaloa residents felt the CC&Rs could manage some of their concerns, but did anyone ever tell those same residents that CC&Rs can't legally be enforced in Hawaii? 178.a. what would they say then?*

**Response:** We disagree with your statement. As addressed in #6 above, CC&Rs are legally enforceable.

*179. Who specifically were the Maunaloa kupuna with whom you spoke? who were each and every Kupuna with whom you spoke in your entire study of speaking with kupuna on island? 179.a. Did you accurately represent their opinions, or did you delete things they said that would be detrimental to the assessment for the Ranch?*

**Response:** As addressed in #153 above, the list of key informants is on p. 46 - 47 of the Cultural Impact Assessment (CIA), which was provided as Appendix F in the Draft EIS. Their input is accurately documented in the CIA. Nothing detrimental was deleted; in fact, many such statements were included in the CIA report.

*180. Who specifically are the longtime adversaries of Molokai Ranch, who were involved in developing the Plan? What did they do to develop the Plan? 180.a. What specifically and give details of the "extravagant development schemes and the extractive use of millions of gallons of water"? 180.b. Did anyone ask were these millions of gallons of water would come from? By the way, is that GPD? 180.c. In the planning process, when was the water discussed? How was it present, by whom? Where are the minutes of the meetings and when and where can they be obtained? 180.d. Who were the people who withdrew their support for the Plan and withdrew? Give a complete list. 180.e. Who were the majority of the planning group who persisted with their support of the plan*

**Response:** Some of the longtime adversaries of the Ranch who participated in the plan were Colette Machado, Walter Ritte, Glenn Teves, John Sabas, DeGray Vanderbilt, Barbara Kalipi, William Akutagawa, and Halona Kaopuiki. They served on the committees which developed The Master Plan. Of this list, those who withdrew support of the plan were Walter Ritte, Glenn

Teves, and DeGray Vanderbilt. Those who still support the Master Plan are Colette Machado, John Sabas, Barbara Kalipi, William Akutagawa, and Halona Kaopuiki.

Some of the previous development plans met with strong community opposition were hotels, condo projects, equestrian arenas, airports, and helicopter landing strips, including:

- A 375-room hotel on Kaiaka Rock at the Kaluako'i Resort (we note that Mr. Ritte supported this scheme).
- A 150-unit condominium at Kawākiu.
- The Highlands Golf Course and Club House at Nā'iwa.
- The Waiola Well and Pipeline.

The EIS states that MPL will seek only one million gallons of brackish water from the abandoned Kākahale Well.

Water was discussed over a month period at the beginning of 2004; including a panel of experts' forum at which DHHL, DWS, USGS, the Water Commission, and the Department of Agriculture participated. There was a public input session held by the Land Use Committee at Kulana 'Ōiwi in late January 2004.

MPL is unaware of those who withdraw their support for the Master Plan during the EC sponsored Project #47 process. Even current opponents, Walter Ritte and DeGray Vanderbilt, stayed involved in the planning process.

*181. Specifically how is the Plan going to control population growth? What do you mean? 181.a. If you can't be specific in answering question 181 then is this just another unsubstantiated general statement in your EIS? 181.b. This island is already 10 years ahead of projected population growth now and you expect, to control population with more development? Explain. 181.c. Isn't the real control of population on this island the amount of water it has for development?*

**Response:** Preventing development on 50,000+ acres (proposed Land Trust donations and easements) of land in Moloka'i will be a factor in controlling population growth.

In addition, we note that the level of new population due to Lā'au Point is not significant enough to cause major social impact. As discussed in Section 5.2 of the Social Impact Assessment (Appendix M 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. On the average Lā'au Point residents will make up three percent of the island 2025 population. Further, the new Lā'au Point residents will not be the only new Moloka'i residents. In contrast, residents in proposed DHHL projects would account for 13 percent of the forecasted population in 2025.

Water is one limiting factor to development as well.

*182. You state one of the 'potential impacts' may be that the people who purchase these lots will not understand the Molokai lifestyle and subsistence practices, yet you do not state in the following pages how you will mitigate that? Can you mitigate that? 182.a. People who can afford a \$1-2 million lot and place a \$5-6 million home on it can never understand the Molokai lifestyle can they?*

*182.b. It's rather like attending all these meetings and taking to Ranch people and not being heard isn't it?*

**Response:** The Draft EIS has discussed implementation of an educational program for new residents as a mitigation measure for new residents to understand the Moloka'i lifestyle and subsistence practices. The Shoreline Access Management Plan (SAMP) for the area sets forth an education program required of all homeowners and visitors to the area that covers: cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

We disagree with your assertion that "people who can afford a \$1-2 million lot and place a \$5-6 million home on it can never understand the Moloka'i lifestyle." It is difficult to predict what various individuals can or cannot understand, regardless of their income levels.

*183. Elsewhere I have asked questions about the Land Trust and how it will operate and therefore will not duplicate the questions again as you duplicate the paragraphs in your EIS over and over again, rather! What specifically have the Ranch, BIL, all the business entities that are associated in anyway whatsoever with either, done to protect the Native Hawaiian legacy lands in anyway whatsoever?*

*183.a. Do you believe they need to be protected? 183.b. what are your plans for these lands should your Lā'au Point development not be approved? Be specific in your answer please?*

**Response:** As discussed in #141 above, significant Hawaiian legacy lands and cultural sites will be protected through the implementation of the Master Plan. The "no action" alternative discussed in Section 6.1 of the Draft EIS discussed the plans should the Master Plan and Lā'au Point project not be implemented.

*184. c. Why have you not initiated any protection thus far? or have you? and if so what? Be specific please.*

**Response:** MPL has initiated protection so far by committing not to either sell, use, or change in any way the lands that are to be donated to the Moloka'i Land Trust until the outcome of this process is known.

MPL is also working diligently with the Moloka'i Land Trust to facilitate the first donation of 1,600 acres of land—land that is to be donated regardless of the outcome of the Lā'au project.

*185. Are you placing the burden of protecting the subsistence fishing zone on Appendix A. p. 59 solely on the Land Trust, homeowners and community to 'work together' to obtain a special law from the State Legislature? 185.a. what have you the Ranch, BIL and all legally connected entities of whatever nature done to begin securing this Law? Protecting the subsistence of Native Hawaiians?*

**Response:** See our response to #55 above.

*186. This subsistence Fishing Zone is the same zone marked as such in 1993? Correct? by the Governor's Task Force?*

**Response:** No. The Governor's Moloka'i Subsistence Task Force Report recommended the establishment of a Community-Based Subsistence Fishing Management area from Nihoa to 'Īlio Point on the northwest coast of Moloka'i.

*187. In your plan, to ensure access to the shoreline, it will only be available by foot through two parks, correct?*

**Response:** The project will only create two public access points at each end of the project. Persons can enter from any point beyond the two parks; however, the two parks would be the closest point where vehicles can approach and park.

*188. What "experienced Resource Group, will be recommending open areas for subsistence fishing? 188.a Isn't all the coastline subsistence fishing areas?*

**Response:** The Land Trust will manage the area and resources. This is outlined in the Shoreline Access Management Plan, which has been appended to the Final EIS. Protocols for monitoring the resource are included as well as the ability to designate seasonal and long term restrictions are included.

*189. Who will give educational courses on traditional fishing methods, practices, after the Management zone is established to those provided access to fish and gather? 189.a. Who decides who will be provided access? 189.b. How long will it take to determine the management zone and establish it?*

**Response:** The Land Trust and its subsistence advisors will give educational courses. This is outlined in the Shoreline Access Management Plan as discussed in #182 above. As discussed in #55 above, it will take 18 months to 2 years to establish the Subsistence Fishing Zone under the DLNR/DAR rule making procedures.

*190. It is no longer true that MPL is working with DHHL on any level is it? 190 a. As a matter of fact the Hawaii Attorney General told DHHL that it could not negotiate Homesteaders water rights in any way didn't it?*

*191. How are you MPL working with the County of Maui Department of water Supply and the USGS to comprehensively evaluate Molokai's long term water demands? 191.a. I understood that the Maui Water Department had employed the USGS to model Molokai's aquifer because we are at a "critical stage". Do you understand that also? 191.b. Is MPL paying for the USGS model? Exactly how is MPL working with Maui water Department and USGS? Be specific in the role MPL is playing. 191.c. How many meetings have you had with either? and when and where and who initiated it?*

*192. Molokai water issues will be addressed by a comprehensive modeling analysis that the USGS is doing, correct? 192.a. This is a two-dimensional water model isn't it? 192.b. Don't you think a three dimensional model would give better more accurate data? 192.c. Is MPL supplying any money for this modeling? Offered to pay any money for this modeling?*

**Response:** As addressed in #168 above, MPL is working cooperatively with DHHL, as well as DWS and USGS, to find water solutions for Moloka'i's future needs. DHHL is not negotiating Homesteaders water rights as you imply. MPL has often reiterated its recognition of DHHL's priority rights to water, which is a priority established by law.

Since September of 2006, MPL has attempted to join with DHHL and the DWS in having USGS perform a comprehensive model for the Moloka'i aquifers. USGS is now moving forward with a joint study, the terms of which are currently under discussion with all parties. The USGS joint study is anticipated to be a three-dimensional model. MPL is actively involved in discussions with all parties of this study.

USGS also recently undertook a two-dimensional modeling exercise of the Kualapu'u and adjacent aquifers for the Army Corps of Engineers. This study included modeling of the impact of the Kākalahale Well on the DHHL wells. The results, which were outlined in a briefing to all interested parties in late June, indicate that the pumping of 1.0 mgd from the Kākalahale Well would have a negligible effect on the DHHL wells and the Kualapu'u aquifer as a whole. This study is extremely conservative in nature.

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) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." See the section of the attachment titled, "Additional Information on the Kākalahale Well."

193. *Development of Lā'au point will destroy the spiritual man and power of the place won't it?*  
194. *The spiritual quality of Lā'au Point as a wahi puna and wahi kapu cannot be quantified can it?*  
195. *The Lā'au Point project will have an impact upon the solitude and spiritual resources not existing.*

**Response:** See our response to #138 above.

196. *You really believe the Land Trust, whose directors are many of the very same EC directors that just suffered a crushing defeat (not even reaching 30% of the vote) January 31, 2007 in the defeat of two directors who supported Lā'au Point development (including the vice president) and who never listened to the community about the water issue and the Lā'au point Development issue and were under the delusion that a majority of the island supported the Lā'au Point development, will ever be able to "bring various sectors of the community together" in a working relationship?*  
197. *How will these same directors ever be trusted by the Molokai community at large again?*  
198. *Do you believe that the Molokai community believes any of these directors possess the spiritual qualities and integrity to see that the physical and natural resources of Lā'au Point are properly cared for?*

**Response:** See our response to #172 above.

199. *You speak of respect for the area, do you believe that anti Lā'au supporters believe that if you respected the aina and native Hawaiian culture, you would never even want to develop Lā'au Point?*

**Response:** We cannot offer a response on what anti-Lā'au supporters might believe. Your question does not relate to the project elements, environmental impacts, or their mitigation measures.

200. *Do you know of any laws, violation of which, brings jail time for destroying the critically endangered plant found in Kamāka'ipō Gulch? 200.a. Disturbing important cultural findings in this Gulch might lead to destroying one of the last few places on earth this plant is found and thus jail time, wouldn't it?*

**Response:** You will need to check directly with the authorities regarding "jail time for destroying the critically endangered plant." Regardless, Kamāka'ipō Gulch will be protected as a cultural protection zone; no development will occur there.

With the maps provided, Mr. Garnett made the assessment that the *Marsilea villosa* population was not within the proposed residential lot development area. The final boundaries when the lots are surveyed will ensure this is maintained.

201. *What protection is afforded this trail from Moomomi to Ilio Point and then along the west coast to Lā'au Point? Is this the shell trail?*

**Response:** While the actual location of the historic Kealaakapupu is not known, informants indicated their belief that the Kealaakapupu trail coincides with the historic trail drawn on the 1886 and 1897 Monsarrat Maps. The trail from these maps is reproduced in Figure 5 of the Cultural Impact Assessment (Appendix F of the Draft EIS). It is identified in the map legend as the "Keala Pupu Coastal Trail," as informants indicated that they believe it is possible that the

trail drawn on the Monsarrat Maps was possibly located upon the Kealaakapupu or shell trail established by Kīhaapi'ilani. Informants indicate that the existing dirt road is located upon the old traditional trail and serves the purpose of providing access to subsistence, cultural and spiritual resources utilized for traditional and customary purposes.

Informants suggested that there be a physical demarcation between the property line and the ocean, along which the access trail would run. The trail would follow the contour, following the old traditional historic trail as much as possible, to respect traditional access for subsistence, cultural and spiritual purposes. The existing kiawe would serve as a buffer between the trail and the sand and ocean. This can help reduce impact of the trail on the beach and ocean. The kiawe can be pruned. It is a nitrogen fixing plant and will help other plants to grow around it. The trail should be placed back from the ocean so that it won't wash out. The trail will only be for walking and not for ATVs or even bicycles. The trail should not be paved but kept clear and maintained (Appendix F of Draft EIS, p. 20).

202. *Why is hunting only permitted to Ranch employees and their families?*

**Response:** On MPL's private land, hunting is a benefit provided to Ranch employees.

203. *There are no surf spots in Appendix 8 of Appendix A as stated in your EIS. There is no surf legend on Appendix 8. What are the surfing spots?*

**Response:** Appendix 8 of the Master Plan (which is provided as Appendix A of the Draft EIS) contains a recreation/trails map. The surf spots are identified along the Lā'au Point coastline.

204. *Why do you state MPL recognizes the rights customarily and traditionally exercised for subsistence cultural and religious purposes by descendants of Native Hawaiians when it is in our Hawaiian laws anyway? You have to respect these things don't you?*

**Response:** We state this because it is correct.

205. *What's wrong with the Maui county code about 1500 feet right of ways so there would be 16 public access rights of way in the Lā'au Development? 205.a. If you are going to break up the ground anyway, why make it only exclusive for the homeowners? 205.b. How would allowing more public access to Lā'au Point shoreline not be conducive to protecting the coastal resources any more than 200 developing 200 lots on the coastline? Explain in detail. 205.c. By allowing only two access points for the public to the shoreline, while allowing exclusivity of the homeowners to the shorelines in front of their lots is a contradiction to Hawaiian culture and values isn't it? 205.c.i. It is taking away traditional Native Hawaiian values and rights to use all island lands by allowing rich people to "buy" a piece of coastline which only they have access to, isn't it? 205.c.ii. This development just moves one step more into intruding into the culture of Hawaiians not only owning and purchasing land, but owning and purchasing land and making it exclusive for non-Hawaiians, correct? 205.c.iii. You state that increased public access will 'diminish the uniqueness of the coast', but aren't you really saying diminish the exclusivity and uniqueness of the property and thereby decreasing it's value?*

**Response:** The project proposes two shoreline access points based on the results of the community planning process (see Sections 2.1.6 and 4.3 of the Draft EIS). Based on the

community-proposed access plan (see Appendix A of the Draft EIS, p. 105), protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Providing only two public access points was agreed upon in the Master Plan. The intent was to limit access to prevent culturally sensitive areas from harm and to maintain the biological resources of the area. Approval of these access points is pending approval.

Should MPL be required to provide additional public access to the shoreline, the area can still be managed successfully. The terms of the shoreline access management plan (SAMP) will be enforced at the access points and the limitations on vehicular access will still apply.

The SAMP is a community-based and developed set of guidelines, rules, monitoring programs, and general principals for the protection and utilization of the cultural, biological, and social resources of Lā'au Point. The SAMP is intended as an initial governing document based on current knowledge of the cultural, subsistence, and biological resources of the Lā'au Point area. From a social standpoint it is intended to foster a harmonious and respectful relationship between current users and subsistence practitioners of the area and Lā'au homeowners and new local users of the area. The SAMP will be incorporated by reference into the CC&Rs.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

In addition, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. These cultural guidelines are provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

*206. You again are bringing up the conservation District shoreline areas controlled by the Land Trust and homeowners, resource managers and security guards etc. all questions I have previously asked. Just as it is not necessary for me to ask the questions again, it is not necessary for you to repeat your paragraphs again and again is it?*

**Response:** See our response to #26 above.

*207. Regarding the access plan i.e. Appendix A which is: restrict shoreline to foot travel, CC&Rs to protect plan and no parking except at each end in the new parks. This is essentially all of the substance stated in three paragraphs of verbage and likewise to say it again at this page in the EIS. What is the reason for all the fluff in your style of writing?*

**Response:** Comment noted.

*208. You state that the shoreline access "plan will be developed and adopted to regulate through legal and enforceable means". What are the enforceable means?*

**Response:** See our response to #6 above.

*209. Once again this is repeated information you state, but what specific protocol, rules and permitted activities for subsistence fishing and gathering will be made? by whom? for what reason? 209.a. who administers, develops the class, decides who passes the mandatory educational classes in traditional subsistence gathering and access responsibilities, safety and protocol in order to obtain access? 209.b. How is this promoting and not devaluing the Native Hawaiian culture? 209.c. How is requiring courses of native Hawaiians to obtain permission to hunt and subsistence fish promoting and not devaluing the Native Hawaiian culture? 209.c. How is it promoting and not devaluing the Hawaiian culture to have a steward supervise access to traditional and sacred Native Hawaiian shorelines and reefs?*

**Response:** See our response to #5 above.

*210. Regarding emergency access and kupuna and special needs persons access, and the need for the road to Hale O Lono Harbor to be maintained, Perhaps you acknowledge there is a need for these things; however, you make no statements as to how whom when means these will be done by you? 210.a. You even refer the reader to a "further" discussion (when there was not a discussion at all yet) to Section 4.10.3 of your EIS. There is no discussion in this section about emergency access is there? There are statements about fire stations on island, but no discussion about emergency access is there? 210.b what is your discussion of emergency access? What are the plans etc?*

**Response:** Regarding discussion on emergency access, Section 4.10.3 of the Final EIS, has been revised as follows:

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluako'i to access Lā'au Point.

Kupuna who wish to access the shoreline managed area for religious or cultural purposes, who are disabled or unable to enter the premises on their own, may request assistance from the resource manager. Assisted access (including vehicular) may be provided at the discretion of the SAMP Council in an appropriate manner and under conditions designed to protect the resources of the area.

To reflect the above information in the Final EIS, Section 4.3 (Trail and Access) has been revised to include the following:

Vehicular access in the Conservation District area will be prohibited, unless identified required for emergencies or kupuna use. Kupuna and the infirmed will be allowed to access the area in small motorized vehicles such as golf carts via trails along the shoreline.

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211. What specifically is the "build-out of the Kaluakoi Resort? Give exactly the details of 'the build-out'.

**Response:** In this context (page 64, Section 4.4 of the Draft EIS), the "build-out of the Kaluakoi Resort" means the building of a house on every residential lot at Kaluakoi and the re-opening of the Kaluakoi Hotel.

212. Do you project approximately 300 additional cars per day at the main intersection of Maunaloa Highway at Kaluakoi Road? 212.a. If not, what is the total amount of additional cars which would cross this intersection per day at build out of Kaluakoi?

**Response:** There was not a projection of 300 cars stated in the EIS, so we are unaware of where you reached that assertion. Traffic conditions are discussed in Section 4.4 and Appendix G of the Draft EIS.

213. What day or days did you do your study? 213.a. During your study, what is the amount of cars you observed per day that crossed the Maunaloa Highway at Kaluakoi Road intersection?

214. What was your methodology for your study? Explain in detail.

**Response:** This information is provided on page 2 of Appendix G (Traffic Impact Assessment Report) in the Draft EIS.

215. Did you do a baseline study measuring what is currently occurring at the major west island intersection? 215.a. If not, why not?

216. When you measure or assess an impact on an area do you not measure the increase in traffic activity from a quantifiable baseline to determine the impact?

217. What is your standard for acceptable level of service? 217.a. Is it a percentage increase from the baseline, which appears the most logical approach?

**Response:** This information is provided on page 3 of Appendix G (Traffic Impact Assessment Report) in the Draft EIS.

218. What level of service standard should apply to Molokai? 218.a. The same level of service should not apply to Molokai as applies to the other islands should it? why, why not? 218.b. What is each and every reason you have for choosing the LOS you did?

**Response:** This information is provided on page 4 of Appendix G (Traffic Impact Assessment Report) in the Draft EIS.

219. Regarding the traffic study, What has been all prior experience in your field of expertise? Please state employment history education, prior associations for PRB Hawaii, Ranch it's affiliates, subsidiaries, shareholders etc.?

**Response:** Phillip Rowell is the principal of Phillip Rowell and Associates, a traffic engineering and transportation planning firm based in Hawai'i. As the principal of a sole-proprietorship, he is responsible for all aspects of my company's work, including job development, field surveys, analyses, report preparation and public hearings. He has over thirty years experience in the traffic engineering field and has practiced in eight states (SC, NC, KY, TN, MI, CA, NV and

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AR) and two foreign countries (Hong Kong and Malaysia). He has been practicing in Hawai'i since 1989 and has had his own firm since 1989. Information whether the Mr. Rowell was previously employed by PBR or the Ranch was not solicited during the request for proposal process.

218. Have you spent much time on Molokai other than the study time?

219. Did you notice the number of cars backed up at our major stop sign in Kaunakakai? 219.a. how many? 219.b. Did you speak to any of the local people about how crowded the island has become with all the cars now? 219.c. Have you ever heard of a traffic situation where people complain because there are five cars in front of them at a stop sign? 219.c.i. If so where and under what situation?

**Response:** We note that you had two # 218 and #219 comments. See Appendix G of the Draft EIS for the Traffic Impact Assessment Report. We note that the stop sign in Kaunakakai is not in the vicinity of the proposed project.

220. MPL will fund costs for all Lā'au Point roads so that in the future they could be dedicated to the county correct? 220.a. But the county must first accept the roads for maintenance correct? what is the process for that to occur?

**Response:** The County has already stated they do not want the roads dedicated to them. The Lā'au Point roadways will remain privately-owned. To reflect this information in the Final EIS, Section 4.4 (Roadways and Traffic) has been revised to include the following:

MPL will fund the construction costs of all Lā'au Point roads which will be built using County standards to keep the option for future dedication. In their June 21, 2006 comment letter on the EISPN, the Maui County Department of Public Works and Environmental Management stated: "We note that roads for the development will be built to County standards. We also note that access for these roads are from a private road. As such, the roads for the development shall remain under private ownership and maintenance." After build-out, should the roads will remain private, and the Lā'au Point homeowners' association will be responsible for maintenance.

221. You state the coastal jeep road will be abandoned to avoid archaeological sites and erosion. Do you know exactly all the archaeological sites at the Lā'au Point development? or were you just given that information by the Ranch or PBR Hawaii or someone else? Please explain. 221.a. what portions of the jeep road may be used to provide emergency access and foot trail access to the shoreline? 221.b. Have those portions been identified to be free of archaeological sites? 221.c. Do you have a map of the 'free of archaeological sites for the jeep trail? if so produce please.

**Response:** As addressed in #118 above, since the archaeological inventory was approved in 1993, we feel that most if not all sites have been documented. Figure 10, Section 4.1, and Appendix E of the Draft EIS contain information regarding archaeological sites at Lā'au.

The "jeep road" is the usual access road along the shoreline from Kaupoa Camp and from Hale O Lono. This road may form the basis of the new coastal trail along the shoreline, although this will be determined in the future by the Moloka'i Land Trust. From this trail or former "jeep

road" access will be available through the subdivision for emergency vehicles. Where those access points are located will depend on the final subdivision plan.

222. *Is the only noise you heard on your study that of wind, birds, ocean and occasional distant aircraft?*

**Response:** Yes. This was stated on page 3 of Appendix H (Noise Assessment report) of the Draft EIS.

223. *Is impact measured by a baseline of what noise is currently occurring? Or is it measured against a state, national or otherwise standard?*

**Response:** This was addressed on pages 4 – 5 of the Noise Assessment report (Appendix H of the Draft EIS).

224. *Did you investigate any noise impact or the wildlife, particularly the monk seals and owls?*

**Response:** As stated in Section 4.5 of the Draft EIS, construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures will be employed to minimize construction-related noise and comply with all Federal and State noise control regulations. The substantial setback from the shoreline (250 to 1,000 feet) will also provide mitigation for potential noise impacts to the shoreline area caused by the development process.

225. *Are you aware the CC&Rs are worthless as an enforceable measure for noise equipment etc.?*

**Response:** We disagree; CC&Rs are enforceable. See our response to #6 above.

226. *Lā'au Point can be very very windy can't it? 226.a. And construction dust will be blown everywhere also, won't it? 226.b. if dust measures are acted upon, it would take much more water to water down construction dust then elsewhere on the island wouldn't it?*

227. *Explain in detail what the effective dust control plan would be? how much water will be needed?*

**Response:** As discussed in Section 4.6 (Air Quality) of the Draft EIS, an effective dust control plan will be prepared for the project construction phase. MPL's Water Plan (Section 6 of the Master Plan and Appendix P of the Draft EIS) is very specific about the amount of water allocated to keep dust down during the construction phase of Lā'au Point.

228. *Now in this section you state at full build out, the vehicles per hour will be 200. Does that mean at the major intersection? or on the highway? 228.a. Does that mean over 3 cars per minute? 228.b. is this 200 additional cars after build-out or total cars?*

**Response:** You have misstated the Draft EIS; the Draft EIS states that traffic associated with the project is estimated to be "less than" 200 vehicles per hour (page 66). Traffic is discussed in Section 4.4 and Appendix G of the Draft EIS.

229. *You realize the lack of enforcement afforded by CC&Rs don't you?*

**Response:** Again, regarding your comments about CC&R enforcement, we direct you to our response to #6 above.

230. *You state that 30% of a 2-acre lot is around 26,000 sq. ft. is the maximum percent of the lot that can be built upon? That means on the average size lot, houses can be built as large as approximately 26,000 sq. ft doesn't it? 230.a. Or it means two houses can be built at a total size of approximately less than 26,000 sq ft doesn't it?*

**Response:** The EIS states that the maximum "buildable area" is 30 percent (~ 26,000 square feet) of the lot. Buildable area is the only area of the lot in which there can be disturbance for the construction of the home, accessory buildings, decks, parking areas, landscaping, etc. The CC&Rs state that the maximum building size is 5,000 square feet. One accessory building, such as a work shed or an 'ohana dwelling, may be built as an accessory to the main house. The house and accessory structure cannot exceed 5,000 square feet.

230. *What are all the qualifications of the Knowledge Based Consulting Group and Earthplan. 230.a. what is their educational background, prior work experience, how long in business, what work do they do, for whom? 230.b. what prior associations or business have you had with PBR Hawaii, Ranch (subsidiaries, owners, affiliates, shareholders etc. 230.a. what are the names of all the individuals who worked on appendix M and Earthplan? and where do they reside?*

**Response:** We note that you had two # 230. This is in response to the second #230.

The Knowledge Based Consulting Group (KBCG) is based in the San Francisco Bay Area, with affiliates and expertise in both Europe and Asia Pacific. KBCG was formed in 2002 to serve client needs through the services of Senior Executives with extensive experience and vision. KBCG expertise is focused in real estate and entertainment industry market analysis, product development, database marketing, financial planning, and the applications of new technology. Clive B. Jones, Principal of Knowledge Based Consulting Group, provides expertise in market and investment analysis, development programming, economic impact assessment and database marketing to the attractions, hospitality, entertainment, and tourism industries. His projects in Hawai'i have included: Hoku and Victoria Ward Apartments in Honolulu; Palamanui/University Village, Big Island; Waiawa, O'ahu; Kapalua, Maui; Mauna Lani, Big Island; BeachWalk/ Trump Tower, O'ahu; Royal Lahaina, Maui; Keauhou, Big Island; Royal Hawaiian Shopping Center, O'ahu; Hualalai, Big Island; Kaanapali, Maui. Mr. Jones completed a market assessment of the Molokai Ranch in 2001/2.

Earthplan is a sole proprietorship that was formed in 1982. Berna Cabacungan is the Principal and Owner of Earthplan. She specializes in social impact assessments, community planning projects, and community participation programs. Earthplan has completed over 60 social impact assessments and social issues analysis on a variety of projects, including residential complexes and large tract plans and developments. Berna Cabacungan has been qualified as an expert witness in social impact assessments and issues analyses before various commissions and County Councils. Projects included: Kuhio Highway Bypass, Kaua'i; Bypass for Honoapi'ilani

Highway, Maui; Koloa – Poipu Bypass Road, Kaua'i; Lihū'e Airport Improvements, Kaua'i. Kahului Airport Improvements, Maui; Ha'ena State Park Master Plan, Kaua'i; Lihū'e – Hanamaū'ū Master Plan, Kaua'i. This is Earthplan's first project with MPL.

231. You say most of the population growth occurred in the East end during those 30 years, what is the percentage of growth on the east end and the west end? 231.a. was there a population net drop in the west end from companies pulling out? If so what was that drop. 231.b. Are you stating that the population increase is a net increase?

**Response:** Table 3 and Figure 1 in the Social Impact Assessment (SIA) report (provided as Appendix M of the Draft EIS) show population trends of Section 2.3.1. Between 1970 and 2000, the population of East Moloka'i increased by 82% and West Moloka'i population increased by 2%. As discussed in Section 2.3.1, the decrease in West Moloka'i's population is largely attributed to plantation closures. Net decrease information was not available.

232. a. Is there a current population record of the west end now? of the east end now? of Kaunakakai now?

**Response:** We do not have information on West Moloka'i's current (2007) population. The last "official" record is the US Census taken in 2000.

233. When was this report done? What date? 233.a. Are there other projections available other than the State Department of Business EC and Tourism? 233.b. Are their projections the same? 233.c. You state that the projection for Molokai in 2010 will be 7276, but Molokai has already by 2000 reached 7257 correct? 233.d. Since the projections are approximately 10 years behind the actual, shouldn't your report for this EIS reflect these trends?

**Response:** The SIA report was completed in August 2006. As discussed in Section 3.1.3 of the SIA, the socio-economic forecasts were derived from projections prepared for the Maui County General Plan (June 2006). Maui County extrapolated Moloka'i projections from the DBEDT projections.

You are correct that Moloka'i has already, by 2000, reached 7,257 people.

As discussed in Section 3.1.3 of the SIA, the model in this forecast is not designed to predict short-term economic cycles. Rather, it provides estimates of long-term trends. Actual conditions will diverge on a short term basis within the long-term time frame.

234. You base your population projections on a potential Lā'au Point development using demographic patterns at other seasonal communities in Hawaii. List all the communities in Hawaii, you utilized in your analysis to determine the permanent and seasonal residents at Lā'au Point? 234.a. List the comparable similarities of those communities with Lā'au Point? What are they? 234.b. Now, state what are all the possible dissimilarities of those communities when compared with Lau Point? 234.c. What are the comparisons between the islands you chose and Molokai? Use as many factors as you can think of.

**Response:** KBCG has conducted numerous surveys of property owner usage and occupancy patterns in seasonal communities and subdivisions on Maui and the Big Island. These communities include Keauhou, Hualalai, Mauna Lani, Mauna Kea, Waikoloa Beach, Waikoloa Village, Kohala Ranch, Wailea/ Makena, Kaanapali, and Kapalua. The population and occupancy rate projections considered the results of the property owners surveys in total and KBCG did not compare or relate the projections to any single seasonal community.

235. State all the reasons you have for stating the occupancy rate of 30% would apply to Lā'au Point should it be developed?

**Response:** KBCG has conducted numerous surveys of property owners at ocean front communities on Maui and the Big Island. In those surveys, owners were asked how often they visit and how much total time they spend in Hawai'i. Based upon the responses to these questions, the following distribution of occupancy was calculated (provided on page 6 of Appendix J in the Draft EIS):

**Resort Community Occupancy Patterns**

Days Occupied		% of Households	Weighted Days	
Category	Average Days		All	Seasonal Only
Less than 60	40.2	35%	14.2	14.2
60 to 90	67.1	17%	11.5	11.5
90 to 120	93.3	11%	10.2	10.2
120 to 150	124.2	7%	9.1	9.1
150 to 180	157.6	12%	19.2	19.2
180 and over	250.9	17%	42.8	
Average Days Occupied			107.1	64.2
Resident Occupancy Rate			29%	18%
Rentals			0%	0%
Total Occupancy Rate			29%	18%

We see no direct reason why occupancy patterns at Lā'au Point should be particularly higher or lower.

236. How do you explain housing units more than doubled while population only increased by 43% during that same period of time? 236.a. From Where did the housing figures come, and are there other data banks on Molokai housing figures which differ?

237. Why did west Molokai increase in population less than 43%, but increased 75% in housing units during the same period of time?

**Response:** This information was derived from census information prepared by the U.S. Department of Commerce. The factors that contribute to the difference between the increases in housing unit supply and population include an increase in housing vacancy and a decrease in household size.

The housing figures were derived from census information prepared by the U.S. Department of Commerce, which is information that provides the foundation for comparisons and analysis.

Other data sources, such as the State of Hawai'i Data Book and the Native Hawaiian Data Book, extrapolate their information from this base.

238. *What is your source for saying the majority of Molokai real estate buyers is from Hawaii? What is the percentage? 238.a Why do you think that is? Speculation or is it the last Hawaiian island? or something else? If something else, explain?*

**Response:** KBCG analyzed zip code data in Assessors records (where property owners receive their tax bill) to determine the origin of non-resident owners. Your statement "the majority of Molokai real estate buyers is from Hawaii," is referenced from page II-14 of the Real Estate Market report (Appendix K of the Draft EIS), where it is noted that Moloka'i has the highest percentage of all the islands in terms of non-resident owners that live permanently elsewhere in Hawai'i. Whereas this is just less than 24%, it is not a majority. Rather, the referenced statement is best interpreted to reflect all residential sales, rather than just those to non-residents of Moloka'i.

KBCG has not done any specific market research to determine the reason for higher than average appeal of Moloka'i real estate to other Hawai'i residents, but it seems reasonable that it represents a desire to own property that provides a relatively convenient escape from the stress and urbanization of the more congested areas of O'ahu and Maui.  
Track changes start here on this version.

239. *Isn't the exact reasons for the Ranch wanting to develop Lā'au Point because 'it is a unique product in the state'? 239.a. It is anticipated that Lā'au point development will attract people who appreciate privacy, natural value of the land and a primarily native Hawaiian community, correct? 239.b. Don't you think all the housing sales on Molokai and the 10 year under-projected population growth have occurred because of those things listed in 239a above? 239.c. Don't you think the fast sales of Ranch lands at Maunaloa have occurred because of those things listed in 239a above? 239.d. why then do you think it is necessary to develop one more subdivision when there is so much already subdivided but not built upon land in Molokai? 239.e. what is the number of lots already platted and subdivided on Molokai, but not yet built upon? 239.f. what is the number of lots already platted and subdivided on Molokai and built upon and can be yet subdivided again for future building? 239.g. When these lots are subdivided, won't they require additional water also?*

**Response:** Section 2.2 of the Draft EIS provides the statement of purpose and need for the Lā'au Point project. MPL has gone into a lot of detail in the EIS and the Master Plan as to the reasons for this development.

The sale of Maunaloa subdivided land has not been "fast" as you imply, more than 50 lots are still for sale, and it has been more than 10 years since those lots were developed.

MPL is unable to obtain the answer to your question regarding the "number of lots already platted and subdivided on Molokai, but not yet built upon." You will need to ask the appropriate Maui County agency for that information.

240. *You state 'based upon market data from comparable non resort settings' to what comparable non resort settings are you referring? List each and every one and the location of each.*

**Response:** For their analysis, KCBG considered comparable non-resort settings to include several Big Island locations (Puna area, Hāmākua Coast, and the Kohala Makai and Kohala by the Sea subdivisions on the north Kohala Coast) as well as several locations on Maui (Hana Highway, Keanoe Point, and Honokohau).

241. *There is anticipated a very great demand for lots at Lā'au Point because of limited availability, of low-density oceanfront, don't you? 241.a. what are the special conditions and requirements associated with ownership at Lā'au Point? List each and every one in detail.*

**Response:** We believe the remoteness and isolation, combined with the beachfront setting, will attract buyers to this development. See Section 2.3.6 (Covenants) of the Draft EIS for special conditions and requirements associated with ownership at Lā'au Point. To reflect your comment and other comments regarding covenants associated with Lā'au Point in the Final EIS, Section 2.3.6 of the Final EIS has been revised as shown in the attachment titled, "Revised Section 2.3.6 (Covenants)."

242. *You anticipate great increases in the value of the project don't you? 242.a What do you mean when you say residential market values for the project will be \$34.4 million in the first year of lot sales? 242.a.i. What includes the project? 242.a.ii. How many lots have to sell? 242.b. what do you mean when you say " and increase to \$211.9 million when lot sales are completed? 242.b.i. when all lots are sold and approximately 10% of lots built upon? 242.c. Will each residence be expected to increase in value by \$16 million per year then or the project in its' entirety? 242.d. When all residences are built, what is it that you project to increase in value to \$352 million? 242.e. If someone purchases a lot for \$2 million and constructs a modest \$4 million house, and in twenty years what can that person expect to sell that house for? 242.f. This encourages real estate speculation which everyone knows in a real estate market is how taxes and property values are driven up isn't that so?*

**Response:** We did not include any real estate inflation or appreciation in our analysis. The \$34.4 million represents the total sales value of the 36 Lā'au Point lots sold in the first year. At the end of lot sales, the value of \$211.9 million represents the value of selling all the lots plus the improvement value of the 22 residences that had been constructed by this time.

The project in its entirety is expected to increase in value. The total buildout value of \$362.2 million includes both the land value of the 200 lots plus the value of the residential improvements thereon.

Average lot prices range from \$460,000 for south facing ocean view sites to \$1.75 million for west facing oceanfront lots. The overall average lot price is \$1,023,750. The average residence is 3,500 square feet and the construction value is \$788,000. KBCG has made no assumptions as to future selling prices.

We disagree that this encourages real estate speculation. See Appendix L of the Draft EIS regarding the project's non-impact on increased property taxes.

243. *What percent of people who might purchase at Lā'au should it make it to development stage do you anticipate will be from this transfer market you speak about?*

**Response:** The transfer market could account for 50% to 75% of Lā'au Point sales.

244. *Regarding Appendix L, and assessing property not adjacent to Lā'au Point lots will not be directly affected, but it will be indirectly affected won't it? 244.a What are the indirect affects the Molokai property owners feel should this development proceed? Please give an extensive list.*

245. *Molokai is a very small island 32 miles by 10 miles wide and what affects one side of the island affects all of the island and probably more quickly than in a huge island like Oahu don't you think? 245.a. Thus the domino affect of adjacent lands and like lands will occur more quickly throughout the whole small island as lands are re-sold, isn't that correct?*

**Response:** Hallstrom's analysis (Appendix L in the Draft EIS) does not imply there will be indirect effects; he states: "Only to the extent that worker in-migration to the island to support or sustain the development and its residents, could there be some modest indirect impact on selected real estate activity and prices." It is noted that this is offset by the transfer of land to the Land Trust and other covenants prohibiting further development.

We disagree with your assertion that a "domino affect of adjacent lands" will occur on property assessments because of this project. Discussion discounting this scenario was previously provided in Appendix L of the Draft EIS. Adjacent lands to Lā'au Point will be donated and easement lands going to the Land Trust; no development will be allowed on these lands. Therefore, there will be a separation from other developments on the island by 50,000+ acres of Land Trust donated and easement lands.

246. *You did a paired assessment of expanding developments and non-adjacent land holdings where? What areas did you look at? 246.a What is the "period of time" you chose to look at in your assessment? 246.b. Did you do an assessment over time between expanding development and adjacent land holdings? 246.b.i. if so what were the results? if not, why not? 246.c. Do you have the papers on which you did your analysis? 246.d. What was your methodology? i.e. specifically, how did you do this analysis?*

**Response:** The Hallstrom Group, Inc., undertakes market valuation analysis across the State of Hawai'i for many clients. The company has conducted many valuation assignments on Moloka'i and in particular for MPL over many years since the mid-1990s, and for other clients with property on the island.

The company has a database of information on property valuation and property tax trends right across the island; a database which is constantly updated. Pairings were made between expanding urban developments, primarily resort residential product, and proximate rural area in representative areas of Hawai'i.

The Hallstrom Group used acceptable market valuation methods prepared in accordance with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practice (USPAP). They have

conducted a number of real estate valuation and appraisal reports for clients in Hawai'i who have submitted EIS documents.

247. *Who were the people you had discussions with at Maui County and Oahu tax offices. Please give names. 247.a. what was the essence of the discussions? and where were they held?*

**Response:** The Hallstrom Group is in regular contact with assessors in both the Maui County and O'ahu tax offices as part of its on-going valuation and appraisal work. Their names are not relevant to be included in the EIS. The issues described in The Hallstrom Group's opinion letter were discussed with them.

248. *Having been a property owner on Molokai for some time, I noticed a great change in sales prices mainly driven by the west end (which has always lead the way in prices) but nevertheless, a dramatic increase in value and taxes I have observed! Are you saying that the rest of the island does not trail in prices and taxes after the west end? 248.a. Are you saying taxes throughout the island have not increased as sale prices have increased in the west end? 248.b. Have you discussed your findings with local Molokai realtors? If so with whom? Do they agree? 248.c. Have you sold property on Molokai? if so when and what?*

249. *Are you saying that sales of property in a 300 square mile area do not affect each other in value and taxes assessment? 249.a. Particularly when the 300 square mile area is the only game in town?*

**Response:** We refer you to Hallstrom's Letter in Appendix L of the Draft EIS for information as to why the Lā'au Point project, and its separation from other developments on the island by 50,000+ acres of Land Trust donated and easement lands, will not directly impact values on the remainder of the island.

Property values in other parts of Moloka'i will be impacted by sale prices and values of adjacent properties, not by sale prices more than 20 miles away on the West End. We note that the East End also contains high-priced real estate as well.

The Hallstrom Group is a real estate consultant and valuation consultant group, and does not sell land or property as part of its services.

250. *Are you saying that mansions next to other less valued real estate, does not increase their value (of the no non-mansions. . . location location?*

**Response:** See our response to #244 above.

251. *Are you saying that eventually the whole island will not feel the effect of these lots, should this development proceed?*

**Response:** No, what the future holds is unpredictable. What is being said is that under the reasonably foreseeable conditions of this project, there will be no impact to property values.

252. *Are you saying that the easements created around the Lā'au Point isolates and distinguishes it from the rest of Molokai? Making it exclusive?*

**Response:** The strict CC&Rs attached to the project, comprehensive planning that went into the project, and the 50,000+ acres of donated and easement lands distinguish Lā'au Point from other projects on Molokai and the rest of Hawai'i.

253. *Who contacted you to make a comment on real estate tax impact on Molokai?*

**Response:** The Hallstrom Group was retained by MPL.

254. *Do you have any experience in tax assessment? previous to this task?*

**Response:** Yes, the Hallstrom Group has experience in tax assessment.

255. *Have you done these sorts of comment letters in the past? For whom and why were you asked of you?*

**Response:** As addressed in #246 above, The Hallstrom Group has conducted a number of real estate valuation and appraisal reports for clients in Hawai'i who have submitted EIS documents. A list of previous clients is not relevant for inclusion in the EIS.

256. *you state 'only Molokai residents will decide future expansion of existing communities' What exactly does that mean? 256.a. Doesn't the Molokai Planning commission plan and pass expansions of existing communities? 256.b. Or are you referring to drafting and planning an expansion of the community to be presented to the Planning commission? 256.c. Your words sound nice but don't really explain anything in detail, what is the detail? Does the CDC act like a developer of these lands it will receive? whose ownership etc. (as I have asked the legal language and corporation documents to better understand this role of the CDC) before but you never get specific.. 256.d. What is the relationship and interaction going to be of the CDC and the Molokai Planning commission?*

**Response:** The role of the Molokai Planning Commission includes: 1) advising the Mayor, County Council, and Planning Director in matters concerning planning programs; 2) Reviewing the general plan and revisions thereof prepared by the Planning Director or at the request of the County Council, and after public hearings transmits findings and recommendations to the County Council for consideration and action; 3) Reviewing other proposed land use ordinances and amendments prepared by the Planning Director or by the County Council, and after public hearings, transmits findings and recommendations to the County Council for consideration and action; 4) Acting as the authority in all matters relating to the Coastal Zone Management Law; and 5) Adopting rules pursuant to land use ordinances or law (source: Maui County Planning Department website).

Your questions regarding the role of the CDC were addressed in #2 above.

\*We note that you did not have comments numbered 257 to 266.

267. *After reading the discussion on the tremendous value of this project, What exactly is the percentage of the profits going to be shared with the community? and how will it be shared? Give specifics.*

**Response:** We have addressed this comment in Sections 2.1.7, 2.1.8, and 2.1.9 of the Draft EIS.

268. *Will the 100 acres around Kualapuu and Maunaloa be deeded over to an entity? What entity and when?*

**Response:** MPL will retain ownership of that land and work with the CDC to ensure that it is available for affordable homes.

269. *Nice verbage but: "Ohana Neighborhood communities" developed by various community resources like Habitat and self-help housing? by whom organized? how? what procedures, when? documents for authority etc.*

**Response:** CDC will organize the affordable housing and community expansion. As addressed in #2 above, questions as to the future plans of the CDC, outside the broad guidelines given for MPL lands and revenue from Lā'au Point as outlined in the EIS and in the Master Plan, are matters for that specific organization, not MPL.

270. *The "1100 acres will be gifted to CDC"? Has this been done? 270.a. When will it be done? 270.b. what portion specifically will be for community homes? 270.c. will this CDC be running fee simple houses or leased housing? 270.c.i. if leased, where is the mechanism for managing the leases? a sub-management company within the CDC or will it be run by MPL? 270.c.ii. without the corporation documents and initial filing of the corporation, is it really possible to see what is intention of the Ranch other than to keep their fingers in the pie? (see other questions relating to the relationship of the various entities discussed in this EIS.)*

**Response:** The CDC will receive the land donation in fee simple once the Lā'au Point project has been approved. MPL will have no interest in the land thereafter.

271. *You actually reference p. 69 Appendix A that 'Housing Projects may be development and managed by the Land Trust and/or MPL do you not? 271.a. Are you planning what the state is currently doing for homeless Hawaiians in Honolulu with housing projects? 271.b. You state that there is a need for affordable housing on Molokai. Do you anticipate your Lā'au Point development, should it be allowed to develop, will necessitate additional affordable housing for native Hawaiians on Molokai? 271.c. Do you anticipate this increased need for affordable housing for native Hawaiians to occur because you will be destroying their current method of living off the land and ocean as historically they have done?*

**Response:** The CDC will organize future affordable housing and expansion on the donated and reserved lands set forth in the Master Plan. MPL may assist with the actual development of housing; however, MPL will not be part of the actual decisionmaking regarding the future community expansions.

You do not specify a particular housing project in Honolulu; therefore, we cannot respond to your comment of whether we are planning "what the state is currently doing for homeless Hawaiians in Honolulu with housing projects."

The Draft EIS, Section 4.8.2 states: "There will be a continuing need in the future for more housing for Moloka'i families at affordable prices based on incomes." We anticipate that the Master Plan and project will be able to ensure the development of future affordable housing projects for any qualifying Moloka'i residents, not just native Hawaiians.

Subsistence activities in the Conservation District areas and other protected resource areas at Lā'au Point will continue to be maintained with this project.

272. What exactly do you mean by "balanced community"?

**Response:** As stated on page 69 of the Master Plan (Appendix A of the Draft EIS), a "balanced community" includes affordable housing along with other community-facilities to serve that specific community/neighborhood.

273. How much of the 'gifted lands' for the 'Ohana Neighborhood Communities' will MPL retain land ownership (of)? 273.a. What decisions are you speaking about that will be made by the community? Please be specific and give examples. 273.b. decisions made by the CDC whose board is primarily made up of the EC board which the community soundly rejected in the recent elections?

274. What specific value and land donations and income are you speaking about? 274.a. How much is the value of the land worth that you are donating? 274.b. what and how much are you donating fee simple? how much is leased? 274.c. what is the breakdown to account for \$10 million? 274.c.i. How much is cash? 274.c.ii. How much is land value? 274.c.iii. How much of land value will be written off on taxes?

**Response:** The Master Plan is very specific concerning which lands MPL will retain ownership of (the 100 acres each around Maunaloa and Kualapu'u) and which land is being donated for affordable homes (1,100 acres above Kaunakakai). Decisions on the use and extent of affordable homes will be made by the CDC. The remainder of your comments are addressed in Section 2.1.9 of the Draft EIS.

275. What do you mean the importance of development timing? Please explain that concept. 275.a. what is the reason you have referenced Appendix A p. 67. at this point?

**Response:** The "importance of development timing" refers to the time it takes to develop properties and the cash flow impact of that timing.

The exact reference from the Draft EIS (p.79) you refer to states: "Moreover, placing housing development in the hands of a community organization provides the opportunity for appropriate development timing, which is important in a slow-growing community like Moloka'i. As stated in the Plan: "The growth of Kaunakakai, Kualapu'u, and Maunaloa should be community-planned and should be allowed to happen naturally as community-driven demands require" (Appendix A, p. 67)." Therefore, "Appendix A, p. 67" cites where the quotation is referenced from.

276. Molokai is known as a place where the pace is slow, the land and style are rural, and Hawaiian culture and values form the foundation of all facets of island life, and how and why do you think this has happened? keeping development off our island? correct? 276.a. we have not one single traffic

light and have avoided the urbanization and mass development that has become evident on other islands, and how and why do you think this has happened? Keeping development off our island? correct? 276.b. Molokai is still governed by the old ways of life with relatively few land corporations, trusts, housing authorities, government boards, etc. ruining the island; and how do you think this has happened? keeping development off our island? correct? 276.c. Many residents continue to nourish their family in the same vein as the early maoli subsistence activities ( hunting, gathering, fishing and agriculture) which plays an important role to Molokai's culture (Hawaiian culture) and lifestyle; and how do you think this has happened? keeping development off our island? correct? 276.d. If you have any possible reasons to questions 276 - 276.d. with an answer other then keeping development off our island, what are they? state each and every reason you have? 276.d.i. If you have possible other reasons, rank them in importance and state the keeping development off island in your priority list.

**Response:** You assert that the current Moloka'i social environment is due to "keeping development off the island." We note that Moloka'i has been experiencing growth and development, as evidenced by population trend information presented in the Social Impact Assessment (SIA), which found that Moloka'i has experienced steady growth since the 1970s for an overall 43% increase by 2000. Significantly, East Maui's population grew by 82% between 1970 and 2000. The Moloka'i lifestyle and values continue to persist with the increase in population. In spite of the changes, those interviewed in the SIA (Section 4.2.2) described a long-standing "Moloka'i Style," which was founded on Hawaiian values, and included characteristics of being laid back, respectful, helpful and accepting social interactions, and a tradition of survival.

You also assert that the lack of roadway infrastructure and other factors of the urban environment is due to no development. Moloka'i has historically experienced growth and development, as discussed above. The State Department of Transportation and Maui County determine the level and timing of infrastructure improvements. While no traffic lights are proposed, various other public projects that are typical of growing communities are under consideration and are presented in Section 3.4 of the SIA.

We disagree with your conclusion that "Moloka'i is still governed by the old ways of life with relatively few land corporations, trusts, housing authorities, government boards, etc." due to "no development." First, numerous public agencies that serve the social and economic needs of Moloka'i residents have offices on Moloka'i, and public entities, such as the Department of Hawaiian Home Lands, the State Commission on Water Resource Management, and the Maui County Planning Department, are instrumental in directing the future of Moloka'i's resources. Second, the growth in Moloka'i's population and housing supply is evidence of development.

We agree that subsistence activities play an important role in Moloka'i's culture. This lifestyle is supported and supplemented by economic development and increased tax base resulting from an increase in population.

We disagree with your premise that the Moloka'i lifestyle has persisted because development has been kept off the island. Moloka'i is already changing and public and private resources have been supporting the continuation of the Moloka'i lifestyle.

277. Regarding appendix M discussed on page 72 of the EIS, what type of entity is Earthplan? and who owns it? 277.a who are the employees and what are all the qualifications of each? ex. (education, degrees, employment history, what have they published e.g. thesis, dissertations etc.) 277.b. list all the meetings you attended for this Appendix M giving names of attendees, places at which meetings were held. 277.c. Who specifically did the research for Appendix M? Who did what sections? periodical research? surveys, opinion surveys? what else? 277.d. what was the methodology for your report? List all research Earthplan did for this report. 277.d.i. what data and research did you collect or find and specifically exclude from your report? 277.b.ii. Were you given specified directions for your employment contract to do this report? If so, what were they? 277.b.iii. Did you have a specific written contract of employment for this report? if so, with what person or entity?

**Response:** We responded to your comment regarding Earthplan's qualifications in #230 above. The remainder of your comments were addressed directly in the Social Impact Assessment (SIA), provided as Appendix M of the Draft EIS.

Earthplan attended all of the meetings presented in Tables 9 through 13 of the SIA. Information meeting participants and locations are contained in sections containing the respective tables. In addition, Earthplan conducted all of the interviews contained in Table 14.

As discussed in Section 1.1, the social impact assessment was prepared by Earthplan, whose principal Berna Cabacungan managed the project and served as primary interviewer, researcher, analyst and writer. Independent contractor Michael P. Mays assisted in interviews and research related to community issues, public services and facilities and projects with similar characteristics. Nalani Dahl of Community Planning and Engineering assisted with interviews and research related to census information and major forces independent of the proposed action.

The social impact assessment included an analysis of the existing social environment and major forces for change independent of the proposed project. Community issues were identified, and potential social impacts were identified and analyzed. Detailed information on the methodology and research involved in preparing the study components are presented in detail throughout the SIA.

The SIA did not exclude any information that was relevant to the study components identified in the previous response.

278. Who were the individuals you spoke to obtain you data? who were not suggested to you by PBR HI or the Ranch? You stated 2 persons were recommended by those you interviewed. Who were they? 278.a. Molokai style is "malama aina and aloha aina isn't it? The ohana portion is typical of all Hawaiians isn't it and not necessarily unique to Molokai style is it? 278.a.i. Taking care of and loving the Aina is a foundation for molokai style isn't it? 278.a.ii. ohana is also a mark of Molokai style also isn't it? including the ancestors burned at Lā'au Point? 278. b. Other attributes you state of being Molokai style is being patient and accepting, knowing everyone and taking care of each other as ohana, correct? 278. c. sociologists recognize all these forgoing attributes you mention of Molokai lifestyle in one shape or another as being generally attributes of lifestyles in most small communities or isolated community styles where people have to depend on one another isn't that true? 278.d. The significant difference between Molokai and other small communities is the loving the aina and taking care of the aina isn't it?

**Response:** The information sources and references are footnoted throughout the SIA report and the bibliography lists printed references. The manner in which Earthplan conducted the interviews is described in Section 4.1.3 of the SIA.

The SIA did not state: "Two persons were recommended by those you interviewed" as you reference. Because your statement is inaccurate, we cannot respond to this question.

In Section 4.2.2 of the SIA, it is noted that the foundation of Moloka'i Style is Hawaiian culture and values. It does not state that the Hawaiian values are unique to Moloka'i. In Section 4.2.2 of the SIA, it is noted that mālama 'āina and aloha 'āina are part of the Moloka'i Style. Section 4.2.2 also describes the 'ohana aspects and other attributes of the Moloka'i Style.

The Hawaiian foundation of Moloka'i Style is not unique to Moloka'i. While these attributes are often found in small and isolated communities, they are not unique to these communities. Evidence of Hawaiian culture and values are found throughout Hawai'i.

Although Moloka'i residents may share the common bond of "loving the 'āina and taking care of the 'āina," we do not assert that the attributes embodied in Moloka'i Style are not found in other small communities as well. The values of aloha 'āina and mālama 'āina are Hawaiian and are found throughout Hawai'i.

279. Another distinctive, and probably unique, attribute of Molokai style is "Homelessness is virtually non-existent". Correct? If you disagree, state why and list all other communities that you know that have virtually no homeless, and state why you believe they have no homeless. 279.a. You state the reason is people look out for those in need, correct? This also comes under the category of ohana and looking to care for one another isn't it? 279.b. Not only are those "in need" looked after, but they can look after themselves, and in fact do through subsistence living as their ancestors did, don't they? 279.c. You stated people were "comfortable, if not dependent, on outdoor living and the island's natural resources to provide subsistence living, correct? 279. d. People trust each other on Molokai and barter don't they? This is part of their survival isn't it?

**Response:** We agree that homelessness is virtually non-existent on Moloka'i, as stated in Section 4.2.2 of the SIA. We note that your statements are direct quotes from Section 4.2.2 of the SIA.

280. Molokai style is being comfortable with yourself regardless of your economic situation isn't it? 280.a. This includes not being ashamed of being poor and if you are affluent being satisfied with a modest house isn't that correct? 280.b. How will it be possible for Lā'au Point homeowners to be satisfied with a modest home when they are allowed to build up to 26,000 square foot houses? 280.c. Or the alternative side of the discussion, should this development be approved, why do you think that the type of people with residences valued at millions at build out is not going to make a divide between the haves and the have nots on Molokai? 280.d. What are all the reasons you could possibly have to say that should this development be approved, it will not change Molokai life style, values, subsistence living? 280.e. what are all the reasons you could possibly have to say that should this development be approved, it is not going to make native Hawaiians homeless on this island? . . . the last Hawaiian island?

**Response:** Again, you provide statements that are direct quotes from Section 4.2.2 of the SIA.

You assume that Lā'au Point will contain 26,000-square foot homes. As addressed in #230 above, the CC&Rs restrict building size to a maximum 5,000 square feet.

In your comment, you also imply that affluent people with expensive homes do not currently live on Moloka'i. Lā'au Point will not be adding a new element of luxury housing on Moloka'i. This is already occurring in East Maui and other portions of Moloka'i. Interaction between people of different economic status is already occurring. There is already co-existence between people of different economic backgrounds on Moloka'i, and economic stratification is not evident.

There is no evidence that justify your assertion that this project will "make native Hawaiians homeless."

281. *Who was each and every Kupuna who noted they did not teach rudeness at public meetings. 281.a. who noted increasing antagonism associated with controversial matters? and were these controversial matters associated with the proposed Lā'au Point development? 281.b. Have these kupuna attended EC board of directors' meetings and observed the rudeness exhibited by EC board members to the public attending their meetings?*

**Response:** Those comments were made in interviews and, as discussed in Section 4.1.3 of the SIA, confidentiality of individual comments will be upheld. We do not know which non-project meetings were attended by those interviewed.

282. *Since all sociologists are required in their curriculum to take a certain amount of psychology classes, can you understand the frustration the people of this island have felt when they have not been heard at any of these Ranch meetings or EC meetings about not wanting the development at Lā'au Point? 282.a. wouldn't you say that the overwhelming landslide vote on this island against Lā'au Point development...almost 70% against and 30% for...would explain the anger and frustration acted out in rudeness at meetings? 282.b. wouldn't you also say that the loss of aloha and respect and friendliness on the island would return once again, if the Ranch withdrew it's plan to develop Lā'au Point?*

**Response:** People may feel they are not being heard, but their input has indeed been heard. Earthplan has heard the various opinions, concerns, and issues regarding the project. This input is in documents and is a matter of public record that will be reviewed by the community and public decision makers. The documentation of EC meetings is outside the scope of the SIA.

Comments regarding the EC Board vote were previously addressed in #172 above.

We note that the "rudeness at meetings" cited by those interviewed was not confined to meetings regarding Lā'au Point or the Master Plan. Those interviewed observed this type of behavior at public meetings in which controversial matters not related to Lā'au Point or the Master Plan were discussed as well.

283. *What are the logical steps in your research which lead you to find "that a significant impact on the social environment is embodiment of negative expectations related to Lā'au Point residents and the*

*public controversy"? 283.a. You precede this statement about Kapuna concern about disharmony and stress behavior don't you?*

**Response:** The statement you reference is contained in the SIA Section 5.4.4, and the steps that lead to this statement are presented in Section 5.4.3, and further discussed in 5.4.4. The SIA finds that this impact stems from the heated nature of the controversy surrounding the Lā'au Point and Master Plan. Neither the project nor the Master Plan is the base cause of this impact. Rather, project opponents have vocally perpetuated negative expectations about the new residents in their efforts against Lā'au Point. Many people accept these expectations as fact, and those who express different expectations, such as Lā'au Point being part of the solution and not the source of problems, are publicly and vocally attacked. Hence, the project has become the embodiment of negative expectations.

The statement you quote above is on page 79; the statement regarding kupuna's feelings is located on page 48 and only remotely precedes the former statement.

284. *But, aren't you speaking of social impacts right not prior to the development? 284.a The at least 70% population against Lā'au development (I say at least because approximately 50% of the island is illiterate; and therefore, don't vote) is against it now prior to development, wouldn't you expect this antagonism to grow should this development be approved or construction actually start?*

**Response:** The social impact related to perpetuating negative expectations and fears relate to the proposed project.

285. *Where is all the research in your report that has been done by other sociologists and probably psychologists showing the negative social impact on native Hawaiians after development occurs? What happens to their lifestyle? What happens to them? 285.a. Shouldn't the focus or your assessment be on future impact of the possible Lā'au Point development? 285.b. Isn't this a glaring omission of your research and preparation in your evaluation? 285.c. Did you omit these studies because they will illustrate how devastating this development would be to this island? 285.d. What are the social impact studies you found regarding native Hawaiians from developments? if you found non, so state. 285.e. If you did not look, so state and tell why? 285.f. Have you completed other 'assessments' on developments for BIL, Ranch, it's subsidiaries, owners, or any other entities or persons associated in any way with the Ranch? 285.g. what are all other assessments you have made for development in the Hawaiian islands? What islands and development did you previously report on for an EIS and where can your documents be found?*

**Response:** The SIA analyzed impacts to the social environment that collectively comprise many groups. Social impacts specifically related to Native Hawaiians are covered in the Cultural Impact Assessment (Appendix F of the Draft EIS).

While the entire Section 5.4 identifies future impacts of the proposed project, the impact related to negative expectations is real and already occurring. The SIA is a disclosure document that needs to identify all social impacts related to the project.

Your questions regarding Earthplan's project experience were previously addressed in #230 above.

286. *Aren't you speaking about the Molokai people's expectations and pre-conceptions about the homeowners on Lā'au Point who would be different?*

**Response:** As discussed in Section 1.2 of the SIA, one of the purposes of a SIA is to understand the ability of a community to adapt to changing conditions. In identifying social consequences of a proposed action, cause- and effect relationships are complex. Different people and different communities react differently to similar events. An important function of SIAs is therefore to obtain and analyze the necessary information about community organization and likely responses to changing conditions. As such, the non-project social scenario is as important as the with project scenario because it provides the analyst with a realistic social context for the proposed action. Understanding people's expectations regarding future change meets this SIA purpose.

287. *Shouldn't a social impact assessment concern itself with what will be the social impact on the island if in the future such a construction as Lā'au Point is allowed to be developed? why? why not?*

**Response:** While the entire Section 5.4 of the SIA identifies future impacts of the proposed project, the impact related to negative expectations is real and already occurring. The SIA is a disclosure document that needs to identify all social impacts related to the project.

288. *Shouldn't the social impact be emphasized on the future not now? 288.a. Aren't you observing the social impact of the Ranch designing an independent plan with the help of their partner, the EC Board which brought up neither Lā'au Point development nor the water issues on island until the last minute so to speak over the process they took to develop the plan?*

**Response:** The future social environment will be an extension of the current social environment. These environments are not distinct from each other. It is therefore important to analyze future possible scenarios based on existing conditions. This is not just a social impact approach. It is the fundamental approach of the entire environmental impact statement process.

We disagree with your statement that "neither Lā'au Point development nor the water issues" were brought up "until the last minute." On January 28 and 29, 2003, the Conservation Fund convened a meeting of all interested parties at Kulana 'Ōiwi. A process was agreed upon and Peter Nicholas outlined what MPL needed from that process to remain viable. At the time, during a discussion of the process, Peter Nicholas said that it was not much use discussing water or the Lā'au development unless the community agreed other major aspects of a Master Plan for the property. We note that this valid process was agreed upon by many of those people who now object to the process.

To reflect this information in the Final EIS, as well as to address other questions and concerns regarding the validity of the community-based planning process, Section 2.4 will be revised as shown on the attachment titled, "Revised Section 2.4 (Community Meetings and Involvement)."

289. *Generally speaking, as a sociologist, who has some psychological background and does research know research that would either directly show or indirectly show through extrapolation, that people with lots have money (particularly people with money to spend \$2million on a lot) would be materialistic with no 'poor friends'? 289.a. following question 289...have little appreciation for*

*subsistence living? 289.b. following question 289 and 289.a have little understanding of loving and caring for land?*

**Response:** The expectation that "people with lots of money . . . would be materialistic with no 'poor friend' "is a negative expectation that is unfounded. In fact, interaction between people of different economic status is already occurring on Moloka'i. For example, people of different economic groups have united in educational, environmental, and anti-development efforts. Economic stratification is not an issue when it comes to common causes.

290. *In your meetings on Molokai you heard, did you not, how the island had already changed and the people felt already impacted and alienated from their own land? Do you think that is because the new wealthy people on island cause these feelings in us of strangers in our own land?*

**Response:** Changes in Moloka'i discussed in the issues analysis are discussed in Section 4.2.2 of the SIA. Feelings about alienation from the land were not expressed. Rather, people felt that they continue to have strong ties to the 'āina.

291. *What do you mean by the Molokai style is still persistent? Be specific please. 291.a. Do you mean still no homeless here? 291.b. Do you mean aloha and malama the aina? 291.c. Do you mean bartering and caring for one another? Please tell me all the affluent people on island that barter with locals and care for them in any manner? Be specific. 291.d. Is the native Hawaiian population still a majority on our island? if so, is that a contributing factor in you answers to all 291 questions?*

**Response:** As discussed in Section 4.2.2 of the SIA, there was a common identity and definition of Molokai Style, which was based on a foundation of Hawaiian values. The attributes of Molokai Style include being laid back, a clear pattern of social interaction, a tradition of survival, and a clear self-identity. These attributes have persisted in spite of changes and community controversies.

The non-existence of homelessness was reported in the SIA. Aloha and mālama'āina are part of the foundation of Hawaiian values. Moloka'i Style includes bartering and caring for one another. Specific personal bartering transactions were not identified by anyone, regardless of economic status.

As discussed in Section 2.4.1, the Hawaiian population continues to be the largest ethnic group in 2000. In that Hawaiian culture and values form the foundation of Moloka'i Style, Hawaiian values are a contributing factor in all the responses in this question.

292. *What meetings was future growth and development discussed? Not at my meeting on social impact on island. 292.a. List all meetings and people attending and where the meetings were held that discussed future growth on a social impact meeting? 292.b. What are the details to support your statement 'there was a strong consensus that growth needs to be planned slow, and controlled'? 292.c. What is the synopsis of this consensus? specifically who spoke about this where did they speak, how many were there, how many expressed opinions? 292.d. what is the 'right type of growth'? 292.e. What do you mean by 'right type of growth'?*

**Response:** Future growth and development was discussed in all of the focus group sessions and in the interviews. Sections 4.1.2 and 4.1.3 of the SIA describe these meetings in detail. Regarding the July 26th meeting on social impacts that you attended, while the agenda was loosely followed, participants objected to discussing the items on the agenda. This was the choice of the participants, of whom you were one, and was the only meeting that did not cover this topic.

The statement "there was a strong consensus that growth needs to be planned slow, and controlled" was based on analysis of the aggregate findings from interviews and focus group sessions. Planned, slow and controlled growth is related to other factors outlined in Section 4.2.3 of the SIA.

Section 4.2.3 of the SIA reports the findings from interviews and focus group sessions. "Right type of growth" is defined by those who provided input.

*293. weren't the people's concern about Lā'au Point residences fitting in? or people living in these residences having values that conflict with Molokai style correct? or justified? 293.a. Don't you think there are people on Molokai who have met and experienced extremely affluent people and learned their values; and hence, have justification for these opinions?*

**Response:** As discussed in Section 4.4.4 of the SIA, people expressed strong concern about the impacts on the social environment, and these impacts were related to assumed cultural clashes based on economic differences. People did not identify specific instances of conflicts with "extremely wealthy" Molokai residents. However, they did discuss situations where people of different economic groups have united in educational, environmental, and anti-development efforts.

*294. Aren't the fences in front of and behind these residences to make the residences more exclusive?*

**Response:** The makai fences are to demarcate the Land Trust conservation district boundaries from the residential area. The mauka fences are to demarcate the residential area from the hunting areas, and to keep deer and livestock from entering the residential area.

*295. List all sociologic studies you have found or known about that suggest a native Hawaiian community such as Molokai were not affected by development of luxury homes and affluent residents?*

**Response:** The SIA analyzed impacts to the social environment that collectively comprise many groups. Social impacts specifically related to Native Hawaiians are covered in the Cultural Impact Assessment (Appendix F of the Draft EIS).

*296. What luxury homes say \$2 million and up that do NOT have tall fences, walls, gates etc. to protect their property?*

**Response:** A survey of luxury homes and how properties are delineated and protected with fences and other structures was outside the scope of the EIS. The CC&Rs addresses the issue of fences and walls. The "luxury homes" you refer to on other islands have no relevance to this

Lā'au project in that the buyers of the homes will know and sign agreement to conformity with the project CC&Rs, covenants that will be able to be enforced legally by the Land Trust who will be a party to the CC&Rs.

*297. As a sociologist, don't you agree, structures of the kind expected at Lā'au Point, would be offensive to Native Hawaiians. . . particularly on Molokai? 297.a. wouldn't a native Hawaiian much rather see the shoreline to their ocean natural rather than developed?*

**Response:** Feelings of exclusion depend on the social mores of the region. Some people accept fences and walls as typical residential lot structures. Others may not be accustomed to fences and walls and may feel offended and excluded. In any case, using a fence for demarcation was acceptable to the Land Trust, who reviewed and approved the CC&Rs and the shoreline access management plan.

*298. Are you aware of the Hawaiian law that allows the public access on Hawaiian shorelines 50 feet from the highwater mark? What would make you think any of the Lā'au Point shoreline was inaccessible? It has always been accessible by boat hasn't it?*

**Response:** We note that this is an incorrect assertion regarding the law. Regardless, the shoreline has always and will continue to be accessible to the public. Accessibility issues to Lā'au Point are addressed in Section 4.3 of the Draft EIS.

*299. Were any of the focus group meetings you attended open to the public? 299.a. what was the criteria used to be invited to a focus group meeting?*

**Response:** The social impact meeting that you attended on July 26 was open to the public. The focus group sessions were essentially focused interviews of certain groups of people. Section 4.1.2 of the SIA discusses the purpose of each focus group and describes the participants. The session coordinator invited those who fit the criteria.

*300. To mitigate the disparities in income between the Lā'au Point and population of the island you say "there needs to be social integration on a regional level. What is a regional level mean? Explicitly explain. 300.a. what do you mean social integration? Do you mean Molokai residents need to be integrated into social mores values etc. of a more general population? 300.b. wouldn't this dilute the Hawaiian culture? you suggest an integration? Maybe you haven't heard, Molokaian like themselves, are comfortable with themselves and want to not be assimilated into the mainstream. 300.c. Molokaian enjoy being like they are. Do you really believe that homeowners at Lā'au Point would actually want to understand and assimilate into Molokai culture anymore then Molokaian would want to assimilate into their culture? 300.d. You are placing enforcement abilities in CC&Rs, why? They are not capable of assisting you in any mitigating affects on he native Hawaiians circumstances for impact are they? 300.e. The directors of the Land Trust are very similar to those of the EC Board which was just handed a no confidence vote by the people of Molokai what makes you think that these same people would be able to enlist support for much of anything from 'the people'? 300.f. Don't you think it is degrading and insensitive to request native Hawaiians, who resent the thought of any Lā'au Point homeowners to 'share authentic Hawaiian culture? Don't you know that traditionally, native Hawaiians must trust a person prior to sharing much of anything of import from their culture? 300.g. Isn't it one thing to say the aim is that homeowners will have to support conservation, cultural site protection, and subsistence, and then quite another to ensure this*

*occurs? 300.g.i. Your dependency of CC&Rs enforcing much of anything in Hawaii is bogus isn't it? if you don't think so, cite case law which consistently upholds CC&Rs. 300.g.ii. wouldn't it be impossible to require purchasers of property to 'adhere to values consistent with the Molokai community? For one thing this language would be unenforceable due to vagueness wouldn't it? 300.h. Aren't you asking a little too much of mutual acceptance when the very center of the Hawaiian culture is a stake let alone many individuals' traditional subsistence survival? albeit it Molokai Style?*

**Response:** "Regional level" implies interaction of several communities. Moloka'i commonly refers to east end and west end; both are considered regions. In the case of Lā'au Point, integration needs to occur initially with West Moloka'i, which includes communities of Maunaloa, Kaluako'i and Pāpōhaku Ranch. This integration also needs to extend to other parts of Molokai as the new and existing residents interact in commercial, educational, business, religious and other social settings.

Social integration is a complex idea and can mean different things to different people. For some, it is an inclusionary goal, implying equal opportunities and rights for all human beings. In this case, becoming more integrated implies improving life chances. To others, however, increasing integration has a negative connotation, conjuring up the image of an unwanted imposition of uniformity. Your comment implies that social integration is having Moloka'i conform to the general population. In the SIA, the concept of social integration is based on inclusionary principles so that both new and existing have equal opportunities. Further, social integration is used as a concept to encourage people of different cultures and backgrounds to interact, appreciate differences, and contribute to common efforts.

Inclusionary social integration does not dilute the Hawaiian culture. In fact, the social integration movement of the 1960s and 1970s has helped to significantly expand knowledge and appreciation of Hawaiian culture in mainstream society. Moloka'i is known as the "last Hawaiian place," and support of Hawaiian culture and values is found in mainstream arenas, such as education, public policy and legal system.

It is expected that new homeowners would learn about the host culture of Moloka'i. Those who choose to buy a lot and build a house at Lā'au Point will likely be attracted to the beauty and mystique of the area. It is very likely that new buyers will be willing to learn how to protect the environmental resources and Moloka'i lifestyle and culture. The education program was addresses in # 182 above.

We agree that the new residents will need to earn the trust of existing residents. We also believe that appreciation of Moloka'i Style is not confined to the classroom environment. The new residents' appreciation of the Moloka'i lifestyle and values will grow as they witness Moloka'i Style in action.

Your comments regarding enforcement of CC&Rs were addressed in #6 above.

*301. Existing residents are respectful and appreciate other peoples' right to enjoy Lā'au Point; however, not live there. That is an appropriate Molokai Style stance isn't it?*

**Response:** While, typically, people did not visit Lā'au Point unless they received permission by the landowner or they trespassed illegally, they tended to respect people's legal right to enjoy the area. There did not seem to be strong support for trespassing.

*302. If the Ranch and it's owners truly understood and recognized and respected traditional native Hawaiian culture, it wouldn't want to develop Lā'au Point would it?*

**Response:** MPL has stated that it worked with the community, through the EC, on the Master Plan, and what resulted was a community-based plan, not a Ranch-based plan.

*303. Existing residents can visit Lā'au point shorelines anyday, whenever they want by boat; however, the Ranch only allows ranch employees and their families to hunt on MPL property. This is an alien concept to traditional native Hawaiian culture isn't it?*

**Response:** As discussed in Section 2.3.7 of the Draft EIS, approximately 40,000 acres of Ranch land, previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the Master Plan for Open Space/Protective Easements.

We are unclear to what you are specifically referring to as "alien concept to traditional native Hawaiian culture."

*304. What does "expectation management will be incorporated in the resource management program orientation so that shoreline visitors are comfortable with the new development." mean???? Elaborate and define just about every word so that someone can understand what you are saying?*

**Response:** Shoreline users will be provided information regarding resource management practices and requirements, as well as other aspects such as the visual environment. This information will form realistic expectations of their shoreline experience.

*305. Won't the set backs you provide augment the value of the residence by making it more exclusive then hiding the residence from the shoreline? Did you take into account the rising oceans from global warming in deciding your setbacks?*

**Response:** The setbacks were determined during the Master Plan process to provide an expanded Conservation District along the shoreline. Maximum setback required by Maui County is 150 feet; this project's setbacks exceed that. Figures 15 and 16 of the Draft EIS contain the tsunami inundation zone and flood zone maps, respectively. The residential areas will not be located within these hazardous zones.

*306. You have stated what Molokai style is on page 72. You stated 5 elements: foundation of Hawaiian values, laid back, social interaction, survival, self-identify. How does protecting 55,000 acres (which are otherwise unable to be developed by water limitations and cultural sites) in a Trust run*

*by ex. EC board members administering once again without listening embody Molokai style? 306.a. How does providing jobs embody the Molokai style? particularly when unemployment on the island is 3.2% and the national average is 4.6%? 306.b. How does establishing MPL as a housing project manager and owner embody Molokai style? 306.c. How does the plan assist or promote subsistence survival more than it hinders? with courses, rules and regulations for people allowed to be subsistence fishing and gathering hunting? 306.d. if there is a possibility the Plan will protect lands from further development, although the lack of water and current laws can protect them; how does the Plan embody Molokai style as defined by you on p. 72?*

**Response:** The protection of 50,000+ acres in perpetuity, as provided by the Master Plan, speaks to the very core of Moloka'i Style. It allows 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.

As addressed in #79 above, an explanation to the 3.2% unemployment rate on Moloka'i is due to the out-migration of Moloka'i residents to other islands or places for work. The increase of employment opportunities on Moloka'i will increase residents' ability to help each other, decrease their dependence on public assistance funds, and remain on the island so they can continue the Moloka'i lifestyle.

MPL will not be a "housing project manager." The CDC, the organization that will spearhead the building of affordable homes through partnerships with MPL and other organizations, will manage the expansion of affordable housing.

The shoreline access management plan, to be enforced by the Land Trust, assists in subsistence survival.

*307. Wouldn't a better way to ensure rural lifestyle be to not develop Lā'au Point at all and not change the zoning?*

**Response:** The best way to maintain a "rural lifestyle" is to ensure it is planned into the future growth plan of Moloka'i. As population increases, development to accommodate the increase is inevitable. The Master Plan provides a thoughtful and comprehensive blueprint for a sustainable future for Moloka'i.

Non-implementation of Lā'au Point does not ensure the rural lifestyle. If the project is not implemented and MPL seeks other alternatives, the future of its holdings, including Lā'au Point, is uncertain. The community would lose control of resources, and economic opportunities would decrease. There may be multiple landowners, which would make it difficult to develop a cohesive and comprehensive plan for West Moloka'i. The uncertain future of land uses and cultural and environmental resources, coupled with diminished hope for jobs, would cause social anxiety and tension and stress social and health services. Unemployment and out-migration rates would likely increase. Further, for those who would lose their job or business due to business

closures, financial pressures and family stress would result and they would need to find alternative means of support.

*308. Again, why tout CC&Rs as ensuring anything that you want, when they are unenforceable? It is a moot point isn't it*

**Response:** Comments regarding CC&R enforcement were addressed in #6 above.

*309. Does Molokai have a cyclical economy? If so, it is not very unusual is it? After all, most of the mountain states in the mainland have boom and bust cycles also don't they?*

**Response:** Moloka'i's economic situation was discussed in Section 4.8.4 of the Draft EIS. We would not agree that the state of Moloka'i's economy can be simply summed as "cyclical." Although the rise and fall of past large-scale agricultural operations appear to have come in "cycles" on Moloka'i, the EC's various projects and the creation of the Master Plan have provided a rather different vision for Moloka'i's economic future – a sustainable one.

*310. Jobs are not critical at this point in Molokai's economic cycle is it?*

**Response:** We believe that long-term stability of Moloka'i and its sustainability, which includes economic (which includes jobs) along with environmental and social stability, is always critical.

*311. The Kuluakoi resort was bought and then subsequently closed by the Ranch wasn't it?*

**Response:** The Kaluako'i Hotel was closed by the previous owner prior to MPL's purchase of the property.

*312. How many jobs were lost at Molokai's hospital? The hospital is currently making an addition isn't it? Will that provide additional jobs to the already good job market in Molokai?*

**Response:** Although additional improvements at the hospital would provide additional jobs, this discussion is outside the scope of this project and EIS.

*313. Molokai's unemployment rate has dropped once again to 3.2% now hasn't it? Although this is the highest in the state (3.2%), it is still substantially lower than the national average (4.6%) isn't it?*

**Response:** See our response to #79 above.

*314. It is not unusual for a community to have one primary employer is it? Government is a stable employer isn't it? and actually the primary employer for the entire state of New Mexico isn't it?*

**Response:** We neither agree nor disagree with your conclusion. See response to #79.

*315. You have recognized tourism and agriculture as two additional economic sources for the island. Tourism is actually increased on the island hasn't it? Why don't you give those current figures in your EIS? 315.a. Why have you used two year old data? There are more current figures than 2004 for purposes of discussing the economy of Molokai aren't there? what are they? All the 2004 figures*

*should be updated shouldn't they? Is it possible that the 2006 figures are approaching the additional 56,000 visitors needed to make Kualakoi Resort a breakeven operation? 315.b. we all want Kualakoi hotel to reopen, however, it no longer is essential to the island's tourism economy now is it? If you up date your data from 2004 to 2006, you would see the rising figures of tourism on Molokai are occurring in spite of Kaulakoi being closed.*

**Response:** Your comments regarding tourism were previously discussed in Section 4.8.4 of the Draft EIS. The data we use in the EIS is what is available at the time of analysis.

*316. Since agriculture is an important economic source for the island, why hasn't the Ranch developed their capability of increasing instead of decreasing their agriculture business potential?*

**Response:** MPL is still involved in agriculture with its cattle operations and has 500 head as well as breeding animals, making it probably the largest single cattle-ranching operations on the island. MPL has not developed further agricultural enterprises on its lands because of the scarcity of available water and the distance from markets, factors which make agricultural business extremely difficult economically for all those other than homesteaders and those agro-businesses who are able to purchase water from the MIS system at rates of 30 cents per thousand gallons. MIS water is not available for cattle ranching and other meat or wool-related businesses, but rather for the growing of crops such as corn and coffee.

*317. You state MPL employs 140 people, yet CEO Peter Nicholas at an OHA public hearing gave a lower figure for both the ranch and Kaulakoi. what is the correct current number of employees?*

**Response:** MPL's staff numbers fluctuate depending on occupancy at its tourism properties. Its tourism properties are of a seasonal and event-dependant nature. Currently, MPL employs 104 full-time employees and 30 part time and casual employees.

*318. MPL is a wholly owned company by BIL International a company worth approximately \$2 Billion according to their financial sheets listed on the EISPN submitted to the LUC April 27, 2006 isn't that correct? 318.a. In that EISPN, the Ranch claimed they were operating at a "cash deficit of \$3.7 million per annum" and that was the reason they needed the money from the sale of the 200 Lā'au Point lots to open Kaulakoi hotel. However, that same document page 04 Exhibit 3 BIL international stated: "The Molokai Properties operation managed to remain cash positive during 2004-2005". Isn't that correct? 318.a. what occurred in 2006 to make the cash flow return to a deficit? what was the change in numbers to make this occurrence? 318.b. what is the total amount of capital expenditures the Ranch has made over the last 5 years? 318.b.i. Are these capital improvements being amortized over years? 318.b.ii. How many? 318.b.iii. If they are not being amortized why not? 318.c. Isn't the hotel business able to show a cash flow as a negative balance, but in fact, the cash continues to fund the business and the assets increase in value, as capital expenditures are made, isn't that true?*

**Response:** MPL's parent, BIL International Limited, publishes its results to the Singapore Stock Exchange quarterly. Updated financials can be found on <www.bilgroup.com>. BIL's shareholder equity at March 31, 2007 was listed as \$1,040 million.

Between 2001 and 2007, the Economics Report (Appendix J of the Draft EIS) indicates that MPL's operating cash deficit was in excess of \$40 million. It has operated a cash operating

deficit every year in that period. MPL has managed to offset those operating losses with the sale of land to remain overall cash positive and fund future years' losses and much needed replacement capital. However, MPL is selling land just to keep ahead of operating losses.

Because BIL will no longer fund losses of MPL, MPL must resort to selling land to remain cash positive. In the event MPL is not able to remain cash positive, or it has no hope of a cash-positive future other than by selling land, the BIL directors have mandated management of BIL to sell the property piecemeal to the highest bidders to extract maximum value.

MPL accounts are prepared on a General Accounting Practices and Principles (GAPP) standard and MPL amortizes its assets.

MPL's Lodge and Beach Village operations have been cash negative since they opened in the late 1990s.

Further detailed economic information is either contained in the Economics Report (Appendix J of the Draft EIS) or not available as it is considered confidential.

*319. what, if any, real estate offers has the MPL it's subsidiaries, affiliates or owners received for sale of the 'Ranch on Molokai' over the last 4 or 5 years? If any, what was the price offered? 319.a. Did the Ranch counter offer? 319.b. Has there been any attempt to sell MPL? If not why not? since the financial condition is made to look so bleak?*

**Response:** MPL has received a number of offers for its property, or parts of its property, since the community-based planning process began in 2002/3. The details of those offers remain confidential to MPL and its directors.

*320. Has the Ranch continued to sell property and develop land they own in 2006? If so, what have been the closings completed in 2006? 320.a. What were the number and the amounts of closings through February 2007?*

**Response:** See our response to #318 above.

*321. Who told you there was "intensive input from the community" for the Lā'au Point plan development? Do you think that the community of Molokai supports the Lā'au Point development? If so why? 321.a. Did you know that there was a strong referendum January 31, 2007 against the Lā'au Point development here on island? Almost 70% of the island voted against Lā'au Point ousting two 'pro Lā'au Point development incumbents from office -- one an OHA Trustee even! 321.b. Does that sound like intensive community input for Lā'au Point development?*

**Response:** See our response to #172 above.

*322. Who owns Knowledge Based consulting Group? and who are the individuals who wrote this Appendix? 322.a. who ran the programs for the tables and supplied the data? and what is that person's background work and education and experience? 322.b. what is the business of KBCG? Has it or anyone else in the office had prior business dealings with BIL, MPL, PBR Hawaii, or any*

*of their affiliates, subsidiaries, or employees thereof? If so, what has it been? 322.c. Did you work under a contract to create these documents for the EIS?*

**Response:** See our response to #230 above.

*323. You said regarding economic history of the Ranch "It is not a pretty picture". How much compensation did your or your company and/or both receive for your work on the EIS?*

**Response:** Discussing compensation for consultation work is not relevant to the EIS.

*324. Why do you say the average residence will be 3,500 sq ft? What is your basis of saying that? 324.a. Isn't that small for 2 acre lot which costs up to \$2 million? 324.b. Another section of the EIS states that buildings can be up to 26,000 sq ft.? How is it that your estimate is so small?*

**Response:** The buildout assumption is that the average residence is 3,500 square feet, which is the average at Kohala Ranch on the Big Island, and therefore, as close a comparison in terms of a large lot development.

As addressed in #230 above, the maximum building size is 5,000 square feet; maximum buildable area is 30% of the lot or approximately 26,000 square feet.

*325. Capital expenditures, although a cost, are amortized over time and increase the property value don't they? 325.a. what was the \$800,000 capital expenditure on over five years? How much was taken as an expense each year? for 2006, 2005, 2004, 2003, 2002?*

**Response:** In some cases, capital does increase the value of a group of assets. However, where assets are merely replaced, which was the case in relation to most of the capital spent in this period, there is little increase in overall value of MPL's assets. As an example, in years capital is replaced, you may see an increase in assets value however as years past the asset value is amortized or depreciated before it again needs to be replaced. However if you look over a period of years, the assets value would remain about the same if spending were for replacements.

Refurbishment of the golf course, which cost \$350,000 over two years in 2003 and 2004, could be said to increase the asset value, however with its continuing losses, these value improvements would be irrelevant.

The capital you refer to was spent on the following:

- Replacement of vehicles and equipment to do property maintenance.
- Upgrading water infrastructure to meet health and regulatory requirements.
- Replacing worn out and obsolete equipment at the Lodge and Beach Village.
- As mentioned above, the refurbishment of the Kaluako'i Golf Course.

When MPL indicates its on-going operational losses are about \$3.5 million per annum, this is prior to any amortization or depreciation expense. Adding this expense would show its losses increase by approximately 3.7 million per annum.

*326. Is it MPL or BIL International that is subsidizing the operations? 326.a. If the Ranch is operating at a net loss, where is the money coming from to subsidize the operations? Please explain thoroughly. 327. MPL is in the business to sell land isn't it? It has platted and subdivided lots to sell doesn't it? It is part of their operations isn't it?*

**Response:** See our response to #318 above.

*328. The Ranch has been owned by BIL international or it's predecessors for over 19 years hasn't it? Has the Ranch ever showed a net cash flow? If so, what years, and what amounts?*

**Response:** MPL is unable to answer questions relating to the financial affairs of its predecessors. BIL first purchased an interest in Molokai Ranch in 1988. To the knowledge of current management, MPL has never shown positive cash flow from its operations.

*329. Has the Ranch ever operated in the black? Had a positive cash flow in it's history? History from the time the present owners purchased the Ranch has there been a positive cash flow? 329.a. If not, why did BIL purchase the Ranch?*

**Response:** See our responses to #328 and #318 above.

*330. I was unaware Molokai needs it's tourism revitalized? Was tourism down in 2006? What are the figures for tourism in 2006 and 2005 and 2004?*

**Response:** See our response to #315 above.

*331. Isn't the gifting of anything including land a tax write off?*

**Response:** It is highly unlikely MPL will be able to claim a tax deduction for the donations to the Land Trust and CDC. Regardless, MPL, with \$90 million of accumulated Net Operating Losses (NOL), is little concerned about potential tax deductions that could, but are highly unlikely to, result from these donations.

*332. Has all the tax information you have generated been passed on to politicians at any or all levels of government? 332.a. What are the political campaigns the Ranch MPL, BIL International any of their subsidiaries, affiliates, successors or assigns or directors etc thereof made over the past six years to politicians running at any level of government office for Hawaii? If so, what amounts? And to whom?*

**Response:** MPL, as a foreign-owned company, is unable under the law, to make political donations.

*333. What is your authority support that there would be an addition of 60 new on-going jobs upon full build-out?*

**Response:** See the Economics and Fiscal Impacts Report, provided as Appendix J of the Draft EIS. The addition of 60 new jobs is expected from new economic activity and new on-island spending by Lā'au Point residents.

334. Why didn't Morihara Lau & Fong LLP place their name on Appendix P?

**Response:** The report's author is provided in Section 9.0 of the Draft EIS (page 175).

335. Is the statement "MPL is currently working with the DHHL, the County of Maui DWS, and USGS to comprehensively evaluate Molokai's long-term water demands and resources." still true as of February 23, 2007? 335.a. Is this outdated information? If not, to what extent is MPL working? Give dates meeting places, discussions etc. anything to support your statement. 335.b. What are any future meetings etc being planned? 335.c. You state you will seek to use existing pipeline easements across DHHL's Ho'olehua lands for the transmission of Kākahāhale water. What meetings have you held with DHHL on this request? When have you met, have you requested meeting? Will you have any future meetings on this issue? why, why not?

**Response:** These meetings are still on-going.

336. Isn't it misleading to say "According to the Water Plan Analysis, MPL's plans are reasonable and realistic, and add 'from a regulatory standpoint'?" All the analysis can be is from a regulatory standpoint? Isn't that so? because you have disclaimed any validity or reliability in sustainability for water sources in your first page; and in addition, said there would be no opinions made on that basis correct? if not explain.

**Response:** We acknowledge your comment, but still believe the analyses presented to be reasonable and realistic. Regulatory agencies have the final decision regarding project impacts on the environment and how these impacts will be mitigated, according to each agency's mandate.

337. Why are you stating Lā'au point safe drinking water demand is projected at 96,000 gpd at full build-out... at "80% occupancy"? Other experts in the EIS are stating 30% occupancy? 336.a. when did you write this on page 80?

**Response:** The water system consultants are being appropriately conservative and prudent and a good steward of the island's water resources.

338. Given your figures on the Kākahāhale well (which is a source of water you do not currently have in hand) you have 660,000 GPD left with future demands yet to come from: 1. existing developed lots (How much will that take and how many future lots are you talking about?); 2. renovation of Kaluakoi Hotel how much is that? (do you mean simply the renovation or the Hotel operating in its capacity of 884,000 GPD?); 3. existing Ranch uses? (Is that the 191,000 GPD spoken of elsewhere in your report?) 338.a. After you give the above GPD needed for 1, 2, and 3 above, will they total less than 660,000 GPD? 338.b if not, where will the additional water come from? 338.c. wouldn't it be easier and simpler for all to comprehend and understand the water resources and needs, if you placed all needs and all future needs in a table along with all the sources of water from which you expect to fulfill those needs? 338.d. Don't you think any decision maker would appreciate clarity on the water issue?

**Response:** The responses to these comments have all been previously addressed in the Water Plan, which is provided as Chapter 6 of the Master Plan and Appendix P of the Draft EIS. We do not believe the water resources and uses could have been explained more clearly in a table form.

339. In your cost analysis, you give the cost in dollars/kgal, but no one has given the cost to actually construct and maintain a desalinization plant, cost of maintenance and amount of water to construct and maintain such a facility, what are those costs?

**Response:** We disagree; all current cost estimates were previously addressed in the Water Plan, which is provided as Chapter 6 of the Master Plan and Appendix P of the Draft EIS.

340. You state all lots will be metered? Does that mean you will dig trenches into the lots for pipes in order to place meters on each lot? How many cubic yards of earth will be needed to excavate in order to do this? 340.a. what is a fire flow? How large will the larger pipes be? How much additional trenches will be needed for this system? Where will it be placed and how many cubic yards of earth will be needed to excavate in order to do this?

**Response:** Trenches will have to be dug. Cubic yardage of excavated soil will depend on each lot design. This will not be quantifiable until after design issues have been determined in the preliminary design phase of the project.

341. The electrical, telephone and cable distribution systems will be underground and extended from Kaluakoi. How many cubic yards of earth will be needed to excavate in order to lay these utilities? and where? and what is the route from Kaluakoi?

**Response:** The cubic yards of each related to this project are unknown at this time. Routes will be consistent with the roadway routes and alignment of utility easements.

342. Who will improve the roads for a mitigating measure? At what cost and for how long?

**Response:** MPL will construct the roadways and later the roadways will be turned over to the homeowners association. A development timetable is provided in Section 2.5 of the Draft EIS.

343. Is the new fire station for Kaunakakai on the land originally designed in the Molokai Land Use Plan for the expansion of the community college? 343.a. If the Ranch sold this land designated for the community college to Maui county for the fire station, what land is the Ranch replacing it with in their Ranch Plan?

**Response:** No, the new fire station is not on the land designated in the Community Plan for expansion of the community college.

344. How do you intend to have a recreational facility at Kamāka'ipō Gulch when that is the sight of a critical habitat for a rare plant species--Marsilea Villosa? 344.a. You further state "the purpose of the park is to provide parking and foot access to the shoreline and the Archaeological Preserve for cultural, recreation, and subsistence activities? How will this purpose be able to protect this environment for a plant that grows only a very few places in the entire world?

**Response:** The Marsilea villosa habitat is only a small portion of the planned park. Protecting the Marsilea villosa habitat can be accomplished in a public access area with a few boardwalks and fences around the perimeter of the population that would prevent foot traffic and deer access. These improvements would discourage deer and cattle from trampling the site, which are

currently greater threats to the fern and remaining native plants. Interpretive signage would also be appropriate to avoid unintentional damage to the area by visitors.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding *Marsilea villosa*, Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

345. *Why do you call this appendix P an analysis? Give each and every reason.*

**Response:** Appendix P is an analysis of the Water Plan for the *Community-Based Master Land Use Plan for Molokai Ranch*.

346. *Wouldn't it be more aptly called a discussion?*

**Response:** We disagree. Appendix P contains both a discussion and analysis.

347. *Why do you call this a community-based plan? give each and every reason. 347.a. Who are the 1000 people in the community that attended meetings and developed the Plan? List each and every one.*

**Response:** The *Community-Based Master Land Use Plan for Molokai Ranch* (initially launched as EC Project #47: Community-Based Compatible Development) is the product of more than 150 community and special interest group meetings, the majority of whom were members of the community and were invited to take part in the planning process. We also addressed this comment in #63 above.

348. *What is each and every reason you call your appendix p an enterprise community/Moloka'i Ranch Master Land Use plan? 348.a. In your DEIS, you included both your Ranch Plan And the Molokai community Land Use Plan which supersedes your Ranch plan doesn't it? 348.b. why did you delete the Molokai Plan? 348.c. It would be important for any decision makers to be able to see the Community's Plan compared to your Ranch Plan, wouldn't it? 348.d. what are all the points of divergence between the Molokai Plan and the Ranch Plan? Presenting this information in table form would be most clear wouldn't it?*

**Response:** Section 5.2.2 of the Draft EIS discusses the project's conformance with the Moloka'i Community Plan. We have not "deleted" the Moloka'i Community Plan. This is a County plan outlining county policy, which can be downloaded directly from the County of Maui website. Points of comparison and convergence were thoroughly covered in Section 5.2.2 of the DEIS.

349. *Why do you call this appendix an analysis? Give each and every reason.*

**Response:** See our response to #345 above.

350. *Who wrote appendix P? What are the qualifications of the person writing this appendix P? 350.a. Give education, all past employment experience? associations with the Ranch, any of the Ranch Business entity Connections, BIL International, its subsidiaries and assigns, PBR Hawaii, etc.?*

**Response:** Yvonne Izu, an attorney with the law firm Morihara Lau & Fong, is the author of the Water Plan Analysis. She has extensive experience in the area of water law and water regulation and has been involved in many of the large water usage disputes before the State Commission on Water Resource Management. Ms. Izu has been recognized as one of the Best Lawyers in America in 2006 and 2007, and by Honolulu Magazine as one of the best water lawyers in Hawaii in 2007. Ms. Izu also served as Deputy Director of the State Commission on Water Resource Management.

351. *What was each and every document periodical, case law, law, regulation etc. reviewed by the author in preparation to write this analysis?*

**Response:** A bibliography is attached at the end of Appendix P in the Draft EIS. Further citations are included in the Endnotes of Appendix P.

352. *To write this appendix P what were each and every case, document, periodical, case law, law, regulation etc. reviewed by the author in preparation to write this analysis that was not used or referred to in the Appendix P??*

**Response:** The author of the Water Plan Analysis (Appendix P of the Draft EIS) has reviewed innumerable documents, periodicals, cases, etc., in acquiring expertise in the area of water law and water regulation. Research specific to the preparation of Water Plan Analysis is listed in the bibliography attached at the end of Appendix P. Further citations are included in the Endnotes to the Water Plan Analysis. No documents, etc., that were reviewed by the author specifically for preparation of the Water Plan Analysis was deliberately excluded from the bibliography.

353. *Did the author have any questions about pages 1-8 in this appendix P as you apparently put it together? Did it make sense to the author? 353.a. Did you think the water resources and uses could have been explained more clearly in a table form?*

**Response:** The entirety of the Water Plan Analysis was written by the author. Section II of the Water Plan Analysis, (II. Master Land Use Plan and Water Plan), was distilled from the author's reading of the Master Plan (Appendix A to the DEIS) and the MPL/EC Project #47 Water Plan (attached as Appendix A to the Water Plan Analysis in Appendix P). To the extent the author required clarification of anything in either of these documents, clarification was sought from MPL.

Sections III and IV of the Water Plan Analysis (III. Brief Description of Moloka'i Water Resources; IV. Moloka'i Water Systems) were distilled from a number of publications that are listed in the Bibliography at the end of Appendix P.

We do not believe the water resources and uses could have been explained more clearly in a table form.

354. *Is the author an expert on water in any other way? since the admission is made "not a hydrologist, geologist or engineer" and the law section is well written and developed.*

**Response:** Yes, the author is an expert; see our response to #350 above.

355. *Did PBR Hawaii, and or the Ranch, it's owners subsidiaries, or any other business entity have any hydrology reports or data generated on Molokai ground water at any time prior to the EIS? 355.a. Did PRB Hawaii, and/or the Ranch it's owners subsidiaries, or any other business entity have any preliminary hydrology report made?*

**Response:** MPL has data relating to its Waiola Well application, and data from the previous owners of Kaluako'i Resort concerning the Kāalahale Well abandonment. The Maui Department of Water was also consulted on these issues. All data concerning that abandoned well were disclosed in the Water Plan.

356. *The disclaimer is made that no reliability of water resource data is made and no sustainable yields estimates on the Molokai aquifer is made. Is that correct? If not, please state more exactly what the disclaimer is for this appendix P? 356.a. If you can't state the amount of resources available isn't that like building your case on a foundation of sand? where are the pillars on which any opinions or arguments can stand?*

**Response:** Your interpretation of the "disclaimer" is not correct. The author of the Water Plan Analysis is aware that there may be disagreements amongst hydrologists and others about water resource data, interpretations of such data, and the reliability of sustainable yield estimates for Molokai aquifers. The author is not voicing any opinions about these disagreements.

As indicated in the "Introduction and Purpose" section, the Water Plan Analysis is a regulatory analysis. For regulatory purposes, the author accepts decisions adopted by regulatory agencies. For example, the Water Commission has adopted a sustainable yield of 5 mgd for the Kualapu'u aquifer system. Some may think that number is too high; others may think it is too conservative. The author utilizes 5 mgd as the sustainable yield for the Kualapu'u aquifer in doing the analysis because that is what the Water Commission works with. Another example is the issue of whether Kualapu'u, Kamiloloa, and Kawela should be separate aquifer systems or one. For regulatory purposes, these are three separate aquifers and the Water Plan Analysis is based on that regulatory fact.

The Water Commission has made certain judgments about Moloka'i water resources. Although there may be disagreements about the wisdom of such judgments, they are accepted as valid until the Water Commission decides otherwise.

357. *What does this appendix purport to do then? If no opinions are expressed, and no reliability or resources or estimates of acquirer yields, can be made, what use is it to any decision makers? 357.a. what is the purpose of this appendix? 357.b. no analysis is made in this appendix right? 357.c. in a legal sense? 357.d. But we can't draw any conclusions for a legal water analysis can we? 357.e. you can't draw any conclusions either if there is no reliability of water resources or estimates of aquifer yields can you? 357.f. no opinion is expressed in this appendix right? 357.g. you state no opinion is expressed about economic feasibility either correct? 357.h. What do you exactly mean by economic feasibility?*

**Response:** As indicated in the "Introduction and Purpose" section, the Water Plan Analysis (Appendix P of the Draft EIS) is primarily a regulatory analysis. It analyzes whether the Water Plan proposed for the Master Plan is reasonable and realistic from a regulatory standpoint. In other words, it analyzes whether the Water Plan can be implemented given the state's regulatory framework.

The Water Plan Analysis does not include an economic feasibility analysis. In other words, there was no analysis of how much it would cost to implement the Water Plan and whether it would be feasible for a developer to incur such costs for such purposes.

358. *Is this appendix simply a copy of prior outdated old reports? 358.a. Do you agree the data is incomplete? 358.b. Do you agree the documents referenced need updating?*

**Response:** No, the appendix is not simply a copy of prior outdated old reports. The data are complete for the purpose of doing the Water Plan Analysis. The author of the Water Plan Analysis agrees that it is desirable to update studies and acquire new scientific and technical information about water resources. The documents reviewed by the author were sufficient for purposes of conducting a regulatory analysis.

359. *Are you aware there is a Molokai Land use plan?*

**Response:** We assume you are referring to the *Moloka'i Community Plan* and we acknowledge and refer to this document in Section 5.2.2 of the Draft EIS.

360. *Wouldn't it be more appropriate for you to specify that the Master Land use Plan to which you refer is the Ranch Plan?*

**Response:** No, the correct name is the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). These are not two separate documents.

361. *Where is Pālā'au Industrial Park with it's expansion using double its potable water consumption to 297,000 GPD? 361.a. Where will this potable water come from? Where exactly will the water be allocated from?*

**Response:** The Industrial Park is located adjacent to Monsanto's Molokai head office on the main Kaunakakai-Maunaloa Highway. The "expansion" of water use comes from a build out in future years of the existing industrial park. Previously allocated water for the industrial park currently is sourced from MPL's mountain system, and this would be the source of future water needs following any expansion.

362. *At the bottom of page 2 in this appendix, you state there are 3 MPL water systems. You have stated elsewhere in your report that MPL also bought Kukui Inc. another water system? which is correct in your EIS. Is it two or three?*

**Response:** MPL has three operating water systems; two of which are subject to Public Utilities Commission regulation; see Page 1 of the Water Plan contained as Chapter 6 in the Master Plan.

363. *When you speak of the permit for 1,018,000 GPD from well 17, don't you think it is misleading not to mention in the text that this is on appeal to the Hawaii Supreme Court? Instead of footnoting it?*

**Response:** No, we do not think it is misleading as a footnote.

364. *What are the answers to my questions on the water table I prepared for my question 324?*

**Response:** Question #324 does not refer to a water table, but on the average size of the residences and residence lots. Your question #338 suggests presenting a table dealing with water issues, but we do not believe that such a table would present the information any clearer than it has been presented in the appendix.

365. *Regarding the EC #47 water plan dated December 2004, Exactly what people were involved with that water plan? 365.a. who authored EC# 47 and who researched it? 365.b. Was the author(s) paid to do it? If so, by whom? 365.c. What are the names of each and every Board Member of the EC who voted for this EC#47 plan? What was the exact date the plan was adopted? 365.d. Did the EC fund EC#47? If so, how much?*

**Response:** MPL's Water Plan was initially prepared by MPL staff, and following discussion and analysis at various meetings, finalized and adopted by the Land Use Committee. Your other questions concerning the voting on EC Project #47 were previously answered in #68 above.

366. *On page three you state current demand is approximately 195,000 PGD. What is that demand for? Be specific.*

**Response:** The demand is for potable water.

367. *An example of the need for clarity in supply and demand comes from page 3 second to last paragraph: what water developed by the Mountain Water System is still remaining? 367.a. what 1,000,000 GPD of brackish water from Kālahale Well is available to you? How? What permit is that from? 367.b. Irrigation water for the golf course will be from treated wastewater? when will the treatment facility be operational? and how much water will it take to run the wastewater facility a second one I presume, it is not the one for the Lā'au lots is it? 367.c. or where will the other non-potable uses obtain water?*

**Response:** All water developed by Molokai Ranch's Mountain Water System is used. Whatever is not required for treatment for potable use on a day-to-day basis is utilized for agricultural irrigation.

MPL proposes to obtain 1 mgd of brackish water from the Kālahale Well, which was drilled in 1969 but never put into production. As noted on page 23 of the Water Plan Analysis, a water use permit from the State Commission on Water Resource Management would be required to put the Kālahale Well into production. No water is currently pumped from the Kālahale Well.

There will be a wastewater treatment facility and treated water use is directly correlative to the effluent produced. The primary source for non-potable water will be the Kālahale Well.

Alternative sources include treated wastewater, re-use of water from the Pālā'au Shrimp Farm, and desalinization of brackish or salt water from the West End.

368. *Regarding the EC#47 project, who was the secretary preparing the minutes of any meeting that may have adopted this EC project?*

**Response:** A number of different EC staff members prepared minutes of meetings over the planning process.

369. *What Board members voted to drop the EC #7 project which placed a moratorium on the transfer of water to the West end of the Island? When and who voted to delete EC# 7 from the list of projects on the original grant?*

**Response:** MPL is unaware of any decisions by the EC on any matter unrelated to the preparation and completion of the Master Plan.

370. *You have already disclaimed the accuracy of what you say are Molokai Water Resources so no one needs to even read the outdated authority of you aquifer tables...correct? 370.a. Isn't it only confusing the water situation with unreliable data? 370.b. The Federal government now says there is only one aquifer on Molokai doesn't it? 370.c. The USGS two dimensional model currently being utilized by Maui county uses one aquifer simulation doesn't it?*

**Response:** See response to #356 above as response to the first two parts of this question.

In response to the remainder of your comments regarding "one aquifer," as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "Molokai's 'Sole Source Aquifer' Designation."

371. *The studies you speak of on surface water are 17 years old aren't they? 371.a. You have already disclaimed their accuracy haven't you? 371.b. You haven't spoken to anyone who has recently hiked the east mountains have you? 371.c. You wouldn't be surprised to learn the streams don't run anymore would you? 371.d. or surprised to learn the vegetation is dying out because the streams are dry from the catchment system for Molokai Ranch Mountain Water System would you?*

**Response:** The Hawai'i Stream Assessment was published in 1990 by the Commission on Water Resources Management, which is responsible for report updates. For purposes of conducting a regulatory analysis of the Water Plan, the data contained in the Hawai'i Stream Assessment was sufficient.

372. *Your representations on page 6 are misleading when you speak about DHHL having a reservation of 2.905 MGD, and fail to mention that the Ranch stopped the 500,000 GPD permit DHHL requested by objecting to DHHL's own water withdrawal, aren't they?*

**Response:** When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1999, DHHL was a party in a contested case proceeding on Waiola o Moloka'i's

application for a new well and water use permit in the Kamiloloa aquifer. In the Waiola contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waiola well, which was more than 3 miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to the bottom of its wells, thus the additional pumping by Waiola would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells. Waiola/Molokai Ranch did not oppose DHHL's application, but sought to explore this blatant contradiction through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

That MPL will yield to DHHL's priority reservation is not an empty promise, but a requirement of law.

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)."

373. *Your discussion is a little misleading to anyone trying to understand your appendix when you discuss the Wai'ola's well permit granted by CWRM but failed to say the permit was overturned and remanded to CWRM by the Hawaii Supreme court because the Ranch could not prove the well permit would not impact on Hawaii Homes isn't it?*

**Response:** The Hawai'i supreme court remanded the Waiola water use permit case back to the Water Commission for further proceedings. MPL could ask that the proceedings be re-opened to give MPL the opportunity to address the issues the Supreme Court identified as requiring further evidence, namely, the impact on DHHL's reservation in the Kualapu'u aquifer and the impact on traditional and customary Native Hawaiian practices. On MPL's request, the Water Commission has not yet re-opened those proceedings.

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)." See the section of the attachment titled, "Waiola Well Issues Raised."

374. *You state that due to changes in land use plans, the Ranch has not tried to obtain the permit again, what are the exact change in plans are you referring to and which plan are you referring to?*

**Response:** The Master Plan was developed subsequent to the proceedings on the Waiola well permit.

375. *Isn't the water you are attempting to take and transport over 40 miles to Lā'au Point development for the same area as this original wai'ola well permit? 375.a. if not, state specifically how far it is from that well permit site? Give distances and directions and slope of the land. 375.b. How deep is the well?*

**Response:** The existing, but unused, Kākahale Well is approximately 1.5 miles downslope from the proposed Waiola well site. The Kākahale Well is approximately 2.31 miles away and down- and across-gradient from the existing DHHL and DWS wells in Kualapu'u.

376. *You state that "MPU under common ownership with Molokai Ranch" when actually elsewhere in the EIS it is stated MPL inherited ownership of MPU. Which is the truth? Explain.*

**Response:** MPL took ownership of Moloka'i Public Utilities when it purchased the Kaluako'i Resort in 2001.

377. *On page 8 you state "Although the existing system is denominated the "first phase," there are no near-term plans for expansion of the MIS." What is the difference between near-term plans and first phase? Explain in detail please.*

**Response:** In the 1950s, Congress appropriated funds for the planning, design, and construction of the "first phase" of the MIS. No subsequent "phases" have been added. The State Department of Agriculture, which owns and manages the MIS, does not currently have, and has not recently sought, any appropriation for expansion of the MIS.

378. *Molokai has been designated by the water commission (CWMA) as a special management area hasn't it?*

**Response:** The entire island of Moloka'i has been designated by the Water Commission as a "ground water management area."

379. *In order to obtain the permits you need, you must meet seven criteria: 379.a. you can be accommodated with the available water source, which is hard to do since no one really knows how much water is in the aquifer do they? 379.b. You must show reasonable-beneficial, which shows efficient utilization of the water, and this will be hard to do because you base your efficiency on CC&Rs which are unenforceable in this state aren't they? if you do not agree, give case law which says they are enforceable. 379.c. And you will need to show that the use is both reasonable and consistent with the state and county land use plans which will be next to impossible to show unless you obtain a zoning change from the State correct? 379.d. And because a Governor's Task Force designated the waters around Lā'au Point a protected subsistence fishing zone, you will need a law from the legislature which will protect this zone for subsistence, correct? Have you introduced a bill in this Legislature yet? 379.e. And the criteria of public interest, will be extremely difficult to show won't it, now that the two incumbent Enterprise Community (EC) board members for the Lā'au*

*Point development were on January 31, 2007 voted out of office by two anti Lā'au Development candidates by a substantial margin? 379.f. And you won't interfere with existing legal uses. This likewise will be difficult for you to show in that pumping from our one aquifer will effect most every well on Molokai won't it? 379.g. And the use is in the public interest is given another criteria...this time on it own, see my question 279.e. above. 379.h. And the water complies with the state and county general plans and land use designations. Clearly present land use designations are incompatible with any water to be obtained for a Lā'au Point Development isn't it? 379.i. And the use must comply with county land use plans and policies. clearly, the Maui county policy as stated in their Land use Plan is to NOT develop coastline property. Hence, the change of zoning for Lā'au Point is against Maui County planning policies isn't it? 379.j. and lastly you need to meet the Criteria of your use to not interfere with the rights of DHHL. This would be difficult for you to do wouldn't it? Since your Waiola well permit was overturned by the supreme Court because you could not show that your well wouldn't infringe on these DHHL rights.*

**Response:** To implement the Water Plan, MPL will have to obtain a water use permit for the Kākalahale Well, which is in the Kamiloloa aquifer. The sustainable yield for the Kamiloloa aquifer is 3 mgd. Current allocations total 0.211 mgd. Thus, there is water available to accommodate MPL's request to withdraw 1 mgd from the Kākalahale Well.

The water use permit for Well 17 will have to be modified to reflect different uses and locations of use than currently authorized. The amount of the allocation will not change.

The enforcement of the CC&Rs shall be pursued by the Board of Directors of the Association of Lot Owners of Lā'au Point (the "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 purpose of this EIS is to enable MPL to process land use changes necessary to implement the Master Plan's Lā'au Point project.

Special Legislation will not be required to establish the subsistence fishing zone. This was discussed in #55 above.

The election held on January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. This was discussed in #172 above.

It is highly unlikely that pumping 1 mgd from the Kākalahale Well will have any measurable impact on the existing DHHL and DWS wells in Kualapu'u for several reasons. 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.

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.

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)." See the section of the attachment titled, "Additional Information on the Kākalahale Well."

380. In reference to page 13, what are the guidelines for domestic use for amount of water GPD established by the county?

**Response:** The Maui County standard for domestic use for single-family residences is 600 gpd.

381. Clearly there is a public trust duty placed on the water Commission to protect a reservation of water for DHHL future needs, correct? 381.a. And clearly protecting such a reservation means not only subtracting the amount of the reservation from the sustainable yield of the aquifer, but also assuring that other water developments do not otherwise jeopardize DHHL's ability to access the reserved water in the future, Correct?

**Response:** You correctly state a holding made by the Hawai'i Supreme Court in the Waiola case.

382. You have made a disclaimer as to any knowledge of sustainable yield of the aquifer. Do you know of anyone who has that information? 382.a. Has the Ranch attempted to quantify the sustainable yield in the aquifer with any hydrolic studies? 382.b. Doesn't the Ranch need that information to obtain additional water when their last well was reversed by the supreme court because they failed to prove it would not infringe on DHHL water rights? 382.c. You will need the information for the Water Commission, have you started to have a hydrologist model the aquifer? Why not? if you did what were the results? 382.d. Is this appendix P written to allow everyone to assume you have done a water study? For demands and sources? 382.e. Do you agree that sustainable yield is valuable information necessary to have before any intelligent decisions can be made on Lā'au Point Development? 382.f. Isn't it like drawing from your bank account before you know how much you have?

**Response:** As addressed in #356 above, your interpretation of the "disclaimer" is not correct. The author of the Water Plan Analysis is aware that there may be disagreements amongst hydrologists and others about water resource data, interpretations of such data, and the reliability of sustainable yield estimates for Moloka'i aquifers. The author is not voicing any opinions about these disagreements.

As indicated in the "Introduction and Purpose" section, the Water Plan Analysis is a regulatory analysis. For regulatory purposes, the author accepts decisions adopted by regulatory agencies.

MPL has no dispute with the sustainable yields adopted by the State Commission on Water Resource Management.

MPL has not contracted for a hydrologic model specifically for purposes of implementing the Water Plan. Public data about Moloka'i's water resources, including, but not limited to, modeling studies conducted in the past, and current modeling being conducted by others, provide sufficient information at this stage.

As indicated in the Introduction and Purpose section, the Water Plan Analysis is primarily a regulatory analysis. It analyzes whether the Water Plan proposed for the Master Plan is reasonable and realistic from a regulatory standpoint. In other words, it analyzes whether the Water Plan can be implemented given the state's regulatory framework.

The Water Commission has adopted sustainable yields for each aquifer system in the state. For regulatory purposes, they are accepted as valid until amended by the Water Commission.

383. *Aren't you forcing the state Land use commission into a difficult decision? Asking them for a zoning change to develop Lā'au Point before you even know if the project is feasible? Isn't that a waste of everyone's time?*

**Response:** Planning for the Master Plan and the Lā'au Point project has spanned four years now (since 2003). The planning process has allowed input from citizens, community groups, regulatory agencies and other policymakers. It is this input which permits planners to modify projects so that they are indeed feasible. Data on a feasible project is then presented fully in an EIS, which allows regulatory agencies, such as the LUC, to make informed decisions, even difficult ones.

384. *Is there any case law which states all the criteria used to issue a water permit is to be held to a much more stringent standard if the permit is in a special management area? If so, what are the cites?*  
384.a *Is there any case law which states all the criteria used to approve a zoning change is to be held to a much more stringent standard if area requesting a change is in a special management area?*

**Response:** The area being requested for a change in zone is outside of the Special Management Area (see Figure 16 of the Draft EIS).

385. *You stated all decisions by the water commission are overlain by the public trust doctrine which the supreme Court has identified four uses to protect: 1) purity and flow, .. and preservation of the water...2) domestic uses..., 3) preserve Native Hawaiian and traditional and customary rights, and (4) reservations of water to DHHL.*

**Response:** Yes, you are correct.

386. *You agree don't you that the projected water needs in central and west Molokai exceed the estimated sustainable yield of the aquifer, don't you? If not, what authority do you have to back up your response?*

**Response:** You are referring to a statement from the Moloka'i Water Working Group's 1996 Report. Some clarification is warranted. 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 Molokai 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 to ground water sources for these uses. 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/Molokai 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.

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)." See the section of the attachment titled, "Water Working Group Task Force 2007."

387. *What are the detailed uses to back up your assertion that only existing sources at currently permitted amounts will be used? Be specific stating all uses and amounts and from where the water will come?*

**Response:** 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 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 Kākahale 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.

388. *Your conservation efforts are nice, but unless you have another way to enforce them other than the CC&Rs, they are unenforceable aren't they? what case law in Hawaii upholds enforcement of CC&Rs?*

**Response:** It is common law and Contract Law that any party to a legally binding agreement may litigate for specific performance if provisions of that agreement are not followed.

389. *Do you really believe a person who spends \$1-2 Million on a lot and \$4-6 million on a home is worried about paying \$100 or even \$1000 more a month for water if conservation inconveniences them?*

**Response:** Lā'au Point aims to attract people demonstrate the value of mālama'aina (caring for, protecting, and preserving the land and sea). This is discussed in Section 2.3 of the Draft EIS. In addition, homeowners will have to agree to the strict covenants attached, which include water conservation measures, when they purchase a lot at Lā'au Point.

390. *Your percentages of the ranch cutting back 45% is admirable, however what is the actual figure in GPD and you did not even give a percentage for the other uses., what is their percentage of decrease after your rate change?*

**Response:** A close reading of the document will show that all other users cut back their consumption 45% following the rate increase.

391. *Who wrote Appendix Q? Give name and employment history, all educational background, prior experience with wastewater treatment, years of experience, where?*

**Response:** Myron Nomura, principal environmental and sanitary engineer of Engineering Concepts, Inc., authored Appendix Q. Mr. Nomura is Principal Environmental and Sanitary Engineer for Engineering Concepts, Inc., a local civil engineering firm in Honolulu. He is in charge of the planning and design of sanitary/environmental engineering projects, including wastewater and sewerage systems; water source development, treatment, storage, and distribution systems; environmental permitting; and hazardous waste management. He previously administered the U.S. Navy's environmental programs for potable water, wastewater,

industrial and solid wastes, and oily wastes. As Utilities Manager, he was responsible for the daily operation, maintenance, and planning for the Pearl Harbor water and wastewater utility systems serving over 50,000 persons. His 34 years work experience envelops utility planning, design, permitting, construction, and operation. He is a certified wastewater and water treatment plant operator in the State of Hawai'i.

392. *What water treatment permits are required?*

**Response:** The wastewater treatment plant design, construction, and operation are subject to the following:

Technical Reviews, Approvals, and Permits by the Hawaii State Department of Health (SDOH):

- 1) Basis of Design Report
- 2) Engineering Report
- 3) Construction Plans
- 4) Approval to Construct Letter
- 5) Plant Operation and Maintenance (O&M) Manual
- 6) Approval to Operate Letter
- 7) O&M compliance inspections
- 8) Wastewater Management General Permit

393. *What is the construction timeline for building the recycled water treatment?*

**Response:** The treatment facility can be constructed in a 15 to 18 month timeframe. Section 4.9.3 of the Final EIS will be revised to include this information, as shown below:

**Construction Phasing** – The treatment plant will be constructed with an initial capacity of 60,000 gallons per day (gpd), and consist of dual parallel process trains of 30,000 gpd to afford operating redundancy. At some future time when the wastewater flow is forecast to increase as build-out of the project nears, another increment of up to two 30,000 gpd capacity modules will be added to the existing plant. Concomitant with this expansion will be provisions for additional drying beds and ancillary equipment. The treatment facility can be constructed in a 15 to 18 month timeframe.

394. *What irrigation water will be used for selected areas where? 394.a. erosion control where and how and when? certainly not during the construction periods?*

**Response:** The Water Plan (included in Appendix P of the Draft EIS) is specific in the water to be used for erosion control during construction, which is 50,000 to 150,000 gallons per day.

395. *Where would this be built?*

**Response:** The wastewater treatment plant, located in the center of the Lā'au Point community, is labeled as "WWTP" on Figure 1 in the Draft EIS.

396. *What sort of fence would be built to restrict public access?*

**Response:** A chain link fence of a height to keep out animals and human beings.

397. Do you intend to design the facility with anything additional to the Guidelines from the Department of Health? 397.a. if so, what, if not, why not?

**Response:** As stated in Section 4.9.3 of the Draft EIS, the plant design will conform to the design standards and parameters of Hawai'i Administrative Rules Title 11, Chapter 62, Wastewater Systems, for process reliability and redundancy.

Section 4.9.3 of the Final EIS will also be revised to include:

Pollution prevention (P2) plans will be incorporated in plant facilities design and standard operation and maintenance procedures aimed to minimize pollutant releases in stormwater runoff from plant activities.

398. You state you will need 60,000 GPD of water initially plus an additional 60,000 GPD at a later stage of build out and an additional 60,000 GPD of final build out. Where is this water going to come from? I did not see this 180,000 GPD in your tables on water use? Please explain why?

**Response:** MPL is specific in its Water Plan concerning this water. MPL will apply for the necessary permits for use of the Kākalahale Well.

399. Why do you state you are changing the 'current use' to average daily use over a one year period? When 'existing' use is in gallons per day? 399.a. Doesn't this equate apples to oranges? Doesn't this create confusion? If not, then can you use the same quantification when discussing water in the entire EIS? 399.b. You state allocation for Kaluako'i total 'then existing uses' is 848,000 GPD. Then you state that the Kaluako'i Hotel is currently closed and it's use is approximately 800,000 GPD! If the Hotel was allotted and used 848,000 GPD when it was open, why does it need 800,000 GPD currently when it is closed? 399.b.i where is the 800,000 GPD currently being used? and for what?

**Response:** We are unable to ascertain where your information is derived from and cannot find a link to the figures you have produced with figures supplied in the Water Plan usage table.

400. When you purchased the Kaluako'i Hotel and inherited from the previous owners the Consent Order. I presume to comply with the Federal clean Drinking water Standards, you knew about the non-compliance of water standards when you purchased the Hotel, Didn't you? 400.a. As a matter of fact, the order must have been a negotiable term in the purchase of the property otherwise you could come back on the seller under warranties in your purchasing agreement is that not true? 400.b. The Ranch's management made the choice to purchase new filtration equipment rather than using a dedicated pipeline from well 17 to comply with the order didn't it? 400.c. Making this choice, the Ranch then used the MIS System to transport the water which would then need to be treated again, correct?

**Response:** MPL was aware of the Safe Drinking Order when it purchased Kaluako'i and this event was factored into the purchase price. MPL does not have a dedicated line from Well 17 to transmit water from its property.

401. What upgrades were accomplished? by whom? and at what cost? and when (dates)?

**Response:** MPL installed filtration equipment at its treatment station at Pu'unana in 2005 in order to comply with a Health Department order. Financial details are confidential.

402. How specifically did the ranch 'inherit' drinking water systems from Maunaloa and Kualapuu? People didn't die and bequest the systems to the Ranch did they? 402.a. what other means or mechanism(s) was(were) used to acquire those systems?

**Response:** MPL inherited the water systems on its purchase of the property.

403. Prior to 1993 there were no drinking water standards imposed by court order on the Ranch were there? Even though the Clean Drinking water Act was passed some years prior and the standards were phased in over several years? Correct?

**Response:** MPL is unaware of the water laws applicable in the 1990s. These issues are not relevant for the purposes of this EIS.

404. How much do you pay for the 20,000 GPD purchased from DHHL for water to Kipu/Kalae? Total amount/20,000GPD?

**Response:** This is a commercial agreement between MPL and DHHL. This is not relevant for the purposes of this EIS.

405. How much do you pay for the 76,000 GPD for the bulk water purchase from well 17 for Kualapuu system?

**Response:** This is a commercial agreement between MPL and DHHL, and not relevant for the purposes of this EIS.

406. What does MRL stand for? Molokai Ranch Land? Is that another company or subsidiary under the Ranch?

**Response:** There is no reference to an "MRL." It may have been a typographical error and should have read "MPL."

407. Did Molokai properties Limited purchase Kiukui (Molokai) Inc. and MPU in December 2001? How much was paid and what was received for the amounts paid? 407.a. what are all the assets MPL acquired from MPU n December 2001. List and how much was paid for them?

**Response:** MPL purchased the assets of Kaluako'i as well as the Moloka'i Public Utilities company. Other information as to purchase price is commercially sensitive.

408. *What were the damages incurred when MPL changed the Detroit diesel engine with a caterpillar four-stroke diesel? How much water and for how long was shut down? From whom? 408.a Did you give any warning to those who lost water during your down time? If so how?*

**Response:** This event is not relevant to this project or EIS.

409. *Have you or your analysts done wear and tear studies on reservoirs and their system facilities on 100 million additional gallons of storage a day a year? if so give results, if not, why not when you are asking MIS to carry the weight and wear and tear on the system by 100 additional million gallons in their total system?*

**Response:** We have stated in our Water Plan and the EIS that we will not use the MIS to transmit the Kākahāhale Well water.

410. *You state you will abandon the Waiola well application. Is this the well application you won from the CWRM but was overturned on appeal by the state Supreme Court? 410.a. you have no rights to that well application as of February 23, 2007? Do you? 410.b. If not, what Waiola well application are you speaking about? A new one? 410. c. what covenants are you speaking about? From ever seeking further water permits? Please fully explain. 410.d. what is the leading state legal precedence supporting that this can be done in Hawaii? 410.e. How do they or will they hold up in court? 410.f. will they run with each and every parcel of land currently owned by MPL it's successors and assignees, subsidiaries affiliates etc. as of February 6, 2007?*

**Response:** MPL is referring to the Waiola application and the referral back to the Water Commission by the Supreme Court, not to an "over-turning by appeal" you refer to.

411. *You say on page 118 and 119 you don't need any more drinking water than is currently allocated. This allocated water is listed on page 119 as 1,018,000 GPD from well 17 and 500,000 GPD from the Mountain system for a total of 1,518,000 GPD. Is this 1,018,000 GPD from well 17 the same 1,018,000 GPD from well 17 listed on page 115 section 6.2? 411.a. Earlier on page 115 you stated that the Kaluako'i development's water source was well 17 in Kualapu'u under MPU. Is the Kukui Inc. now the holder of the permit on this well? 411.a.i. If so, isn't it the permit that is held up in the supreme court on appeal from the CWRM earlier decision again? 411.b. This is confusing and no one wants to count the same water two times. Perhaps you could explain it better by preparing a table with the heading of: GPD; where from, permit number, allocation amount in GPD etc.; where currently used; status of permit etc. (example: actually in hand, not being used; stored in 'x' reservoir etc.); and where to be used in the future. 411.c. This was stated as a "then existing use" and the current use of the MPU system with the Kaluakoi Hotel closed is approximately 800,000 GPD. I previously questioned where this 800,000 GPD goes currently. You need to subtract this 800,000 GPD from the 1,018,000 use from well 17 showing you currently have unused drinking water in the amount of 718,000 GPD (218,000 + 500,000) instead of the 1,518,000 (1,018,000 + 500,000) as stated at the top of page 119 don't you?*

**Response:** Yes, the 1,018,000 GPD from Well 17 on 119 is the same as that listed on page 115, Section 6.2.

As stated on page 115, MPL inherited the system from the previous owners of Kaluako'i. The water use permit for 1.018 mgd from Well 17 is on appeal to the Supreme Court. However, a

permit issued by the CWRM is valid, even though appealed, unless and until it is vacated or revoked by the Court or CWRM.

As stated in #348 and #353 above, we do not believe the water resources and uses could have been explained more clearly in a table form.

Page 119 does not state that the 1,018,000 GPD and 500,000 GPD is "unused drinking water."

In reference to other sections of your question, we are unable to link the numbers that you state with any water uses actual or proposed in the "Water Plan."

412. *You seek to obtain 1,000,000 GPD of non-potable water from the abandoned Kākahāhale brackish water well. Do you respect the Federal government and groundwater models which speak of a single groundwater aquifer under Molokai? 412.a. Do you disagree with these agencies? Which say in essence when one part of the aquifer is pumped, it affects all areas and all wells on the Island in some way? 412.b. Did your representatives not hear the presentation by the Maui county Water staff in the DHHL Conference room in the summer of 2006 on Molokai showing on a power point presentation when one well is pumped on Island, the effects throughout the Island shows on the water table and each well? 412.c. Did you not hear two wells have dramatically increased in their salinity levels on Molokai and this is a critical stage for water on Molokai? 412.d. Have you investigated the effects of rising ocean levels from global warming on Molokai wells?*

**Response:** We responded to your comment regarding the "Sole Source Aquifer program" in #370 above. Proposed projects with Federal financial assistance that have the potential to contaminate sole source aquifers are subject to EPA review by a ground water specialist. Examples of projects that might be subject to review include highways, wastewater treatment facilities, construction projects that involve storm water disposal, public water supply wells and transmission line, agricultural projects that involve the management of animal waste, and projects funded through Community Block Grants. Project reviews can result in:

- EPA requirements for design improvements, ground water monitoring programs, maintenance and educational activities that would not otherwise occur; or
- District technical assistance, by identifying specific activities that may lead to ground water contamination. In addition, technical assistance usually involves site-specific coordination of ground water protection activities among State and local environmental and public health protection agencies.

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)."

413. *What do you mean "by gradually moving current non-potable uses such as the golf course, irrigation of the hotel, condos and large lots to non-potable water"? Why are you moving non-potable uses to non-potable water? Is this a misprint? 413.a Then the very next sentence in the same paragraph of non-potable water, you switch (with figure 1,500,000 GPD which should be 718,000 GPD to potable water discussed above in 411.a-c. Please explain more clearly what you are talking about?*

**Response:** As provided in the Water Plan (Chapter 6 of the Master Plan and Appendix P of the Draft EIS), at Kaluako'i, where all irrigation uses such as homeowners irrigation, golf course irrigation, and irrigation for the hotel, which are currently using potable water, will in the future, with permitting of Kākahale, use non-potable water. This will take place over time. The Kaluako'i system is a dual system, allowing potable water to be separated from non-potable.

414. Then you state "Non-Potable needs can be supplied by a combination of use of MPL's existing mountain system (which you have already used half a page above under the potable water section as one of the two means of acquiring potable water...how many times are you going to count the same water towards your water needs?) and the unused Kākahale well". what specific amount of the unused well are you speaking about? 414.a. How much and what is the status of the Kākahale well permit? 414.b. Isn't it part of the total aquifer system? In pumping it won't all the other wells on Island be affected? How many will be affected out of how many?

**Response:** MPL has not double-counted its current water sources, nor the proposed Kākahale water source in the preparation of the future uses as outlined in the chart in the Water Plan.

The reference you make is to the current water use which is stated as 1,237,925 gals per day, compared to current source available per day of a total of 1,500,000 gals per day. MPL has not yet applied for Kākahale Well permit.

Moloka'i is not one aquifer, but many aquifer systems. We addressed this in #370 above.

It is highly unlikely that pumping 1 mgd from the Kākahale Well will have any measurable impact on the existing DHHL and DWS wells in Kualapu'u for several reasons. First, the Kākahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kākahale 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 Kākahale and DHHL/DWS well sites, namely Pu'u Kākahale and Pu'u Luahine, which are barriers to ground water flow.

The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

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)."

415. What remaining gallons are left on the Kākahale well? Don't you mean 1,000,000 GPD and not MGD? This well ceased being used. Why and by whom? and what date?

**Response:** This question is not clear. MPL is seeking 1,000,000 GPD or 1 MGD; these are the same amount.

The Kākahale Well was never developed for commercial production. It was sunk by MPL's predecessors at Kaluako'i as a fresh water source, but was abandoned when the water was found to be too brackish as a potable source.

416. Doesn't your statement "drawing water from the Kākahale well will have no impact on the yield of the Kualapu'u aquifer" fly in the face of statements made by Federal and State and county agencies and governments about Molokai having a sole source aquifer, the critical stage of this aquifer at this present time, about the county of Maui needing to drill more wells because two are currently turning salty? Yes or no? and why or why not?

**Response:** We responded to your comment regarding the "Sole Source Aquifer program" in #370 above.

417. You state previously 3 large land owners Molokai Ranch, Alpha USA and Kukui (Molokai), Inc. all were developing plans in need of massive amounts of water. You purchased Kukui (Molokai), Inc. didn't you? 417.a. As the owner of Kukui Inc. and making only two large land owners on Island now, what are your intentions of developing the lands of this new company? 417.b. what permits (water and other), tracts of land, buildings, etc. did you acquire in this purchase? 417.c. what are your plans for development with or for this company? 417.d. What entity actually owns Kukui Inc.? 417.e. What is the purpose clause in the Articles? Has it been amended since you purchased it? 417.f. who are the Board members, shareholders?

**Response:** MPL's future plans are documented in the *Community-Based Master Land Use Plan for Molokai Ranch*, which was provided as Appendix A in the Draft EIS.

418. What are your assurances that only 40% of the owners of your proposed Lā'au Point development will live year round on Molokai? 418.a. what studies do you have to support that figure other than the neighboring subdivision? 418.b. Why is the figure given elsewhere in the EIS 30%? 418.c. Have any studies been done to see the effects of terrorism on the world and where people choose to live? 418.d. What relevance is it that only 40% of the owners will live there full time? If the LUC approves your zoning request, the land will be subdivided, building will be done, reefs will be damaged, endangered species and fauna habitat will be irreparably altered (if not permanently eradicated), sacred Hawaiian places will be desecrated, won't they? 418.e. what relevance is it that the dwellings lag lot sales? The end result is the same isn't it?

**Response:** See Appendix J of the Draft EIS regarding your comments about how the resident statistics were determined. The EIS does not use a 40% statistic as you state above; it uses 30% (see Section 4.8.1, page 68 of the Draft EIS).

A study to "see the effects of terrorism on the world and where people choose to live" is not a relevant discussion for this EIS.

The relevance of the EIS stating the estimated percentage of full-time owners and estimated lot sales/dwelling construction timetable is because the EIS is a disclosure document. That information is related to the Lā'au Point project.

Dwellings lag lot sales because design, permitting and construction of dwellings take quite a bit longer than the purchase of raw land lots.

419. A glaring omission in your water plan is water for fire protection. What are the provisions for that?  
419.a. Did you have any studies done on that aspect? 419.b. Will you be placing fire hydrants in the subdivision? and sewers? Elsewhere in the EIS, it states a tank will be maintained for fire water. Which is correct statement? 419.b.i. Where and who will construct and maintain the water tank? 419.b.ii. will the exclusivity of the development be lost with a big water tank containing water for fires sit on the development? 419.c. where will this water come from? 419.d. What meetings did you have with Molokai Fire Department? When, Where, with whom? What was discussed? 419.e. What were the Fire Department's recommendations? Why aren't they included in this EIS?

**Response:** As stated section 4.10.3 (Fire Protection) of the Draft EIS: "A water storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection." MPL will construct this storage tank.

The Fire Department provided comments on the Draft EIS, which will appear in the Final EIS. The following information will be added to Section 4.10.3 in the Final EIS:

A water storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection. Fire hydrants will be installed along the road spaced at intervals between 450 to 500 feet.

To provide increased fire protection at Lā'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the Lā'au Point Covenants, Conditions, and Restrictions (CC&Rs) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for Lā'au Point.

Fire and rescue emergency services will be able to access Lā'au Point and the shoreline from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kaluako'i to access Lā'au Point.

420. Where will the water come from for the construction time" 150,000 GPD and the "erosion measures" 100,000 GPD?

**Response:** This information is contained in the Water Plan. Water will come from existing systems.

421. Where are the estimates for water consumption on the proposed parks?

**Response:** The Water Plan is specific in its allocation of 1,000 gallons per day for drinking water for the parks and 40,000 gallons per day for irrigation.

422. The tables are very helpful, however, another few columns would help even more. Why do you not place a column for where the water comes from so that we can see that the water allocations add up to all the water consumptions needed? A table presents the material more clearly don't you think?

**Response:** We acknowledge your comment, but adding more columns to the table is not necessary.

423. Under current water use you list various descriptions. What do you mean by current? certainly the kaluakoi Hotel is closed according to page 115 of your report.

**Response:** The closed hotel still requires water; the grounds are still watered and water is used to replenish the swimming pool that is jointly owned by the condo owners and MPL.

424. Because I believe tables clarify confusion, I have taken the liberty to compare your two tables of current water use one listed on page 115 and the other on page 121. [table not reproduced here] 424. you have stated that "you will not exceed the existing permits plus the 1,000,000 GPD of brackish water from the Kāalahale well." what are the total amount of existing permits and allocations of water that you hold in GPD units as of February 6, 2007?

**Response:** MPL's current permits are outlined in the Water Plan contained with the Master Plan; 1.018 million gallons per day from Well 17 and the Mountain system where we obtain an average of 500,000 gallons per day.

425. since this Island is a monitored water supply, (a special Water Management Area-- one of two or three in the state) everyone knows how important every gallon is; therefore, what exactly are the shifting of non-potable sources over time freeing up water for new uses. Please fully describe and illustrate quantitatively. 425.a. Has any modeling been done or any quantitative figures been worked up to demonstrate the accuracy of your statements? If not why not? 425.b. Given the future planning for DHHL lands and other building sites already approved and scarcity of water on this Island, wouldn't accuracy of figures about water be essential in planning any development? 425.c. what assurances are you willing to make about your water plan? Are you willing to indemnify all present and future water users for damages they may sustain on Island due to inadequate water supplies should Lā'au Point development be approved without sufficient knowledge of the Molokai aquifer and water resources?

**Response:** 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 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 Kāalahale 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.

By conducting a pump test before a permanent pump is installed, most of the risk of unacceptable impacts can be avoided.

In the long-term, if 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.

As provided for under Hawai'i law, and as MPL has consistently reiterated, DHHL's priority rights to water will be recognized.

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)."

426. *You noted a drop of 45% on Ranchlands, but you did not state and percentages in dropped...consumption. What are all the other drops in consumption by water users you supply since September 2003?*

**Response:** See our response to #390 above.

427. *you state you will only need upon total buildout of Lā'au Point 2,500,000 GPD. That may or may not be accurate, until you can explain the differences and omissions on the quantities you will need as shown in my table in question 324. A. The water sources may be in question also. The 1,000,000 GPD from well 17 may or may not be available to you as it is on appeal with the Supreme Court; you do have the 500,000 GPD from your Mountain system; however, the 1,000,000 GPD brackish water from the Kākalahale Well may or may not be available for you either due to the scarce water situation on Island. B. All this is complicated by the fact there is incomplete data about water supply and the Island is considered to have one water source (computer modeling of ground water on Island assumes one aquifer) so that pumping at one area will affect all other areas. C. As if we don't have enough difficult issues with our ground water, global warming will enter our ground water system equations and accelerate our difficulty with high salinity levels in our wells. 427.a Given all of the above, and the current critical stage of the Island right now determined by the County of Maui, don't you think you owe all decision makers to be honest and clear on all your water uses and sources?*

**Response:** We disagree with your conclusions. We have been transparent in our water plans and will continue to be.

428. *You state you will never ask for more water even for agriculture because you will use brackish water from Prawn Farm at Pala'au. All the previous problems brought up in previous questions apply here for drilling additional water from our same aquifer. That leaves your second alternative Desalination. 428.a. What is your desalination proposal? Do you have plans drawn up, a builder—contractor? begun the permitting system, where will it be located? 428.b. Don't you think you should wait until the technology improves and costs decline on a desalination plant before you bring your Ranch Plan at this point? 428.c. Exactly how much money will a desalination plant cost to produce 4,000,000GPD? 428.c without adequate water sources to develop, isn't that rather like putting the cart before the horse?*

**Response:** MPL has no current plans to desalinate water. Desalination is listed as an alternative. Obtaining brackish water from the Kākalahale well for non-potable uses is still our preferred option.

429. *What is your authority to say there is an estimated 33.5 million gallon sustainable yield of the island's aquifer? 429.a. In your Appendix P Water Plan Analysis, is not there a disclaimer of sustainable yield estimates as it relates to water resource reliability? (page 1). 429.b. So why do you even state a sustainable yield that you have disclaimed the accuracy of on your very first page?*

**Response:** The 33.5 mgd amount is not in reference to any sustainable yield, but to a "developable yield" of "sweet" (potable) water that the Molokai Water Working Group adopted in 1996 for planning purposes. The Molokai Water Working Group, in its April 1996 Report, made the following finding:

"C. While DLNR/DoWaLD Bulletin B16 (1966) estimated that the island's sustainable yield was 83 mgd, the 1993 Working Group agreed to work with a developable yield of 39 mgd for planning purposes (see Exhibit 1). In 1996, the Water Working Group has agreed to use an estimate of 41.5 mgd for planning purposes, which differs from the earlier figure as follows:

1. It includes 4.5 mgd already developed in the Waikolu System of the Northeast Sector;
  2. It reduces the original estimate of 7 mgd in the Kualapu'u Aquifer System to 5 mgd.
- It should be noted that, of the 41.5 mgd, at least 8 mgd is brackish, leaving only 33.5 mgd developable sweet water."

Again, your interpretation of the "disclaimer" is incorrect. The author of the Water Plan Analysis is aware that there may be disagreements amongst hydrologists and others about water resource data, interpretations of such data, and the reliability of sustainable yield estimates for Molokai aquifers. The author is not voicing any opinions about these disagreements.

As indicated in the "Introduction and Purpose" section, the Water Plan Analysis is a regulatory analysis. For regulatory purposes, the author accepts decisions adopted by regulatory agencies. For example, the Water Commission has adopted a sustainable yield of 5 mgd for the Kualapu'u aquifer system. Some may think that number is too high; others may think it is too conservative. The author utilizes 5 mgd as the sustainable yield for the Kualapu'u aquifer in doing the analysis because that is what the Water Commission works with. Another example is the issue of whether Kualapu'u, Kamiloloa, and Kawela should be separate aquifer systems or one. For regulatory purposes, these are three separate aquifers and the Water Plan Analysis is based on that regulatory fact.

430. *How can DHHL use every reasonable effort to develop its 2,905,000 GPD allocation when DHHL applied for a permit to use 500,000 GPD to lease 85 lots for Hawaiian homesteads, and the Ranch filed an objection to set it into a contested case and DHHL withdrew it's application? 430.a Should DHHL reapply, will the Ranch again object and force a contested case?*

**Response:** When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1996, DHHL was a party in a contested case proceeding on Waiola o Molokai's application for a new well and water use permit in the Kamiloloa aquifer. In the Waiola

contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waiola well, which was more than 3 miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to the bottom of its wells, thus the additional pumping by Waiola would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells. Waiola/Molokai Ranch did not oppose DHHL's application, but sought to explore this contradiction that through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

MPL has often reiterated its recognition of DHHL's priority rights to water, which is a priority established by law. MPL accepts and supports DHHL's 2.905 million gallon reservation in the Kualapu'u aquifer.

Currently, MPL is working cooperatively with DHHL and Maui County DWS 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)."

431. *Please explain what scenario will occur? We have a potential of 600 Homesteader lots available to lease, but it cannot because there is no water available for them.*

**Response:** Predicting scenarios that may or may not occur is beyond the scope of the EIS. We have previously addressed your comment about the lack of water available to homestead lots in #168 above.

432. *Don't you think the USGS work should be done first to determine water availability? 432.a. Then your economic feasibility of the project can be determined in your report couldn't it? 432.b. The you would know if you need a desalinization plant for sure wouldn't you? 432.c. wouldn't that be the logical order to proceed?*

433. *Do you believe any decision maker will want to make a decision on water without a clear understanding of the availability and amount of source? A clear understanding of the quantitative amount needed for a development?*

**Response:** State Water Commission is the regulatory body charged with issuing water permits. As addressed in #191 above, USGS recently undertook a two-dimensional modeling exercise of the Kualapu'u and adjacent aquifers for the Army Corps of Engineers. This study included modeling of the impact of the Kākahale Well on the DHHL wells. The results, which were outlined in a briefing to all interested parties in late June, indicate that the pumping of 1.0 mgd from the Kākahale Well would have a negligible effect on the DHHL wells and the Kualapu'u aquifer as a whole.

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)."

434. *Who wrote this Appendix? Give full name and address. What is that person's profession? 434.a. what are the qualifications of the author who is not a hydrologist, geologist or engineer? List degrees, publications, employment history, what date was this Analysis written? who was/is this author's employer at the time of writing this paper? 434.b. what are all the reading and documents (with dates) used to write this paper? Please list.*

**Response:** See our response to #350 above.

435. *The Mountain System has a storage capacity of 39,000,000 gallons to compensate for seasonal flow, what was the amount of water stored in that storage facility in July 2006 and in November 2006 at the two times of your report?*

**Response:** Your question regarding the "amount of water stored in that storage facility in July 2006 and in November 2006" does not relate to the project elements, environmental impacts, or their mitigation measures; therefore, its inclusion is not required in the EIS. MPL has adequate storage in the reservoir.

436. *The water use allocation of 1,018,000 GPD from well 17 for Kaluako'i water system is approximately 800,000 GPD with the Hotel totally closed, what is the 800,000 GPD currently used for? (for what purposes) Please be explicit in GPD?*

**Response:** See our response to #423 above.

437. *The storage capacity at PuuNana reservoir is 7,000,000. What was the stored amount of water in this reservoir in July 2006 and November 2006 at the two times of your report?*

**Response:** As stated in #435 above, your question regarding the "stored amount of water in this reservoir in July 2006 and November 2006" does not relate to the project elements, environmental impacts, or their mitigation measures; therefore, its inclusion is not required in the EIS. MPL has adequate storage in the reservoir.

438. *How much water is being used for irrigation in Maunaloa in GPD?*

**Response:** MPL does not have accurate figures for this since domestic users do not indicate to us how much water they use specifically for irrigation. However, during a recent breakdown of

Well 17, when MPL asked users to cutback on irrigation, we were able to save about 100,000 to 150,000 gallons per day.

439. *Where exactly will the project sewer system be located?*

**Response:** The location of the wastewater treatment plant is indicated on Figure 1 in the Draft EIS.

440. *The draft EIS claims that the planning process for the Lā'au Point development was a successful effort to unite the community behind the Plan. There is much opposition on the island to the Plan and to the Lā'au Point development. a. What is the evidence that the development was "a successful effort to unite the community?"*

**Response:** It is not unusual on Moloka'i to have opposition to almost every new initiative on the island. The EC process was open to everyone to participate and, other than the establishment of the EC, is unlike any other process ever conducted on the island.

The Master Plan was created by participating community members who volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au Point project and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the creation of the Master Plan document.

441. *Populations of the water plant Marsilea villosa are present in the proposed Lā'au Point development. Marsilea villosa is an Endangered Species and the US Fish and Wildlife Service cites development as the primary threat to its survival. a. What steps will be taken to prevent siltation and other degradation of Marsilea villosa habitat at Lā'au Point during the years of construction that will occur? b. How do plans for construction at Lā'au Point compare to other developments in its efforts to prevent extinction of the Marsilea villosa populations and other populations of Threatened and Endangered species at the Lā'au Point site? c. The draft EIS does not provide a specific plan for protection of Threatened and Endangered species at the Lā'au Point development site. What are the actual plans to protect the species? d. How will the species be monitored? e. Who will do the monitoring? f. If the species start to decline, what steps will be taken to remedy the situation? g. What methods are used to measure reproductive fitness of the endangered plant Marsilea villosa?*

**Response:** We responded to comments about Marsilea villosa in #91 and #344 above. We note that Marsilea villosa is the only federally listed endangered or threatened plant known from the Lā'au Point area. This population is currently monitored annually by Bill Garnett as part of his project permit for collecting, propagating, and outplanting endangered plants on Moloka'i.

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 environment. During construction, the contractor will be required to comply with State and County approved Best Management Practices.

Management action would depend on the cause of the Marsilea decline. There are collections from this population growing in three ex situ plant collections dedicated to endangered plant conservation – Waimea Arboretum, Maui Nui Botanical Gardens and the Kalaupapa Rare Plant Nursery. These plantings are "insurance" in case the Lā'au population needs to be restored. Annual surveys include notations of sexual and vegetative reproduction or regeneration.

442. *The Hawaiian Monk Seal is an endangered marine mammal and known to use Lā'au Point. a. How will disturbance of these animals be prevented during construction at the site? b. In what way are steps taken to prevent disturbance of the endangered Hawaiian Monk Seal consistent with the Marine Mammal Protection Act? c. Who will monitor fitness and survival of the monk seals that frequent the Lā'au Point area? d. How will monk seal survival be monitored? e. What is the plan if the monk seals stop visiting the island?*

**Response:** See our response to #97 above.

443. *The Green Sea Turtle is an Endangered Species and occurs commonly near the Lā'au Point site. a. How will erosion during construction negatively impact Green Sea turtles in the area? b. Who will monitor fitness and survival of the green sea turtles that frequent the Lā'au Point area? c. How will green sea turtle fitness and survival be monitored? d. What is the plan if the green sea turtle population begins to decline?*

**Response:** Green turtles may be found throughout the Hawaiian Islands but their main nesting beaches are in the Northwestern Hawaiian Islands (NWHI). The Hawai'i stock of green turtles has been increasing for some time, and some people, including the Western Pacific Regional Fishery Management Council, believe that the recovery of this species has progressed to the point that delisting should be considered. Given that most of the nesting of this species occurs in the NWHI, increased activity at Lā'au Point will have a negligible effect on the population course of this species.

444. *The barrier reef of Molokai is the largest barrier reef in the United States and one of the few in the world that continues to be healthy. Reef systems such as the barrier reef of Molokai are essential to fish populations in the surrounding area. Coastal development is well established as the primary cause of the reef degradation that is occurring around the world. a. How will erosion, siltation, and other pollution from the Lā'au Point development that would damage the nearby reef be prevented during the construction phase of the project? b. How will the reef be monitored during construction? What is the baseline data that will be used to assess health of the reef before and after construction?*

**Response:** The baseline marine biological survey indicates that the area is not particularly unique or sensitive. It is accustomed to episodic inundations of sediment-laden "red water" (see Section 3.8 and Appendix D of the Draft EIS). The proposed project and its mitigation measures will reduce the episodic sediment inundations to the reef. The essential conclusion to be reached is that any improvement of the drainage pattern to reduce runoff and sediment delivered to the ocean will improve long-term water quality.

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 the Land Trust, the organization that will have management responsibility and enforcement authority of the Lā'au Point shoreline and fishing zone.

445. *Of all aspects of the development plan, re-opening the existing hotel on west end of Molokai would have least environmental impact and provide the maximum number of jobs for the Molokai community. The draft EIS claims repeatedly that the Lā'au Point development must be completed before the hotel is re-opened. a. What makes development of Lā'au Point so essential to re-opening of the hotel?*

**Response:** As stated in Section 2.1.7 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.

446. *The draft EIS states that existing regulations regarding runoff and non-point source pollution will be followed at Lā'au Point. a. What evidence is there that these existing regulations will be adequate to protect the Threatened and Endangered plant species at the site and the adjacent marine environment?*

**Response:** See our response to #444 above.

447. *Use of water is based on outdated studies. a. What evidence is there that the Lā'au Point development will not consume ground water needed for future activities on Hawaiian Homelands? b. How will the Lā'au Point development cease its water usage if it is determined that water rights of the Hawaiian homelands are being infringed in the future?*

**Response:** As responded in #168 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.

In addition, we note that the Water Commission is the State-mandated authority that issues water permits and is bound by the laws governing water reserves for native Hawaiians and DHHL homesteaders.

448. *All discussion of water in the Lā'au Point draft EIS are based on a 1996 update of a 1993 water study on Molokai. It is now 2007. Water use on the island has increased since that time. Moreover, climate change is predicted to raise sea levels, salinizing coastal groundwater, and possibly perturbing rainfall patterns. a. How can the Lā'au Point development be legitimately based on an outdated study of water on the island? b. Why has a new water study not been completed before plans for the Lā'au Point development were made? c. Who will monitor water use and conditions for use?*

**Response:** As responded in #168 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. A Moloka'i Water Working Group has also recently been activated.

449. *Solid waste will be generated by the development. a. How much solid waste will be generated annually by the Lā'au Point development at full build-out? b. How much will it accelerate the filling of the Molokai landfill? c. What is the plan for handling solid waste from the development?*

**Response:** Section 4.9.4 of the Draft EIS addressed these solid waste comments.

450. *Electric Power use will increase. a. What will the electric power consumption of the Lā'au Point development be at full build-out? b. How will it impact the power generation and distribution infrastructure on Molokai? c. How much new power generation facilities or electrical substations be necessary to support the Lā'au point development?*

**Response:** To address your comment, Section 4.9.5 of the Final EIS will be revised to include the following:

At full build-out, if all 200 lots contain a residence, estimated electrical demand would range from 110,400 to 183,000 kilowatt-hours (kWh) monthly, depending on the residence's air conditioning usage (see Table 8 below). This estimate is based on the use of solar water heaters, as required by the CC&Rs.

Table 8. Electrical Demand		
200 Residences		
	Electric Demand per month (kWh)	Electric demand per year (kWh)
No a/c	110,400	1,324,200
With room a/c	139,800	1,676,400
With central a/c	183,000	2,194,200

Electrical, telephone, and cable distribution systems will be extended underground from Kaluako'i. Underground utilities will be as close to the road center as possible to avoid multiple impact corridors. At its eastern terminus, this underground distribution system will be connected to the existing overhead system servicing Hale O Lono Harbor to provide an alternative means of serving the project.

In their June 29, 2006 comment letter on the EISPN, Maui Electric Company (MECO) stated that the project's anticipated electrical load demand will have a substantial impact to MECO's system and an electrical line extension and other substantial upgrades may be necessary to accommodate the project. As project design progresses, as recommended by MECO, MPL's electrical consultant will submit electrical drawings and a time schedule to MECO so that electrical service can be provided on a timely basis.

Moloka'i has 12.0 Megawatts (MW) of firm generating capacity. Peak load for 2005 was 6.4 MW. The existing system has capacity to accommodate this project.

451. *The draft EIS claims that tax revenues from the Lā'au Point development will offset its burden on public infrastructure on Molokai. a. What tax revenues are predicted from the development? b. What fraction of existing tax revenues will they represent?*

**Response:** Section 4.8.4 and Appendix J of the Draft EIS previously addressed these tax comments. From inception through buildout, the Lā'au Point project should generate approximately \$40.6 million in tax revenues to Maui County. Public expenditures are estimated at \$10.6 million, leaving approximately \$30 million to be spent elsewhere in the community.

452. *In its proposed mitigation for negative impacts on local fishing, the draft EIS proposes a subsistence fishing (no commercial take) zone in the Lā'au Point area. This subsistence fishing zone must be cast into law by the Hawaii state legislature. a. How will the developer force the Hawaii state legislature to make these laws that are favorable to the Lā'au Point development? b. Since it is unlikely that a single developer can have total influence over the legislature, what backup plan does the developer have for protecting the fishing zone?*

**Response:** See our response to #55 above.

453. *Access to the beach will not be public. a. Will the private roads of the Lā'au Point development be marked "No Trespassing"?*

**Response:** There will not be "No Trespassing" signs on the road, but visitors will not be able to park on roads, thus ensuring that everyone accesses the expanded Conservation District areas by the access points at each end of the subdivision.

454. *The draft EIS claims that paved surfaces will be minimized so as to reduce pollution draining from the Lā'au Point development. a. What is the maximum paved area per lot that will be allowed at the Lā'au Point development? b. How will this maximum paved area be enforced during design and construction of the luxury homes at Lā'au Point? c. Who will monitor the construction to make sure the paving is controlled? d. What will be the punishment to the millionaire owners in case they decide to pave more than requested by the developer?*

455. *The draft EIS claims that the Lā'au Point development will continuously monitor storm and ocean water for a variety of pollutants. a. Who will supervise this monitoring? b. What monitoring equipment will be used and where will sensors be located? c. What steps will be taken if pollution is observed to occur? d. Will fines be imposed when homeowners or builders create pollution? e. What levels of pollution will be considered actionable?*

456. *The draft EIS describes the periodic "red water events" at Lā'au Point, in which red soil is washed into the ocean by heavy rainfall. a. How will exacerbation of these events be prevented during construction at Lā'au Point?*

**Response:** The CC&Rs will prohibit more than 30% of the lot from being developed. The Land Trust, as a party to the CC&Rs will be the ultimate enforcer of these provisions.

457. *The draft EIS claims that impacts of the Lā'au Point development on the environment culture, and county services on Molokai will be minimized by strict CC&Rs and that these will be unchangeable. Normally, such CC&Rs and all relevant procedures could be changed by a vote of the Lā'au Point Homeowner's Association. a. What is to prevent this from occurring? b. Will the CC&Rs be a binding legal agreement with the Molokai Land Trust? c. Who will monitor adherence of homeowners to the CC&Rs for Lā'au Point? d. What penalties will be imposed for violation of the CC&Rs? e. What entities will have the authority to change the CC&Rs?*

**Response:** See our response to #6 above.

458. *Homeowners are expected to be interested in maintaining the environment and culture of Molokai. a. How will such homeowners be selected? b. What governing body will interview for these types of homeowners? c. How will these homeowners specifically prove that they are of the right type? Will there be a test? d. What if a homeowner does not want to be environmentally conscious but is willing to pay \$4 million instead of \$2 million for the property?*

**Response:** As addressed in #389 above, Lā'au Point aims to attract people demonstrate the value of mālama'aina (caring for, protecting, and preserving the land and sea). This is discussed in Section 2.3 of the Draft EIS. In addition, homeowners will have to agree to the strict covenants attached when they purchase a lot at Lā'au Point.

459. *As noted by the EIS, the island of Molokai represents a unique setting in which Hawaiian culture is vibrant. a. How can the developer assure that an influx of 200-400 + multi-millionaires on this island of 5,000 people will not disrupt the cultural life and needs of the community? b. If the culture is disrupted what will the developer do about it? c. How will the developer know if the culture has been disrupted?*

**Response:** First, your estimates of Lā'au Point and island population are incorrect. The 2000 Census population count for Moloka'i is 7,257 persons. The project permanent population at build-out is estimated at 174 persons. Second, culture is not static and changes are part of the natural cultural process. Positive and negative cultural changes occur gradually. To ensure that desirable components of a culture are maintained and enhanced, the community needs to set goals and develop strategies that reflect desired outcomes. For example, the ten-year strategic plan prepared by the EC is based on a vision statement that embodies Hawaiian cultural values. Implementation of such a plan would help to ensure that culture is not disrupted.

460. *The developer proposes that requirements for beach access within the Lā'au Point development be waived in order to protect the beaches. The millionaire residents of Lā'au Point are the most likely to impact the beaches negatively since they have sole access to the beaches. Lack of the usual required access will simply protect them from enforcement of environmental regulations and provisions of the CC&Rs. a. How is it not better to have the usual beach access required by the county and then empower the proposed Land Trust Steward to enforce environmental regulations and the CC&Rs? b. Who will be enforcing environmental regulations? c. What is the punishment for lack of adherence to regulations? d. What exactly are the regulations? e. What will compel the millionaire owners to follow the regulations or care about them?*

**Response:** See our response to #205 above.

461. *The draft EIS calculates the negative impacts of the Lā'au Point Development based on an occupancy rate of 30% in the development. a. How will this low occupancy rate be enforced? b. Who will monitor the occupancy? c. How must the plan be modified to account for the fact that occupancy rates are likely to rise within 10 years?*

**Response:** The occupancy rates are a projection and it is not intended they be enforceable. There is no evidence that occupancy rates will rise over time.

462. *It is likely the development at Lā'au Point will raise property values and rents on the island. It will also likely promote other luxury developments elsewhere on the island. This will most certainly be*

*harmful to the permanent island inhabitants who will be negatively impacted by increased property and rental rates. a. How will this be avoided this situation? b. If there is no idea for how this will be avoided, then how is it that the developer can claim the development will not impact the livelihood and culture of Molokai?*

**Response:** As stated in #248 above, Appendix L and Section 4.8.2 of the Draft EIS addressed these property tax comments. The Hallstrom Group, Inc., examined potential increases to real property tax on existing properties in the areas of Maunaloa, Kualapu'u, Kaunakakai, and beyond as a result of the Lā'au Point project.

According to the Hallstrom Group (2006), assessments of existing non-adjacent properties that are (and thus not competing in the same market or market area), and/or that have different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. Of particular note has been the historic lack of "cause and effect" between changes in market prices in Kaluako'i and assessed values elsewhere on the island.

The Lā'au Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself. Secondary impacts, if any, might only be potentially possible among the makai portions of the Kaluako'i lots; however, even this inventory already has an established data set of its own comparable market activity. In addition, the 55,000+ acres of protective lands of the Land Trust and easements will isolate and distinguish Lā'au Point from the rest of Moloka'i. Changes in assessments are the result of comparable market transactions, fueled by new economic activity or a scarce amenity; Lā'au Point is not comparable to the existing real estate.

Only to the extent there is new worker in-migration to the island to support or sustain the development and its residents, could there be some modest indirect impact on selected real estate activity and prices. Offsetting this is the moratorium on further MPL land development as a result of the Land Trust and easements, which will reinforce the status quo and limit further development.

463. *In a Federal rule published on April 5, 2002, Lā'au Point was designated as potential Critical Habitat for the Hawaiian clover, Marsilea vilosa...Questions related to this issue of redesignation of Federal Critical Habitat are: a. It has been four years since the omission. When will the investigation be reopened? b. Why was the designation inadvertently left off the review? c. Who was in charge of the original review and who is now in charge of reactivating the review? d. What has the follow-up been, since US Fish and Wildlife stated they planned to reconsider at a later time? e. It is clear that all development will need to stop until the Federal decision is made. How can the developer continue with this process if the designation of critical habitat has not yet been finalized? f. What group is overseeing that federal laws are being followed with respect to the designation of Critical Habitat of M. vilosa?*

**Response:** See our response to #91 above regarding Marsilea vilosa. For more information, you can contact the Hawai'i Rare Plant Recovery Coordinator at the USFWS directly.

464. *You did not state there were any runoff catchment plans on the project site. Are there any plans for this now?*

**Response:** See response to #53 above. Additional runoff generated by the project must be kept within the project limits in accordance with Maui County Storm Drainage Standards. The contractor will be required to comply with State and County approved Best Management Practices for the duration of the construction period.

465. *How much water in GPD is expected to be acquired from the sewer system for common area landscape? Where will the storage reservoir be and what is the holding capacity for this water?*

**Response:** As much as 100 gallons per day per person served by the treatment plant can be reclaimed for landscape irrigation. This roughly represents 70% of the water used by each resident for everyday activities, which is a substantial saving in reclaiming used water and avoiding the use of tap water for grounds irrigation.

A storage tank of 250,000 gallons will be situated above the plant site at ground elevation 175 feet.

466. *What is the GPD of water available from surplus mountain system for fire protection and irrigation? 466.a. fire protection for what? 466.b. what irrigation area will be serviced by this water?*

**Response:** MPL will ensure it makes water available for fire protection.

467. *What if the brackish water from Kahalehale well is unobtainable? What is the back-up plan for water? 467.a. what exactly will be irrigated with brackish water?*

**Response:** The Water Plan (Chapter 6 of the Master Plan and Appendix P of the Draft EIS) discusses other water source alternatives.

468. *How large will the storage tank or reservoir be that will hold the storage requirements for fire protection?*

**Response:** The size of the storage tank has yet to be determined. It will be adequate for fire protection.

467. *When was it decided to place fire hydrants at 450 to 500 feet intervals along the road. will they be standard hydrants? How big will the pipes be in the road?*

**Response:** We note that you have two #467. Standard fire hydrants, approved for use in domestic circumstances, will be provided.

468. *What are alignments under considerations to bring non-potable water from Kahalehale well? what size are the pipes expected to be? what alternative source of water is being considered should the Kahalehale well be unavailable? 468.a. At this time, what have been all the 'alignments' considered?*

**Response:** We note that you have two #468. This information is not currently available, but will be disclosed at any future Water Commission application hearing relating to the Kākahalahale Well.

469. *At full build out non-potable water demand will be 300,000GPD. From where will this source come? 469.a. specifically, what is each demand for this 300,000 GPD? Please list in table form.*

**Response:** Water sources have been fully discussed in the Water Plan (included in Appendix P of the Draft EIS).

470. *At full build out potable water demand will be 96,000 GPD. To what exactly does the build out refer to: the 200 residences? 470.a. This calculation was made on 80% occupancy of the 200 residences. correct? You are assuming 600 GPD per residence is that correct? What is the additional 14000 GPD for? 470.b. This projection appears low doesn't it? Isn't it usually 1000 GPD per residence? 470.c. This projection is made exclusive of irrigation on two acres per residence isn't it? What is your expectation of irrigation per residence?*

**Response:** Under the Water Plan, MPL will have approximately 1.5 mgd of potable water: 1.018 mgd from Well 17 plus 500,000 gpd from the Mountain water system. Total anticipated long-term potable water needs amounts to 1,089,520 gpd. This includes 96,000 gpd for the Lā'au Point lots, which is based on 600 gpd for 200 lots at 80% occupancy (See Page 9 of Water Plan).

If we were to increase the Lā'au Point allocation to 100%, the amount would be 120,000 gpd, an increase of 24,000 gpd. That will raise the total long-term potable water needs to 1,113,520 gpd, which can still be accommodated with the 1.5 mgd available.

The estimated use of 600 gpd for each Lā'au Point residence relates to potable water use only. This is the Maui County Department of Water Supply Water Demand Standard per residential unit.

Additional non-potable water is anticipated for irrigation uses. The Water Plan is specific on irrigation water for the 200 lots – 1,500 gpd for each lot, which is extremely generous based on projected occupancy.

471. *Regarding potable water, does the new system extended from Kaluakoi to the project have a separate reservoir? If so, how large? 471.a. will the water be a portion of the allotment for Kaluakoi hotel? what is the projected amount? 471.a. If this takes the remainder of the Kaluakoi water, what water will be left to open the Kaluakoi Hotel?*

**Response:** These comments were adequately addressed in the Water Plan.

472. *Because of your engineering background, you will probably be able, where others have failed, to make a table of all the sources of water demands of water for the Ranch in order to clarify the water situation. What are the sources and demands for water by MPL?*

**Response:** A table was provided in the Water Plan which adequately indicates all the sources and uses of water under the Master Plan and particularly for the Lā'au project.

473. *In your revised report, was the project average occupancy of 30% added from the July 2006 report? 473.a. If not, what did you change for the November 2006 report from the July 2006 report? 473.b. what and why did you change/update your report? 473.c. Were you given new information? If do what?*

**Response:** The report states an average occupancy of 30% (see page 5 of Appendix N).

474. *If the anticipated occupancy rate for the project is 30%, will the amount of wastewater generated from that amount of people be sufficient to recapture and use as waste water? Is that the intention of the Ranch?*

**Response:** Any amount of wastewater treated at the facility can be reclaimed and beneficially applied in water conservation, regardless of the occupancy rate of the residents. As mentioned above, as much as 100 gallons per person (no matter the occupancy rate) can be recycled for non-potable uses.

475. *4.3 appears to be a newer section with more information to catch runoff. Is it newer plans for runoff? 475.a. the development, if allowed to move forward, will create 123 cfs additional runoff from pre development grounds correct? 475.b. How much additional underground space will be needed to accommodate subsurface storage and filtration systems required by Maui county's Storm Drainage standards? 475.c. How many cubic yards of earth will be needed to be excavated by the additional storage and filtration systems' installation? 475.d. How many cubic yards of earth will be needed to be excavated in order to accommodate the culverts and drainage systems for the roads? 475.e. Are you aware your appendix on drainage does not speak of catchment, but only speaks of fire hydrants and underground pipes? why, why not?*

**Response:** In response to your comments regarding runoff and drainage, our project engineer has conducted preliminary studies and in the Final EIS. To reflect your comments in the Final EIS, as well as to address other questions and concerns regarding 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)."

476. *Maui County General Plan endorses the following themes: Protect the county's Agriculture identity, Protect the county's shoreline and even has a general underlying policy of not developing shorelines at all doesn't it?*

**Response:** We acknowledge this is your interpretation of the Maui County General Plan. Section 5.2.1 of the Draft EIS included discussion of the project's relationship with the General Plan.

477. *Maui County supports efforts by the Molokai community to evaluate the feasibility of Molokai becoming its own county, doesn't it? Do you have any idea why? 477.a. This is a unique island is it not? Not like any other Hawaiian island let alone any other island.*

**Response:** This would be County regulatory issue and not relevant to this project or EIS.

478. You listed me as a participant in your public meeting. I did not speak except to ask you two questions, because this was my first meeting on the plan. You would have, therefore, assumed you did not know my opinion, correct? 478.a. Who was told that they could submit written statements? Who informed participants of that option? 478.b. You should know by now shouldn't you that the community is solidly against the Plan which includes Lā'au Point development and no amount of propagandizing the Plan will change their minds when almost 70% of the island voted for two EC board positions that ran on the platform against Lā'au Point development trouncing the two pro Lā'au Point development proponents? 478.c. You spoke of "those who are not strongly aligned with either side, and it is likely a large part of the community, the prominent issue is the Lā'au Point Project". Wouldn't you say that having nearly 1200 people turn out to vote for EC candidates that were against Lā'au Point Project when roughly one half the island is illiterate and in all likelihood did not vote, that is a strong statement that most people are clearly aligned against Lā'au Point? 478.d. What do you attribute your misunderstanding of the breadth and depth of the feelings and beliefs of the Molokai community against the Lā'au Point development? could it be that you did not interview a broad enough cross section of the community? and were only given hand picked individuals to interview? 478.e. You state that "it is to their advantage to know about the Plan and the Project so that they understand the full implication of both", yet, given the vote, wouldn't you say that you underestimated the importance the mana of Lā'au Point to the native Hawaiians over any thing else? 478.f. CEO". Peter Nicholas, gave the community the question it could take the Plan and live with it's down side. I guess the community gave him his answer January 31, 2007 by saying it couldn't live with it's down side didn't it?

**Response:** You were listed as a participant if you signed the participant sign-in sheet. Comment sheets for written statements were available next to the sign-in sheets; this was announced at the meeting.

The Social Impact Assessment (SIA) found that the community's reaction is not a simple "for" vs. "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. Regarding the EC election, it was an election of individuals to serve on the Enterprise community. The EC continues to be a diverse group of individuals interested in serving the Molokai community.

As addressed in #172 above, we do not assume that the EC election was solely about Lā'au Point. It was an election of individuals to serve on the EC Board.

Your characterization of our "misunderstanding of the breadth and depth of the feelings...against the Lā'au Point development" is incorrect. The SIA made every effort to present the diverse opinions and view of a wide cross section of Molokai residents. There were 62 people interviewed for the SIA who represent a very broad profile of Moloka'i residents, and their views were equally diverse. Earthplan was not "given hand-picked individuals to interview," as you assert, although many of those interviewed were referred to the interviewer by other Moloka'i residents.

We stand by the statement: "it is to their advantage to know about the Plan and the Project so that they understand the full implication of both." We believe that people need to make an informed decision, and not just be swayed by vocal project advocates or proponents.

479. The opponents of this Plan and Lā'au Point development were the very same individuals who fought and won the cruise ship battle and Taro battle...not proponents, as you state, isn't that correct? if you do not believe this is correct list each and every person to which you are referring i.e. who fought the cruise ships and taro issue and are proponents for Lā'au Point development? Be sure to include in you answer the GMO/corn meetings those individuals attended.

**Response:** The cruise ship and taro battles are not specifically relevant to this project. The purpose of our statement was to illustrate that activism in not new to Hawai'i, and that Moloka'i residents are experienced in taking a stand and opposing efforts they disapprove. We stand by our statement that some of the proponents of the Lā'au Point project and the Master Plan opposed the cruise ship proposal.

480. You refer to direct and indirect impacts as being population and public services and CDC, Land Trust and reopening Kaluakoi Hotel; however, you do not take into account the social importance of Lā'au Point...it's spiritual mana, do you, and what impact developing Lā'au Point would have on native Hawaiians in this respect? 480.a. After January 31, 2007, you understand its importance now, don't you?

**Response:** The SIA analyzed impacts to the social environment that collectively comprise many groups. Social impacts specifically related to Native Hawaiians are covered in the Cultural Impact Assessment (Appendix F of the Draft EIS).

481. Name any Hawaiian study that did not show that the new outside values clash with traditional ones, thereby upsetting the social fabric as drastic demographic and ecological shifts have been shown to affect other Hawaiian communities.

**Response:** There are many social impact studies submitted by developers which have overlooked these social impacts and were criticized by Native Hawaiian organizations for doing so. Such inadequate studies for example, were conducted for the Riviera development in the Ka'u district of Hawai'i; for the developments on Lāna'i, for the launching of missiles at Nohili on Kaua'i, and for the deep draft harbor in West O'ahu.

Nevertheless, concerns about such impacts have been acknowledged in this Draft EIS. It should also be pointed out that the proposed Lā'au rural residential development would potentially increase the Maunaloa population back to the level that it was before the pineapple plantation phased out. According to the 1970 census, Maunaloa was a bustling town of 872. At that time there was a full-service gas station, a large grocery store, a couple of restaurants, and a fully enrolled elementary school. The 2000 census reported the population of Maunaloa as 230. The gas station is only open for a few hours a day, the grocery store has a limited number of items and the only restaurant is part of the Molokai Ranch Lodge Hotel and the elementary school is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 1970s and 80s, the overall population of West Moloka'i only increased by 53 from 2,515 in 1970

to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai or lengthening lines in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

The "no action" alternative which opponents advocate would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "No Action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for Moloka'i.

482. *How is Molokai like west Maui? 482.a. Don't you have economic disparity and racial tension, exacerbated feelings of helplessness and social stress and increased crime when you extract from the Hawaiian culture the means of sustaining their life without money and take away their spiritual life?*

**Response:** For the SIA, West Maui was cited by those interviewed as an example of what people did not want to see in Moloka'i. West Maui has experienced significant population growth over a thirty-year period. It is included in this analysis because of the population increase due to immigration and the shift in settlement patterns. The SIA found that the replication of West Maui's social environment and undesirable changes in Moloka'i due to the Lā'au Point project is highly unlikely.

483. *Your use of "expand the conservation District along the shoreline" doesn't tell the whole truth does it? while the actual volume of land in acres may be larger, the places of the volume of acres changes so that the shoreline is no longer the Conservation District as designated in both the Maui county and state Land Use Plans let alone Molokai the island on which the development is proposed is it?*

**Response:** Your interpretation is incorrect. The shoreline will remain in Conservation District. The expansion will add acreage adjacently mauka of the existing Conservation District boundary (see Figure 1 of the Draft EIS).

484. *The criteria for decision making as set forth in HRS Section 205-17, the reclassification must conform to the applicable goals, objectives and policies of the Hawaii state plan and the adopted functional plans. You're reclassification, however, is contrary to: the Hawaii state plan i.e. shoreline is completely conservation, Maui co. zoned agriculture with policy against developing on shoreline property, and Molokai Land use Plan which zones the area conservation along the shoreline and agriculture throughout the remainder of the proposed development isn't it? 484.a. How can you possibly say Lā'au Point application for reclassification conforms to goals, objectives and policies of the Hawaii State Plan and functional plans? Explain concisely without repeating rhetoric but detailing with specificity how Lā'au Point conforms.*

**Response:** See our response to #483 above.

485. *How does the reclassification preserve and maintain the important natural systems of habitats for the Critical Habitat of the Marsilea villosa and the endangered Monk Seals in a colony of 17 (8 of which were born on Molokai)? 485.a. It can't possibly preserve those areas of habitat for those two very important species when you place people continually within their environment can it?*

**Response:** See our responses to #91 and #102 above.

486. *How can the development of Lā'au Point maintain valued cultural, historical, or natural resources when one of the centers of native Hawaiian spirituality and mana is on Molokai. . . at Lā'au Point. 486.a. After all, Molokai is the last Hawaiian island isn't it? 486.b. The southeast corner of the island was designated a subsistence Zone i.e. a natural resource wasn't it?*

**Response:** See our response to #138 above.

487. *How can the development of Lā'au Point maintain valued cultural and historical resources when as you admit on page 157 "with respect to archaeological sites, the area has had only limited analysis done to date, and where surveys have been conducted, sites have always been found. Based on the limited surveys, it is likely that extensive archaeological survey work would identify culturally-sensitive areas."? 487.a. How Can excavating this area for roads, sewers, water, utility pipes, fire hydrants, water meters etc. maintain any cultural and historical resources you admit are there?*

**Response:** We have addressed this comment in #116 and #118 above. Kahu or cultural monitors for the cultural and natural resources of the area during clearing, grading and construction of the proposed rural residential development for the west and south shores of Moloka'i adjacent to Ka Lae O Ka Lā'au will be hired. Such kahu will be persons who have an ancestral relationship to these sites and resources. Moreover, they will be lineal descendants who are knowledgeable of the location of the cultural resources and the customs, practices and protocols related to these resources. The Moloka'i Land Trust will work with the applicant to identify and engage such kahu. Such qualified individuals were involved in the development of the Master Plan and have indicated their willingness to serve as kahu for the cultural resources.

The applicant is also mindful of the guiding wisdom of the late John Kaimikaua shared with those working on the Master Plan, "A single, most important and vital principle of our kupuna and their relationship to their land comes from the word 'Mālama 'Āina' or 'Care for the land.' To 'mālama' not only means to care for the land physically, it also means to care for the land

spiritually. It also means to regulate the use of land and ocean resources to ensure the continuance of those resources for future generations." (John Kaimikaua, March 30, 2004)

488. *Since when is this reclassification reasonably necessary for urban growth? 488.a. There is no growth in that near vicinity is there? 488.b. You have lots of lots still available for sale don't you?*

**Response:** The reclassification is necessary for the Lā'au Point project, which is necessary for the economic viability of the Master Plan.

489. *The State encourages an increase in economic activities...consistent with community needs and desires. This community neither needs for desires the development does it? The employment rate on island is good...under the national average by 1.4% unemployment. The opening of Kaulakoi would be nice, however, the Ranch closed this hotel in the first place didn't it? And the January 31, 2007 election results speak for themselves don't they?*

**Response:** Comment noted. MPL did not close the Kaluako'i Hotel.

490. *On page 140 you said the "SMA Permit is granted by the Molokai Planning Commission". When did this happen at what planning commission meeting? and who voted for it?*

**Response:** You misinterpret the statement. The Moloka'i Planning Commission is responsible for granting approval for a SMA Permit. The project has not come before the Commission for its SMA Permit application yet.

491. *An objective and policy for the Economy of the State is to have "the agriculture industry that continues to constitute a dynamic and essential component of Hawaii's strategic, economic and social well being" How can taking land out of agriculture into rural for luxury homes ever help maintain and continue the agriculture industry the State wants?*

**Response:** Section 3.4 of the Draft EIS provided discussion on the project's agricultural impact.

492. *why are the following pages intentionally left blank from the Ranch Plan? 141, 126, 108, 106, 96, 84, 90, 88, 82, 80, 76, 60, 36, 12, 10. 492.a. why are these pages intentionally left blank from the main text: viii, 14, 36, 48, 142, 176,*

**Response:** For printing double-sided, it is common practice in printing reports to have figures/maps printed single-sided, and new chapters to begin on odd-numbered pages. Therefore, the other side of the figure/map will "intentionally be left blank," as well as the last page of chapters that end on odd-numbered pages.

493. *RE: Appendix 2: cultural sites of Kaluakoi Map and Lā'au Point cultural resource protection zone map--the USGS map cannot be read. What is the significance of this map and can you produce a better larger one that can be read?*

**Response:** The cultural maps, located in Appendix 2 of the Master Plan, identify the archaeological sites within the MPL property located on the west end. The sites have been incorporated into Figure 10 of the Draft EIS.

We understand that some pages of the document contain two pages per sheet which results in small print; however, this format is used so that the hard copy of the document would not be too unwieldy to handle. If every page were printed full-size, the hard copy document would have yielded over a 1,000 pages. For this reason, we also offer the EIS on CD to view on a computer; this provides the reader the option to enlarge pages for easier reading and viewing. A full-size copy of the Master Plan (Appendix A in the Draft EIS) is also available at MPL's office in Maunaloa.

494. *RE: Appendix 3: what is the Aquatic/coral Reef Protection? who designated it as such? who protects it as such? Why is it designated as such? Who made the map? for what purpose was it made? why is the reef designation smaller on this map than on say the maps for appendix 6 & 8? where is there marked on the natural resource map The federal critical habitat lands? why were they omitted? Did you place them on another map somewhere in the EIS?*

**Response:** As addressed on page 35 of Appendix A, the "Natural Resources – Aquatic" map illustrates the substantial coral reef protection area that runs along the south shore of the Ranch property. It begins at Hale O Lono and extends east along much of the southern shore of the island. The protected area includes numerous fishponds. The inshore areas along this area are also important hatcheries/breeding grounds for many key subsistence marine fish species. This is confirmed by the many ko'a locations.

The Conservation Fund produced the maps. The reef designation on the map in Appendix 3 is not smaller than the maps for Appendices 6 and 8. The critical habitats are on the maps. Please note that as documented in other preceding questions, critical habitat designation is not in place for the Lā'au Point population of *Marsilea villosa* at this time.

495. *RE: Appendix 5: The dark line is proposed for the Land Trust isn't it? But the xxx portion of the black line enclosure is in need of further study isn't it? Where is the designation for the original 15 acres of expansion for the Maui Community College as stated in the Molokai Land Use Plan?*

**Response:** Some of the land where the Moloka'i Community Plan's 15-acre designation for the Maui Community College expansion is located will be donated to the Moloka'i Land Trust as agreed upon in the Master Plan; however, the larger portion of that land will remain in MPL ownership. MPL is prepared to work with the community college on its remaining portion of land should the case be proven to community college administrators that the college can fund a future purchase.

496. *Who is the Conservation Fund which made these maps? Where are they located? Who funds them?*

**Response:** The Conservation Fund ("TCF") is a renowned non-profit Washington DC-based land planning organization.

497. *Why has not your Timetable been edited and made current? Don't you think that would have been appropriate for this EIS? Was this EIS put together piecemeal in haste with no one reviewing it in its total content?*

**Response:** Appendix A was completed in November 2005. Timetables are estimates and will often change due to circumstances that arise during the process. The timetable in the EIS has been updated to our best estimate to date.

498. *You have yet to approach the Maui County and Molokai Planning Commissions for zoning changes reflecting the Land Trust zonings is that correct? 498.a. How can you assure "zoning is for all time"? 498.b. Particularly when you want a zoning change for this Special Management area of Lā'au Point for your development? 498.c. what specifically is the zoning you need for the Land Trust lands for special needs? 498.d. Give all your reasons why the LUC should overturn the SMA designation for your development? Weigh your reasons against protecting the county's coastline and resources as of utmost importance not only to the island of Molokai and the county of Maui, but, I dare say to the state of Hawaii at this point, given the diminished amount of undeveloped shorelines.*

**Response:** See our response to #490 above.

499. *When and where does the Land Trust directors meet? Can the public attend? Why, why not?*

**Response:** The Moloka'i Land Trust is a private organization that meets according to the provisions of its by-laws. It meets approximately once a month. The Land Trust will hold public meetings when it believes it has information to seek from the community or information to pass on to the community.

500. *Chapter 5 has a Ranch proposed development map which includes a very large expansion of the Kaluako'i Hotel. Do you have an enlarged area of the Kaluako'i Hotel expansion? If so, include it with the answer. I am asking for information in exact detail of all the development to occur in this expansion of the Resort. 500.a. What are the details of this expansion of the Kaluako'i resort? Be very specific with details of buildings, hotels, restaurants, all facilities, new golf course etc.*

**Response:** Description of the proposed Kaluako'i Hotel development is provided on Page 91 of the Master Plan (Appendix A in the Draft EIS). Further details of the Kaluako'i Hotel renovation will be addressed in its own separate assessment.

501. *The Natural Resource Protection map in chapter 5 once again omits the federal critical habitat of the endangered species Marsilea villosa why?*

**Response:** As addressed in #494 above, the federal critical habitat of the endangered species Marsilea villosa was not omitted from the map. Critical habitat designation is not in place for the Lā'au Point population of Marsilea villosa at this time.

502. *Since, elsewhere in the EIS, you have stated joint control of the Land Trust easements, would you explicitly state for each of the 65,000 acres the ownership, management and control and how the specific entities (Trust, MPL, homeowners, and CDC) interact? And who owns fee simple title of each segment of the lands?*

**Response:** The EIS does not refer to joint control of easements, other than the easement on the expanded Conservation District areas at Lā'au Point, where the land under easement to the Land Trust will be managed jointly by the homeowners and the Land Trust through a council.

In reference to the Agricultural and Rural Reserve easements, these lands will be owned by MPL (as stated in the Master Plan) under easement restrictions.

503. *You state the relative importance of the management area 'As time spent in subsistence fishing cultivates intimacy and harmony with nature that is the foundation of Hawaiian spirituality and religion.' How high on a level of 1-10 with 10 being the highest priority would you rank the management area's importance to Hawaiian spirituality and religion?*

**Response:** Your question does not relate to the project elements, environmental impacts, or their mitigation measures. Therefore, it is not required for inclusion in the EIS.

504. *I quote further from the EIS, "To Hawaiians, the land and natural elements are the foundation of subsistence, cultural and religious beliefs, customs, and practices. The land and the natural environment are alive, respected, treasured, praised, and even worshiped. The land has provided for generations of Hawaiians, and will provide for those yet to come. 504.a. How is it that you can print in your Plan the essence of Hawaiian culture and not understand it? 504.b. Don't you believe that the Hawaiian culture, spirituality and connection with the land is priceless? 504.c. You state that land is not a commodity to Hawaiians so how can you ever expect the Molokai community (the most Hawaiian island) to ever accept the development of Lā'au Point? 504.c. It is priceless, isn't it, to the Hawaiians?"*

**Response:** Comment noted.

505. *What is the title of the Molokai map on page 37? It has no legend no title other than it is the Island of Molokai?*

**Response:** It is not a "map;" it is an aerial photograph of Moloka'i, and it is titled as that.

506. *Has the Land Trust developed its management Plan? to obtain its 501c3 status? why? why not? 506.a. If the Trust has been formed, this is to happen immediately isn't that so? 506.b. where was the public input? who are on the committees? or is this like the operation of the EC....pre-selected people on the committees, unresponsive to the community? The two boards (EC and Trust) are very similar in the composition of the people aren't they? 506.c. Who are on the two Boards now? List. 506.d. Who was on the EC board each year of its existence?*

**Response:** The Moloka'i Land Trust is a private, non-profit corporation organized under Hawaii State Statute HRS-414D and has gained its determination from the Internal Revenue Service as a public charity under code 509(a)3. The MLT 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. 509(a)3 tax-exempt public charity status enables the MLT to receive monetary, land and easement donations without tax liabilities.

The Land Trust Board of Directors includes: Colette Machado, Richard Cooke III, Cheryl Corbiell, William Akutagawa, Stacy Crivello, Clarence Halona Kaopoiki, Edwin Misaki, Davianna McGregor, and David Lunney.

Directors are bound by law to work to forward the charitable purpose of the organization and as such, work for the "benefit of the future generations of all Moloka'i." Land Trust directors are a purely volunteers, prohibited by the organization's Articles of Incorporation and Bylaws from receiving compensation. They are bound by law to work to forward the charitable purpose of their organization. Furthermore, a majority of Land Trust board members are required by Land Trust Bylaws to be residents of Moloka'i. The Land Trust allows a minority of directors to be non-residents of Moloka'i in order to be open to having off-island people with special skills and talents serve on the board.

The Moloka'i community was directly involved in the formation of the Moloka'i Land Trust, in that the Land Trust was formed by a steering committee whose members were recommended by the Land Use Committee during the formation of the *Community-Based Master Land Use Plan for Molokai Ranch*. The Land Trust steering committee was composed almost exclusively of members of the Moloka'i Community. Two members were part-time Moloka'i residents, while the remaining members were full-time Moloka'i residents.

Currently, the EC's six elected members are Shannon Crivello, Russell Kallstrom, Sybil Lopez, Bridget Ann Mowat, Joshua Pastrana, and Leila Stone. Its five appointed members are Rikki Cooke, Cheryl Corbiell, Stacy Crivello, Colette Machado, and John Pele. Four of the EC board members also hold a seat on the Land Trust Board.

507. *What exactly is EC project #47? When was it voted upon at what meeting, by whom? 507.a. In your schematic of process you show committees and public input to develop the Ranch Master Land Use Plan, which by now, everyone knows was not developed with public input surrounding the two fundamental issues of Lā'au point and water; how would this board for the Trust be run any differently to obtain and use public input? 507.b. Aren't the boards very similar? what assurances are in place to prevent the dictatorial stance of the EC Board members on the trust Board? 507.c. Who, what, and where is the Conservation Fund? 507.d. Why is the Conservation Fund, EC and MPL all inputting into the Ranch Master Land use Plan? 507.e. why do those three entities have dashed lines about them instead of solid lines? 507.f. What is the significance of the dashed lines?*
508. *Should we expect the same amount of public input in the Trust as we received on the Ranch Master Plan? 508.a. Does the Trust have all the minutes from the EC Committee meetings? or are the Board members similar enough to the EC to remember the committee input of which they were a part?*

**Response:** The foundations of EC Project #47 are adequately provided in the Master Plan.

The Land Trust affairs are run by members of the Moloka'i community with the aim of protecting the subsistence activities that take place on that land, protect and enhancing cultural and archeological sites, and preserving environmentally and ecologically sensitive areas and sites.

The Land Trust is a tax-exempt charitable organization, unlike MPL which is a for-profit corporation. MPL is confident the Land Trust will be a good steward of the lands that are being donated to this organization.

The Conservation Fund is a Washington-based land protection 501c3 organization that assisted the community and MPL in its Master Plan preparation and acted as honest broker between the community members and MPL.

As stated in #506 above, only four of the nine current members of the Moloka'i Land Trust are or have been EC directors. MPL is unaware of whether the Land Trust has the minutes of EC-sponsored Project #47 minutes.

509. *Why has the Trust Board met in secret and been hidden from the public and news? What is it hiding?*

**Response:** This question, which has not relevance to the EIS, should be directed to the Land Trust, not MPL.

510. *The list of names on the EC committees has changed from the original EC Land use publication sent out to all the committee members to thank them for their work and the EISPN sent to the Land Commission. what names did you delete? add and why?*

**Response:** You list two different documents. The EISPN lists current members at the time that document was published. MPL did not produce the EC publication.

511. *Why did William Akutagawa, Richard Cooke, Cheryl Corbiell, David Lunney, Colette Machado, Edwin Misaki and Stacy Helm Crivello receive copies of the EIS along with all the state, federal and county agencies and commissions?*

**Response:** The EIS is a public document available to anyone who requests it.

512. *Why did Daniel Inouye and the Land Trust steering committee receive a copy? 512.a. who is on the Land Trust steering Committee?*

**Response:** As stated in response #511, the EIS is a public document available to anyone.

The Land Trust 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.

513. *You have 25 references for your EIS and 19 or approximately 80% of them are papers written for MPL for the EIS isn't that correct? 513.a. why did you basically have your own supporting documents written by your own employee—contractors? wouldn't it have lent more credibility to your EIS to have more impartial third party references?*

**Response:** The individual reports contracted for the EIS also contain their own reference lists within their reports.

514. What is the partnership between EC and MPL? Explain every facet of it.

**Response:** The details of the beginnings of Project #47 and the partnership that resulted in the Master Plan document have been adequately outlined Section 2.1.6 of the Draft EIS and Master Plan.

515. What is the difference between Brierly Investments previously not consulting with the community on its development plans and what MPL has done with this development plan in not consulting the community about Lā'au Point and water? 515.a. Both have met with strong community opposition haven't they? However, this time, Molokai economy is not suffering. It has a good unemployment rate at 3.2% well under the national average doesn't it?

**Response:** The Master Plan and the EIS (Sections 2.1.6 and 2.4) adequately discussed the current consultation methods of this process that led to the Master Plan and EIS and application to the Land Use Commission.

Your opinion about the health of the Moloka'i economy is noted.

516. Does MPL think that water is the only unresolved issue? I will not go through all my water questions again, even though you simply repeat the same paragraphs over and over again in your EIS. Why? Do you believe that if someone reads or hears it enough, they will believe it? 516.a. Do you think withdrawal of an additional 1,000,000 GPD of brackish water from the Kāalahale well will take away water that DHHL will need to support future expansion of agriculture and residential lots on their Molokai lands? If not, fully explain why not?

**Response:** As your comments regarding water have been previously addressed elsewhere in this letter, our responses to those questions have also been previously addressed.

517. Do you admit that water resource issues have yet to be identified? 517.a. if so, why are you bringing this to LUC? Before you have your water resource determined?

**Response:** MPL believes Moloka'i's water resources have been well identified.

518. Who is Clark Stevens and his company New West Land Company? Qualifications, background etc? 518.a. where are they from? What are they in the business of doing? 518.b. who recommended the EC use them? Did the EC pay for the services? How much? what were they Contracted to do? 518.c. what was the meeting date and those in attendance from the Board who decided to use Clark Stevens? 518.d. what prior associations had Clark Stevens and/or New West Land Company had with any Board members? BIL, MPL, BPR Hawaii, subsidiaries affiliates etc.? 518.e. Did the EC receive a written report from Clark Stevens? If so where is it? Attach it for the answer in any final EIS as alternatives to the Ranch Plan please.

**Response:** As stated in Section 6.5 of the Draft EIS, the EC funded the Alternative to Lā'au Development Committee (ALDC) and the hiring of Clark Stevens (New West Land Company), a conservation planning consultant. Because MPL did not hire Mr. Stevens, we cannot respond to your specific questions regarding his services.

519. The EC rejected a motion to delay the vote on the Plan until alternatives could be investigated? 519.a. The EC reelected an alternative because there was no financial evaluation provided? Why didn't the EC use Clark Stevens to financially evaluate it? or someone else? why was the EC Board determined to push the vote?

**Response:** We were not a party to the EC vote and cannot respond on its behalf.

520. Why did the EC reject Stevens' proposed purchase of Lā'au Point and land of the trust? because they would have that land which was already planned for fee donation to them under the Ranch Plan? 520.a. Now the EIS is not giving the Trust in fee as much land as they originally thought is it? 520.b. The trust is merely going to manage the lands, but the ownership even with the CDC will be still with MPL isn't that true? if not, what is the total amount of acres the Trust will hold in fee simple?

**Response:** The EC did not reject Stevens' recommendation for a third party to purchase Lā'au Point from MPL. The land proposed by Mr. Stevens for purchasing was never planned to be donated to the Land Trust.

There has been no change in the land proposed for donation to the Land Trust since the publication of the Master Plan. As previously stated, the 26,200 acres of land being donated to the Community Development Corporation and the Land Trust is being donated in fee simple.

521. Did MPL ever come up with a purchase price of Lā'au Point? what was it? is it? I'm sure they would consider their cost per lot is \$360,000/lot to develop Lā'au Point if they sold it out right wouldn't they? 521.a. Apparently there was no response from MPL on a price and willingness to keep the alternative open was there? 521.b. MPL's response was they would take an equivalent return on the development, but who ever bought it would have to protect the areas for subsistence as proposed? Why was that a stipulation? Maybe the new purchaser would never place parks etc. on the shoreline. or even subdivide the property at all? 521.c. why was there the stipulation that an endowment income must be provided to the Land Trust and CDC to keep them functioning presumably? or was it to allow MPL to continue it's intent to be a housing authority in leasing the lands through the CDC for a continuing cash flow?

**Response:** Regarding your comment about the purchase price, please refer to the statement you reference in your next question. Your questions regarding the CDC were previously addressed in Section 2.1.9 of the Draft EIS and #2 above.

522. What does this sentence mean? "MPL will seriously consider offers but after an extensive two-year community process does not desire to indicate a price for the parcel because of the many variables involved?" What variables are involved?

**Response:** The "many variables involved" are the same issues you have outlined in your statements and questions in #521 above. For example, under what circumstances would a purchaser wish to acquire the parcel? Would it still keep it open for subsistence gathering? How would the CDC be funded if not from lot sales? Would the purchaser be any more acceptable to some opponents than the current owner? Etc.

Victoria Kapuni  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 148 of 148

523. *Has a serious buyer emerged? If so, did MPL enter into negotiations?*

**Response:** MPL disclosed information on this matter in Section 6.0 of the Draft EIS and advises it has no more to disclose on this matter at this time because that information is proprietary.

524. *Since MPL is cash poor and the "shareholders will not permit this to continue without a solution," has MPL taken any initiative to find itself a buyer? If not, why not, if the shareholders want a solution?*

**Response:** MPL believes its solution is contained within the Master Plan.

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

Attachments:

- Revised Section 2.1.9 (Moloka'i Community Development Corporation (CDC))
- Revised Section 4.3 (Trails and Access)
- Revised Section 2.3.6 (Covenants)
- Revised Section 4.9.2 (Water)
- Revised Section 2.4 (Community Meetings and Involvement)
- Revised Section 3.6 (Flora)
- Revised Section 3.7 (Fauna)
- Revised Section 4.9.1 (Drainage)

Cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII

Thomas S. Witten  
President PBE Hawaii  
1001 Bishop Street  
4th Floor, Suite 650  
Hon. HI 96813

1-9-2007

Aloha,

I would like to request a 60 day  
Extension of the Lā'au Point Draft EIS public  
comment period.

The size of the EIS was and is immense  
The EIS was released during Xmas and  
New Years Holiday, cutting into quality time  
to comment.

We would like to participate, but need more time.

Mahalo nui loa



Walter Ritte SR



January 16, 2007

Walter Ritte, Jr.  
P O Box 486  
Kaunakakai, HI 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Mr. ~~Ritte~~ Walter -

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

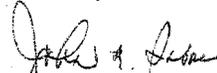
Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

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



Jan 9, 2007

Thomas S. Witter, Pres  
D.B.R. Hawaii  
1001 Bishop St, #2450  
Honolulu, Hawaii

Dear Mr. Witter,

I am requesting a 60 day  
extension of the Lā'au Point E.I.S.  
public comment period.

More time is required to give  
an adequate response to this huge  
document.

Thank you for your kind  
consideration of this matter.

Sincerely,

Yvonne Everhart  
P.O. Box 378  
Kaunakakai, HI  
96748

January 16, 2007

Yvonne Everhart  
P.O. Box 378  
Kaunakakai, Hawaii 96748

**SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period**

Dear Ms. Everhart:

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

## **Response Letter Attachments**

**Attachment**

**Revised Section 2.1.8**  
**(Moloka'i Land Trust)**

**2.1.8 Moloka'i Land Trust**

A land trust is a private, non-profit conservation organization set up for the purpose of acquiring lands or easements on land. Land trusts can manage the lands they acquire. A local land trust would be a community-based organization—in this instance, one dedicated to maintaining and protecting cultural and natural resources of Moloka'i.

The Moloka'i Land Trust, a community-based land steward organization, will be entrusted with ownership and management of the 26,200 acres (40 percent of Ranch lands) that MPL will donate to the Moloka'i community under the conditions of the *Community-Based Master Land Use Plan for Molokai Ranch*. In addition, the Land Trust will also administer land use policies that permanently protect 24,950 acres of easement lands and 434 acres of Lā'au Point's cultural preservation zones and Conservation District lands. The Land Trust will ensure perpetual care of these lands and any other future donated lands. Figure 10 shows potential future ownership and management for Molokai Ranch property, including the lands the Moloka'i Land Trust will own, manage, and administer.

The Moloka'i Land Trust will provide for the community's self-determination and protection of the island's resources with a mission "to protect and restore the land, natural and cultural resources of Molokai, and to perpetuate the unique Native Hawaiian traditions and character of the island, for the benefit of the future generations of all Molokai, particularly Native Hawaiians" (EC 2006). The Land Trust's unique goals are:

- Protecting historic cultural archeological sites.
- Preserving the precious natural and environmental resources.
- Enhancing indigenous rights through the protection of subsistence gathering.

The Moloka'i Land Trust will own in fee simple a total of 26,200 acres. Going from east to west, the Trust lands include:

- Cultural sites at the base of the Kaweia Plantation (34.895 acres).
- Lands mauka of Kaunakakai for community expansion (1,160 acres).
- The Makahiki Grounds mauka of Kualapu'u and up through and including the cliffs of Nā'iwa.
- A large strip of land from Kawakanui beach, north to 'Īlio Point, stretching around to the MPL boundary with Department of Hawaiian Homes Lands in Ho'olehua and down to Pālā'au and over to Hale O Lono Harbor and including the Kā'ana Area.
- The fishing village 15-acre site adjacent to the north boundary of Kaupoa Camp.
- Pu'u O Kaiaka.
- Other sites as shown on the Land Trust map (See Appendix A, p. 9) Figure 10.

As a sign of good faith and to enable the Moloka'i Land Trust to begin its important work, MPL will donate a 1,600-acre parcel of land (referred to as the "Mokio parcel") of on the coastline between Mo'omomi and 'Īlio Point to Moloka'i Land Trust, as soon as the Moloka'i Land Trust obtains its tax-exempt status. Figure 11 shows the location of the Mokio parcel. The transfer of this land parcel also includes a partial assignment of rents that will provide \$50,000 of annual income to the Land Trust. This land donation is regardless of the outcome of the Lā'au Point LUC petition and County applications. The Moloka'i Land Trust obtained its tax-exempt status in early 2007. As of August 2007, an agreement to transfer the 1,600-acre Mokio parcel to the Land Trust was in the final stages of attorney review, and it is anticipated the donation in fee will

take place early in 2008 following an extensive due diligence process conducted by the Trust and its advisors.

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 (see Appendix A, p. 9). The agricultural easement lands (depicted with diagonally-striped lines on p. 11 of Appendix A) will be dedicated for agriculture and only farm-related structures (i.e., barns, sheds, or farm dwellings) can be built there. The Community-Based Master Land Use Plan process designated proposed easement land areas based on the agricultural suitability of the area, without regard to specific TMK parcels; however, the area includes 20 TMK parcels. Under State law (Section 205-4.5) one farm dwelling could be built on each of the TMK parcels for a total of 20 potential farm dwellings.

The rural landscape reserve easement will protect open space and views on five large parcels of which no buildings or development will be permitted. The Land Trust will administer agreed upon land use policies for these areas, and enforce the dedicated use of the easement lands. The easements would carry with the land and future landowners would be bound to the easements. Therefore, these easement lands could be re-sold, but would be subject to the easement restrictions. The Moloka'i Land Trust will act as a long-term steward of the lands to assure the retention of the island's rural and open space character. To ensure the Moloka'i Land Trust is adequately funded for its administration costs, revenue for the Land Trust will come from a share of the Lā'au Point lot sales and existing communications rentals on the MPL land to be donated. Communications tower rents currently total \$250,000 a year with a capitalized value of more than \$2.5 million.

Table 1 below lists the assets and sources of income for the Land Trust as set forth in the Plan.

**Table 1. Moloka'i Land Trust Revenue Stream**

Proposed Donation	Revenue Stream
An initial parcel of 1,600 acres of land on the western shoreline of Moloka'i, known as the Mokiio parcel. This donation is irrelevant to the outcome of the Lā'au Point entitlement process.	Land donation only. Included is rental income from the property for Aeronautical Radio, Inc. (ARINC) of \$50,000 per annum.
Approximately 23,400 remaining acres of land (total donation with Mokiio parcel 26,200 acres or 40% of the current MPL property).	Land donation. Also income from telecommunications and remaining ARINC rentals of aprox \$200,000 per annum.
Will hold the easement over a further 24,000 acres of land that will be protected for agriculture (15,000 acres) and open space (14,000 acres).	No income from conservation easements.

The Moloka'i Land Trust has been registered with the State of Hawai'i and has an application before the Internal Revenue Service (IRS) for approval of its tax exempt 509(a)(3) status. The Moloka'i Land Trust received its 509(a)(3) tax exempt designation in early 2007 and is now operating under that designation.

The Land Trust meets monthly and has set up a number of committees (finance, lands and stewardship, and governance) to review:

- The detailed work necessary to be completed before accepting the first gift of 1,600 acres of land.
- Planning the future fund-raising necessary to enable the Land Trust to manage the lands to be donated.
- Future staffing, governance, and operational issues.

Trustees have undergone extensive training in the duties and obligations of a Land Trust with consultants approved by the Land Trust Alliance, the organization that sets standards and practices for the hundreds of land trusts throughout the United States.

In comments on the Draft EIS, a wide range of questions were asked about the Moloka'i Land Trust's activities since incorporation. It should be noted that the Moloka'i Land Trust is a private entity, separate from MPL. Therefore, specific questions about the Land Trust's activities and decisions have been referred directly to the Land Trust.

Land Trust directors as of June 30, 2007 were: Colette Machado, Davianna McGregor, Richard Cooke III, David Lunney, Stacy Crivello, Ed Misaki, Halona Kaopuiki, Cheryl Corbiell, and William Akutagawa. All current directors are Moloka'i community members.

MPL is an ex-officio member of the Moloka'i Land Trust and acts in an advisory capacity only, not taking part in any decision-making by the Trust. MPL does not have voting rights.

The Moloka'i Land Trust will play a major role in the Lā'au Point project. The Land Trust will:

- Hold and control the easement over the expanded Conservation District lands – the 434 acres in front of the subdivision that is important for subsistence practices. This easement document is in the final stages of preparation.
- Share the management responsibility of the expanded Conservation District lands equally with the Lā'au Point homeowners by having equal representation on a Council of land trustees and homeowners.
- Implement the Shoreline Access Management Plan (SAMP), which is the council's guide to management of the expanded Conservation District lands. The SAMP was approved by the Land Trust on August 10, 2007. A copy of the SAMP is provided as Appendix B of this EIS.
- Be a party and signatory to the Lā'au Point CC&Rs covering restrictions on aspects of the development (see Section 2.3.6).

In all cases, the Moloka'i Land Trust has been working with MPL in the preparation of these documents, and MPL will require the Land Trust, as the EC's successor, to sign-off the documents before they are finalized.

Section 7.1 of Appendix A contains further details of proposed Land Trust activities following the implementation of the *Community-Based Master Land Use Plan for Molokai Ranch*.

**2.1.9 Moloka'i Community Development Corporation (CDC)**

The *Community-Based Master Land Use Plan for Molokai Ranch* proposes the creation of the Moloka'i Community Development Corporation (CDC), an entity which will continue the efforts of the Enterprise Community (EC) after the EC's official US Department of Agriculture designation expires (The Moloka'i EC is part of the federal USDA EC/EZ Program which in 1999 designated the entire island of Moloka'i as an Enterprise Community and provided \$7 million in grant funds toward implementing a 10-year strategic plan for Moloka'i). The CDC will have the following tasks:

- Develop affordable homes for the Moloka'i community.
- Promote economic development.
- Expand educational opportunities that will build capacity among the island's youth.
- Assist the Land Trust with project funding.

To assist the CDC with providing affordable housing, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the CDC for future housing development. MPL will also ~~reserve~~ put title restrictions on 200 100 acres around each of the towns of Kualapu'u and Maunaloa to be made available for community housing to limit the use of these lands for affordable housing. Although MPL will retain ownership of the reserved lands, development decisions and timing will be made by the community via the CDC and not by MPL.

The CDC will work with partners such as Lokahi Pacific, the 501c3 organization that is currently completing 10 affordable homes in Maunaloa on land provided at a reduced price by MPL. Funds from the Lā'au development (the initial five percent of lot sales and the subsequent half a percent of subsequent lot or house and lot sales) will be used to fund CDC activities. The CDC will own the Kaunakakai land of 1,100 acres, it being donated by MPL.

Self-determination is a critical component behind the creation of the CDC and this plan for development of ~~community~~ affordable housing. Moreover, placing housing development in the hands of a community organization, rather than a developer, provides the opportunity for appropriate development timing, which is important in a slow-growing community like Moloka'i.

Affordable housing is intended for resident members of the Moloka'i community, within the income bracket and definitions as defined by the County of Maui. Affordable housing will be developed by the CDC. The CDC is tasked with providing affordable homes for Moloka'i residents. Residency requirements for affordable homes will be as specified under Section 2.96.020, Maui County Code (MCC).

In addition to land for housing, MPL will gift the CDC with the following assets that can be used for community development:

- A 5-acre parcel in central Kaunakakai zoned light industrial, which will be available for development in 2011 when the lease to the current lessee, the Junior Roping Club, expires.
- A 3.2-acre parcel adjacent to the Community College, which will be sold to the Maui Community College at market value. The proceeds from this sale would go to the CDC.

## Attachment

### Revised Section 2.1.9 (Moloka'i Community Development Corporation (CDC))

**REVISED SECTION 2.1.9 (Moloka'i Community Development Corporation), Page 2 of 3**

which would add to the organization's funding for community projects such as construction of affordable housing.

- \$100,000 from the sale by MPL of a 5-acre site to the County for a new Kaunakakai Fire Station (contained within the 1,100 site above Kaunakakai).
- Endowment from the Lā'au Point project as a sustainable form of CDC funding, which will be structured as follows:
  - A An initial funding of the CDC arises from a net 5 percent of the sale revenue of all 200 lots in Lā'au Point. The value of this revenue is estimated to be \$10 million over five years.
  - A percentage, yet to be determined, of subsequent revenue when lot, or lot and house, is re-sold. Future and perpetual income for the CDC comes from second and subsequent sale of lots or lots and houses, as a percentage (half a percent) of all future net sale proceeds from sellers of Lā'au Point properties will be diverted for CDC use. This will provide the CDC with a perpetual income. This provision to allocate income from subsequent lot sales will be provided for in the CC&Rs in the form of a perpetual and unchangeable covenant (Master Plan Covenant). The CC&Rs will require the percentage fee to be paid to the CDC at closing directly out of escrow.

Table 2 below lists the assets and sources of income for the CDC as set forth in the Plan.

**Table 2. Moloka'i CDC Revenue Stream**

<b>Proposed Donations</b>	<b>Revenue Stream</b>
<u>1,100 acres above Kaunakakai town</u>	<u>Land for affordable housing</u>
<u>Land currently occupied on a short-term lease by the Junior Roping Club (4.18 acres) that is County-zoned industrial.</u>	<u>Land to either develop or realize in cash on sale.</u>
<u>The funds (\$100,000) to be received from the County from the purchase of land for the new Kaunakakai Fire Station.</u>	<u>\$100,000 in late 2007 or 2008.</u>
<u>The funds received from the University of Hawai'i from the future purchase of 3,213 acres designated for community college expansion.</u>	<u>Funds will be at market valuation of the property at the time of sale.</u>
<u>Five percent of the net proceeds from the initial sales of lots in the proposed 200-lot Lā'au Point subdivision (likely to be in excess of \$10 million).</u>	<u>A total of \$10 million over the period of the sale of the lots, anticipated to be a 5-year period.</u>
<u>A 0.5 percent (a half a percent) of all future lot and house sales in the Lā'au Point development. (giving the CDC a perpetual income forever).</u>	<u>A continuous income stream as lots, or lots and houses are resold.</u>

A CDC steering committee, a project of the Moloka'i EC, has been already established and is investigating legal and tax structures to ensure the optimum use is made of its mission.

The CDC mission statement has now been defined by the steering committee as follows: "A community-based non-profit organization working to enhance the quality of life for residents

**REVISED SECTION 2.1.9 (Moloka'i Community Development Corporation), Page 3 of 3**

primarily in the area of affordable homes for the community, as well as economic development, education, health care, leadership, culture and the environment, while preserving Moloka'i's rural character."

The CDC steering committee has also been investigating partnerships with other non-profit organizations for the building of affordable homes, and a structure will be in place to accept the land and funding donations prior to the transfer of land and the first sale of Lā'au Point lots.

There is no relationship between the Moloka'i Land Trust and the CDC steering committee. Both operate as separate entities with differing but compatible interests.

## Attachment

### Revised Section 2.3.6 (Covenants)

#### 2.3.6 Covenants

~~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.~~

~~The CC&Rs for any development contain the conditions and restrictions that are placed on the property by the developer, which must be adhered to by subsequent owners of the property. In the case of the Lā'au Point development, these conditions and restrictions were developed by the Land Use Committee of EC Project #47. To implement the committee's vision the CC&Rs are designed to accomplish:~~

- ~~• The protection of subsistence gathering in the expanded Conservation District.~~
- ~~• The reduction of potential social conflicts between new homeowners and existing community members.~~
- ~~• The protection of cultural/archeological and environmental resources.~~

~~The Land Trust has subsequently taken over the role from the Moloka'i Enterprise Community (EC) of ensuring the implementation of the provisions set forth in the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). As such, the Land Trust must be a party and additional signatory to the "Lā'au Point Declaration of Covenants" to ensure that the covenant provisions are adhered to. As a party to these CC&Rs, the Land Trust will be able, in the unlikely event that breaches occur, to enforce the covenants.~~

~~There has been criticism on Moloka'i that CC&Rs have provisions that either allow for changes to key provisions after a certain period of time has elapsed or that such key provisions expire at a certain future date. This is the case in another West Moloka'i subdivision's covenants, Pāpōhaku's covenants now allow further subdivision of properties (subject to regulatory approvals) because original prohibitions on further subdivision contained in the CC&Rs have expired.~~

MPL is adamant this will not be the case with the Lā'au Point development. To ensure that at anytime in the future a majority of homeowners cannot attempt to rescind key provisions, covenants relating to the Master Plan will be designated as such (referred to in the CC&Rs as "Master Plan Covenants") and, unlike other provisions, are specifically prohibited from being changed, deleted, or modified by the Homeowners Association or the Board. Future homeowners will sign documents agreeing to adhere to the CC&Rs when they purchase lots at Lā'au Point. Adherence to the CC&Rs is a condition of ownership of the property.

To further protect the Master Plan Covenants, the Moloka'i Land Trust has agreed to be an additional signatory to the documents, giving it enforcement rights. The CC&Rs will provide that if the Homeowners' Association chooses not to prosecute a breach of a Master Plan Covenant, the Land Trust may, after proper notice and after giving the Homeowners' Association the opportunity to act, take legal and direct action against the homeowner and/or the Homeowners' Association to ensure that the Master Plan Covenants are not violated.

Critical provisions of the CC&Rs that will not be changeable include:

- A maximum of 200 lots are allowed in the subdivision.
- Further subdivision of lots, even if allowable in the future by County ordinance or the Moloka'i Planning Commission is prohibited.
- Design guidelines that specify color, size, height restrictions, landscaping, energy efficiency, and lighting of houses and lots.
- Restrictions on potable and non-potable water use by lot owners.
- Requirements for water catchment systems to contain run-off.
- Adherence to the provisions of the Shoreline Access Management Plan (Appendix B).
- The transfer fee when a lot or house is sold that is directed to the Community Development Corporation.

Other key Master Plan covenants are set out below. There have been additions based on input from the community at Cultural Impact Assessment review meetings, the receipt of the Social Impact Assessment report, and subsequent Draft EIS comment letters from community members and groups, and County, State, and Federal government agencies.

The CC&Rs will specify that the Land Trust will have two ex-officio non-voting seats on the board of directors of the homeowners' association. The Land Trust and the homeowners have at least two opportunities to work together; on the homeowners' association board and in the management of the expanded Conservation District lands.

The by-laws of the homeowners' association will specify a nine-member board of directors, including the two ex-officio Land Trust members. In general, the board will deal with normal association issues such as assessments and maintenance of common property.

Where the Land Trust members will assist the directors is in the interface of homeowners with subsistence gatherers, cultural practitioners, and community members who frequent the expanded 434-acre Conservation District adjacent to Pu'u Hakina and Kamāka'ipō (Lā'au) shoreline.

As well as association board meetings, the homeowners' representatives and Land Trustee share membership of a "Council" that manages and implements the provisions of the Shoreline Access Management Plan (see Section 4.3 and Appendix B for further discussion).

In their February 15, 2007 comment letter, the State Office of Environmental Quality Control (OEQC) recommended that the US Green Building Council's Leadership in Energy and Environmental Design (LEED) silver standard be applied. The LEED Green Building Rating System is a nationally accepted benchmark for the design, construction, and operation of sustainable buildings. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

While creating the CC&Rs, the LEED certification process was reviewed. Currently, the LEED certification process mainly deals with certifying buildings, not lot subdivisions. The Lā'au Point project will create 200 residential lots for sale; buyers will build their own homes. Therefore, Lā'au Point will not go through a formal LEED certification process. However, the CC&Rs and subsequent design guidelines will strive for the same goals as LEED.

The following are some of the key design restrictions and other covenants that will be implemented at Lā'au Point:

- **Restriction to prevent a gated community.** Gates will be prohibited across roads and access roads. No street-facing walls or barriers may be higher than four feet.
  - All lots with frontage to the ocean will be required to have one of four or five types of fences (set out in the Design Guidelines) that create a physical separation between the lots and the Open Space and Expanded Conservation District areas that are being protected for subsistence gathering. Homeowners will be allowed gates that access these areas.
- **Subdivision.** No further subdivision of lots will be allowed.
- **Buildable area.** Allow disturbance of no more than 30 percent of the lot. (2-acre Lot = +/-26,000 s.f. or about 1/2 acre). Require some a level of maintenance of lot area to reduce fire hazard (remove dead wood). Building must be set back at least 50 feet inland from oceanfront property lines.
- **Restricted building coverage.** The maximum developable area of a home, or a home and 'ohana housing unit if allowed by the County, will be 5,000 sq ft. Further details are set out on Page 27 of Appendix A (Chapter 5, Land Use Plan).
- **Building code.** Restriction on building height; maximum height of 25 feet and one-story. Restrictions on building envelope and footprint. Restriction The Design Guidelines will outline restrictions on building materials, color, and roof roofs; homes should blend into landscape.
- **Green architecture.** Require "green" architecture that incorporates recycled materials, energy efficient equipment, natural ventilation, solar and photovoltaic systems, etc. Green architecture may be defined in the Lā'au Point Design Guidelines as design standards, which preserve as far as practicable, the characteristics of each lot and the project as a whole, and strive to minimize non-renewable energy requirements, water use, and the impact of the project on the natural environment.
- **Solar power.** Solar panels requirement (or comparable technology) for water heating sized to meet at least 80 percent of the hot water demand of each home and to supplement electric power for appliances will be required.

- **General energy.** All energy systems shall be designed and constructed to meet United States Environmental Protection Agency (EPA) conservation standards. An example of an EPA conservation standard is the ENERGY STAR program, which was established in 1992 for energy-efficient computers. Now a joint program under the EPA and the U.S. Department of Energy, the ENERGY STAR program has grown to encompass more than 35 energy-efficient product categories for homes and workplace. Homes that earn the ENERGY STAR designation must meet guidelines for energy efficiency set by the EPA. ENERGY STAR qualified homes can include a variety of energy-efficient features, such as effective insulation, high performance windows, tight construction and ducts, efficient heating and cooling equipment, and ENERGY STAR qualified lighting and appliances. These EPA standards for the ENERGY STAR program can be found at the following website: <http://www.energystar.gov>. For example, all dwellings will be required to have solar panels (or comparable technology) sized to meet at least 80 percent of the hot water demand of each home. Other energy-efficient measures will be required in the Lā'au Point Design Guidelines.
- **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.
- **Lighting.** Exterior lighting must be shielded from adjacent properties and the ocean.
- **Landscaping and irrigation.** Landscaping Common area irrigation systems will be from will utilize re-use water (treated effluent) from the wastewater treatment plant, or collected in catchments systems; Residential catchment systems may provide landscape irrigation to individual lots and homes. Drinking water will not be used for irrigation of any landscaped areas, only drip systems will be permitted for both common area and residential landscaping. Landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations; xeriscaping aims to reduce water use.
- **Storage tank.** All houses will be required to have at least a 5,000-gallon storage tank for water captured from roofs.
- **Water covenants.** Requirement of a dual-water system split into safe drinking and non-drinking water; safe drinking water will be limited to 500-600 gpd, or 96,000 gallons per day for potable water in the entire subdivision. Homes will be required to use double flush toilets and specially-designed showerheads for water conservation.
- **Fire Protection.** Each dwelling will be required to install a fire protection or sprinkler system when a house is constructed, until such time that a fire station is built on the West End of the island.
- **Drainage systems.** Require drainage systems that retain any run-off within the disturbed area of the lot. Maximize recharge into the ground. Restore land areas that have eroded by re-establishing vegetative cover. Minimize impervious (paved) surfaces on the Lot.
- **Soil erosion.** No building allowed on slopes greater than 50 percent. Manage open space common areas to reduce/eliminate soil erosion by restoring the vegetative cover. Deer and livestock fence will be placed at the rear of the subdivision.
- **Water quality monitoring.** Water quality will be continuously monitored at stormwater drains and in the ocean for: temperature, salinity, total suspended solids, total nitrogen, ammonia nitrogen, nitrate and nitrite, total phosphorus, chlorophyll A and silicate.
- **Land Trust easements.** The expanded State Conservation District of 434 acres, flood areas, archaeological sites, etc., are will be subject to easements an easement from the Land Trust; the Land Trust will have adequate ex-officio representation on the homeowners' association (HOA) and Both both the Land Trust and HOA will share the

responsibility and cost to care for the easement area by equal representation on a "Council" that will provide day-to-day management of the easement lands. The Council will have representation from qualified subsistence gatherers, those with knowledge of cultural site protection and from Maunaloa. The Council will be guided by a Shoreline Access and Management Plan (Appendix B).

- **Subsistence access.** Perpetual right to subsistence gathering activities at Lā'au Point (see Section 2.3.7 below) will be set forth within the Easement document covering the expanded Conservation District.
- **Subsistence hunting.** Buyers must accept that hunting occurs in the broader surrounding area, mauka of the subdivision behind a deer and livestock fence.
- **Maintenance of deer and livestock fence.** The Homeowners' Association will be responsible for maintaining the deer and livestock fence along the mauka boundary of the project area.
- ~~**Fence to demarcate private property from public access areas.** A clear physical demarcation, such as a log fence, running along the individual property lines will distinguish the private near-shoreline lots from the expanded public Conservation District areas.~~
- **Lā'au Point community education.** Every owner must commit to undergo a certain amount of education about the Moloka'i community and its desires and aspirations.
- **Rentals.** Renting properties to third parties will be prohibited.
- **CC&Rs.** The final Master Plan covenants in the CC&Rs cannot be changed.
- **View plane.** The final subdivision map will designate proposed building sites to ensure the view planes of each lot and that the house to be built will not be unreasonably obtrusive when viewed from the ocean.

The Land Trust is a signatory to the CC&Rs and is given specific enforcement rights under the terms of the document. Certain covenants and restrictions in the CC&Rs are derived from the provisions of the Master Plan that represent the Land Trust and community concerns on protection of subsistence and cultural practices and the protection of cultural/archaeological and environmental resources. These are designated Master Plan Covenants under the terms of the CC&Rs. The CC&Rs provide that the Land Trust may prosecute breaches of the Master Plan Covenants and take legal action to ensure their enforcement.

Some provisions of CC&Rs will be able to be changed by a 75 percent majority vote of homeowners. These are operational in nature or concern and involve the management of the Association common areas. They bear no relationship to the covenants that are designed to implement the vision of the Community-Based Master Land Use Plan for Molokai Ranch.

The CC&Rs are currently being prepared in draft form. A key element of these will be the incorporation of the Moloka'i Land Trust as a party to the CC&Rs. This is critical because the Land Trust, as a party to the CC&Rs, will be able to enforce compliance.

As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in this EIS (see Section 7.5). The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

**2.4 COMMUNITY MEETINGS AND INVOLVEMENT**

Since the establishment of the EC Project #47 for Compatible Community-Based Development in August 2003, members of the Moloka'i community have gathered to discuss and formulate the *Community-Based Master Land Use Plan for Molokai Ranch* and the Lā'au Point project. Throughout this community planning process, there have been numerous opportunities for public involvement, input, and review. Table 2 Table 4 below contains a timeline summary list of meetings and public involvement.

**Table 2 Table 4. Community Meetings & Involvement**

<b>Date</b>	<b>Community Activity</b>
December 10, 2003 to October 20, 2005	28 total Land Use Committee meetings
March 1 to May 4, 2004	8 total Environment Committee meetings
March 2 to May 10, 2004	11 total Tourism Committee meetings
March 4 to July 19, 2004	25 total Cultural Committee meetings
March 8, 2004 to January 12, 2005	10 total Economics Committee meetings
March 10 to May 10, 2004	9 total Recreation Committee meetings
June 2, 2004	Expert Panel on Hawaiian Rights Issues
June 17, 2004	Land Use Committee site visit to Lā'au Point
June 17, 2004	Facilitated Land Use Committee meeting
July 18, 2004	Presentation to Native Hawaiian Legal Corporation—Board of Directors on Moloka'i
August 18, 2004	Presentation to Ahupua'a O Moloka'i
August 26, 2004	Presentation of draft Master Land Use Plan community meeting at Kulana 'Ōiwi, Kaunakakai
September 1, 2004	Maunaloa Community meeting at Maunaloa Park
September 1, 2004	Presentation at Moloka'i High and Intermediate School—Immersion Program
September 2, 2004	Presentation on access issues at Kulana 'Ōiwi
October 6, 2004	Presentation to Office of Hawaiian Affairs—Board of Trustees on Moloka'i
October 12, 2004	Presentation to HSTA and Moloka'i Chamber of Commerce
October 15, 2004	Presentation to Moloka'i Veterans Association
October 16, 2004	Presentation to Moloka'i Lions Club
October 27, 2004	Kualapu'u Community meeting at Kualapu'u Recreation Center
November 3, 2004	Kaunakakai Community meeting at Mitchell Pauole Center
November 13, 2004	Presentation to West Moloka'i Community Association
November 16, 2004	Presentation to Moloka'i General Hospital, Alu Like Inc.—Ke Ola Pono O Na Kupuna, and Executive Board of Moloka'i Chamber of Commerce
November 18, 2004	Presentation at Aka'ula School

**Attachment**  
**Revised Section 2.4**  
**(Community Meetings and Involvement)**

REVISED SECTION 2.4 (Community Meetings and Involvement), Page 2 of 6

Date	Community Activity
November 28, 2004	Presentation to Filipino Community Association
November 30, 2004	Mana'e Community meeting at Kilohana Recreation Center
November 30, 2004	Presentation at Aka'ula School
December 22, 2004	Presentation to Kamalama at Keawanui, Moloka'i
January 5, 2005	Presentation to AARP
January 8, 2005	Water Forum meeting at Lanikeha Community Center
January 12, 2005	Presentation to Spiritual Leaders in Maunaloa
January 15, 2005	Presentation to Kaluako'i golfers
January 27, 2005	Maunaloa Community meeting at Maunaloa Park
January 28, 2005	Presentation to Ahupua'a O Moloka'i
January 29, 2005	Public meeting—Mana'o Sharing on Water at Kulana 'O'iwi
February 3, 2005	Ho'olehua Community meeting at Lanikeha Community Center
February 12, 2005	Public Meeting on Lā'au Point development at Kulana 'O'iwi
March 5, 2005	Public Meeting on Master Land Use Plan at Kulana 'O'iwi
June 15, 2005	Land Trust seminar conducted by the Conservation Fund
July 2005	Land Use Committee site visit to Lā'au Point
August 1, 2005	Land Use Committee vote to approve Master Land Use Plan
November 1, 2005	Enterprise Community Governance Board vote to approve Master Land Use Plan
May 26, 2006	EISPN distributed to agencies/organizations/individuals for public comment and made available at Moloka'i library
May 31, 2006	Cultural impacts assessment community meeting at Maunaloa Elementary School
June 1, 2006	Cultural impacts assessment community meeting at Kulana 'O'iwi
June 5, 2006	Cultural impacts assessment community meeting focusing on fishing at OHA/DHHL Conference Room
June 6, 2006	Cultural impacts and subsistence community meeting at Kualapu'u Elementary School
June 7, 2006	Cultural impacts assessment community meeting at Kilohana Recreational Center
June 8, 2006	Focus on hunting & gathering cultural impacts assessment community meeting at Mitchell Pauole Conference Room
July 10, 2006	Water Plan public input meeting at Maunaloa
July 11, 2006	Water Plan public input meeting at Ho'olehua
July 12, 2006	Water Plan public input meeting at Kilohana
July 25, 2006	Social Impact Assessment Focus group meeting with Maunaloa residents
July 26, 2006	Social Impact Assessment meeting at Kaunakakai Elementary School
July 27, 2006	Social Impact Assessment Focus group meeting with Filipino residents
July 28, 2006	Social Impact Assessment Focus group meeting with ALDC
July 31, 2006	Social Impact Assessment Focus group meeting with Kaluako'i and Pāpōhaku Ranch residents
August 25, 2006	Meeting with EIS consulted parties
December 1, 2006	Consulted with Police Department—Moloka'i Station
December 23, 2006	Draft EIS distributed to agencies/organizations/individuals for public comment and made available at Moloka'i library

REVISED SECTION 2.4 (Community Meetings and Involvement), Page 3 of 6

From March 2004 through May 2004, five committees (Environment, Cultural, Economics, Tourism, and Recreation) met with a total of 1,000 participants. The meetings were open to the public and most of the meetings were aired on the Akaku Channel 53. Representatives of the five committees formed the Land Use Committee, which worked to produce the policies and principles for the land use plan.

Between July 2004 and March 2005, there were 12 community meetings and 24 community and focus group presentations regarding the Community-Based Master Land Use Plan. The meetings were held island-wide, in Kaunakakai, Kualapu'u, Mana'e, Maunaloa, and Ho'olehua, with over 1,000 participants.

Four Land Use Committee meetings, specifically focusing on all aspects of the Lā'au Point project, were held between May 2005 and July 2005, and included presentations from MPL's planners and a visit to Lā'au Point by those who had concerns about subsistence issues.

Sign-in sheets were taken at all the Lā'au Point meetings. In the process, sign-in sheets were provided at every meeting, but there were individuals who chose not to sign in as they did not want their names to be published. Therefore, a complete list of names for every participant is not included. Appendix A and Section 8.0, however, contains lists of the most active participants during the processes.

On August 1, 2006, the 27-member EC Land Use Committee voted to approve the *Community-Based Master Land Use Plan for Molokai Ranch*. The final vote was 19 in favor, 6 opposed, 2 abstentions.

On November 1, 2005, the EC Governance Board of Directors voted to approve the *Community-Based Master Land Use Plan for Molokai Ranch* based on the recommendation from the EC Land Use Committee. The 13-member board voted 10 in favor, 2 opposed (1 Director did not vote).

Since the EC Land Use Committee and Governance Board of Director's approval of the *Community-Based Master Land Use Plan for Molokai Ranch*, MPL has moved forward with implementing the actions proposed in the Plan. Since the Lā'au Point EIS process began with the distribution of the EIS Preparation Notice, public community meetings have been held to help obtain feedback for the cultural assessment, social impact study, and water plans. In addition, MPL met with individuals that requested to be a consulted party to the EIS on August 25, 2006.

In addition to community meetings, the following activities have occurred to educate the Moloka'i community and others about the Plan:

- A 24-minute DVD was produced featuring a cross-section of Moloka'i residents and other supporters of the Plan. The video began airing on both O'ahu and Maui County public television stations in November 2006 and is will continue to be shown in 2007.
- The DVD will also be shown at selected public forums throughout the community and plans are underway to have each residential household on Moloka'i receive a copy of DVD.
- A brochure explaining the Plan was finalized and distributed to more than 3,200 Moloka'i households in December 2006.
- Radio spots about the Plan will begin airing on selected radio stations in December 2006.

**REVISED SECTION 2.4 (Community Meetings and Involvement), Page 4 of 6**

- Supporters of the Plan are enrolled in classes provide by AKAKU Public Access Television to learn skills and techniques for producing videos that can be used to further educate television audiences about the Plan.
- A website was developed by volunteers that support the Plan and is being updated with information on a regular basis.
- Copies of the Plan have been printed and distributed to MPL employees with follow-up informational sessions and site tours being led by the employees. MPL employees, their families, and other interested community residents have participated in these tours and sessions.
- Copies of the Plan have been distributed to individuals in the community and will continue to be shared with interested persons upon requests.
- A series of articles about land trusts was prepared and submitted to Moloka'i newspapers by trustees of the Moloka'i Land Trust to inform the community about land trusts.
- Paid advertisements about the Plan were developed by volunteer MPL employees and the OHA trustee for Moloka'i. The ads were printed in the local Moloka'i newspapers and the OHA trustee's ad was printed in the Moloka'i papers in addition to being distributed statewide through OHA's newspaper.
- Copies of the DVD, interviews of Plan supporters, press releases, and letters to editors were submitted to newspapers on Moloka'i, Maui, and O'ahu, in addition to television news outlets on O'ahu.
- Informational sessions have been held with business organizations such as the Moloka'i Chamber of Commerce, and plans are underway to educate other community groups and organizations as well as students and faculty at the community college, and public and private schools on island.
- Educational rallies that are organized by MPL employees and Plan supporters are being implemented during the months of December 2006 through June 2007.
- Volunteer MPL employees have constructed and distributed educational signs that are seen in various locations on Moloka'i indicating support for the Plan.

During the Draft EIS comment period, there were numerous comments received from community members, whom sought information concerning the Community-Based Master Land Use Plan for Molokai Ranch (Master Plan) process, its validity, and the current status of other aspects of the Master Plan implementation, in particular about documentation between the parties involved. Questions also related to whether MPL had been honest in its intentions at the commencement of the Master Plan process.

In addition, the Social Impact Assessment Report recommended that MPL conduct further community outreach regarding the Master Plan, since it appeared that many island residents were unaware of the Master Plan's provisions; many were aware of the Lā'au development more than any other aspect of the entire Master Plan's purported benefits for the community. These important issues are discussed below:

**2.4.1 MPL's Intentions at the Commencement of the Planning Process**

At the commencement of EC Project #47 "Molokai Sustainable development," the Conservation Fund conducted a two-day seminar on likely outcomes of the planning process and made recommendations as to the process to be followed.

**REVISED SECTION 2.4 (Community Meetings and Involvement), Page 5 of 6**

This seminar, attended by community leaders, and many of the current opponents to the Master Plan, including DeGray Vanderbilt, Walter Ritte, Glenn Teves, and others, took place on January 28 and January 29, 2003 at the OHA/DHHL conference room at the Kulana 'Ōiwi center in Kaunakakai.

The EC had been adamant that MPL outline its intentions at that meeting. MPL's CEO, Peter Nicholas, prepared a written speech detailing what MPL needed from the process and what it hoped the community could gain. That speech, which is attached as Appendix C sets out its vision for land protection, and its needs for a future development to sustain its on-going activities and curb its losses.

Many comment letters to the Draft EIS asserted that Lā'au Point was brought up only at the end of the community planning process. Page 2 of the speech clearly indicates the contrary, as it states: "Economically, we need some development at Lā'au Point, because the Kaluako'i Hotel and Golf Course will almost certainly lose money for many years until a marketing campaign kicks in. We need a larger financial engine than just the hotel and the golf course."

Subsequent to that speech, there was only one question concerning its Highland Golf Course option; an option that was subsequently discarded at the wishes of the Cultural Committee.

MPL believes it was always honest in its intentions and outlined all its proposals at the commencement of the process.

**2.4.2 Validity of the Master Plan process**

MPL believes in the validity of the community-based process, which resulted in the creation of the Community-Based Master Land Use Plan for Molokai Ranch.

As previously discussed in Section 2.1.6, between September 2003 and September 2005, MPL joined with community participants to discuss a community-based master land use plan for Molokai Ranch's lands in an EC-sponsored process (EC Project #47). The EC was the appropriate organization with which to partner in this planning exercise; it was an elected 501(a)(3) non-profit organization charged with the island's sustainable development future options. The EC ensured all meetings were open to the public, many being advertised extensively. Most committee meetings were shown on Akaku community television, which is broadcast on Moloka'i.

Despite comments to the contrary, MPL did not control the planning process; MPL was a participant. MPL participated in all committees, and later in the Land Use Committee. MPL answered all questions put to it during the process regarding the Lā'au Point development, including the presentation of shoreline setback studies, information concerning its operational financial losses, the funding it needed to re-open the Kaluako'i Hotel, and the many alternatives to Lā'au Point, which are further analyzed in Section 6.0 of this EIS.

Questions have been raised concerning the members of the Land Use Committee and those elected members of the EC who were MPL employees and who voted for the acceptance of the Master Plan. MPL acknowledges that 3 of the 29 members of the Land Use Committee were MPL employees. However, if MPL employees had abstained from voting, a majority of the remaining members would still have passed the Master Plan.

#### 2.4.3 Further Plan Outreach

To ensure adequate information was supplied and feedback from the community received on the Master Plan and this LUC application, MPL currently employs two staff full-time who are responsible for community relations, outreach, and education concerning the Master Plan.

MPL has also distributed an information sheet and DVD on the Master Plan to all households on Moloka'i. MPL staff responds to letters to the local and national media, provides accurate information on a regular basis, and continues to attend outreach meetings with community groups, island, County, State, and Federal leaders.

A major rally outlining the plans for the future of the Kaluako'i Hotel and Golf Course was held in lat 2006 and more large group gatherings are planned.

#### 2.4.4 Other Master Plan Implementation

While there has been a necessary concentration by MPL on preparing information for the Land Use Commission petition, other aspects of the Master Plan implementation have been underway.

Since the filing of the Draft EIS in December 2006, the following initiatives of the Master Plan have been implemented:

- First Lands Donation. The 1,600-acre Mokiio parcel is on track for gifting to the Moloka'i Land Trust in early 2008, following an extensive due diligence process by the Land Trust and the preparation of a cultural and environmental inventory and an important access and management plan for the area.
- Land Trust/MPL agreement on Master Plan implementation. This agreement, an extensive and complicated document, is being drafted and should be finalized by November 2007.
- Kaluako'i Hotel refurbishment. MPL has filed an SMA application with the Maui County Planning Department and awaits a hearing date. Detailed working drawings are awaiting approval of preliminary design and landscape plans.
- Pu'u Hakina & Kamāka'ipō Shoreline Access Management Plan. This document which spells out the management criteria for the expanded Conservation District has been approved by the Land Trust and is attached as Appendix B.
- Affordable Housing. As a forerunner to future affordable housing partnerships with the CDC, a trial 10-lot affordable housing project is underway on MPL subdivided lots in Maunaloa. MPL and a developer will build these houses for a total sales price not exceeding \$170,000 for the land and buildings. Completion is expected in early 2008.
- Rural Landscape Reserve and Agricultural Easements. Documents relating to the easement provisions on the Rural Landscape Reserve lands (10,560 acres) and land protected for agriculture (14,390 acres) are in preparation and will be completed early in 2008 for ratification by the Moloka'i Land Trust.
- Protection of Subsistence Resources and Access Issues. A major initiative under the Master Plan calls for improved access for the community to all of MPL's property for subsistence fishing and hunting. MPL employees and Maunaloa residents have been working closely with the Land Trust on preparatory plans, in particular on access to the Mokiio donated parcel and with the protected areas within the Lā'au development.

## Attachment

### Revised Section 3.6 (Flora)

#### 3.6 FLORA

The vast majority of Lā'au Point is vegetated by non-native plants. Although dominated by non-natives, healthy native plant communities can still be found in sandy beach, rocky shoreline shrub land/grassland, and seasonal wetland habitats. Three species considered rare in Hawai'i include: *Cressa truxillensis*, Hawaiian cotton or ma'o (*Gossypium tomentosum*), and 'ihi'ihilauakea (*Marsilea villosa*).

The sandy beach habitat of Lā'au Point contains the most extensive example in Hawai'i of a seasonal herb land dominated by *Cressa truxillensis*. Other native plants include: 'aki 'aki (*Sporobolus virginicus*), 'akulikuli (*Sesuvium portulacastrum*), pohuehue or beach morning glory (*Ipomoea pes-caprae*), the sedge (*Fimbristylis cymosa*), and pohinahina (*Vitex rotundifolia*). The non-native kiawe (*Prosopis pallida*) and animal grazing have been main pressures on these plant communities.

Only ten percent of the rocky shoreline shrub land/grassland habitat has native plant cover, but it contains the highest number of native plants, which include: naupaka (*Scaevola sericea*), uhaloa (*Waltheria indica*), Hawaiian cotton or ma'o (*Gossypium tomentosum*), 'ilima (*Sida fallax*), alena (*Boerhavia diffusa*), pau o Hi'iaka (*Jacquemontia ovalifolia* ssp. *Sandwicensis*), 'ihi (*Portulaca lutea*), akulikuli (*Sesuvium portulacastrum*), the grass *Panicum fauriei* var. *latius*, aki'aki (*Fimbristylis cymosa* ssp. *Umbellate-capitata*), and Kakonakona (*Panicum torridum*). Non-native plants that dominate this habitat include: golden crown beard (*Verbesina enceliodes*), Australian salt bush (*Atriplex semibaccata*), dog fennel (*Dessodia tenuiloba*), and kiawe.

The federally endangered 'ihi'ihilauakea (*Marsilea villosa*) was found near a seasonal wetland along where the Kamāka'ipō Gulch drainage meets the coast. This native fern is the only federally listed endangered plant occurring in the Lā'au Point area. 'Ihi'ihilauakea was federally listed as endangered in 1992. A total of 11 populations have been reported: five on O'ahu, four on Moloka'i, and one on Ni'ihau. Although critical habitats for 'ihi'ihilauakea have been established on O'ahu, no critical habitats for 'ihi'ihilauakea have yet been designated for Moloka'i.

The Kamāka'ipō Gulch population of this rare fern is not a new discovery. This population is known from historic accounts and recent surveys. Collections were reported to state and federal agencies as part of required collection permit reporting. In the past, collections from this population have also been distributed to botanical gardens in Hawai'i with programs dedicated to endangered plant conservation.

Due to 'ihi'ihilauakea's unique requirement for flooded areas, this fern can be very difficult to find. Hence, the survey for the 'ihi'ihilauakea was specifically conducted over a six month period (November 28, 2005 to June 6, 2006), including surveys after the heavy rains of 2006, so that the populations could be found and mapped under the best possible conditions. All potential habitat in the area was checked multiple times in the survey period and no additional Marsilea populations were observed.

The 'ihi'ihilauakea population at Kamāka'ipō is currently expanding, despite occasional foot traffic. Samples are being preserved in three endangered plant collections around the state. The surrounding habitat is no longer the intact native shrubland that would have existed there hundreds of years ago.

Under drought situations, the seasonal wetland community is dominated by several dryland weed species, including cocklebur (*Xanthium saccharatum*), bristly foxtail (*Setaria verticillata*), finger grass (*Chloris barbata*), and the vine *Merremia aegyptica*. The perimeter of the seasonal wetlands is dominated by kiawe and guinea grass (*Panicum maximum*).

The most widespread plant community in the Lā'au Point parcel is kiawe lowland dry forest. In many areas, these forests stretch up to the high tide line due to the trees' ability to utilize brackish groundwater. The kiawe forests are most developed in areas where groundwater is available, just inland of the coastal strand, and in the drainages. Native plants in this habitat include: 'ilima, *Abutilon incanum*, and pili grass (*Heteropogon contortus*).

Non-native lantana is the dominant species in lowland shrub land areas where rocky terrain, erosion, and lack of water have created gaps in the lowland kiawe forest.

Appendix B D of this EIS contains the botanical survey by William Garnett. The botanical survey was carried out over a period of six months (late November 2005 to early June 2006) to assure complete coverage, detailed GPS track logs were kept to record both ground and air survey routes. To be aware of any possibilities, a list of historical plant collections made from within the survey area was provided by the Bishop Museum herbarium. However, it is always possible that additional populations could appear in other seasonal wetlands under different conditions in future years.

**POTENTIAL IMPACTS AND MITIGATION MEASURES**

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 only the 'ihi'ihilauakea (*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'ihilauakea population is not within the proposed residential house/lot 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 deeded to the Land Trust, is also covered by the SAMP. This will The provisions of the SAMP include managing this the significant 'ihi'ihilauakea population, including possible opportunities to use for private landowner "safe harbor" conservation programs. The 'ihi'ihilauakea might also benefit from habitat created by any settling ponds planned for the site. The key to protecting the 'ihi'ihilauakea 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 Lā'au Point project will include landscaping appropriate to the coastal setting. Where feasible, new landscaping will include drought-tolerant native plants and grasses.

Evidence at public meetings has been given that the kiawe and other non-native plant species drain the limited water resources that would otherwise be available for feeding native plants. The Land Trust and the homeowners together will plan for the best use of native plants, ensuring they have the necessary growth opportunities.

## Attachment

### Revised Section 3.7 (Fauna)

#### 3.7 FAUNA

No native land birds, native water birds, or seabirds were observed at the project site during an avifaunal and feral mammal survey (Appendix E) conducted in August 2006. The only native land bird species likely to forage in this area is the Hawaiian Owl or Pueo (*Asio flammeus sandwichensis*). This species is listed by the State of Hawaii as endangered on O'ahu but not elsewhere in the State. They hunt in grasslands, agricultural fields and forests and nest on the ground in habitats with tall grass.

Four species of common migratory shorebirds were observed ~~on the survey~~: Pacific Golden-Plover or Kolea (*Pluvialis fulva*); Ruddy Turnstone or 'Akekeke (*Arenaria interpres*); Wandering Tattler or 'Ulii (*Heteroscelus incanus*); and Sanderling or Hunakai (*Calidris alba*). None of these migratory shorebirds are listed as threatened or endangered. Thirteen species of introduced alien birds were also tallied ~~on~~ during the survey, none of which are listed as threatened or endangered.

Most mammals typically found in the area are introduced, and include rats, mice, axis deer, and mongoose. ~~Two endangered~~ During the survey, two Hawaiian Monk Seals (*Monachus schawinslandi*) were observed resting on Sam Wights Beach north of Lā'au Point.

~~Appendix C of this EIS contains the avifaunal and feral mammal survey prepared by Phillip Bruner.~~

The Hawaiian monk seal is protected under the Endangered Species Act and the Marine Mammal Protection Act. In their comment letter on the Draft EIS dated February 5, 2007, the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) noted that since 1984, a total of 169 Hawaiian monk seal sightings have been documented on the shoreline of the project area. Most of these sightings were documented in 2005 and 2006 when increased observations occurred. To date, a total of 18 uniquely identifiable seals have been documented among these sightings. Because not all Hawaiian monk seal are tagged or well-identified by natural marks, these 18 represent a minimum number of individual seals that have used the area. Of the 18 identified seals, nine were known to have been born on Molokai: eight at Kalaupapa Peninsula, and one at a small pocket beach between Lā'au Point and Hale O Lono.

According to the NOAA NMFS, Lā'au Point is an especially good Hawaiian monk seal habitat because of its remoteness and limited access, sandy beach substrate, and proximity to foraging areas.

In a subsequent letter (dated June 21, 2007) to their comment letter on the Draft EIS, NOAA NMFS stated: "NMFS believes it would not be necessary to conduct a survey at the site to ascertain that Lā'au Point is important monk seal habitat, as that is already known."

#### **POTENTIAL IMPACTS AND MITIGATION MEASURES**

The Lā'au Point project will be sensitive to natural systems and define areas for environmental protection. A State Land Use District Boundary Amendment is proposed to expand the existing

Conservation District, thereby increasing the amount of shoreline and Hawaiian monk seal habitat put into permanent protection. This request is reflective of the community's desire to preserve shoreline resources. The coastal area also falls within the County's Special Management Area which provides additional rules and regulations designed to protect shoreline resources.

In addition, the project proposes that lot lines should be set back at least 250 feet from the designated shoreline or high water mark. Residential lot boundary lines for Lā'au Point will be at least 50 feet behind the current Conservation District boundary. In addition, the makai lots along the shoreline will have 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. These setbacks will prevent encroachment and provide a natural buffer zone within the Conservation District between the homes and shoreline.

Monk Hawaiian monk seals have been documented on the sandy beaches around Lā'au Point. Monk seals are known to visit deserted beaches, or beaches not heavily used by people. The project increases the potential for interactions between humans and the endangered species Hawaiian monk seal. In their February 5, 2007 letter commenting on the Draft EIS, NOAA NMFS notes that potential threats to Hawaiian monk seals as a result of the project include: 1) human-caused disturbance; 2) disturbance, physical harm, and potential disease transfer from dogs; and 3) hooking and entanglement associated with shore-based fishing. In their subsequent letter dated June 21, 2007 NOAA states that they believe there should be a monitoring program with regular surveys conducted before, during, and after development to determine whether or not Hawaiian monk seal use of the habitat changes as land and ocean uses change.

The Cultural Impact Assessment (see Section 4.2) calls for the need to provide education and enforce laws protecting Hawaiian monk seals. In addition, the Shoreline Access Management Plan (SAMP) (further discussed in Section 4.3 and provided as Appendix B) is a community-based and developed set of guidelines, rules, monitoring programs, and general principals for the protection and utilization of the cultural, biological, and social resources of the area, including Hawaiian monk seals.

The SAMP contains a plan and recommendations for the protection of Hawaiian monk seals developed in consultation with NOAA. Elements of the plan and recommendations were taken from NOAA's draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006). NOAA. In addition, the SAMP provides for the establishment of management plans which include monitoring of potential impacts to resources, including Hawaiian monk seals.

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the

appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Molokai, a Resource Manager will monitor the Lā'au shoreline area daily. The Resource Manager will:

- Post signs in regular intervals along the shoreline explaining the rules regarding Hawaiian monk seals.
- Cordon off areas, place signs around resting Hawaiian monk seals, and designate areas closed to fishing as a result of a Hawaiian monk seal sightings.
- Report Hawaiian monk seal sightings to NOAA and take whatever actions are required by NOAA to ensure the safety of the Hawaiian monk seal.
- Enforce all Hawaiian monk seal protection rules, regulations, and protocols.
- Report violations of federal or state laws to appropriate authorities and act as a witness in the prosecution of any person violating federal or state laws.
- Receive training as a Hawaiian monk seal protection specialist.
- Notify NOAA of entangled Hawaiian monk seals.
- Remove debris that may be harmful to Hawaiian monk seals from the shoreline area.
- Monitor the shoreline area for contaminants that may be harmful to Hawaiian monk seals.
- Work with NMFS to develop a volunteer seal monitoring program.

This information would will be included in the CC&Rs and other educational materials given to Lā'au Point buyers. Adherence to the SAMP is required by the CC&Rs. In addition, everyone accessing the area must be educated on the law, rules, and protocols associated with Hawaiian monk seal protection. Additional information on the educational requirements of the SAMP is included in Section 4.2 (Trails and Access).

The SAMP also 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 Lā'au Point project will be sensitive to natural systems and define areas for environmental protection. A State Land Use District Boundary Amendment is proposed to expand the existing Conservation District, thereby increasing the amount of shoreline and monk seal habitat put into permanent protection. This request is reflective of the community's desire to preserve shoreline resources. The coastal area also falls within the County's Special Management Area which provides additional rules and regulations designed to protect shoreline resources.

In addition, the project proposes that lot lines should be set back at least 250 feet from the designated shoreline or high water mark. Residential lot boundary lines for Lā'au Point will be at least 50 feet behind the current Conservation District boundary. In addition, boundaries for the makai lots along the shoreline 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. These setbacks will prevent encroachment and provide a natural buffer zone within the Conservation District between the homes and shoreline.

The impact of the Lā'au Point project on birds is not expected to be significantly adverse. The expanded shoreline-setback-zone Conservation District will reduce impacts to protect water and shorebirds. 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 re-populate adjacent open spaces.

As the shoreline and in-shore areas are available only for subsistence gathering, the Land Trust and the homeowners have a responsibility to protect land birds and mammals by firstly, educating visitors, and secondly, enforcing policies and procedures to be developed for subsistence gathering. The Lā'au Point landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations.

Regarding lighting impacts on animals, as addressed Section 2.3.6 (Covenants), the CC&Rs require that all exterior lighting be shielded. Although the subdivision roadways will be privately-owned, the street lighting standards will conform to County of Maui standards. Lā'au Point outdoor lights will include low-wattage, low-pressure sodium lamps that direct light downward, as recommended by the County's proposed Outdoor Lighting Standards, to curtail light pollution that interferes with astronomical observations and prevent turtles and seabirds from being disoriented during their migration. This recommendation is also promulgated by the US Fish & Wildlife Service.

**Attachment**

**Revised Section 3.8**  
**(Marine Environment)**

**3.8 MARINE ENVIRONMENT**

Marine habitat characteristics at Lā'au Point are described as typical wave-exposed, low relief reef type with generally low coral cover. This area is exposed to high wave energy, moderate sand movement, and fairly low fishing pressure relative to other near shore areas in the main Hawaiian Islands.

Large-scale marine habitat features include shelf zone (84 percent), followed by reef flat (8 percent), fore reef (6 percent), and shoreline intertidal (2 percent). The sea bottom cover is dominated by turf algae (57 percent), followed by sand (22 percent), macroalgae (10 percent), and hard coral cover (6 percent).

Numbers of individual fish are higher north of Lā'au Point. Diversity, evenness, and species richness are higher north of the point as well. Fish biomass, however, are higher east of Lā'au Point.

Small schools of surgeonfishes (manini – *Acanthurus triostegus*, kala lolo – *Naso brevirostris*, na'ena'e – *A. olivaceus*), planktivores, triggerfishes, herbivores, and apex predators, primarily a single island jack (uluā – *Carangoides orthogrammus*) and two individuals of the introduced peacock grouper (roi – *Cephalopholis argus*) were observed around Lā'au Point.

Marine biological and water quality baseline surveys of the area found that fish characteristics at Lā'au Point are generally lower than average values reported from large-scale studies statewide. The amount of fish was more than four times lower at Lā'au Point compared to no-take Marine Life Conservation Districts (MLCDs) and 42 percent lower than open access areas across multiple habitat types statewide.

According to the State Department of Health Environmental Planning Office Total Maximum Daily Load (TMDL) Program, "Receiving waters for the proposed project are 'Class AA West Molokai open coastal waters,' and water quality in a portion of these receiving waters is impaired by excessive nutrients, turbidity, and suspended solids (Final 2004 List of Impaired Waters in Hawaii Prepared under Clean Water Act Section 303(d))."

The marine waters surrounding Lā'au Point experience episodic "red water" events following periods of heavy rainfall. Turbidity, suspended solids and nutrient concentrations may be significantly elevated during these events. Sediment delivery to coastal waters is exacerbated by soil loosened by natural causes, including the effects of deer and livestock transiting and foraging in upland areas. The return to baseline conditions after a storm event is aided by turbulent mixing from waves and advection by currents along this exposed coast. The coastal marine communities are adapted to this periodic influx of runoff as well as to occasional high surf and the resulting scour from moving sand and rocks. Coral cover in particular is low and the low relief of the substratum provides limited fish habitat.

Appendix D G of this EIS contains the marine biological and water quality baseline surveys prepared by The Environmental Company, Inc. (TEC). Section 4.2 (Cultural Resources) of this EIS provides discussion of subsistence gathering along the shoreline and nearshore waters. 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."

#### POTENTIAL IMPACTS AND MITIGATION MEASURES

The marine water quality report concludes that it is likely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point development compared with existing conditions. This conclusion is based on several measures planned for Lā'au Point that 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 (see Section 2.3.6). Therefore, it is also likely that the long-term water quality in adjacent coastal waters may be improved by these measures.

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. The drainage plan (see Section 4.9.1) states that any increase in runoff from each developed lot will be retained onsite in surface or subsurface facilities. The anticipated increase in surface runoff from the paved roadway areas will be directed into surface or subsurface detention and/or desilting facilities before being released into the nearby drainage ways.

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 Kamāka'ipō (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 of the cause is a violation of the law of the CC&Rs.

The Cultural Impact Assessment (see Section 4.2) 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 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 fishing management zone in the coastal waters along all of the Ranch's coastline property will be created, as previously discussed in Section 2.3.7 and as recommended in the *Community-Based Master Land Use Plan for Molokai Ranch* (Appendix A). In addition, a no commercial-take zone a quarter-mile from the shoreline (north and west shore) and from the beach to the reef edge/breaker line (south shore) will be established. Page 59 of Appendix A shows the proposed designated subsistence fishing zones. The Cultural Impact Assessment suggests using the pilot project at Mo'omomi and the rights of

the Kalapana people to fish in the Volcanoes National Park as community-based models. Efforts should also be coordinated with the communities of Miloli'i on Hawai'i, and Hā'ena on Kaua'i who are also establishing community-based fishing zones.

Preservation of offshore and shoreline resources for subsistence gathering is of great importance to the people of Moloka'i. Therefore, perpetual right to subsistence gathering will be noted on the titles of the areas to be preserved. Protections to subsistence gathering will be specified in the CC&Rs for Lā'au Point. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as permit the hiring of resource managers to maintain the subsistence lifestyle. Further discussion on subsistence fishing and gathering is presented in Section 4.2 on cultural impacts and mitigation.

Based on the community-proposed access plan (Appendix A, p. 105), protection of the offshore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a management plan will be Shoreline Access Management Plan (SAMP) (further discussed in Section 4.3 and provided as Appendix B) 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.

The proposed shoreline access management plan for Lā'au Point SAMP consolidates public shoreline access to two locations at the proposed beach parks. The shoreline access management plan would adopt SAMP adopts protocol, rules, and permitted activities for persons engaging in subsistence shoreline fishing and gathering in these the expanded Conservation District shoreline areas area. Mandatory Under the SAMP, mandatory educational classes in traditional subsistence gathering and access responsibilities, safety and protocol would also be are required. Due to hazardous shoreline conditions toward Lā'au Point (USA Lighthouse parcel), public access to these areas would be discouraged. Access would be restricted to experienced subsistence fishermen only. Further discussion of the impacts upon marine and coastal resources as affected by shoreline access issues is presented in Section 4.3.

## Attachment

### Revised Section 4.3 (Trails and Access)

#### 4.3 TRAILS AND ACCESS

An essential aspect of Native Hawaiian cultural and subsistence practices are access routes to reach subsistence and cultural resources. Maps produced by M.D. Monsarrat for the Hawaiian Government Survey in 1886 and 1897 clearly show a trail going from Kapālauo'a near Mo'omomi to 'Īlio Point and from 'Īlio Point along the west coast to Lā'au Point.

When the Cooke family owned Molokai Ranch until 1988, access to the west and south coastlines adjacent to Lā'au Point was limited to the Cooke family and the Ranch stockholders. Ranch employees could go hunting and fishing on the whole West End under a pass system.

Currently, a subsistence committee comprising of senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access by Ranch employees. Guided access is also provided to hotel guests and guests of out-sourced commercial operators who offer a range of approved recreational activities on the Ranch. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees' committee. They are limited to two or three vehicles and ten adults. ATV's and motorcycles are not allowed. Families can go only once a month to give everyone a chance. Gathering is allowed for parties, and there is a three-gallon limit on 'opihī.

The Lā'au Point coastline offers a total of approximately 5.2 miles of shoreline from Hale O Lono Harbor to Kaupoa Beach. Stretches of white sand beach are broken by large, rocky outcroppings. The lava rock bluffs are generally steep and difficult to negotiate. The opening of public access to Hale O Lono Harbor increased access to the south shore out to Lā'au Point – both by foot and by boat. While it is still a long walk from Hale O Lono along the south coastline to Lā'au Point, it is closer than what it had been. Hale O Lono also provides a closer point for boats from Moloka'i to launch and get to the fishing grounds and 'opihī covered rocks of the south coastline.

The opening of Kaluako'i and Pāpōhaku also afforded closer access points to the western coast south to Lā'au Point – both by foot and by boat. Fishermen could begin at Kaunalu Bay or "Dixie" to walk south to Lā'au. Boaters can launch from Kainalu Bay and an area off Kaluako'i Resort.

Although the sandy beaches along Lā'au Point are excellent for picnicking and beachcombing, the waters off the south and west shores are often unsuitable for recreational swimming due to the exposure to swift ocean currents. There are a few surf spots on both the south and west shores, identified in Appendix 8 of the *Community-Based Master Land Use Plan for Molokai Ranch* (provided in Appendix A of this EIS).

#### POTENTIAL IMPACTS AND MITIGATION MEASURES

MPL recognizes and reaffirms all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes by descendants of Native Hawaiians. Project plans propose that Native Hawaiians and the general public will have Lā'au Point shoreline access from two points – one on the south shore at the southeast entry and one on the west shore at the northwest entry.

Vehicular access to the shoreline is restricted to the two public parks. Access beyond the two parks shall be by foot only. Vehicular access beyond the two parks is prohibited, except for emergency access. Off-road vehicles, ATVs, motorcycles and any other motorized vehicle are also specifically prohibited, except as needed by the Resource Managers.

In the process of developing the *Community-Based Master Land Use Plan for Molokai Ranch*, subsistence fishermen and gatherers were very concerned of marine resource depletion that could be caused by opening up the south and west shores to increase public access to every 1,500 feet, as the Maui County Code (MCC) Section ~~18.19.210~~ 18.16.210 provides. The County of Maui requires rights-of-way to be created where land fronting the shoreline is subdivided. The County of Maui recommends the placement of 15-foot wide shoreline access rights-of-way every 1,500 feet, where possible. This standard would require 16 public access rights-of-way for the project. Using the standard application of the County requirements as described above would result in many access rights-of-way in locations where access to the shoreline would be difficult and dangerous, thereby making the beach access locations undesirable for most users. This access method would also not be conducive to protecting the coastal resources of the Lā'au Point area.

Subsistence fishermen regretted that the opening of nearby Hale O Lono Harbor to general public access had severely decreased the marine resources there and they did not want to see the same happen to Lā'au Point. Opening up access points every 1,500 feet would have severe impact on the subsistence resources along the west and south coasts adjacent to Lā'au Point. The subsistence fishermen and gatherers felt that the provision of two access points and parking at either end of the project site would afford sufficient access, and that the need to walk in would protect the area.

As provided for in County regulations, the Director of Public Works, "may require that rights-of-way be consolidated to provide sufficient area for vehicular access, parking, development of shoreline or other recreational facilities, or other public purposes; or may modify the standard rights-of-way to take into consideration terrain features, length of frontage, uses of parcel to be subdivided and other pertinent features; provided, however, that the total area to be dedicated shall not differ substantially from that which would be required by the provision of standard rights-of-way, unless additional areas of improvement are mutually agreed to by the subdivider and Director" (MCC Sec. 18.16.210).

~~Some community members have expressed concerns that subdivision lot owners and their friends will have preferential access to the coast. Their concern is that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle. To some community members, affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal. Informants also expressed concern that landowners might call police if they see the general public walking on the beach, as this has happened at Pāpōhaku.~~

Increased public access to the shoreline and other cultural and coastal resources has the potential to damage the natural environment and diminish the uniqueness and cultural resources of the coast. As a result of the Master Plan process, the community decided that protection of the off-shore coastal resources at Lā'au Point and the onshore cultural resources and subsistence practices would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering (see Appendix A, p. 105). Therefore, to protect the

~~natural resources of the shoreline, manage subsistence activities, and protect cultural resources a shoreline access management plan Shoreline Access Management Plan (SAMP) for the area will be implemented which addresses maintenance and resource management for the area has been developed with, and adopted by, the Moloka'i Land Trust to regulate 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. It also contains provisions to protect the federally-listed endangered species in the area.~~

Appendix B contains the SAMP. In summary, the SAMP is a community-based and developed set of guidelines, rules, monitoring programs and general principals for the protection and utilization of the cultural, biological and social resources of Lā'au Point. It will ensure protection of the area's marine resources. The SAMP has been accepted by the Land Trust as an initial governing document based on current knowledge of the cultural, subsistence and biological resources of the site. From a social standpoint it is intended to foster a harmonious and respectful relationship between current users and subsistence practitioners of the area, Lā'au Point homeowners, and new local users of the area. Adherence to the SAMP is required by the CC&Rs.

Specific issues addressed by the SAMP include:

- **Hawaiian Monk Seal Protection** – The SAMP contains a plan and recommendations developed in consultation with NOAA. Elements of the plan and recommendations were taken directly from NOAA's draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006). The SAMP reiterates the rules required 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." A Resource Manager for the area will undertake the removal of debris and materials that may be harmful to Hawaiian monk seals. Strict 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. These measures are designed to ensure the health and safety of the Hawaiian monk seals. Additional provisions governing monitoring programs and education and outreach are also included.
- **Biological/Endangered Species Protection** – Similar to the Hawaiian monk seal requirements, rules for access and designation of closed areas are set forth in the SAMP. The Resource Manager will be responsible for monitoring the health of any significant organisms, designating closed areas, and enforcing regulations designed to protect the resource including fires and limitations on access to the area. A long term monitoring program will also be developed to adapt to changing circumstances and to measure the effectiveness of the program.
- **Subsistence Gathering** – A large part of the SAMP activity and requirements is dedicated to education to ensure that the area remains open for subsistence use and that new residents will honor the rights of local practitioners. Limitations on over-night camping and the prohibition of vehicles onto the area will limit the taking of resources to what can be carried out. Protocols for monitoring resources are included as well as the ability to designate seasonal and long term restrictions.

- **Cultural Resource Management** – The Preservation Plan attached to the EIS designates areas for protection and preservation of cultural resources. These measures are to be made a part of the SAMP and implemented by the Resource Manager. A large part of the SAMP's protocols in this area also concern educational requirements. Concerns over continued access and desecration are mitigated by rules concerning who may access sites and when (by permission on notice), oversight (by a Resource Manager), the development of a "Kahu council" and the designation of access areas and non-access areas. Movement or harm to cultural resources will be strictly prohibited with enforcement by the council. Commercial activities (tours) are specifically prohibited. The educational program includes awareness of the rights and sacred nature of the assets and the area.
- **Marine Resource Management** – Limitations on access (non-vehicular) and regular monitoring of the health of the resource are indicated in the SAMP. Water quality monitoring, as well as the health of the fishery and stock will be assessed regularly. A plan and program will be developed from this program by the Resource Manager to ensure the resource is protected.
- **Access and Over-utilization** – Community concerns over excessive utilization of an area that has been closed to the public are addressed by limiting access to the area to footpaths from the two parks at the ends of the project area, prohibiting access from the subdivision roadways and specifying closure periods for the Parks themselves. In this manner increased traffic into the area will be minimized. Enforcement is through the Resource Manager.
- **Monitoring and Resource Management** – The resources are to be monitored, as set out above, to ensure that the SAMP is effective and actually protecting and preserving the various resources. On site Resource Managers will monitor the situation daily and adjustments made to the rules and plan to ensure the goals of the SAMP are met. Enforcement of the rules by the Resource Managers will further serve to ensure the mitigation of any impacts on the area resources.
- **Education (Cultural and Environmental of Homeowners)** – All homeowners must undertake an education program. This program will be designed to create awareness and will mitigate cultural and social impacts as well as instruct and inform homeowners and users of the rules and requirements of the SAMP and the cultural and biological resources being protected. The educational program sets forth topic areas on Hawaiian culture and Moloka'i social and cultural traditions to mitigate concerns that homeowners will not be sensitive to, or understand, the cultural environment they are entering. The program will explain rules on the handling of cultural and archaeological sites, their significance and use in the Hawaiian culture to prevent destruction and desecration and to provide recognition of the rights of families and practitioners to access the sites. Education on the social fabric of Moloka'i is designed to inform homeowners of the subsistence lifestyle and traditional use of the area for hunting, fishing, and gathering and its importance to Moloka'i's way of life. Training on the rules regarding Hawaiian monk seals and notice of the opportunity to volunteer in monitoring programs will be given to ensure adherence to the Hawaiian monk seal requirements. Similar instruction is required for biological assets to ensure their preservation. Additional training is to be provided to educate the homeowners on the rules and management policies regarding enforcement to ensure adherence to the SAMP guidelines and rules.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We can only assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

A timeline for completion of the SAMP can only be estimated. The SAMP requires the development of various mitigation and protection programs as well as the development of an educational program. Over the course of several months beginning in the fall of 2007 work will begin on creating the working programs required by the SAMP.

As previously discussed in Section 2.3.5 (Project Description), the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners' association (see Figure 11-13). A shoreline access management plan The SAMP will be included in incorporated by reference into the CC&Rs, and homeowner orientation and education materials. Resource Managers hired by the Land Trust or security hired jointly with the homeowners' association will enforce the agreed-upon shoreline access management plan SAMP.

Some community members have expressed concerns that subdivision lot owners and their friends will have preferential access to the coast. Their concern is that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle. To some community members, affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal. Informants also expressed concern that landowners might call police if they see the general public walking on the beach, as this has happened at Pāpohaku. To mitigate these concerns, all Lā'au Point homeowners will be required to undergo an education program about the restrictions on access, its importance, and the requirements of the SAMP. Adherence to the SAMP is mandatory. In addition, the educational process, the lack of infrastructure and paths through to the shoreline, and the density of the foliage and rough terrain as a practical and natural barrier, will support adherence to the SAMP and serve to limit widespread access to the shoreline.

**REVISED SECTION 4.3 (TRAILS AND ACCESS), Page 6 of 6**

~~Vehicular access in the Conservation District area will be prohibited, unless identified for emergencies or kupuna use. The SAMP, contains several clarifications of this policy: 1) vehicular access will be provided for emergency services; and 2) kupuna who are unable to access the area on their own, as well as the infirmed wishing to access the site for cultural purposes, will be allowed assisted access in a form, including vehicular, at the discretion of the SAMP governing Council or its designee. Land alteration such as clearing and grading for vehicle trails will be prohibited and strictly enforced.~~

~~Based on the community proposed access plan (see Appendix A, p. 105), protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a shoreline access management plan will be 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.~~

~~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.~~

~~Participants in community meetings felt it was important to provide emergency access through the subdivision to the shoreline for emergencies. They were also concerned that access should be afforded for kupuna and persons with special needs. Some pointed out that the areas closest to the access points will be heavily impacted, while spreading out the access points might spread out the impact. It was also noted that the road down to Hale O Lono Harbor would need to be maintained in order to keep access to the area open.~~

~~Due to hazardous shoreline conditions toward Lā'au Point (USA Lighthouse parcel), public access to these areas would be discouraged. Access would be restricted to experienced subsistence fishermen only. The lighthouse property is owned by the US Government and is under the jurisdiction of the US Coast Guard. The shoreline and ocean area around this parcel can be treacherous and is not advisable for inexperienced users. MPL recognizes that it cannot exercise control over or prevent access along the shoreline below the high water mark. The area controlled by the Land Trust and the Homeowner's Association can be subject to conditions and rules of access. As the area near the lighthouse is hazardous, the conditions themselves will discourage inexperienced users. This could be supplemented by warning signs and educational materials.~~

~~Emergency access through the subdivision would be allowed. Emergency access for the project is further discussed in Section 4.10.3 of this EIS.~~

## Attachment

### Revised Section 4.9.1 (Drainage)

#### 4.9.1 Drainage

There are several natural drainageways that transect the Lā'au Point project site in the mauka to makai directions, such as Kamāka'ipō Gulch and Hakina Gulch. There are numerous intermittent streams, which generally only have flows during or immediately following heavy rainfalls. There are no perennial streams on the project site.

Current runoff in these drainageways for a 100-year 24-hour storm range between 79 and 2,194 cubic feet per second (cfs). The current peak runoff from the project site for a 50-year 1-hour duration storm is 512 cfs.

#### *POTENTIAL IMPACTS AND MITIGATION MEASURES*

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.

The present flow patterns in the existing drainageways will be maintained. Culverts will be sized to convey these flows across the roadways that generally run perpendicular to these natural drainageways. To minimize disturbance of existing conditions, existing drainageways that transect the lots in a mauka-makai direction, may be undergrounded and subsurface or surface detention facilities installed at the downstream end of such drainageways. In addition, the CC&Rs will state that the existing flow patterns through/across lots shall be retained and maintained by the lot owner.

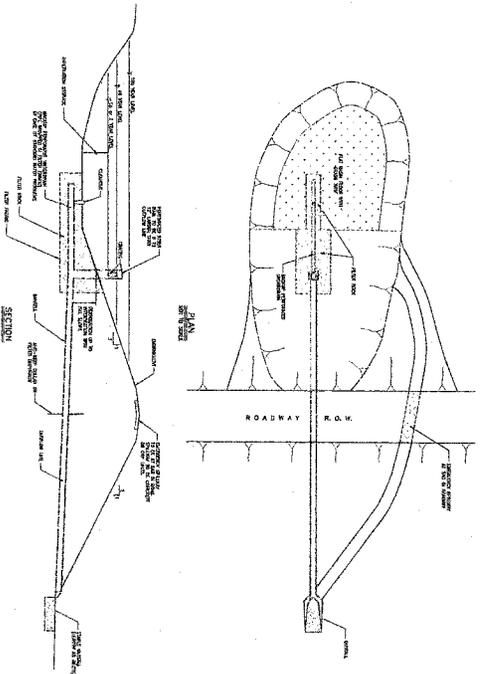
~~The Lā'au Point project is not expected to have a significant adverse effect on the existing downstream properties. Although peak post-development runoff from the developed lots and roadways is projected at 623 cfs (111 cfs more than current conditions), mitigation measures will minimize disruption to the natural drainageways and preserve adequate drainage corridors. Surface and/or subsurface retention facilities will be sized to retain the difference in peak runoff in each lot. The runoff volume each lot must retain is approximately 282 cubic feet per acre of land.~~

Clearing, grubbing, and grading will be confined to road right-of-ways and other areas needed for infrastructure installation. All disturbed areas will be planted with groundcover upon completion of grading.

Roadways constructed across existing drainageways will be provided with culverts to convey 100-year, 24-hour offsite runoff safely across them. Storm drainage systems will also be installed along the roadway shoulders to convey pavement runoff into the closest drainageways. Subsurface storage and filtration systems (de-silting basins) will be installed at the end of each roadway drainage system to intercept waterborne silt and other debris before it is discharged into drainageways and coastal waters.

Perforated risers will be added to the inlets of these culverts as shown in Exhibit 7 of Appendix R. In addition, subject to the availability of boulders from the roadway excavation, boulder





**EXHIBIT 7**

DATE	NO.	REV.	BY	CHKD.

**LAND POOL REPAIR SUBMISSION**

MICHIGAN DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 220 WEST WASHINGTON AVENUE  
 LANSING, MICHIGAN 48201

MICHIGAN DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 220 WEST WASHINGTON AVENUE  
 LANSING, MICHIGAN 48201

## Attachment

### Revised Section 4.9.2 (Water)

#### 4.9.2 Water

Water as a Community Concern – More so than most other places in the state, Moloka'i residents are keenly attuned to water issues. Significant segments of the population have long taken very active roles in issues relating to water planning, allocation, development and use. Moloka'i is where the State Commission on Water Resource Management, in 1992, elected to inaugurate and test the concept of a community-based water working group for addressing local water issues. Abundant water resources are located on the north and east sides of the island of Moloka'i, but very limited quantities of fresh water are available on the west, central, and south sides of the island where most of the current population resides, nearly all of the planned developments are to occur, and most of the agricultural lands are located. The relatively sparse population of the island and low level of economic activity add to the infrastructure challenges associated with the accessibility of water resources. Water, therefore, is, and will continue to be, of significant concern on Moloka'i.

Water Systems – The major water systems on Moloka'i include: Department of Hawaiian Homelands (DHHL), Maui County Department of Water Supply (DWS), Moloka'i Irrigation System (MIS), and private systems.

DHHL operates two wells (0801-01 and 0801-02) in Kualapu'u with permitted withdrawals of 367,000 gallons per day (gpd). In addition, it has a groundwater reservation of 2,900,000 2,905,000 gpd from the Kualapu'u Aquifer System.

Maui County DWS has one well (0801-03) in close proximity to the DHHL wells, and has a permit to withdraw 500,000 516,000 gpd. Other County wells are in Kaunakakai and Ualapu'e.

The MIS was planned, designed, and constructed under a special Act of Congress (Reclamation Act of 1954) to develop surface water and high-level groundwater (Wells 0855-01, -02, and -03) in Waikolu Valley in northeastern Moloka'i to irrigate farmlands in central and western parts of the island. The MIS originally served large-scale pineapple operations, but was converted to serve diversified agriculture after the pineapple operations closed in the late 1970s. The system also serves the native Hawaiian homesteads in Ho'olehua, and pursuant to HRS Section 168-4, Hawaiian homesteads have a prior right to two-thirds of the water currently developed by the MIS. The MIS transports 1,500,000 gpd via a 10-mile transmission link to an open reservoir at Kualapu'u, where it is stored prior to entering a distribution network extending from Ho'olehua to Mahana.

When originally constructed, the MIS was administered by the State Board of Land and Natural Resources (BLNR). In 1975, the BLNR entered into an agreement (the Agreement) with Kaluako'i Corporation (Kaluako'i), renting "space" in the MIS for Kaluako'i to transport water from Well 17 to Mahana. The water is then treated to potable standards and used to supply potable water to Maunaloa town, the Pāpōhaku and Kaluako'i subdivisions, the Kaluako'i condominiums, and for other residential purposes as well as to meet the potable water needs of the resort areas on the West End. Under the terms of the Agreement, Kaluako'i would pump water from Well 17 into the MIS system and withdraw the water at Mahana. To account for potential system losses along the way, Kaluako'i was allowed to withdraw a lesser amount than was put in from Well 17. Additionally, Kaluako'i paid lease rent to the MIS. The Agreement was for the use of "excess capacity" in the system and provided that if there was no longer sufficient capacity in the system then the use would have to be relinquished on reasonable notice.

The 1975 Agreement was extended by the BLNR in 1985. In 1988, Kaluako'i assigned its interest in the Agreement to Kukui (Moloka'i), Inc. (KMI), which assignment was consented to by the BLNR. As a result of the Agreement, no other infrastructure to transport Well 17 water to the West end of Moloka'i was put into place.

Effective July 1, 1989, administration and management of the MIS was transferred from the BLNR to the State Department of Agriculture (DOA). In December 1989, the Agreement was amended to reflect the statutory transfer to the DOA.

Subsequently, the Agreement was extended twice through December 31, 2005. In late 2001, KMI assigned the Agreement to Kaluako'i Water, LLC (KWLLC), a Hawai'i limited liability company wholly owned by Molokai Properties Limited. The DOA acknowledged the assignment in early 2002.

Prior to and following the Agreement termination date of December 31, 2005, KWLLC and the DOA have been engaged in negotiations for the continued use of the MIS to transport Well 17 water to Mahana, and the DOA has conducted community meetings on the matter. By September 2007, a further extension to the Agreement was in the final stages of being completed following community input on aspects of the Agreement. The Agreement had been open for public input on Moloka'i before the MIS Advisory Board prior to its execution by the parties.

The extension agreement had not been executed when, on September 12, 2007, the DOA, through its Deputy Attorney General, officially determined that any agreement for the continued use of the MIS by KWLLC would be subject to the preparation of an environmental disclosure document pursuant to HRS Chapter 343. As of this writing, KWLLC continues to utilize the MIS to transport water; however, the DOA's Deputy Attorney General indicated in writing that the practice should cease pending preparation of the environmental disclosure document. Currently, there is no alternative means of transporting water from Well 17 to end users in Kaluako'i. Several alternatives are possible, each of which requires acquisition of new easements or modification of existing easements as well as engineering and cost studies. These items have to be addressed before MPL can rationally identify the practicable alternatives.

MPL operates two private three water systems that serve West Moloka'i: the Mountain System and the Kaluako'i System, two of which are subject to regulation by the Public Utilities Commission - Molokai Public Utilities, Inc., and Waiola O Moloka'i, Inc. All three systems, the third being Molokai Ranch Mountain System, are all subject to regulation by the State's Water Commission.

The Molokai Ranch Mountain System is the initial ranch water system. It is over 100 years old and relies totally on surface water delivered by gravity, which makes it cheaper to deliver to customers. The Ranch system moves surface water approximately 20 miles from the central mountains of Moloka'i to Pu'u Nana. The system relies on surface water diverted from the upper Kawela and Kamakou watersheds, both of which are separate from and distantly removed from streams serving the Halawa and Waialua taro activities. From Pu'u Nana, the water is either treated to potable for Maunaloa and the Industrial Park or used in the Molokai Ranch irrigation system. In addition, the system provides water for landscaping at Maunaloa Village, the Molokai Lodge, Kaupoa Camp, and Molokai Ranch's livestock.

As with all surface systems, the mountain system's yield is highly weather-dependent. In winter storm months, flows of 1,300,000 1,200,000 gpd can be achieved, while in summer drought

months, low yields of 65,000 gpd have occurred. The average yield of this system is 500,000 gpd. The system has a storage capacity of 39,000,000 gallons, which helps to compensate for the seasonal fluctuation in source.

The Kaluako'i System's source is Well 17 in Kualapu'u, which has a water use allocation of 1,018,000 gpd. Water from Well 17 is transported via rental space in the Moloka'i Irrigation System (MIS) to the Mahana pump station. The Kaluako'i System does not use MIS water. It puts in 1,111,111 gallons of water for every 1,000,000 gallons it takes out at its Mahana pump station. The amount of water pumped into the MIS from Well 17 and the amount that is withdrawn at Mahana are metered; the meters at both ends are monitored by the DOA. Over the course of a year, this additional input amounts to about 30,000,000 gallons.

From Mahana, water is then pumped to a 7,000,000-gallon reservoir at Pu'u Nana for treatment. The treated water is then piped to a 3,000,000-gallon reservoir in Maunaloa and gravity-fed to Kaluako'i. The distribution system terminates approximately 9,000 feet north of the Lā'au Point project site. With the Kaluako'i Hotel closed, current use of the Kaluako'i system is approximately 800,000 gpd.

Kaluako'i's use of the MIS to transport water from Well 17 to Mahana dates back to 1975. In September 2007, the DOA decided that continued use of the MIS to transport Well 17 water would be subject to the preparation of an environmental disclosure document pursuant to HRS Chapter 343 (See discussion above). Currently, there is no alternative means of transporting water from the source (Well 17) to end users in Kaluako'i. Upon completion of the environmental disclosure process, either there will be an agreement for the continued use of the MIS to transport Well 17 water or an alternative method of water transport will have to be established. Several alternatives are possible, each of which requires acquisition of new easements or modification of existing easements as well as engineering and cost studies. These items have to be addressed before MPL can rationally identify the practicable alternatives. As of October 2007, this issue remains unresolved.

Below is a table of the various existing water use permits held by MPL or its subsidiaries:

Table 6 Water Use Permits

WUP NO.	APPROVED	APPLICANT	WELL NO.	WELL NAME	WUP (mgd)	USE
617	12/19/2001	Kaluakoi Land, LLC	0901-01	Well #17	1.018	Moloka'i Public Utilities, Inc., Well Municipal Use
604	03/14/1995	Molokai Ranch Ltd.	0706-03	Palaaau Salt	0.001	Aquaculture, Salt Water
607	11/17/1993	Molokai Ranch, Ltd.	0706-02	South Hoolehua	0.864	Aquaculture, Brackish Water

The Lā'au Point site is currently undeveloped and is not yet serviced by any of the previously-mentioned water systems.

**Moloka'i Water Working Group** – The Moloka'i Water Working Group was originally appointed in 1982 ~~1992~~ to: 1) recommend to the CWRM a plan for water development on Moloka'i that assists the County and community in developing its Water Use and Development Plan; and 2) test a community "working group" model that could be used in other communities faced with tough water issues. The Working Group was asked to enter into good faith deliberations aimed at producing the highest consensus possible on demand forecasts, bulk water allocations, recommendations to manage both supply and demand, and the best plans on balancing future water uses.

In 1993, the Working Group presented a written report. A second Working Group revisited and updated the 1993 report and issued its final report in 1996. Findings of these reports include the following estimates of existing uses, future demands, and supply:

- 1996 groundwater permitted usage is 8,590,000 gpd.
- 1996 surface water reported usage is 2,960,000 gpd.
- DHHL has a groundwater reservation of 2,905,000 gpd from the Kualapu'u aquifer system.
- 1993 projected potable water use for 2010 is estimated at 11,550,000 gpd.
- 1993 projected non-potable water use for 2010 to "build out" is estimated at 42,900,000 gpd.
- Current use (in 1996) plus 1993 projections of water use exceed supply.

From these findings, the Moloka'i Water Working Group's 1996 report set forth a number of general and specific recommendations to water resources and each of the four aquifer sectors on the island. The Water Plan Analysis (Appendix P) includes an analysis of relevant Moloka'i Working Group recommendations in relation to MPL's Water Plan.

In July 2007, at the request of Moloka'i residents, the Water Commission reconvened the Moloka'i Water Working Group because of the community focus arising from initiatives from MPL, DHHL, and the Maui County DWS. In the following "Additional Information and Analysis" section, further information is given on the initial meetings of the Water Working Group.

#### **POTENTIAL IMPACTS AND MITIGATION MEASURES**

In connection with the *Community-Based Master Land Use Plan for Molokai Ranch*, MPL developed a proposed Water Plan. A copy of the proposed Water Plan is provided as Chapter 6 in Appendix A. A key feature of the Water Plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the current customers of the ~~two~~ three water systems operated by MPL and MPL's future developments proposed under the Plan. These sources include the permitted 1,018,000 gpd from Well 17 in the Kualapu'u Aquifer and surface water from the Molokai Ranch Mountain Water system which is treated to potable quality at the Pu'u Nana water treatment plant. The constructed, but currently unused, Kākalahale well in the Kamiloloa Aquifer is being proposed as a new non-potable water source. The Water Plan also includes aggressive water conservation strategies for reducing demand and utilizing alternative sources of water. An analysis of the Water Plan was prepared by Morihara Lau & Fong LLP and is provided as Appendix P of this EIS.

In the Water Plan, MPL proposes that water from Well 17 be used solely for potable water needs. Irrigation uses, currently permitted under the Well 17 permit, will be supplied from other sources. Under this plan, MPL will not need to seek any more potable water than what is currently developed. MPL will sign covenants preventing it from ever seeking further potable water permits from the CWRM, and will abandon the Waiola Well application.

MPL is currently working with the DHHL, the County of Maui DWS, and USGS to comprehensively evaluate Moloka'i's long-term water demands and resources. It is expected that many of Moloka'i's water issues will be addressed by a comprehensive modeling analysis (see following "Additional Analysis and Information" section). Although the specifics of the water resource issues and modeling analysis have yet to be identified, MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water.

According to the Water Plan Analysis, MPL's plans are reasonable and realistic, from a regulatory standpoint, because the Water Plan calls for: 1) significantly decreasing the current use of safe drinking (potable) water for irrigation; 2) increasing efficiencies within existing systems; and 3) aggressive water conservation strategies.

**Safe Drinking (Potable) Water** – MPL plans to retain its current 1,500,000 gpd of safe drinking water: 1,018,000 gpd from Well 17 and 500,000 gpd from the Molokai Ranch Mountain System. Under the Water Plan, approximately 600,000 gpd of safe drinking water from Well 17 will be freed up from existing irrigation uses, leaving that amount available for safe drinking water needs associated with MPL's future developments of Lā'au Point and Kaluako'i. Safe drinking (potable) water will not be used for irrigation.

For Lā'au Point, safe drinking water demand is projected at 96,000 gpd at full build-out based on 600 gpd for 200 lots at 80 percent occupancy. An additional demand of 1,000 gpd of safe drinking is projected for the two parks within the project area. Modification of the uses of Well 17 (0901-01) to serve Lā'au Point will require a modification of the water use permit. The following "Additional Analysis and Information" section below indicates that even if the 200 lots each use 600 gpd, and not the 80 percent as projected, MPL's Water Plan still remain a valid document of future water demand.

The Since 1975, the MIS has been utilized, pursuant to agreement with the State, to transport water from Well 17 to Mahana, where it is treated and then distributed to end users at Kaluako'i. MPL's plan was to extend this existing distribution infrastructure at Kaluako'i from Public Water System No. 231, Maunaloa-Kaluako'i, will be extended to service Lā'au Point. This extension shall be approved by the Director of Health (HAR, Chapter 11-20, Rules Relating to Potable Water Systems, Section 11-20-30). When customer demand in Kaluako'i warrants, a looped connection from Maunaloa to Lā'au Point is proposed to be added which will then supply Lā'au Point and augment deliveries to Kaluako'i whose original infrastructure was undersized not sufficiently sized to support full build-out of the area. MPL has also offered to make the excess safe drinking water capacity available from Well 17 for the use of communities outside its property.

The "loop" will not be built during the initial phase of construction. It will be added as demand warrants. Once the capacity of the existing line based on calculated demand, using accepted County standards, is reached, the loop will be constructed. Since potential build-out is gradual, it is estimated that construction will not be required for 5-10 years.

In September 2007, however, the DOA decided that continued use of the MIS to transport Well 17 water would be subject to the preparation of an environmental disclosure document pursuant to HRS Chapter 343 (See discussion earlier in this section). Currently, there is no alternative means of transporting water from the source (Well 17) to end users in Kaluako'i. Upon completion of the environmental disclosure process, either there will be an agreement for the continued use of the MIS to transport Well 17 water or an alternative method of water transport will have to be established. Several alternatives are possible, each of which requires acquisition of new easements or modification of existing easements as well as engineering and cost studies. These items have to be addressed before MPL can rationally identify the practicable alternatives. MPL's infrastructure plan for transporting and distributing water to Lā'au Point, therefore, remains unresolved as of this writing. This issue, however, will have to be resolved regardless of, and without reference to, the Lā'au Point project.

The MIS currently transports up to 1.018 mgd of water (12-month moving average) pumped from Well 17 to Mahana for distribution to existing, current users in Kaluako'i. Well 17 water will continue to be used by Kaluako'i customers whether or not the Lā'au Point project is approved. Thus, the issue of how to transport water from Well 17 to either Mahana or to Kaluako'i will have to be resolved regardless of the Lā'au Point project. Inasmuch as the MIS issue affects existing, current uses, there is an element of urgency, and it is likely that the MIS issue will be resolved prior to any discretionary land use decisions being made on the Lā'au Point project. Therefore, the decisions made with respect to continued use of the MIS may have to be made without consideration of the Lā'au Point project. The decisions made with respect to this MIS issue, however, will affect infrastructure planning for the transport and distribution of potable water to Lā'au Point.

Because there are existing customers in Kaluako'i dependent upon Well 17 water, water will have to somehow be transported from Well 17 to the facilities owned by MPL for further distribution to end users at Kaluako'i. Either the MIS will continue to be used or alternate infrastructure will be developed for this purpose. Either way, the infrastructure used to transport water from Well 17 to MPL distribution facilities will also be used to transport potable water to Lā'au Point. Therefore, even if use of the MIS to transport Well 17 water is discontinued, there will be a means of getting potable water to Lā'au Point. The decisions made with respect to this MIS issue, however, will affect infrastructure planning for the transport and distribution of potable water to Lā'au Point.

**Non-Drinking (Non-potable) Water** – Initially, water for irrigation and fire protection will be provided from surplus 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 Kākahale Well for future non-drinking water needs. Of that amount, 340,000 gpd is for the proposed Lā'au development, 200,000 gpd is proposed for future expansion of Maunaloa and Kualapu'u, and the balance is needed to 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.

A storage tank or reservoir will be constructed above the project site to provide adequate pressure and to meet the storage requirements for fire protection. All lots will be metered. Fire flows are proposed to be provided from the non-drinking water system due the larger pipe and reservoir sizes that will be associated with this system. Fire hydrants will be installed along the

road spaced at intervals between 450 to 500 feet. At full build-out, some 20 years hence, non-drinking (non-potable) water use is projected to be 300,000 gpd for the 200 Lā'au Point rural residential lots and associated common areas, plus 40,000 gpd for the two parks within the project area. Various alignments are under consideration with respect to bringing non-drinking (non-potable) water to the project site.

A water use permit would be required before the Kākahale Well (0700-01) can be put into production; this was confirmed by the DLNR Commission on Water Resource Management in their letter dated January 10, 2007. When Kākahale Well use is permitted, MPL will not transmit brackish water from the well to the West End by the MIS system. Instead, MPL has indicated that it will seek to use existing pipeline easements across DHHL's Ho'olehua lands for the transmission of Kākahale water.

The safe drinking (potable) and non-drinking (non-potable) water systems will be carefully designed and operated to prevent cross-connections and backflow conditions. The two systems will be clearly labeled and physically separated by air gaps or reduced pressure principle backflow preventers to avoid contaminating the safe drinking (potable) water supply. In addition, all non-potable spigots and irrigated areas will be clearly labeled with warning signs to prevent the inadvertent consumption of non-potable water.

A dual water system management plan will be developed at a later date and submitted by the water system owner and operator.

**Water Conservation** -- MPL will implement conservation measures recommended by the Maui County DWS such as: eliminating single-pass cooling, utilizing low-flow fixtures and devices, maintaining fixtures to prevent leaks, using climate-adapted plants, and preventing over-watering by automated systems.

MPL will also continue its own water conservation campaign to Kaluako'i residents and future Lā'au Point residents by reducing consumption, shutting off irrigation systems during rainfall, and restructuring the water rates. MPL believes a combination of low occupancy, water conservation education, xeriscaping, and tiered water rates will moderate water consumption by Lā'au Point homeowners. As previously discussed in Section 2.3.6, CC&Rs will require the following water-related protocol:

- **Landscaping and Irrigation.** Common area Landscaping landscape irrigation systems will be from will utilize re-use water (treated effluent) from the wastewater treatment plant. or collected in catchments systems; Residential catchment systems may provide landscape irrigation to individual lots and homes. only Only drip irrigation systems will be permitted for both common area and residential landscaping. Landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations; xeriscaping aims to reduce water use.
- **Storage Tank.** All houses will be required to have at least a 5,000-gallon storage tank for water captured from roofs.
- **Water covenants.** Requirement of a dual-water system split into safe drinking and non-drinking water; safe drinking water will be limited to 500-600 gpd. Homes will be required to use double flush toilets and specially-designed showerheads for water conservation.

- **Drainage Systems.** Require drainage systems that retain any run-off within the disturbed area of the lot. Maximize recharge into the ground. Restore land areas that have eroded by re-establishing vegetative cover. Minimize impervious (paved) surfaces on the Lot.

**Contingency Planning Alternatives** – Concerns have been raised in the event MPL’s water plan needs more water for increased demand for agriculture on its own lands or on land to be donated to the Land Trust. If more non-potable water is needed for agriculture in particular, MPL still has two options:

- The brackish water available to MPL from the Prawn Farm, at Pala’au, which currently is permitted for 864,000 gallons per day of which 500,000 gallons per day could be available for reuse. The following “Additional Analysis and Information” section below has also shown that even without the Kākalahale Well, MPL could satisfy the needs of its Lā’au Point customers, and provide for the build-out of all of the Kaluako’i subdivision from the existing systems and from extracting usable water from the Prawn Farm well.
- Desalination.

The Prawn Farm water is very brackish and it would be three times as expensive to remove the salts to bring it to an acceptable level for use as agricultural water as compared to obtaining water from the Kākalahale Well. But it remains an option for the future and particularly for non-potable uses, such as agriculture.

Although improvements to desalination technology have been made, the technology’s high operating cost (primarily energy costs) continues to be an issue for its use as an alternative water supply. If a desalination plant were to be located on the West End of Moloka’i using the underlying groundwater as the feedwater supply, the feedwater salinity would limit recovery of the product water to 50 percent or less of the water running through the plant.

Assuming the treatment plant utilizes reverse osmosis (RO) technology, the plant would use a pressure of approximately 700 psi to move the feedwater through the RO membranes. At an average electrical cost of \$0.30/kwh and assuming the treatment plant were located at 500 feet elevation above Kaluako’i Resort, the cost of desalted product water (excluding capital recovery) would be at least \$6.75 per thousand gallons (kgal).

**Components of the Cost of Desalting at Moloka’i’s West End (50% recovery rate)**

	Dollars/kgal
Pumping the Feedwater Supply	\$1.36
Pumping cost through the RO Filters	\$4.39
Other RO Operating Costs	\$1.00
Total	\$6.75

In comparison, pumping water from the Kākalahale Well through a 69,000-foot long pipeline, also at \$0.30/kwh, would cost approximately \$2.60 per kgal. If the average use rate is 1.0 MGD, the operating cost difference of \$4.15 per kgal would amount to \$4,140 per day or more than \$1.5 million per year.

Therefore, the significantly higher costs associated with desalination technology limit its use as an alternative solution today. However, as technology continues to improve, desalination may be

an option for the future and particularly for non-drinking water uses when the cost of producing water comes down.

As this technology continues to improve, the cost of producing water will come down. As the conservation rates go up, at some point the two price lines will cross, and MPL will find the balance between demand and supply. MPL has talked about the ability to have multiple rate blocks for both potable and non-potable water. Structured properly, these rates would, in effect, subsidize prudent or thrifty water users and penalize excessive water use. At the higher rate block, the cost of desalination can be recovered. Therefore, if multiple rate blocks were implemented, there would be no pressure to pursue additional groundwater or surface water sources from the central or east end of the island.

**4.9.2.1 Additional Water Information and Analysis**

In response to several questions and comments on the Draft EIS received during the public comment period, this section clarifies issues, answers questions, and provides additional information regarding water-related issues.

**4.9.2.2 Explanation of Moloka’i Aquifer Systems Geology**

The State Commission on Water Resource Management (CWRM) has divided the island of Moloka’i into 16 management areas or aquifer systems, primarily defined on the basis of geologic conditions and topographic divides. The aquifer systems, however, are not necessarily isolated from one another. Significantly, not enough information is presently available to accurately determine the extent to which the basal aquifers that are most important for the island’s domestic water supply – Kualapu’u, Kamiloa, and Kewela – are hydrologically connected.

The Island of Moloka’i is formed primarily by the extrusive shield- and postshield-stage lavas of the older West Moloka’i Volcano and the younger East Molokai Volcano, and secondarily by rejuvenated-stage volcanic rocks at Kalaupapa Peninsula. The central saddle area between the two volcanoes was formed by lava flows from East Moloka’i Volcano banking up against and being deflected by the West Moloka’i Volcano. The zone of weathered West Moloka’i Volcanics and soil located beneath the contact of the West and East Moloka’i Volcanics impedes groundwater flow between East and West Moloka’i. This means that groundwater in the West Moloka’i Volcanics is limited to the recharge of minimal local rainfall. As a result, groundwater throughout all of West Moloka’i is too saline for irrigation or potable use without desalination.

Although there are data gaps on hydrologic connectivity between aquifers on Moloka’i, there is empirical evidence to conclude that the Kākalahale well site is hydro geologically isolated from existing and proposed well sites in the Kualapu’u aquifer. When the Kākalahale Well was drilled and pump tested in 1969, the brackish quality of its water was not expected. The Kākalahale well site is situated downgradient of the Kākalahale Pu’u, which was formed by intrusive dikes which are barriers to groundwater flow. The poor quality of water from the Kākalahale Well is attributed to its location downgradient of these barriers.

Intrusive volcanic rocks include those rocks, such as dikes, that formed when magma cooled below the ground surface. Dikes associated with the rift zones of the West and East Moloka’i volcanoes are the dominant intrusive rocks on Moloka’i, and are most abundant within the

central area of the rift zones. The rift zones are hydrologically important because dikes have low permeability and tend to impound ground water to high altitudes within inter-dike compartments.

The dike compartments in Waikolu Valley, from which the MIS system obtains its water, are isolated from the basal ground water bodies from which most of the domestic water on Moloka'i is withdrawn.

The Punakou Aquifer – The Lā'au project area overlies the Punakou aquifer. The aquifer has a developable sustainable yield of 2.0 mgd. There is however, little or no fresh water associated with the Punakou aquifer. Although MPL has not conducted any test drillings itself, public records indicate that Louisiana Land, its predecessor in ownership, conducted tests between the early 1970s and early 1990s.

Several wells and a number of test borings have been done in the Punakou and Kaluako'i aquifer immediately adjacent. The water in the aquifer has consistently shown up as being very brackish to near seawater salinity. In virtually all of the borings the water was also geothermally heated. Tests indicated that the water in the aquifer has salinity levels at 1/3 to 1/2 of seawater. Alpha USA reported similar results more recently. The water in the aquifer is not usable even for irrigation without desalination.

Although the aquifer does not have a significant amount of potable water, MPL will use Best Management Practices (BMPs) designed to minimize infiltration of the aquifer by contaminants and to minimize runoff so that water can be retained in the system for recharging the aquifer. In developing BMPs MPL will utilize "Source Water Protection Practices – Managing Storm Water Runoff of Prevent Contamination of Drinking Water".

#### 4.9.2.3 Moloka'i Designated a Ground Water Management Area

Criteria for designating a groundwater management area are set forth in HRS §174C-44. CWRM will designate a groundwater management area if:

- 1) Actual water use or "authorized planned use" will cause the maximum rate of withdrawal from that groundwater source to reach 90 percent of the sustainable yield;
- 2) The Department of Health determines that there is actual or threatened water quality degradation;
- 3) CWRM believes, based on evidence of excessively declining groundwater levels, that regulation is necessary to preserve the groundwater supply for the future;
- 4) Existing withdrawals of groundwater are endangering the stability or optimum development of the ground water body due to upconing or encroachment of salt water. Although the amount of water withdrawn may be well within the sustainable yields, the rates, times, spatial patterns, or depths of the withdrawals may nevertheless degrade the water source;
- 5) Chloride contents of existing wells are increasing to levels which materially reduce the value of their existing uses;
- 6) There is excessive and preventable waste occurring;
- 7) There are serious disputes about the use of groundwater resources; or
- 8) Water development projects that have received other governmental approvals would result in any of the above conditions.

The entire Island of Moloka'i was designated as a groundwater management area for a combination of reasons. There is no indication that current withdrawals are threatening the

health of any of the aquifers. Rising salinity levels in some of the wells appear to be localized phenomena associated with particular wells and not an indication of general aquifer degradation.

The total sustainable yield for groundwater resources on Moloka'i, which is established by CWRM, is 81 mgd. For planning purposes, the 1996 Moloka'i Water Working Group used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less than 10 mgd is currently used. Additionally, there are 36 perennial streams on Moloka'i, but surface water usage on Moloka'i amounts to an average of about 3 mgd.

#### 4.9.2.4 Moloka'i's "Sole Source Aquifer" Designation

Moloka'i has been designated a "Sole Source Aquifer" by the Federal Government pursuant to §1424(e) of the Safe Drinking Water Act of 1974. Under this federal program, designation as a "sole source aquifer" does not necessarily denote a hydrological determination. For purposes of the Sole Source Aquifer program, an "aquifer" may be a part of an aquifer, an entire aquifer, or an aquifer system. An aquifer system may be designated a "sole source aquifer" if all aquifers in the system are hydrogeologically connected. In Moloka'i's case, the petition to designate the entire Island of Moloka'i as a sole source aquifer was filed by Sarah Sykes in 1993. The petition acknowledged that aquifer boundaries are not known and proposed a "broad-brush agreement that there is basically only one hydrogeologically-linked aquifer underlying Moloka'i." From a hydrologic perspective, however, it is clear that ground water in West Moloka'i is relatively isolated from the basal aquifers in central and eastern Moloka'i, and that the dike-impounded waters are isolated from the basal aquifers. Moreover, the State Commission on Water Resource Management, for its regulatory purposes, divides the Island of Moloka'i into 16 aquifer systems.

The purpose of the Federal Sole Source Aquifer program is to protect ground water sources for drinking water purposes. The program is aimed at protecting water sources needed to supply 50 percent or more of the drinking water for an aquifer service area, where the volume of water which could be supplied by alternative sources is insufficient to replace the sole source aquifer should it become contaminated.

This program prohibits Federal financial assistance for projects that might contaminate an aquifer that has been designated by EPA as a sole or principal source of drinking water for an area. No Federal financial assistance is contemplated for any part of the Lā'au Point project and therefore the Sole Source Aquifer program is not applicable to Lā'au Point. However, in response to comments on the Draft EIS, a discussion of the Sole Source Aquifer designation for the island of Moloka'i is included here.

Proposed projects with Federal financial assistance that have the potential to contaminate sole source aquifers are subject to EPA review by a ground water specialist. Examples of projects that might be subject to review include highways, wastewater treatment facilities, construction projects that involve storm water disposal, public water supply wells and transmission line, agricultural projects that involve the management of animal waste, and projects funded through Community Block Grants. Project reviews can result in:

- EPA requirements for design improvements, ground water monitoring programs, maintenance and educational activities that would not otherwise occur; or
- District technical assistance, by identifying specific activities that may lead to ground water contamination. In addition, technical assistance usually involves site-specific coordination of ground water protection activities among State and local environmental and public health protection agencies.

To reiterate, no Federal financial assistance is contemplated for any part of the Lā'au Point project and therefore the Sole Source Aquifer program is not applicable to Lā'au Point.

#### 4.9.2.5 Prior Studies by USGS on the Capacity of the DHHL Wells

There has been some mention of increased salinity levels in the DHHL Wells. Rising salinity was referred to in a previously released USGS study. The referenced changes in salinity appear to be related to local phenomena associated with particular wells and do not appear to be an indication of dangerously depleted resources.

The concentrated pumpage of the two DHHL wells (Well Nos. 0801-01 and 02) and 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.

Before the early 1980s, chloride concentrations of water pumped from the County's Kawela Shaft (Well No. 0457-01) ranged from 100 to 200 mg/L, and since 2002 chloride concentrations generally have been greater than 200 mg/L.

Before 2002, chloride concentrations of water pumped from the County's 'Ualapu'e Shaft (Well No. 0449-01) generally were less than 70 mg/L. From 2003-2005, however, chloride levels exceeded 70 mg/L, reaching a high of 100 mg/L during 2004.

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 sources of water for the MIS are stream diversions and 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 overlie salt water.

#### 4.9.2.6 Additional Information on the Kākahale Well

##### Salinity and Impacts on Use

Water from Kākahale Well is considered "slightly brackish" with chloride levels of approximately 400 mg/L. In contrast, seawater is about 19,500 mg/L, and the County's Kawela Shaft (a drinking water source) has chlorides of about 200 mg/L.

Types of crops that could be irrigated with water of these chloride levels include: asparagus, date palm, sugar beet, alfalfa, broad bean, onion, turnip, cabbage, lettuce, carrot (source: CTAHR <<http://www.ctahr.hawaii.edu/oc/freepubs/pdf/pnm17.pdf>>).

##### Impact on the Aquifers of Pumping Water from Kākahale

It is highly unlikely that pumping 1.0 mgd from the Kākahale Well will have any measurable impact on the existing DHHL and DWS wells in Kualapu'u for several reasons. First, the Kākahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kākahale Well is approximately 12,200 feet (2.31 miles) away from the DHHL and DWS wells; at that distance, it is unlikely that pumping 1.0 mgd will create a measurable effect. Third, there are known subsurface intrusives between the Kākahale and DHHL/DWS well sites, namely Pu'u Kākahale and Pu'u Luahine, which are barriers to ground water flow.

The Kākahale 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 Kākahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

It is also highly unlikely that withdrawing 1.0 mgd from Kākahale Well will adversely impact DHHL's ability to develop its water reservation in 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 Kākahale 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 Kākahale 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.

Alternatives to the Use of Kākahale-Sourced Water

The Kākahale Well is an ideal source of non-potable water. The well is owned by MPL and already constructed (though not in production). More importantly, because the well site is hydro geologically isolated by subsurface intrusive structures, withdrawing water from the Kākahale Well is unlikely to have any adverse impact on existing wells in the Kualapu'u aquifer, on DHHL's ability to withdraw its 2,905 mgd reservation amount from the Kualapu'u aquifer, or the development of potable water in the Kamiloloa aquifer.

In the event Kākahale Well water is not available, however, there are alternative sources of non-potable water. Reclaimed water from the Pālā'au Shrimp Farm could be treated to make it suitable for irrigation purposes. Additionally, desalinization of either brackish water from West Moloka'i aquifers or sea water are alternative sources of irrigation water.

Desalinization is not the preferred alternative because of the cost. As mentioned in MPL's water plan, desalting is still about four times more expensive on Moloka'i (not helped by the island's high energy costs) than developing an operating deep groundwater well.

A pilot plan on O'ahu developed in the early 2000s still remains idle today because of escalating energy costs needed, in simple terms, to push the brackish water through a membrane to remove the salts.

MPL has previously been approached by two parties proposing desalination on Moloka'i as an economic business; neither party, following their detailed investigation, wished to continue with their plans for a desalination plant.

Desalinization is therefore too expensive to be considered MPL's first choice of non-potable water. However, it is an alternative if water from the Kākahale Well is not available.

Recent Studies by USGS Indicate Pumping Kākahale Will not have an Adverse Impact on the DHHL, County, or MPL Wells

**Background** – In August 2007, the USGS released preliminary results of a two-dimensional modeling study it did for the Army Corps of Engineers as a part of its Kaunakakai Stream Ecosystem Restoration Project entitled "Effects of Ground-Water Withdrawal on Kaunakakai Stream Environmental Restoration Plan, Moloka'i, Hawai'i," Scientific Investigations Report 2007-5128 by Delwyn S. Oki. The Kaunakakai project proposes the construction of 2.75 acres of shallow ponds and mudflats near the mouth of Kaunakakai Stream to restore habitat for the endangered Hawaiian Stilt. A study on the effects of well pumping mauka of the site was important as, where the wetland bottoms are below the water table, the ponds and wetlands are sustained by ground water discharge during the dry season. Because ground water is the main source of water for the proposed wetlands, a reduction of ground water discharge near the mouth of the stream will have an effect on the availability of habitat.

At the Army Corps' request the USGS undertook an investigation to estimate water levels using an existing numerical ground flow model and the changes that would occur if there were additional ground water withdrawals. Water levels in existing wells in the upstream aquifers and the coastal discharge changes (if any) were estimated for six different scenarios. The six scenarios were developed by assuming changes in pumping at existing wells and pumping at proposed new wells, at selected sites in the area between Kualapu'u and 'Ualapu'e.

The model used was the existing numerical ground water flow model done by Delwyn Oki in 1997. The 1997 study was used as the background for the various scenarios. The new 2007 study describes the results of model simulations that assess the effects of redistributed or additional ground water withdrawal using the 2006 average or May 2007 permitted withdrawal rates as a baseline. The study did not use any new (subsequent to 1997) data.

Available data was sufficient in 1997 to develop a detailed contour map of water levels for the entire island. Electrical-resensitivity measurements were used to determine the depth of saltwater below ground and then applied using a principal (Ghyben-Herzberg) or relation, to estimate the altitude of the water table for the western part of the island. This relationship (for hydrostatic conditions and assuming a sharp interface between salt and fresh water without the known transition zone) predicts that every foot of freshwater above sea level must be balanced by 40 feet of freshwater below sea level. This generally underestimates the freshwater lens thickness near the discharge zones. The method ignores the transition zone and does not account for dynamic conditions of the aquifer where water flows vertically.

The study notes that groundwater on Moloka'i occurs in two forms: 1) as a lens shaped body of fresh water floating on saltwater within permeable dike free rocks; and 2) as dike impounded water ten to hundreds of feet above seal level (meaning it is not directly a part of the lens).

**Numerical Simulation of Additional Withdrawal** – The regional (1997) model is two-dimensional. It is designed to simulate the flow of fresh ground water in systems that have a fresh water lens. The simulation assumes a sharp interface between fresh and salt water (meaning there is no transition zone allowed for in the model). It also assumes that water flow is entirely horizontal (there is no modeling of potential up and down movement) and all wells fully penetrate the freshwater lens. As such, if a well is actually using dike impounded water or is otherwise isolated from the lens, the model cannot take these factors into account.

The original 1997 study was used to estimate the effects of new well withdrawals in the model on ground water and coastal discharge. Although the original model covered the entire island, for this study only certain "nodes" were used from the 1997 report so that it could be focused on the desired area. To determine a base case, or current conditions without any changes, reported withdrawals from existing wells were used. The withdrawals, from a geographic perspective, were assumed to take place in an entire "node" of 3280 square feet.

The Waiola well was not considered as part of the scenario as the application has not been acted upon and the DHHL reservation was not considered as the location of the wells by DHHL has not been determined.

The total amount of water withdrawal is five percent of the total recharge of the aquifer.

Withdrawal rates for the various proposed wells in the different scenarios were developed from conversations with the various water purveyors. The various scenarios and withdrawal rates are set forth in each of the six scenarios.

The model has several limitations. The number of wells is insufficient to define the distribution of water levels in the southeastern part of Moloka'i in the west and in the dike complexes in the northeast part of the island. The simulated withdrawals are therefore unverified in some part of the island. Also, the thickness of the fresh water lens is not known on most parts of the island.

including the areas of proposed increase in groundwater withdrawals. Because of this and because of the other limitations mentioned above, the model should not be viewed as precise. The model is, nevertheless, a tool for analyzing possibilities.

**Model Results** – For each of the scenarios the water levels and coastal discharges were determined relative to what is currently occurring. Simulated changes were greatest at withdrawal sites and decrease outward from the site. Within the zone where water levels decline because of increased withdrawal, the salinity of water pumped from existing wells may increase, although the extent of the increase could not be predicted accurately because of the limitations in the model, mainly because it assumes a sharp interface between fresh and salt water (it assumes that there is no transition zone). However, greater water level changes are expected to cause greater salinity changes (all other factors being equal). Wells near the coast are likely to be closer to a transition zone and as such, water level changes affect the wells to a greater extent.

Simulated changes in coastal discharge are greatest immediately down gradient (below) from changes in withdrawal. The numerical models used in this study are estimates of changes in coastal discharge because the actual changes are difficult to measure.

- **Scenario 1.** In this scenario pumping of 1.0 gallons per day at Kākahāhale was added to the base model. This causes water levels and coastal discharge decrease from what is currently estimated. The water level decline at the well itself is estimated at 0.61 feet and decrease moving away from the well site. Near the Kaunakakai stream habitat the simulated water level decline is 0.08 feet. The percentage decrease is estimated at seven percent. However, this is likely overestimated as the stream only covers a small fraction of the area measured in the model.

When Kākahāhale is pumped at 1.0 mgd there is a 0.09-foot decrease in the level at Well 17. Kualapu'u Mauka decreases by 0.09 feet and Kawela Shaft by 0.01 feet. 'Ualapu'e shaft shows no decrease at all.

- **Scenario 2.** Withdrawals at Kākahāhale are at 1.0 mgd and withdrawals at Well 17 are increased to 1.7 mgd in this scenario. Increased withdrawals from Well 17 cause greater simulated decline in coastal discharge than Scenario 1. The simulated level decline at Well 17 in this scenario is 3.4 feet and 0.71 feet at Kākahāhale. Reductions of coastal discharge in the Kaunakakai Stream area increase to 11 percent. In the Kaunakakai Stream area, the simulated water decline is 0.04 feet greater than Scenario 1. As in Scenario 1, the decrease in coastal discharge is likely overestimated.

In Scenario 2 the simulated water level at Kualapu'u Mauka decreases by an estimated 1.45 feet and the Kawela shaft by 0.02 feet. There is no impact on the 'Ualapu'e shaft.

- **Scenario 3.** The withdrawals are the same as Scenario 1 but Scenario 3 includes redistribution of withdrawals from existing wells to wells proposed by the Maui DWS. Withdrawal from the DWS Kualapu'u Mauka well is reduced to 0.232 mgd and withdrawal from a proposed Manawainui well was increased from zero to 0.232 mgd and the Kawela Shaft reduced to zero. A well proposed by DWS at Kawela was increased from zero to 0.237. 'Ualapu'e Shaft was decreased to zero and withdrawal and a new 'Ualapu'e well was increased from zero to 0.272.

Reduced withdrawals from the Kualapu'u mauka well results in a simulated increase in the immediate area by 0.57 feet. Because of the simulated increase at the two proposed wells the simulated water level decline at Kākahāhale increases from scenario one by 0.04 feet. However, Kākahāhale's impact on surrounding water levels decreases because of the decreased withdrawal from Kualapu'u Mauka. The simulated water level decline at the Kaunakakai stream is 0.01 greater than Scenario 1.

- **Scenario 4.** Scenario 4 is the same as Scenario 2 with the redistributed withdrawals from Scenario 3. Reduced withdrawals from the Kualapu'u Mauka, Kawela Shaft, and 'Ualapu'e Shaft wells decreases the water level decline at Well 17 from the Scenario 2 decline of 3.40 feet to 2.81 feet. However, the increased withdrawals from the proposed wells cause the Kākahāhale well decrease in water level to increase from 0.71 to 0.74 feet. Near the Kaunakakai stream the decline is 0.01 greater than in Scenario 2.
- **Scenario 5.** Simulated withdrawal is the same as Scenario 3 except that withdrawal from Kualapu'u Mauka is further reduced by .2 mgd and withdrawal from the proposed Manawainui well increased by an equal amount. In this scenario the water level at Kualapu'u Mauka increases by 1.11 feet compared to .57 in Scenario 3. The simulated water level at the proposed Manawainui well increases from Scenario 3 by an additional .23. The simulated decline in Kaunakakai stream is the same as Scenario 3.
- **Scenario 6.** Simulated withdrawals in Scenario 6 are the same as Scenario 4 except that withdrawal at Kualapu'u Mauka is further reduced by 0.2 mgd and the Manawainui well is increased by the same amount. In this scenario, the water level at Kualapu'u Mauka decrease by 0.03 feet from the base case compared to 0.65 in Scenario 4. The decrease at the Manawainui well increases due to the increased withdrawal at the well. Water level decline at the Kaunakakai stream habitat is the same as Scenario 4.

In the scenario that mirrors the proposed water withdrawals for the Lā'au Point project (Scenario 1), the results indicated that pumping Kākahāhale would have a negligible impact on the DHHL wells (a 0.03-foot lowering). This would indicate that even if it is assumed that there are no geological intrusions, and that the down-gradient location of the Well is discounted such that there is an assumed direct connection between the aquifers and the wells, pumping Kākahāhale at 1.0 mgd will not impact on DHHL's ability to continue to operate its well. In addition, the impact on the discharge of fresh water at the ocean is limited such that the water level decline is 0.08 feet.

#### ***Impact of Pumping Kākahāhale on the Fresh Water Transition Zone***

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.

The Kākahāhale Well site, however, is hydrogeologically isolated by subsurface intrusive structures. The Kākahāhale 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 Kākahāhale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahāhale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahāhale Well, also function to limit the effect of pumping the Kākahāhale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u. Pumping water from the Kākahāhale Well will not draw down on the fresh water lens underlying the Kualapu'u wells or cause a rise in the transition zone.

#### ***Impact of Pumping Kākahāhale on the Coastal Environment, Limu, and Fishponds***

Native Hawaiians gather limu and other marine resources all along the southern and eastern coastline of Moloka'i, including the shoreline area down gradient of the Kākahāhale well site below the Kamiloloa Aquifer. They do not confine their gathering activities to areas within their ahupua'a of residence. The shoreline area of the Kamiloloa Aquifer, however, is not prime habitat for edible limu. Limu may occur in quantities sufficient for personal use, but the dibble species are not abundant. This is likely due to the fact that the area off the southern shore of Moloka'i has low water quality due to red sediment in the water after heavy rains. The marine life that flourishes in the area has therefore evolved, or is limited to, those species that can withstand radical water quality changes.

Groundwater pumped from the Kākahāhale Well will be reduced 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.

Groundwater modeling of proposed pumpage of 1.25 to 1.326 mgd from the proposed Waiola well predicted a reduction in groundwater discharge of 3 percent over a 13-mile coastline to 15 percent over a 6-mile stretch of coastline. At that magnitude, the resultant change in salinity at the shoreline would 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.

#### ***Transmission of Brackish Water from Kākahāhale Well***

MPL will be seeking to transmit the Kākahāhale brackish water to the West End in a separate pipe and not mix it, prior to transmission, with its existing potable water from Well 17.

MPL will not seek approval to use the MIS system for this water transmission, as stated in the Master Plan (Appendix A of this EIS) and its Water Plan contained as Chapter 6 within the Master Plan.

MPL intends to seek permission from DHHL, under its current easement agreement, to increase the size of one of its existing two pipes in the easement area to facilitate this transmission.

Under the joint easement agreement with DHHL, both parties need to seek approval from the other for amendments to their existing agreed pipe sizes, but the agreement notes that this approval "cannot be unreasonably withheld."

MPL has initially raised this issue with DHHL, along with a range of issues aimed at ensuring benefits to both parties from future water plans for the island.

#### **4.9.2.7 DHHL's Future Water Needs**

***MPL Reiterates Support for DHHL's 2,905 mgd Kualapu'u Aquifer Reservation; MPL Opposition to DHHL Well Permits in the 90s***

MPL has stated and re-iterates that it supports DHHL's 2,905 mgd reservation in the Kualapu'u Aquifer.

When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1996, DHHL was a party in a contested case proceeding on Waiola o Moloka'i's application for a new well and water use permit in the Kamiloloa aquifer. In the Waiola contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waiola well, which was more than three miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to the bottom of its wells, thus the additional pumping by Waiola would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells. Waiola/Molokai Ranch did not oppose DHHL's application, but sought to explore this contradiction through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the CWRM staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. CWRM staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

Hawaiian Homesteaders have a priority right to two-thirds of the water developed in Phase I of the Moloka'i Irrigation System (MIS), which is owned and operated by the State Department of Agriculture. Water for the MIS is developed from dike compartments in Waikolu Valley, which are isolated from the basal ground water bodies from which Well 17 and Kākahāhale well water is or will be withdrawn.

DHHL has a reserved 2,905 mgd from the Kualapu'u aquifer, the bulk of which is targeted for agricultural use. MPL's Water Plan (Chapter 6 of Appendix A) recognizes DHHL's future needs

and MPL's water development plans will not interfere with DHHL's ability to develop its water reservation. MPL is currently working with DHHL, the County of Maui DWS, and USGS to comprehensively evaluate Moloka'i's long-term water demands and resources. The goal is to appropriately locate wells and manage pumping such that all of the parties will be able, to the greatest extent possible, to withdraw sufficient water to meet their needs.

#### ***DHHL's Current Water Shortages***

The shortage of water available to Hawaiian Homesteaders is not due to a scarcity of water resources on Moloka'i. The total sustainable yield for groundwater resources on Moloka'i is 81 mgd, according to the 1996 Water Working Group. For planning purposes, the Moloka'i Water Working Group used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less than 10 mgd is currently used. Additionally, there are 36 perennial streams on Moloka'i, but surface water usage on Moloka'i amounts to an average of about 3.0 mgd.

The lack of infrastructure has hampered DHHL's ability to meet the demands of its homesteaders. Since 1995, DHHL has had a reservation right to develop another 2,905 mgd of groundwater in the Kualapu'u aquifer. When DHHL requested that amount, it was anticipated that it would meet the domestic and agricultural water needs for DHHL lands in Ho'olehua and Kalama'ula.

In 1996, DHHL proposed to pump some of that reservation amount out of its existing wells in Kualapu'u. Because there already were indications of localized upconing due to the close proximity of the two DHHL wells and the County well, CWRM staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. At the time, DHHL was not willing to consider a new well site.

To date, DHHL has not identified alternate well sites and thus, has not developed any of its 2,905 mgd water reservation.

#### ***Molokai Island Plan and DHHL Future Water Needs***

In 2005, Group 70 completed the *Moloka'i Island Plan* (Island Plan) for DHHL. The Island Plan planned future growth of DHHL residential, commercial, and agricultural uses over the next 20 years on DHHL properties throughout Moloka'i.

Based on the Island Plan, DHHL asked its water consultants to study existing demand and the likely future demand at build-out, and whether there was adequate water reserved within its 2,905 mgd reservation within the Kualapu'u Aquifer.

This build-out anticipated an additional 466 residential units at Ho'olehua and 243 additional residential units at Kalama'ula, in addition to 113 acres at Ho'olehua and 89 acres at Kalama'ula for future commercial and community use.

At a presentation to stakeholders and to its constituents in June 2007, DHHL stated that at build out under their Island Plan, it anticipated an additional 2,037,521 mgd of additional source would be required. This left a 698,900 gpd balance of DHHL's reserve remaining within its reservation within the Kualapu'u Aquifer.

#### ***DHHL's System Improvements***

A major focus of DHHL's future plans will be to improve its storage capacity and infrastructure within its Moloka'i water system and attempt to convert agricultural users from its system to intended MIS System use.

The DHHL water study showed that the homesteaders' use of DHHL potable water for agriculture also results in higher potable water demand and increases over-pumping of DHHL wells beyond the permitted allocation.

DHHL is also committed to substantially improve its water losses, which were stated at the June 2007 presentation as being about 50 percent of the 357,000 gpd that it supplies to its users. DHHL has admitted that its current unaccounted water losses include theft of water from its system.

#### ***Source Development Options***

DHHL has a number of options to meet source requirements for full build-out under the Island Plan. At the June 2007 presentation, DHHL recommended reviewing the construction or operation of four new well sources itself, and at the same time exploring all other source opportunities on Moloka'i, as follows:

- Develop New Sources. The required four new wells: source, transmission and infrastructure have a probable cost of \$23 million, requiring \$4 million to \$6 million for well construction.
- Explore partnerships with Maui DWS to construct a new well on DHHL land, in place of current DWS plans for a well in the Manawainui Aquifer.
- Receive the excess capacity from MPL's Well 17. Well 17 has provided a proven water source, may yield up to 500,000 gpd, which DHHL could utilize for its own use, and means no water development cost for DHHL. Countering this was the downside that there was no existing stand-by well for Well 17, and such an arrangement would require easements in DHHL land to the West End of the island.

#### ***DHHL Recommendations***

DHHL recommended that validation tests of all wells in the Kualapu'u Aquifer be undertaken to determine the safe pumping capacities of existing wells in order that the aquifer's integrity be protected.

#### **4.9.2.8 USGS Modeling of Kualapu'u Aquifer**

Any ground water withdrawals on Moloka'i must consider the impact it would have on DHHL's ability to develop its reservation of 2,905 mgd from the Kualapu'u aquifer.

Theoretically (based on sustainable yields), if DHHL, MPL, and the County DWS space out their wells, each of the parties should be able to develop the water they need, including the full amount of DHHL's reservation. On the other hand, a lack of coordination and cooperation could mean that none of the parties will be able to develop the water necessary to satisfy each of their needs. Indeed, depending on where DHHL locates its wells, it may not be able to withdraw its full 2,905 mgd reservation amount without adversely impacting its existing wells, even without

any withdrawals from the Kākahale Well or additional DWS withdrawals. In a 2006 ground water modeling study, the USGS arbitrarily located four additional well sites within the Kualapu'u aquifer to withdraw an additional 2.905 mgd. These arbitrarily chosen sites were spaced relatively close together and not far distant from the existing Kualapu'u well site. Under that scenario, USGS concluded that DHHL could not develop the full amount of its reservation from the Kualapu'u aquifer.

The result of a 2006 USGS model simulation should not, and cannot, be taken to mean that there is not enough water within the Kualapu'u aquifer for DHHL to develop its full reservation amount within that aquifer. USGS is not proposing, as a result of its study, that the sustainable yield of the Kualapu'u aquifer be reduced. The lesson gleaned from the USGS modeling study is that the future development of ground water resources on Moloka'i demands coordination among the larger water developers—DHHL, DWS, and MPL—to accommodate, to the greatest extent possible, the water needs of all of the stakeholders.

MPL is currently working with DHHL, DWS, and USGS to comprehensively evaluate Moloka'i's long-term water demands and resources. The goal is to appropriately locate wells and manage pumping such that all of the parties will be able, to the greatest extent possible, to withdraw sufficient water to meet their needs.

Since September of 2006, MPL has attempted to join with DHHL and DWS in having USGS perform a comprehensive three-dimensional model for the Moloka'i aquifers. MPL is pleased that USGS will move forward with a joint study, the terms of which are currently under discussion with all parties. The timeline for completion of this modeling analysis is uncertain; however, based on total sustainable yield on Moloka'i, and the evidence of previous water studies, the modeling analysis is not a critically important element for acceptance of the Lā'au Point Final EIS.

MPL is participating in these studies and cooperative efforts notwithstanding the fact that it is highly unlikely that pumping 1.0 mgd from the Kākahale Well will diminish the other parties' ability to develop the water they need, or, conversely, that water withdrawals by others will impact MPL's ability to withdraw 1.0 mgd from the Kākahale Well. The Kākahale Well is hydrogeologically isolated by upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākahale, which function as barriers to normal mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the Kākahale Well, also function to limit the effect of pumping the Kākahale Well on other wells upgradient of the intrusives, where future potable wells in the Kualapu'u aquifer will have to be located.

The Kākahale 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.

#### 4.9.2.9 Water Working Group Task Force 2007

##### Details of Proposed Action Plan

In July 2007, CWRM reconvened the 1996 Water Working Group on Moloka'i. This followed three major planning efforts "which had brought the community to a renewed focus on water issues," according to the deputy-director Ken Kawahara. These planning efforts had been

completed by MPL (*The Community-Based Master Land Use Plan for Molokai Ranch*), DHHL (*The Moloka'i Island Plan*), and the County of Maui (initiating a Water Use and Development Plan).

As of September 2007, it was unclear as to the likely outcome of the Water Working Group's deliberations because of the polarization of the participants on many issues.

##### The 1996 Water Working Group Project Water Use is Out-of-Date Under Master Plan

In considering available water supplies on Moloka'i, the 1996 Water Working Group limited its analysis to groundwater. Although the island's ground water sustainable yield is 81 mgd (it was 83 mgd at the time the Water Working Group's report was written), the Water Working 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 Molokai Ranch's agricultural activities. Existing agricultural activities on Ranch lands are supplied with irrigation water from the Ranch's mountain system, not from groundwater. There are no plans to convert these uses to groundwater 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/Community-Based Master Land Use Plan for Molokai Ranch* (see Appendix S), 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.

Nevertheless, MPL is keenly aware that water is Moloka'i's 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 Moloka'i Public Utilities water system, inadequate maintenance had resulted in significant system losses amounting to approximately 200,000 gpd. 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 the effectiveness of these rates have 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 percent (approximately 1/2-acre), require catchment systems for each residence for irrigation use, and require drip irrigation systems, double flush toilets, and other water conservation devices.

#### 4.9.2.10 Waiola Well Issues Raised

##### *The Waiola Case and the Kākahāhale Well*

In 1998, the Commission on Water Resource Management issued a permit to Waiola O Molokai/Molokai Ranch authorizing the withdrawal of 655,928 gallons per day from the proposed Waiola well site in the Kāmiloloa aquifer. The Water Commission's decision was appealed to the Hawai'i Supreme Court, which remanded the Waiola water use permit case to the Water Commission for further proceedings on two issues.

- 1) The court held that although it had been shown that pumping from the proposed Waiola well would not adversely impact the existing DHHL wells in Kualapu'u, MPL had not provided evidence to show that pumping from the Waiola well would not impact DHHL's ability to withdraw its 2,905 reservation amount from the Kualapu'u aquifer.
- 2) Second, the court held that MPL did not meet its burden in showing that water withdrawals from the Waiola well would not abridge native Hawaiian traditional and customary gathering rights. In the Waiola contested case, MPL took a defensive posture with respect to the issue of traditional and customary native gathering rights. In other words, MPL focused on discounting or impeaching the testimony of those who claimed that native Hawaiian gathering rights would be abridged. The court held that that was not sufficient for MPL to meet its burden as the applicant. Instead, MPL had to make an affirmative showing that withdrawal of water from the Waiola well would not abridge native Hawaiian traditional and customary gathering rights. Additionally, the court held that there was a procedural error in not allowing one of MPL's witnesses to be fully cross-examined, which may have affected the Water Commission's findings of fact with respect to the impact on native gathering rights.

The Supreme Court ruled that in all other respects MPL had met the requirements for a water use permit for the Waiola well.

MPL could ask that the proceedings be re-opened to give MPL the opportunity to address the two issues the Supreme Court identified as requiring further evidence. On MPL's request, the Water Commission has not yet re-opened those proceedings.

In order to withdraw 1.0 mgd from the Kākahāhale Well, MPL will have to obtain a water use permit from the Water Commission. The issues addressed in the Waiola case will also have to be addressed for Kākahāhale.

MPL will be able to show that withdrawing 1.0 mgd from the Kākahāhale Well will not impact DHHL's ability to withdraw its 2,905 reservation amount from the Kualapu'u aquifer. Kākahāhale Well is 1.5 miles downslope of the proposed Waiola well site and down gradient from the Kualapu'u well field. More importantly, unlike the Waiola well site, the Kākahāhale Well site is hydrogeologically isolated and it is also highly unlikely that withdrawing 1 mgd from Kākahāhale Well will adversely impact DHHL's ability to develop its water reservation in 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 Kākahāhale 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 Kākahāhale 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, by conducting a cultural impact study, MPL is addressing the issue of impacts on traditional and customary native Hawaiian rights.

#### 4.9.2.11 Tenure of MPL's Water Resource Permits

The water use permit for 1.018 mgd from Well 17 is on appeal to the Supreme Court. However, a permit issued by the CWRM is valid, even though appealed, unless and until it is vacated or revoked by the Court or CWRM.

The Hawaii Supreme Court's decision in the Waiahole Ditch case cast a cloud over all of the interim in-stream flow standards adopted statewide. However, no petition has been filed to amend any of the interim in-stream flow standards adopted for any of the streams on Moloka'i. It is unlikely therefore, that Molokai Ranch's ability to continue to divert water in its Mountain Water System is in any jeopardy.

#### 4.9.2.12 MIS issues

Well 17, located in Kualapu'u, currently provides water to Kaluako'i on the West End of Moloka'i. Water is transported from Well 17 to Kaluako'i first through the MIS system to the Mahana pump station. From Mahana, water is pumped to Pu'u Nānā for treatment. The treated water is piped to a reservoir in Maunaloa, and from there gravity fed to Kaluako'i.

Kaluako'i does not use any MIS water, i.e., water developed by the MIS system for agricultural irrigation. Instead, Molokai Public Utilities, Inc. (MPUI), which services Kaluako'i, "rents space" in the MIS system to transport Well 17 water to Mahana.

The water pumped from Well 17 is of potable quality. However, in the MIS, it is mixed with non-potable water that does not meet Safe Drinking Water standards. Thus, the water has to be treated at Pu'u Nānā before it can be distributed to end users in Kaluako'i.

##### *Transmission Agreement*

The MIS was planned, designed, and constructed under a special Act of Congress (Reclamation Act of 1954) to develop surface water and high-level groundwater (Wells 0855-01, -02, and -03) in Waikolu Valley in northeastern Moloka'i to irrigate farmlands in central and western parts of the island. The MIS originally served large-scale pineapple operations, but was converted to serve diversified agriculture after the pineapple operations closed in the late 1970s. The system

also serves the native Hawaiian homesteads in Ho'olehua, and pursuant to HRS section 168-4, Hawaiian homesteads have a prior right to two-thirds of the water currently developed by the MIS. The MIS transports 1,500,000 gpd via a 10-mile transmission link to an open reservoir at Kualapu'u, where it is stored prior to entering a distribution network extending from Ho'olehua to Mahana.

When originally constructed, the MIS was administered by the State Board of Land and Natural Resources (BLNR). In 1975, the BLNR entered into an agreement (the Agreement) with Kaluako'i Corporation (Kaluako'i), renting "space" in the MIS for Kaluako'i to transport water from Well 17 to Mahana. The water is then treated to potable standards and used to supply potable water to Maunaloa town, the Pāpōhaku and Kaluako'i subdivisions, the Kaluako'i condominiums, and for other residential purposes as well as to meet the potable water needs of the resort areas on the West End. Under the terms of the Agreement, Kaluako'i would pump water from Well 17 into the MIS system and withdraw the water at Mahana. To account for potential system losses along the way, Kaluako'i was allowed to withdraw a lesser amount than was put in from Well 17. Additionally, Kaluako'i paid lease rent to the MIS. The Agreement was for the use of "excess capacity" in the system and provided that if there was no longer sufficient capacity in the system then the use would have to be relinquished on reasonable notice.

The 1975 Agreement was extended by the BLNR in 1985. In 1988, Kaluako'i assigned its interest in the Agreement to Kukui (Moloka'i), Inc. (KMI), which assignment was consented to by the BLNR. As a result of the Agreement, no other infrastructure to transport Well 17 water to the West end of Moloka'i was put into place.

Effective July 1, 1989, administration and management of the MIS was transferred from the BLNR to the State Department of Agriculture (DOA). In December 1989, the Agreement was amended to reflect the statutory transfer to the DOA.

Subsequently, the Agreement was extended twice through December 31, 2005. In late 2001, KMI assigned the Agreement to Kaluako'i Water, LLC (KWLLC), a Hawai'i limited liability company wholly owned by Molokai Properties Limited. The DOA acknowledged the assignment in early 2002.

Prior to and following the Agreement termination date of December 31, 2005, KWLLC and the DOA have been engaged in negotiations for the continued use of the MIS to transport Well 17 water to Mahana, and the DOA has conducted community meetings on the matter. By September 2007, a further extension to the Agreement was in the final stages of being completed following community input on aspects of the Agreement. The Agreement had been open for public input on Moloka'i before the MIS Advisory Board prior to its execution by the parties.

The proposed extension Agreement would have permitted MPL to transmit water through the MIS system until June 30, 2011 at an equivalent price of 70 cents per 1000 gallons transmitted. This compares to the 30 cents per 1,000 gallons paid for by homesteaders and commercial agricultural users of the system. Provisions of the Agreement include emergency use of surplus Well 17 pumping capacity in drought emergencies, the ability for MPL to store up to 20 million gallons in the MIS reservoir in case of breakdowns at its Well 17 pump, continued compensation for system losses and an option for extension of the Agreement, or early termination provisions should MPL seek to transmit water from Well 17 outside the MIS.

The extension Agreement had not been executed when, on September 12, 2007, the DOA, through its Deputy Attorney General, officially determined that any agreement for the continued use of the MIS by KWLLC would be subject to the preparation of an environmental disclosure document pursuant to HRS Chapter 343. As of October 2007, KWLLC continues to utilize the MIS to transport water; however, the DOA's Deputy Attorney General indicated in writing that the practice should cease pending preparation of the environmental disclosure document.

Currently, there is no alternative means of transporting water from the source (Well 17) to end users in Kaluako'i. Upon completion of the environmental disclosure process, either there will be an agreement for the continued use of the MIS to transport Well 17 water or an alternative method of water transport will have to be established. Several alternatives are possible, each of which requires acquisition of new easements or modification of existing easements as well as engineering and cost studies. These items have to be addressed before MPL can rationally identify the practicable alternatives. As of this writing, this issue remains unresolved.

Under MPL's Water Plan, Lā'au Point's potable water needs will be met from Well 17. MPL's infrastructure plan for transporting and distributing water to Lā'au Point, therefore, remains unresolved as of October 2007. This issue, however, will have to be resolved regardless of, and without reference to, the Lā'au Point project.

The MIS currently transports up to 1.018 mgd of water (12-month moving average) pumped from Well 17 to Mahana for distribution to existing, current users in Kaluako'i. Well 17 water will continue to be used by Kaluako'i customers whether or not the Lā'au Point project is approved. Thus, the issue of how to transport water from Well 17 to either Mahana or to Kaluako'i will have to be resolved regardless of the Lā'au Point project. Inasmuch as the MIS issue affects existing, current uses, there is an element of urgency, and it is likely that the MIS issue will be resolved prior to any discretionary land use decisions being made on the Lā'au Point project. Therefore, the decisions made with respect to continued use of the MIS may have to be made without consideration of the Lā'au Point project.

Because there are existing customers in Kaluako'i dependent upon Well 17 water, water will have to somehow be transported from Well 17 to the facilities owned by MPL for further distribution to end users at Kaluako'i. Either the MIS will continue to be used or alternate infrastructure will be developed for this purpose. Either way, the infrastructure used to transport water from Well 17 to MPL distribution facilities will also be used to transport potable water to Lā'au Point. Therefore, even if use of the MIS to transport Well 17 water is discontinued, there will be a means of getting potable water to Lā'au Point. The decisions made with respect to this MIS issue, however, will affect infrastructure planning for the transport and distribution of potable water to Lā'au Point.

#### *Explanation of the "System Losses" Concept in MIS Agreement*

As part of the rental agreement, MPUI, in addition to monetary payments to the MIS, puts in more water than it takes out of the MIS.

The "excess" water is meant to cover system losses. Thus, for every 1,111,111 gallons that is pumped from Well 17 into the MIS, 1 million gallons is taken out at Mahana for eventual use in Kaluako'i. The amount of water pumped into the MIS from Well 17 and the amount that is withdrawn at Mahana are metered: the meters at both ends are monitored by the DOA. In

recognition of this agreement. CWRM included a "MIS System Use Charge" of 94,000 gallons per day as part of the 1.018 mgd allocation for Kaluako'i.

***MPL Kept Its Word, Did Not Use MIS Water During Well 17 Breakdown***

During June and early July of 2007, MPL's Well 17 pump malfunctioned and the Well was inoperable for 36 days while the shaft was removed and the pump replaced. During this period, MPL instituted strict conservation measures and was able to use water from its mountain system that was stored in reservoirs to meet potable needs throughout its systems. Stream diversions in the mountain system were not increased during this time.

MPL received approval from CWRM to extend the service area of its mountain system to Kaluako'i during the breakdown period.

MPL did not use MIS water and did not seek permission to use MIS water.

MPL was able to maintain its buffer in the MIS system, ensuring the homesteaders and other agricultural users were not affected by the Well 17 breakdown.

**4.9.2.13 Lā'au Project Issues**

***The Impact of 100 Percent of Lā'au Point Homes Using 600 gpd***

Under the Water Plan, MPL will have approximately 1.5 mgd of potable water: 1.018 mgd from Well 17 plus 500,000 gpd from the Mountain water system.

Total anticipated long-term potable water needs amounts to 1,089,520 gpd. This includes 96,000 gpd for the Lā'au Point lots, which is based on 600 gpd for 200 lots at 80 percent occupancy (See page 9 of Water Plan Analysis, Appendix S).

If MPL were to increase the Lā'au Point potable allocation to 100 percent (i.e. all 200 homes used 600 gpd), the amount would be 120,000 gpd, an increase of 24,000 gpd. That would raise the total long-term potable water needs to 1,113,520 gpd, which can still be accommodated with the 1.5 mgd available.

The estimated use of 600 gpd for each Lā'au Point residence relates to potable water use only. This is the Maui County Department of Water Supply Water Demand Standard per residential unit.

Additional non-potable water is anticipated for irrigation uses.

***Restricting the Water Use at Lā'au Point***

Conservation rates are but one means of moderating water consumption. Covenants attached to the Lā'au lots will ensure conservation of water.

Residences at Lā'au Point, unlike the existing Kaluako'i residences, will be required to use a dual water system (potable and non-potable). Moreover, a number of covenants will be attached to the Lā'au lots that will ensure further conservation of potable water. These covenants include:

- Restrictions on further subdivision of lots.

- Disturbance of lot limited to no more than 30% (approx. 1/2-acre)
- Restrict water use for irrigation (landscaping).
  - Require re-use and collection/storage systems for catchments.
  - Only drip systems permitted for irrigation.
- Require all houses to have at least a 5,000-gallon storage tank for water captured from roofs (could be used for irrigation).
- Covenants on drinking water use -- designed to ensure an overall maximum drinking water daily use of 500-600 gpd.
  - Double flush toilets.
  - Specially designed shower heads for conservation.
  - Must use dual water system (potable and non-potable).

While the above conservation measures have not been precisely quantified, the restriction on drinking water use to a maximum of 500-600 gpd will ensure implementation of the above conservation measures and perhaps other measures to stay within the maximum daily drinking water limit.

***Clarification that Water Plan Allows for Full Kaluako'i Build-Out***

MPL's Water Plan projects long-term potable water needs of no more than 1.5 mgd. This includes, among other things, water for full build-out of the Kaluako'i residential properties. At full build-out, potable water requirements for Kaluako'i residential properties are expected to increase to 228,500 gpd from its current use of 77,500 gpd. Non-potable water needs for Kaluako'i residential properties are expected to increase from the current 143,825 gpd to 633,825 gpd at full build-out.

***Transition of Potable Water to Non-Potable Uses in Kaluako'i.***

The CWRM has permitted the use of 1.018 mgd from Well 17 for uses at Kaluako'i. More than half of that amount is for irrigation purposes. Under the Water Plan, the water pumped from Well 17, which is of drinking water quality, will not be used for irrigation purposes. Other sources of non-potable water, namely the Kāalahale Well, are intended to replace Well 17 water for irrigation. Until the alternate non-potable source is permitted, developed, and the infrastructure is in place to transport the water to Kaluako'i, Well 17 water will continue to be used for irrigation purposes.

As the alternate non-potable source becomes available, the water from Well 17 that was used, or slated for use, for irrigation purposes will be available for drinking water needs.

**4.9.2.14 Desalinization- Additional Clarification**

The incentive for desalinization is associated with costs. If the operational cost to desalinate water and the amortized capital costs become lower than the costs to pump and transmit water, we would choose to desalinate. Issues associated with the DHHI, reservation and pipeline easements as well as the reliability of the MIS are added incentives.

After preliminary investigation, it was determined that desalinization was not a current reasonable economic alternative and it was therefore not included among those alternatives that were more rigorously explored.

As mentioned in the Water Plan, desalting is still about four times more expensive on Moloka'i (not helped by the island's high energy costs) than developing an operating a deep groundwater well.

A pilot plan on O'ahu developed in the early 2000s still remains idle today because of escalating energy costs needed, in simple terms, to push the brackish water through a membrane to remove the salts.

MPL has previously been approached by two parties proposing desalinization on Moloka'i as an economic business; neither party, following their detailed investigation, wished to continue with their plans for a desalinization plant.

Desalinization is therefore too expensive to be considered MPL's first choice of non-potable water. However, it is an alternative if water from the Kākahale Well is not available.

#### **4.9.2.15 Alternatives Studied Instead of Kākahale under the Water Plan**

##### ***West End Water Sources and East End Alternatives***

Several wells and a number of test borings have been completed in both the Kaluako'i and Punakou aquifer systems. The water there is very brackish to near-seawater salinity. In virtually all of the borings, the water was also geothermally heated. These sources are not satisfactory for irrigation use.

There are also a number of small wells in the Kawela and 'Ualapu'e aquifers, including the County's Kawela Shaft and 'Ualapu'e Shaft, which have water use permits to pump 0.348 mgd and 0.234 mgd respectively. The USGS's 2006 modeling effort was given the task of, among other things, studying the effects of replacing these wells with new wells (some in other locations within the Kawela and 'Ualapu'e aquifers), and also of increasing pumpage from these wells. The USGS study modeled 14 different scenarios, each of which included, among other things, some withdrawals by the County from wells in both the Kawela and 'Ualapu'e aquifers.

The water level in the Pu'u O Hoku No. 1 well in the Waialua aquifer, which was drilled in 1998, is nine feet mean sea level, indicating that the well site is not in the dike complex as anticipated.

#### **4.9.2.16 Other Water Issues Raised**

##### ***Water for Agricultural Easement Land***

The majority of MPL's west end holdings are currently in agricultural use. Agricultural easements will ensure that agricultural use of these lands will continue into the future. Much of these lands are utilized for ranching, which has low water requirements. Water for irrigation of MPL's agricultural lands is supplied by Molokai Ranch's Mountain Water System.

##### ***Drought Mitigation***

In addition to the development of new sources for agricultural water, drought mitigation strategies are important in securing the viability of agriculture and agricultural activities on

Moloka'i. Recommended drought mitigation strategies for Moloka'i, identified by the Maui Drought Committee, include a number of measures to repair and improve the efficiencies of the Molokai Irrigation System. Another drought mitigation recommendation is to install a pump in MPL's Kākahale well, which could supply brackish water for mixing with existing sources to meet non-potable demands. This drought mitigation measure can readily be incorporated into MPL's plans to utilize the Kākahale Well for non-potable irrigation needs identified in the Community-Based Master Land Use Plan for Molokai Ranch (Appendix A).

## Attachment

### Revised Section 6.0 (Alternatives)

#### 6.0 ALTERNATIVES TO THE PROPOSED ACTION

Under HAR, Title 11, Chapter 200, Environmental Impact Statement Rules, Section 11-200-10(6), the alternatives to the proposed action considered are limited to those that would allow the objectives of the project to be met, while minimizing potential adverse environmental impacts. The feasible alternatives must also address the project's economic characteristics while responding to the surrounding land uses that will be impacted by the project.

**Project Objectives** – As stated in Section 2.1.7, the objectives of the Lā'au Point project are rooted in MPL's desire to create a sustainable future for Moloka'i and the Ranch through the implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Plan). The goal of the Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Plan are shared by the Lā'au Point project and include:

- Developing sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Moloka'i Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Moloka'i 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.

**Criteria for Evaluating Alternatives** – Alternatives to the Lā'au Point project were evaluated against the project objectives along with MPL's criteria of achieving economic viability while minimizing potential adverse environmental, social, and cultural impacts. These included:

- Reasonable financial returns must be generated from the funds invested.
- No expanded use of drinking (potable) water currently available to the company.
- No significant increase in population and large urban development of land beyond what the company conceived as acceptable to the community.
- Minimal displacement of land currently designated for agriculture or open space.
- Development of unsuitable lands with poor soil ratings rather than development on more potentially productive agricultural lands.
- Minimizing the cultural and social impacts by mitigating the impact of new people to the island and by ensuring that minimum amounts of drinking (potable) water are used.
- Protecting cultural sites and complexes.

While most alternatives analysis is based on financial feasibility and is economic by nature, this section is intended to also weigh the economic impacts with broader environmental concerns, which include social and cultural impacts, as appropriate. In its efforts to address community-wide concerns, MPL expanded their criteria for evaluation to compare how each alternative

addressed key issues related to the increase in population, availability of drinking water supplies, protection of cultural sites, subsistence activities, and agricultural land.

More detailed discussion of the cultural impacts of the proposed alternatives is discussed in Section 9 of the Cultural Impact Assessment Report (included as Appendix F of this EIS). The social impacts of various scenarios are discussed in Section 5 of the Social Impact Assessment Report (included as Appendix M of this EIS).

**The Process of Examining Alternatives** – During the two-year community planning process that led to the *Community-Based Master Land Use Plan for Molokai Ranch*, MPL in conjunction with the Enterprise Community (EC) under the auspices of EC Project #47 (Moloka'i Compatible Development Plan), examined a range of alternatives to the proposed Lā'au Point development.

Community concerns were raised about homes at Lā'au Point and whether MPL had been diligent in seeking alternatives that would be more acceptable to the community. In evaluating any proposed alternative, there was the need for economically viable projects that could generate revenue and returns on investment which could make the overall conservation initiatives proposed by the *Community-Based Master Land Use Plan for Molokai Ranch* feasible and sustainable for the benefit of the Moloka'i community. Similarly, the cultural and social impacts were evaluated.

The Alternative to Lā'au Development Committee (ALDC) and an outside planning consultant were funded and sponsored by the EC to find alternatives to the Lā'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~~ Table 11 in Section 6.4).

In summary, all alternatives proposed were evaluated against the project objectives and not selected over the proposed Lā'au Point project (detailed in Section 2.3) for the following primary reasons. The alternative plans:

- Did not produce the revenue and returns necessary to fund the re-opening of the Kaluako'i Hotel and support the future viability of Molokai Properties Limited.
- Were not viable economically as stand alone projects.
- Would require vastly increased safe drinking (potable) and non-drinking (non-potable) water use that could not be supported by the Land Use Committee or the EC.
- Proposed increases of up to 1,000 units which increased the resident population to levels that were unacceptable to the Land Use Committee and the EC.

In summary, MPL did not want to seek more drinking (potable) water from island resources, nor propose population increases that appeared to be unacceptable to the island's community. At the Lā'au Point project's build-out, it is anticipated that permanent residents will occupy only 60 of

the homes (30 percent), thus minimizing the social impact (see Section 4.8). Water use will be contained by strict CC&Rs attached to the project (see Section 4.9.2).

Another criteria was to ensure that current potentially usable agricultural land remain available for future agricultural use, thus protecting the desire to have Moloka'i remain an agricultural-based economy. Section 3.3 and 3.4 discuss soils at the Lā'au Point site as being poorly suited for soil-based agriculture. Other more suitable agricultural land has been identified elsewhere on other MPL lands in the Plan.

In conformance with applicable regulations (HAR, Title 11, Chapter 200, Environmental Impact Statement Rules, Section 11-200-10(6)), the alternatives to the proposed action that were derived during the community process and evaluated are listed below and discussed individually.

- No Action
- Bulk or "Piece-Meal" Sale of Other Land Inventory
- Agricultural Subdivision
- Other MPL Land Development Alternatives Considered
- ALDC Proposed Alternatives
- Other Proposed Uses for MPL Lands (Non-residential and Non-agricultural)
- Postponing Action Pending Further Study

## 6.1 "NO ACTION" ALTERNATIVE

The "no action" alternative would not involve any changes to the Lā'au Point project site, and the property would remain vacant of any additional improved uses. If the Lā'au Point project were not developed, lands would remain as fallow agricultural land. As agricultural land, the site is underutilized due to the poor soils (see Section 3.3) and lack of irrigation water.

With "no action", there would be no expansion of the Conservation District or designation of cultural and environmental preserves in the area.

In terms of meeting the goals of the *Community-Based Master Land Use Plan for Molokai Ranch* (Plan), maintaining the site in its present condition would forego a revenue source to pay for renovations of Kaluako'i Hotel. In addition, the "no action" alternative would not meet the Plan's objectives as previously detailed above and in Section 2.1.7. The Plan's needs (e.g. affordable housing, infrastructure improvements, housing demand) would not be met, and direct and indirect impacts would not occur.

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. The only Plan component that will occur without the Lā'au Point project is the gifting of 1,600 acres to the Land Trust (as discussed in Section 2.1.8). The Land Trust would not receive the remainder donation of 24,600 acres, which include numerous culturally significant sites such as the makahiki grounds of Nā'iwa, Kawela Plantation, fishing village at Kaupoa Camp, and other sites.

A key negative impact of the "no action" alternative would be the effect on the financial viability of ongoing operations of Molokai Ranch and its employees. An evaluation of MPL's current and historical operating records shows that the net loss from 2001 to 2006 operations has been approximately \$36.9 million. Painful cost-cutting has reduced operating losses in the last three

years, but increasing costs for water, energy, and insurance have made it difficult to expect profitable operations in the future.

The “no action” alternative would also not generate the \$30 million+ required to renovate and re-open the Kaluako’i Hotel. MPL is currently seeking a Special Management Area permit in anticipation that the Lā’au Point project will receive approval. Unless MPL begins the preliminary design work on the hotel now, it could be at least two years after regulatory approvals for Lā’au Point that the hotel is re-opened. Doing the necessary preliminary work on the hotel now means an earlier re-opening.

Without the increase in support for golf and the existing Lodge and Beach Village hotel operations, MPL could be forced to reduce operations and perhaps close those facilities. In addition, MPL could also be forced to reduce or eliminate other subsidized operations such as maintenance, nursery, gas station, and other services. The impacts of these reductions would significantly affect existing employment at Molokai Ranch and in Maunaloa Town.

The “no action” alternative would not sustain the Ranch for the future. A continuation of present operating practices would eventually lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale (see Section 6.2). Employment would have to be reduced, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. These losses in local jobs and probable business failures would also increase the need for County and State social services. While the “no action” alternative would allow the environment of Lā’au Point to remain untouched to the benefit of those opposing development, these negative effects of the impending closure of Ranch operations and unknown risk created by probable land sales would appear to have more far reaching effects upon the economic and social fabric of the larger Moloka’i community.

Finally, the “no action” alternative would deny the State, County, and general public of the potential public benefits associated with the Lā’au Point project. Some of these benefits include:

- \$246 million in total development and construction investment.
- 1,350 person years of construction-related employment over project build-out (a “person year” is the amount of time a person can work in one year).
- \$17.7 million in construction-related taxes.
- \$1.3 million in annual real estate tax revenues at the end of the lot sales period in 2012; tax revenues will increase at a rate of \$90,000 each year until it reaches \$2.1 million at full build-out.
- Other County tax revenue (fuel tax, utility tax, license fee, permits, state/federal grants) which is estimated to reach \$1.6 million annually after full build-out.
- Annual state revenues from taxes on residents and their expenditures of \$276,000 at the end of lot sales in 2012; climbing to \$1.3 million by 2023.
- Annual expenditures on Moloka’i at build-out of about \$4.4 million, which represents about \$22,000 in on-island spending per residence.
- Support of 60 on-going jobs upon full build-out in 2023 through resident spending and the Lā’au Point homeowners’ association.
- Five percent of land sales going to support the Land Trust; this commitment is estimated to provide over \$10.2 million (prior to the payment of any real estate commissions or other regulatory costs) for the on-going operations related to the preservation and enhancement of the dedicated lands.

The resulting environmental, social, and economic benefits of creating the proposed Lā’au Point project outweigh the loss of approximately 460 acres of currently vacant agricultural land. The ~~conversion~~ conversion to rural district for 200 lots and related infrastructure development would not impact Molokai Ranch’s agricultural goals and production.

Given the above, and in consideration with the goals and objectives of the Lā’au Point project and the *Community-Based Master Land Use Plan for Molokai Ranch*, the alternative for “no action” is not a feasible alternative.

## 6.2 BULK OR “PIECE-MEAL” SALE OF OTHER MPL LAND INVENTORY ALTERNATIVE

MPL land holdings are comprised of 101 lots that could be sold within Pāpōhaku Ranchlands, Maunaloa (both Residential and Commercial), and the Industrial Park. Of these 101 lots, 23 are held by a Kaluako’i LLC, 70 by MPL, and 8 by Cooke Land Company. The golf course is actually held in six separate TMK parcels but is only counted as one, as it would be impractical to sell it to more than one buyer, unless it was to be abandoned. Each of the lots in Kaunakakai is counted as a separate lot as it could be sold to different buyers. It would be more likely that there would be a fair amount of consolidation and re-subdivision of those small lots for larger industrial or business uses.

This “land-banking,” or individual parcel sales, would essentially close down ranch operations and reduce MPL’s employment to only 10 full-time staff as the company sells its properties to potentially 101 new owners/residents. Although the immediate effect of reducing employees is always devastating often with longer-term implications, it is conceivable that subsequent landowners could rehire former employees and/or create new job opportunities. While the amount and type of new jobs is not known, these would likely occur over a longer period of time. A great concern will be how the local economy will be impacted shortly after it loses support of the island’s largest private employer and user of goods and services.

In selling off its holdings, an existing allowable lot density analysis conducted by MPL shows that the west end agricultural-zoned parcels comprising approximately 43,000 acres could be subdivided into more than 1,500 lots, based on the Agricultural district subdivision standards for Maui County zoning (lots range from 2, 15, 25, and 40 acres) or the Community Plan (minimum 25-acre lots).

In this alternative, the 24,600 acres (this does not include the 1,600 acres to be gifted regardless of project outcome) that would otherwise have been donated to the Land Trust under the Lā’au Point proposed action would instead be sold off as separate parcels.

If these lots were sold off without the benefit of a master plan, such as the one prepared for Lā’au Point, the impact would include a greater number of new land owners/residents, less community control of development (i.e. design controls and CC&Rs), no land trust, and less financial support to the County and State (this later assumes that Lā’au Point is developed and taxed at its highest and best use and if not developed as such, that subsequent land owners could not develop their individual lots with the same intensity of uses in mind). Similar to the “no action” alternative (see Section 6.1), selling parcels separately would deny the State, County, and general public of the potential public benefits associated with the Lā’au Point project, of which the benefits have been cited before in the previous section.

Given the summary of impacts disclosed above, and in consideration with the goals and objectives of the Lā'au Point project and the *Community-Based Master Land Use Plan for Molokai Ranch*, the alternative for "bulk and piece-meal sale of other MPL land inventory" has been rejected as an acceptable alternative.

### 6.3 AGRICULTURAL SUBDIVISION ALTERNATIVE

The Lā'au Point project will require a State Land Use District Boundary Amendment (SLUDBA) to re-district 850 acres of land currently within Agricultural District to the Rural District. The Lā'au Point project site to be re-districted is a small portion of the larger agricultural parcel of 6,348 acres, identified as TMK 5-1-02:30. The "agricultural subdivision alternative" would not require a SLUDBA because the entire parcel is already within the State Agricultural District.

The project will also require both a Community Plan Amendment and Change in Zoning approval to re-district agricultural-designated lands (AG) to rural (R) designation. According to the Moloka'i Community Plan (Planning Standards, Subdivisions, Minimum Lot Size), the recommended minimum lot size for AG subdivisions shall be 25 acres; therefore, the Lā'au Point parcel could be subdivided into approximately 215 agricultural lots (with an allocation of 15% for roads). Under the Maui County Agricultural District Ordinance (Maui County Code, Chapter 19.30A), the entire parcel zoned AG could be subdivided into 223 lots ranging in size from 2 acres, 15 acres, 25 acres, and 40 acres.

Since the MPL parcels are already zoned for agriculture, agricultural subdivisions would not require MPL to obtain a State Land Use District Boundary Amendment, Community Plan Amendment, or County Change in Zoning approval.

As previously discussed in Section 3.3, the soils of the parcel have severe limitations for cultivation. Except for approximately 24 acres rated as poor ("D") soils, the Land Study Bureau classifies the soils of the parcel as very poor ("E"). Soils rated "E" are considered as having little or no suitability for soil-based agricultural production. Also, a majority of the soils of the parcel are unclassified by under the ALISH system, which means the soils provide no value for soil-based agriculture. Therefore, the only feasible agricultural activity that could prosper on this parcel would be grazing, which has proven to not be economically sustainable for Molokai Ranch.

For these reasons, it is questionable as to whether there would be a market for agricultural lots in West Moloka'i. Unlike the Lā'au Point project, which would subdivide and sell 400 acres (200 lots) to private landowners, the agricultural lot subdivision alternative would involve selling 6,348 acres to farmers in direct competition with more suitable agricultural lands elsewhere throughout Moloka'i and the State.

In addition, an agricultural subdivision of the parcel would not provide the environmental benefits of expanding the Conservation District at Lā'au Point and creating cultural/environmental preserves, or addressing the objectives of the *Community-Based Master Land Use Plan for Molokai Ranch*.

### 6.4 OTHER MPL LAND DEVELOPMENT ALTERNATIVES

Molokai Ranch has vast land holdings on Moloka'i of 60,000+ acres. These lands stretch from West Moloka'i east to scattered parcels near Kaunakakai and Kualapu'u. While large tracts of land appears available for development at first, options are narrowed when considering the importance of the development's location in relation to the shoreline and therefore its ability to attract interest and generate the necessary revenue to make the Plan work economically.

MPL examined various options in detail where it may be possible to develop a community at other Ranch land locations away from the Lā'au Point project area. Models were developed to compare alternative scenarios ranging among different agricultural and residential projects of between 27 lots/units and 1,000 lots/units.

MPL initially looked at large Agricultural lot developments conforming to existing State land use designations, the Moloka'i Community Plan, and County Zoning at Maunaloa Town and above Kaunakakai. MPL also looked at an affordable residential expansion at Kualapu'u as part of the first round of possible alternatives and at various rural and condo alternatives for Kaluako'i. MPL also examined DeGray Vanderbilt's Lā'au Point alternative (the Kaluako'i Rural Subdivision and Golf Course) to make sure MPL had looked at every aspect.

In efforts to avoid development specific to the Lā'au Point project area, MPL examined nine options in detail on other Ranch lands outside of the Lā'au Point project site. Financial models were created to examine the alternatives' ability to generate the necessary revenue to make the *Community-Based Master Land Use Plan for Molokai Ranch* work economically. It is important to note the following assumptions in relation to these financial models and resulting evaluation:

- Current land sales data of MPL transactions was used for establishing relative selling prices, benchmarked with prices of properties sold by local real estate agents at the West End at various locations.
- Development cost models were constantly reviewed and benchmarked with current projects such as the Maunaloa Community Center, the Kaluako'i Water Compliance project, and the Pāpōhaku erosion control project. Development and construction cost estimates were reviewed and updated quarterly with outside contractors, and factored in future inflation costs and labor requirements.

In all of the development alternatives evaluated below, the following has not been factored in, but would undoubtedly substantially reduce returns to the developer:

- The cost of capital or funding costs to develop.
- A percentage of lot sale revenue assigned to the Land Trust.
- The impact of delays in the regulatory permitting process, which can be significant.
- Sales momentum, the time taken to sell once developed, in other words the "time value of money" or net present value of future cash flows.

In this analysis, MPL found that all of the financial models had the common problem of not generating reasonable returns on the funds invested in meeting Lā'au Point's objective of providing adequate funding for the Kaluako'i Hotel and Golf Course renovations, and an endowment for the Land Trust and the CDC. The models that in theory were capable of generating returns in excess of 10 million dollars are massive in scope and in reality are probably less feasible than the smaller projects due to the need to phase them over years and the time taken to address both the construction requirements and market absorption. The outcomes

showed either proposed water use not available to the company or used vast amounts of land or increased the population beyond what was conceived as acceptable to the island, thus having dramatic cultural and social impacts.

In varying degrees, none of the alternatives evaluated meet the criteria established: adequate financial return, no further use of drinking (potable) water, no great population increase, no great displacement of lands designated for agriculture or open space, no use of potentially higher value agricultural lands versus less, suitable agricultural lands with poorer soil productivity ratings.

Table 7 Table 11 and the following sections provide a summary of the evaluation analysis of the alternative of "Other MPL Land Development".

**Table 7 Table 11. Summary of Other MPL Land Development Alternatives**

	Alternative	# of Lots/Units	Approx. Land area (acres)	Estimated Water use per lot/unit (gals/day)	Estimated Total Water Use (gals/day)	Estimated Population impact per lot	Total Population	Estimated Financial Return (total dollars)
1	Maunaloa to Lā'au - 25-acre lots	175	4,650	3,000	525,000	2	350	\$4,336,000
2	Maunaloa to Lā'au - 10-acre lots	420	4,350	3,000	1,260,000	2	840	\$15,731,000
3	Maunaloa to Lā'au - 2-acre lots	600	1,450	3,000	1,800,000	2	1,200	\$6,455,000
4	Maunaloa Ag	27	700	3,000	81,000	2	54	\$2,613,000
5	Kaunakakai Ag	70	1,800	3,000	210,000	2	140	\$1,974,000
6	Kualapu'u	40	7	500	20,000	4	160	(\$92,000)
7	Kaluako'i Rural #1	500	300 125	1,000/unit potable 2,000/acre nonpot	500,000 potable 250,000 nonpotable	2	1,000	\$0
8	Kaluako'i Rural #2	800	720 180	1,000/unit potable 2,000/acre nonpotable	800,000 potable 360,000 nonpotable	2	1,600	\$36,752,000
9	Kaluako'i Resort Condo	1,000	92.75	560/unit potable 2,000/acre nonpotable	560,000 potable 185,500 nonpotable	1.5	1,500	\$38,000,000

**6.4.1 Maunaloa Toward Lā'au Point**

Professor Luciano Minerbi from the University of Hawai'i's Urban and Regional Planning Department recommended that MPL look at a development area below Maunaloa town extending toward Lā'au Point but staying a minimum of a mile from the shoreline. MPL ran three models for this area, a Moloka'i Community Plan-conforming Agricultural subdivision with a 25-acre minimum lot size, a subdivision in the same area using a 10-acre minimum lot size, and a 2-acre minimum lot size version.

**25-acre Minimum Lot Size** - this model contains 175 lots.

- (a) Revenue per lot: \$450,000
- (b) Total Revenue: \$72,450,000
- (c) Cost to Develop: \$68,114,000
- (d) Financial Return: \$4,336,000
- (e) Water Use: 525,000 gallons/day
- (f) Population increase: 350
- (g) Land Requirement: 4,650 acres

Agricultural lots are often marketed to farmers desiring to cultivate diversified crops. The economic feasibility and market demand of this alternative is questionable due to the lack of infrastructure and high cost of front-end investment needed.

**10-Acre Minimum Lot Size** - Located in the same geographic area as the project above, this project contemplates a Community Plan Amendment to create higher densities and greater net revenues. This model contains 420 units.

- (a) Revenue per lot: \$275,000
- (b) Total Revenue: \$115,500,000
- (c) Cost to Develop: \$99,769,000
- (d) Financial Return: \$15,731,000
- (e) Water Use: 1,260,000 gallons/day
- (f) Population increase: 840
- (g) Land Requirement: 4,350 acres

Although this alternative creates a high profit return, this alternative's proposed water use is not available to the company, more land is required, and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**2-Acre Minimum Lot Size** - Smaller lots are preferable for small-scale diversified agricultural operations. Like the concept above, a Community Plan amendment to allow minimum 2-acre lot size is also contemplated with this scheme. This project of 600 sites, would have a much smaller footprint than the two alternatives above, but would have considerably greater population and water impacts.

- (a) Revenue per lot: \$200,000
- (b) Total Revenue: \$120,000,000
- (c) Cost to Develop: \$113,545,000
- (d) Financial Return: \$6,445,000
- (e) Water Use: 1,800,000 gallons/day
- (f) Population increase: 1,200
- (g) Land Requirement: 1,450 acres

This alternative does not generate reasonable returns on the funds invested, proposed water use is not available to the company, more land is required, and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**6.4.2 Maunaloa Agricultural Subdivision**

This alternative would utilize the best 700 acres of pasture land just above Maunaloa to create a 25-acre agricultural lot subdivision. This development would provide 27 lots and infrastructure demands were relatively low.

(a)	Revenue per lot:	\$500,000
(b)	Total Revenue:	\$13,500,000
(c)	Cost to Develop:	\$10,887,500
(d)	Financial Return:	\$2,612,500
(e)	Water Use:	81,000 gallons/day
(f)	Population increase:	54 people
(g)	Land Requirement:	700 acres

This alternative does not generate reasonable returns on the funds invested. Therefore, this alternative was rejected.

**6.4.3 Kaunakakai Agricultural Subdivision**

This alternative would develop the existing cornfields below Manila Camp and all the land directly above Manila Camp up to about the 1500-foot elevation. Consistent with the Moloka'i Community Plan's 25-acre minimum agricultural lot size, the lots would require 1,800 acres, creating 70 lots – 2 suitable for diversified agriculture and 68 pasture lots. As the cornfields are an existing agricultural water use, that water use is not included in the summary below:

(a)	Revenue per lot:	\$475,000 - \$625,000
(b)	Total Revenue:	\$33,980,000
(c)	Cost to Develop:	\$32,006,000
(d)	Financial Return:	\$1,974,000
(e)	Water Use:	210,000 gallons/day
(f)	Population increase:	140 people
(g)	Land Requirement:	1,800 acres

This alternative does not generate reasonable returns on the funds invested, proposed water use is not available to the company, and more land is required. Therefore, this alternative was rejected.

**6.4.4 Kualapu'u Residential Subdivision**

Conceived as an affordable housing project adjacent to the existing town and the Kalae Highway, the project would be able to benefit from existing infrastructure to reduce costs to some degree. This initial increment was sized at 40 lots.

(a)	Revenue per lot:	\$60,000
(b)	Total Revenue:	\$2,400,000
(c)	Cost to Develop:	\$2,492,000
(d)	Financial Return:	(\$92,000) loss
(e)	Water Use:	20,000 gallons/day
(f)	Population increase:	160
(g)	Land Requirement:	7 acres

This alternative results in a financial loss. Therefore, this alternative was rejected.

**6.4.5 Kaluako'i Rural Subdivision and Golf Course**

This concept looked at 500 half-acres designated for rural lot development in conjunction with a new 18-hole golf course. About half of the lots would have golf course frontage, while the remainder would have ocean views.

(a)	Revenue per lot:	\$245,000
(b)	Total Revenue:	\$122,256,000
(c)	Cost to Develop:	\$122,259,000
(d)	Financial Return:	Breakeven
(e)	Water Use:	750,000 gallons/day
(f)	Population increase:	1,000
(g)	Land Requirement:	425 acres

This concept replicated a previous land use plan concept that provided 800 three-quarter acre lots planned around 27 holes of golf. As would be expected, the population and water impacts are considerable. However, the financial contribution from this project is disappointing.

(a)	Revenue per lot:	
	(1) Golf Course frontage:	\$300,000
	(2) View Lots:	\$200,000
(b)	Total Revenue:	\$200,500,000
(c)	Cost to Develop:	\$163,748,000
(d)	Financial Return:	\$36,752,000
(e)	Water Use:	1,160,000 gallons/day
(f)	Population increase:	1,600
(g)	Land Requirement:	900 acres

This alternative's proposed water use is not available to the company and the increase in population is beyond what was conceived as acceptable to the community. Therefore, this alternative was rejected.

**6.4.6 Kaluako'i Resort Condo Units**

For this analysis MPL assumed that 1,000 units might determine a return that was feasible. Two-bedroom, 1,200 square foot units were assumed. It was also presumed that MPL would need to build the units with an investor/partner due to the enormous financial requirements of this development.

(a)	Revenue per unit:	\$500,000
(b)	Total Revenue:	\$500,000,000
(c)	Cost to Develop:	\$462,000,000
(d)	Financial Return:	\$38,000,000
(e)	Water Use:	745,000 gallons/day
(f)	Population increase:	1,500
(g)	Land Requirement:	92.75 acres

This alternative increases population beyond what was conceived as acceptable to the community and has water requirements beyond what's available the company. Therefore, this alternative was rejected.

**Summary of Findings** – To the extent that MPL could develop a community at another location on other MPL lands, the alternative for "Other MPL Land Development" was rejected for the following reasons:

- Other sites do not have the natural beauty and coastal attributes needed to achieve the full economic potential.

- Other sites would not attract the upper spending market that would pay a premium for lots at Lā'au Point. Sales of the residential lots are crucial for funding the Kaluako'i renovations and the Moloka'i CDC.
- Overall project density and population would be higher at the alternative locations.
- More water would be required, which would mean increased water permit applications.
- A consensus was reached with the *Community-Based Master Land Use Plan for Molokai Ranch* for the Lā'au Point project.

The models that in theory were capable of generating returns in excess of ten million dollars are massive in scope and in reality are probably less feasible than the smaller projects due to the need to phase them over years and the time taken to address both the construction requirements and market absorption. As stated, these factors were not addressed.

By comparison (refer to Table 6 Table 11), the Lā'au Point project as currently conceived would:

- Require only 1/8 the land area of models (1) or (2), and much less than models (3), (4), (5), or (8).
- It would impact the population less than models (2), (3), (7), (8), or (9).
- It would also require much less water than models (2), (3), (7), (8), or (9).

More importantly, the Lā'au Point project can meet the financial requirements of MPL, protect the employment of existing staff and provide over 100 new jobs with the Kaluako'i Hotel re-opening, with slow, modest growth. Most importantly, it allows the creation of the Land Trust and the resulting transfer of 26,200 acres and the protection of an additional 25,000 acres.

## 6.5 ALDC ALTERNATIVES

The Alternative to Lā'au Development Committee (ALDC) efforts to find an alternative to the Lā'au Point project, and the hiring of Clark Stevens (New West Land Company), were funded by the Moloka'i Enterprise Community (EC). The former leader of the ALDC, Mr. Matt Yamashita, sought EC Board approval to delay a vote on the Plan *Community-Based Master Land Use Plan for Molokai Ranch* 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, which are described below.

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."

### 6.5.1 New "Town"

This alternative proposed 50 view-shed lots at Lā'au Point, located between 0.5 mile and 1.5 miles from the Lā'au shoreline, and another 100 small residential lots, which would represent a new "town" similar to Maunaloa. No financial evaluation was provided with this proposed alternative.

This alternative was examined in some detail as the EC funded the ALDC to hire Clark Stevens to review alternatives. MPL examined every site proposed by Clark Stevens by walking the area proposed for these lots.

MPL's analysis of the alternative indicates that the total cost of infrastructure and lot construction (which would need to be brought in and connected to Maunaloa's systems) would cost \$875,000 per lot (or a total cost of \$44 million) for the 50 view-shed lots (not including the 100 small residential new "town"). The distance between the lots (lots were proposed to be spread out across the Lā'au Point parcel) and the fact that it would not be feasible to run infrastructure from Kaluako'i, resulted in this abnormally high infrastructure cost.

On this basis, MPL would lose money on this alternative as it is inconceivable that it could achieve a price of \$875,000 for lots that only had ocean views and were sited between one mile and one and a half miles from the ocean.

A comparison can be made with the Kaluako'i lots, many of which are currently on the market by private sellers and are of similar distance from the ocean. Good ocean-view lots of five-acres in size, and that are close to the Kaluako'i Hotel, were selling for approximately \$400,000 to \$450,000 in October 2006.

The proposal to create a new "town" at Lā'au Point was soundly rejected by the community of Maunaloa; a community that is currently fighting to survive a declining West End economy. The *Community-Based Master Land Use Plan for Molokai Ranch* allows for the expansion of Maunaloa by up to 100 acres, but only when the community believes it is necessary, as discussed in Section 4.8.2 (Housing).

Some of the proposed sites were also in the middle of cultural site complexes (denoted as Cultural Protection Zones in Figure 40 12), a factor not reviewed by Stevens in his report.

The Lā'au Point proposal protects more than 1,000 acres in front of and surrounding the development. This protection includes the gifting of an important cultural and archaeological complex at Kamāka'ipō Gulch to the Land Trust and protective easements covering other cultural sites.

The detail of the cultural impacts (Section 4.2) of proposed Lā'au Point project, the issues of access for the community for subsistence gathering (Sections 2.3.7, 4.2, and 4.3), and the proposed Water Plan (Section 4.9.2) are discussed in this EIS.

The budgeted construction for the proposed Lā'au Point project is \$360,000 per lot. Because of the large cost and value difference between this alternative (\$875,000 per lot) and the proposed project, the new "town" alternative was rejected.

### 6.5.2 Purchase of Lā'au Point Parcel

The other alternative proposed included several purchase options for Lā'au Point instead of development. ALDC's consultant, Clark Stevens, proposed that it would not be "unreasonable" to assume that an effort to purchase Lā'au Point would elicit broad-based financial support, particularly from the 400,000 people of Hawaiian ancestry who appreciated the culture of the Hawaiian Islands.

Stevens also proposed that the Land Trust purchase both the lands proposed for the Land Trust and the Lā'au Point parcel (a total of 33,000 acres), and then lease the land in 1,320 properties (25-acre lots). This option was rejected as it failed to recognize the desire of the Land Use Committee and the EC to protect vast areas of the property in conservation. It was not reasonable to assume that the Land Trust would purchase land that was already planned for fee donation to them under the proposed *Community-Based Master Land Use Plan for Molokai Ranch*.

Early in 2006, the ALDC, in a memorandum to the EC Board, indicated its support for the purchase of the Lā'au Point parcel, either in whole or in part, by a third party, individual, or entity. The ALDC stated it would prefer a conservation "philanthropic" buyer to purchase the entire 6,348-acre parcel, or a buyer who could use the tax incentives and develop mauka of the shoreline with less density. The ALDC asserted that in order for them to move forward with finding potential purchasers, MPL must be willing to keep this alternative open and determine a purchase price for the parcel.

In October 2006, Matt Yamashita, leader of the ALDC, told an EC Board meeting that the ALDC, as a formal organization, no longer existed, and he asserted it was the responsibility of the EC to consider looking for alternatives to the Lā'au Point development. He stated that the ALDC had not put effort into finding a conservation buyer for the parcel.

MPL has stated to the ALDC, regarding this purchase alternative, the following:

- If a purchaser offers the company a price for the Lā'au parcel that is equivalent to its development return, protects areas for subsistence as proposed, and provides an endowment income to the Land Trust/CDC as proposed under the Lā'au Point development plan, it will seriously consider the offer. MPL will seriously consider offers, but after an extensive two-year community process, does not desire to indicate a price for the parcel because of the many variables involved.
- Should a serious buyer emerge, MPL will enter meaningful negotiations with that party or parties.

### 6.6 OTHER PROPOSED USES FOR MPL LANDS (NON-RESIDENTIAL AND NON-AGRICULTURAL) ALTERNATIVES

Several other options were suggested which included a Marine Biology Center, a new University focusing on environmental sciences, a Health and Wellness Center, and a Cultural College; all proposed to have economic benefit equal to or better than the Lā'au Point project. MPL does not believe that these options are viable at this time and over the past decade has had no inquiries from institutions with any interest in establishing such projects or investing capital on Moloka'i for these types of ventures.

An alternative proposed by the U.S. Military was to use parts of Lā'au Point for non-live firing amphibious and air exercises. The Land Use Committee rejected this alternative citing it as an inappropriate use and contrary to the Plan and project objectives.

MPL was also asked to look at the area from Hale O Lono to Pālā'au. There are several issues with this area, not the least of which is the proposed inclusion of this land in the Land Trust and the importance of the Kā'ana ahupua'a.

With respect to archeological sites, the area has had only limited analysis done to date, and where surveys have been conducted, sites have always been found. Based on the limited surveys, it is likely that extensive archaeological survey work would identify culturally-sensitive areas. The topography of the site is that of sloping ridges divided by deep, steep gullies. To access development along the more desirable coastal areas, it would be necessary for road construction to start at the top of Maunaloa and traverse down each of these ridges. MPL estimated that 24 miles of roads would be needed to service the area. This would not only be costly, but would severely impact the ability of this region to be used for subsistence hunting as currently proposed by the Plan. These roads and utilities would require the development of hundreds of lots to offset their construction costs. This analysis explains why Molokai Ranch in the past had shelved plans for initial development of this area as being economically unfeasible.

### 6.7 FURTHER ALTERNATIVE ANALYSIS

As part of a continuing commitment to analyze alternatives to the proposed development at Lā'au Point, and following a review of the many letters with questions relating to the alternatives published in the Draft EIS, MPL has further analyzed its previous complete list of alternatives (published in the Section 6 above).

- Further research has shown that Alternative 1 (175 twenty-five acre lots between Maunaloa and Lā'au Point), Alternative 2 (420 ten-acre lots between Maunaloa and Lā'au Point), Alternative 4 (27 Maunaloa Ag lots), Alternative 5 (70 Kaunakakai Agricultural lots), Alternative 6 (40 Kualapu'u residential lots), Alternatives 7 and 8 (500 and 800 rural lots in the Kaluako'i area) and the alternative proposed by the ALDC consultant, Clark Stevens, for a new "town" located between Maunaloa and Lā'au Point, are not economically feasible. The reasons given in the previous section for dismissing these particular developments are still valid.

Examined in greater detail were:

- The three alternatives for a variety of different developments on two-acre lots and ten-acre lots mauka of Lā'au Point and situated between half a mile and two miles between the current proposed Lā'au Point development and Maunaloa.
- A Kaluako'i Resort Condo development of 1,000 with a potential return of \$38 million; and options for lesser units.

#### 6.7.1 Relocating the Development Mauka of the Current Location at Lā'au

One of the primary questions asked in comment letters to the Draft EIS was: "Why can't the proposed development be relocated mauka by one-half mile to one mile?" In context with this question, comments raised the following issues in regard to currently proposed location of the Lā'au Point subdivision (that is at least 250 ft from the shoreline):

- i. The homes may be visible from the beach and from the ocean, thereby depriving residents of the sense of an undeveloped place, as it now exists.
- ii. The homes as currently located, increase adverse social inter-action and the new residents will have an adverse impact on the fishing and coastal resources of the area.
- iii. The homes as currently located, increase the risk of adverse impacts from the subdivision such as run-off.
- iv. What is the basis of the economic impact of re-locating the subdivision mauka of its current planned location, and can these be outweighed by the other adverse impacts of the current location.

In response to items (i), (ii) and (iii) above, MPL is extremely conscious of these issues. Specific sections of this EIS have provided suggested mitigation measures to minimize potential impacts. In response to item (iv) an economic analysis is provided below. The principle issue of the development of a piece of property close to the ocean, and the almost certainty that some houses will be visible from areas of the beaches, is an issue that cannot be overcome with the current siting, and MPL can only mitigate this issue to lessen the impact.

#### 6.7.1.1 One Mile from the Shoreline

Relocating the subdivision at least one mile from the shoreline would:

- Overcome potential adverse visual impacts from the shoreline and the ocean;
- Lessen perceived adverse social impacts from inter-action from new residents with members of the community wishing to fish the ocean, and
- Reduce the potential for run-off from the subdivision into the ocean.

Locating the subdivision at least one mile from the shoreline would also:

- Place the development on Rural Reserve land, projected for no buildings whatsoever under the *Community-Based Master Land Use Plan for Molokai Ranch*.
- Interrupt rural views toward the ocean from Maunaloa and the Maunaloa Highway by the sight of houses. During the process of creating the *Community-Based Master Land Use Plan for Molokai Ranch*, protection of the rural views from the highway leading into Maunaloa was a primary concern of participants, particularly those from Maunaloa.
- Prohibit subsistence hunting, planned for that Rural Reserve area.

#### 6.7.1.2 One-Half Mile from the Shoreline

In the case of siting the subdivision one-half mile from the shoreline, the potential visual impact would be minimized, but not overcome entirely as the high-point ridges of the hills above Lā'au Point are in many places more than one-half mile away. Some homes built within a half mile from the shoreline may be visible from the ocean and from some of the beaches.

For this alternative, the same protection measures to prevent runoff would need to be in place as the currently proposed plan and residents would be able to easily walk to the beaches. There would also be the same issues regarding interaction with subsistence fishermen, and there is the same potential for rubbish being littered in the areas between the subdivision and the beaches.

#### 6.7.1.3 Comparative Analysis

The economics of locating the subdivision further from the shoreline is discussed in more detail below.

Input from the community at Social Impact Assessment review meetings and at Cultural Impact Assessment meetings led to incorporating extraordinary measures to overcome potential problems in the Lā'au project that equalized the impacts, or lack of impacts between the proposed project and alternatives examined wherein the homes were relocated further mauka. These include:

##### Visual Impact:

- The CC&Rs will prevent houses of more than one-story being built.
- House sites will be pre-determined by MPL on lot plans.
- At least two-thirds of the lot must remain undisturbed.
- Natural materials must be used in house construction.
- Any colors used will be pre-determined and will blend with the landscape.
- The front lots in the subdivision are setback at least 250 feet (and in some cases up to 1,000 feet or 1/4 -mile) from the registered shoreline. This is much further back from the shoreline than is usually the case e.g. the Kaluako'i subdivision.

Note: The Land Trust will be a party to the CC&R documents, and therefore, can enforce its provisions if they are not met by the homeowners, or even the Homeowners' Association representing the homeowners.

##### Subsistence Protection:

- A total of 254 acres of existing agricultural land behind the Conservation District of 180 acres adjacent to the beach is being designated as additional Conservation District land.
- This expanded Conservation District of 434 acres, where the community has access, will be under easement to the Land Trust.
- The area will be jointly managed by the homeowners and the Land Trust to ensure the easement provisions, which protect the cultural sites and guarantee subsistence practices for the community, are forever in place.
- Access to the area will only be by foot, from access points at each end of the subdivision.
- The lot owners and the Land Trust will employ Resource Managers to ensure those who visit the protected areas only take from the fishing resources what they can carry out.
- Lot owners will not be allowed to use pesticides or non-organic fertilizers to prevent dangerous materials leaching into the ocean.

Note: Contained in this Final EIS, is a Shoreline Access and Management Plan (Appendix B), developed by MPL in conjunction with the Moloka'i Land Trust, which will guide use of the Conservation District lands or shoreline areas in front of the subdivision.

##### Lot Owner Interaction:

- Each lot owner will be required under the CC&Rs to take a course, conducted by the Kupuna, only "Moloka'i style" and what is expected of them as new residents living at Lā'au Point.
- Restrictive CC&R provisions relating to energy and water conservation measures and the prohibition on vacation renting of the houses will mean that the Lā'au Point subdivision

is not for everyone. Only conservation-minded people, who are likely to respect what is dear to the island, are likely to be potential buyers of Lā'au Point lots.

- As the Land Trust is a party to the CC&Rs, the lot owners and representatives of the Land Trust will meet regularly and inevitably discuss any issues of concern.

**Adverse Impacts from Run-off and Rubbish:**

- A Soils Survey commissioned following the filing of the Draft EIS, and as a result of questions concerning soil suitability for lot construction and house-building, is contained in this Final EIS. It projects no adverse impact from the types of soils at Lā'au Point. The report is summarized in Section 3.3.4 and the full report is provided as Appendix D.
- A preliminary drainage and construction plan has been aimed at preventing the existing runoff from the lands around Lā'au Point so that during and following construction, there will not longer be muddy brown water in the nearshore areas of Lā'au Point following heavy rains.
- The lot plans shows that there will be no building or construction on all natural drainage ways and steep slopes above 50 percent.

Note: An exception of preventing existing runoff may be in the area of Kamāka'ipō Gulch, a 128-acre cultural reserve that will be donated to the Land Trust. This area, on the western shoreline is rich in archeological sites that must be protected.

**Cultural Impacts:**

- The Moloka'i Land Trust will ensure that all cultural sites and complexes are protected in the Lā'au Point area under the subdivision plan.
- Archeologists and Land Trust cultural advisers will work closely with the construction team to ensure any potential sites are identified and the governing laws relating to protection of sites during a construction period are strictly adhered to.
- Once construction is complete, Resource Managers will be on-site to ensure the continual protection and enhancement of cultural complexes.

**6.7.1.4 The Economics of Lā'au Mauka Developments**

In early 2005, MPL quantified the value loss from additional shoreline setbacks of lots that were more than 250 feet from the Lā'au shoreline. It also conducted a "Lā'au Shoreline setback study," which looked at the impact on sale prices of lots at various distances from the shoreline.

The results of these studies, which were discussed and debated at length by the Land Committee of the EC Project #47 (Sustainable Development), were independently verified by the Hallstrom Group, a registered land valuation company which has been operating in Hawai'i for many years.

The studies concluded that views of the ocean and shoreline, combined with ease of access to the shoreline, were the prime real estate value determinants in Hawai'i. This is evidenced by the many developments throughout Hawai'i that, in previous years, have allowed homes to be built right up adjacent to the shoreline; sometimes preventing access to beaches by the local community.

The studies provided that related to both factors of views and access was the factor of topography and how that affected the views and access to the shoreline.

The study projected that the potential revenue from the sale of the currently proposed Lā'au lots was \$193 million. Lots, depending on their proximity to the ocean could range in price from:

- \$1.45 million for the ocean-front lots
- \$750,000 for those lots that overlooked the ocean, but were second-tier lots overlooking the oceanfront lots
- \$500,000 for ocean-view home sites that were further inland, were on the "third-tier," and were a significant distance from the shoreline.

Pushing the subdivision back by another 200 feet was estimated by the studies to drop the overall lot sale prices by \$52 million or 27 percent, to \$141 million.

Notable in this exercise was that the projected 60 rear lots did not change in sale price and remained at \$500,000, but the majority of the front lots dropped in value by 40 percent. Most were now projected to sell at \$870,000.

It was these studies, and the MPL's experiences with lot prices in the mauka areas of Kaluako'i, that formed the basis of projections for alternatives that were either one-half mile or one mile from the Lā'au shoreline.

MPL also checked its sale assumptions with local real estate agents and continues to update its database with sale prices of similar property.

In all cases, the model of costs to develop was the same as that used for the currently proposed Lā'au Point development, with factors such as the provision of services adjusted for location.

Below is a sensitivity analysis of lot sales price, with higher prices for lots shown to reflect a price at which the subdivision may be feasible, ignoring facts such as ability to sell and the issue of the need for additional water for a greater amount of lots.

In each case, the same cost to develop has been used Table 11 above. It is important to note that none of these proposed subdivisions will have close ocean views as a distance of one mile from the shoreline takes the subdivision over the ridge separating the Lā'au foreshore with the Maunaloa agricultural land.

MPL also reviewed a 300-lot two-acre subdivision one mile from the shoreline (shown in Table 12 below as D), as a comparison to the 600 lot two-acre subdivision (shown below as "A")

**Table 12. Additional Alternatives Analysis**

Alternative	Price Per Lot Projected in EIS	Adjusted Lot Price	Profit contribution Pre-Funding Costs on Adjusted Lot Price
A. 600-lot 2-acre subdivision mauka of Lā'au Point	\$200,000	\$300,000 (50% increase in projected sale price)	\$61,700,000
		\$240,000 (Projected 20% increase)	\$28,600,000
B. 420-lot 10-acre subdivision mauka	\$275,000	\$400,000 (45% increase in projected sale price)	\$64,000,000

Alternative	Price Per Lot Projected in EIS	Adjusted Lot Price	Profit contribution Pre-Funding Costs on Adjusted Lot Price
of La'au Point		\$330,000 (Projected 20% increase)	\$37,000,000
C. 50 lots mauka of La'au as proposed by Clark Stevens (ALDC)	\$875,000	\$1,000,000 (Projected 14% increase)	\$2,000,000
D. Adjusted 2-acre subdivision: Only 300 lots mauka of La'au Point		\$300,000 \$240,000	\$30,800,000 \$14,300,000

MPL then reviewed these "adjusted" sales prices with recent sales of similar type lots at Papohaku and Maunaloa to test the accuracy of the adjusted lot size pricing.

There is little of a comparable size, or without views, that have sold recently in either Maunaloa or Kaluako'i.

The sale in 2006 of a similar lot (5-acres) without views achieved \$270,000 in Papohaku, but none without views have sold in 2007. In Maunaloa, 1/4-acre residential sites have sold as high as \$152,000. Other lots with close proximity views of the ocean have sold for about \$500,000, the same selling price as projected for the third-tier lots in the currently proposed La'au Point plan.

Conclusion on sale prices that can be achieved in these options: original sale prices may have been conservative, but in the current market may be between \$20,000 and \$40,000 per lot lower than the market.

Although higher prices may now be able to be achieved for these revised alternatives, the issue of water source still remains the major stumbling block to any development. In these scenarios, each of the development option uses more water than the currently proposed La'au Point plan. Developments of 10 acres or more are likely to be intended for some sorts of agricultural use and require additional irrigation water.

**6.7.2 Kaluako'i Resort Condo Alternative**

Another question asked in many comment letters to the Draft EIS was "why can't MPL just develop its entitled land at Kaluako'i?" MPL further reviewed the Kaluako'i Resort Condo alternative using plans drawn up in 1991 by the previous owners of Kaluako'i on a site adjacent to the Paniolo Hale condominium units.

This proposal for 1,000 units generates \$38 million profit contribution, but uses a land area of not more than 100 acres. Each unit had a projected sale price of \$500,000 built at a cost of \$462,000.

To further examine this option MPL modeled 200 units, which produced a contribution, pre-funding of \$7,600,000. These were 1,200 sq ft two-bedroom units.

Only a condominium project in excess of 500 units would give a return equal to that of the currently proposed La'au Point. However, with funding costs in excess of \$231 million, compared to the La'au construction cost funding costs of about \$80 million, this is not an accepted alternative. Also, the ability to sell such a project is questionable.

The conclusion reached from further analysis of 1) moving lots further mauka and 2) the Kaluako'i Condominium alternative, is that that the higher the price achieved per unit or lot, the less number of lots that need to be developed.

This, along with the high cost of funding and the of the additional water necessary for a greater number of homes, are the principal reasons MPL still believes the current La'au Point development is the best alternative. Water use still remains a major barrier to larger-scale developments.

**6.8 APPLICATION OF KEY CRITERIA IN ALTERNATIVE ANALYSIS**

**6.8.1 Alternative Access to the La'au Area**

**6.8.1.1 Benefits and Detriments of Limited Access**

One of the cornerstones of the Master Plan and the reluctant agreement by the Land Use Committee and the Moloka'i Enterprise Community was that the development of the lands adjacent to La'au Point would not lead to a further depletion of the subsistence resources so important to the Moloka'i community. This was the strong advice of subsistence practitioners, and those with a long association with the Ahupua'a of Kaluako'i.

Experiences on Moloka'i of access to the beaches at Kaluako'i, and when Hale O Lono Harbor was open to the public, led by the Land Use Committee (on the recommendation of the Cultural Committee) to firmly resolve that multi-access points without restrictions over the entire property, not only at La'au Point, would lead to abuse and over-harvesting of the scarce fishing resources.

This principle was also adopted by the Moloka'i Land Trust, who on implementation of the Master Plan will control a significant portion of Molokai Ranch's current shoreline.

The Moloka'i Land Trust will only be allowing access by foot to its coastal lands within the 26,200 acres of donated MPL land. Visitors will need to take courses in conservation methods of fishing and hunting, and access for fishing, will be restricted at fish breeding times to particular areas. Community subsistence practitioners will only be able to take what they can carry themselves from the area. Conservation of the deer herd will be a primary focus for the Land Trust in granting hunting access.

To further support this belief that resource protection was paramount over free and open access, the Plan participants supported, and the Land Trust will seek to implement, a Subsistence Fishing Zone right around the property. In this zone, which would extend to the outer edge of the reef on the south shore and to 1/4-mile on the west and north shores, only community members could fish for subsistence purposes.

Plan participants saw no reason why this principle should not be adopted in relation to shoreline access within the La'au Point development. It would protect the in-shore fisheries and grant

access for genuine subsistence fisherman and practitioners. It would also assist in the MPL objective of “enhancing and improve the cultural and subsistence resources at Lā‘au Point”

Community members involved in the planning process realized this was at variance with the current Maui County subdivision ordinance which states that access points in a development must be available every 1,500 feet, but were determined to protect the cultural heritage of the area and the subsistence resources.

But it determined that access only from each end of the subdivision, with full-time “guardians” ensuring there was no over-fishing and that visitors had taken part in conservation instruction from the Land Trust, was the only method to ensure long-term protection of the resources, both cultural and subsistence.

#### 6.8.1.2 Benefits and Detriments of Increased Access

Letters have been received from community members and others questioning why the access ordinance is not being followed. Letters in opposition to the Master Plan’s proposed access to Lā‘au Point are summarized as follows:

- Anyone can walk along the beach, which is public space, and avoid the access points and control proposals.
- The subdivision should follow the County subdivision ordinance.
- Lot owners will have more access to the beaches than the community.
- Many community members would find it insulting to have to undergo education on conservation of the marine resources and care of cultural sites and complexes.

#### 6.8.1.3 Access Comparative Analysis

A primary goal and principal of the project adopted by the Land Trust and MPL is that protection of the resources should take priority over multi-access points throughout MPL lands, not only within the Lā‘au development.

The principles utilized in the analysis of this access issue as it is applied in the alternatives is set out as follows:

- Protection of Cultural Resources and the Spiritual Qualities Associated with the Solitude of the Area

The west and south shorelines adjacent to Lā‘au Point is where the proposed development is projected. According to the archaeological surveys and ethnographic documents there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka‘ipō as an important cultural and spiritual place.

Molokai Ranch proposes to change the State Land Use District boundaries of these areas from Agricultural to Conservation to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā‘au Point, notably at Kamaka‘ipō, Kapukuwahine and Kanalukaha. These proposed archeologically significant areas are proposed for gifting to the Moloka‘i Land Trust.

Lā‘au Point, itself, can be considered a significant historic and cultural property. There are 51 acres at the Point, its coastline, and inland, which are owned by the federal government and managed by the U.S. Coast Guard. These 51 acres will remain undeveloped (Appendix I, page 79) and it is important to conserve the resources and spiritual qualities of Lā‘au Point and of the west and south coastlines adjacent to Lā‘au Point.

Many community members have ascribed a spiritual quality of the Lā‘au Point area because of its isolation and solitude. Perhaps there is no way to fully mitigate the impact upon the solitude that can now be enjoyed at Lā‘au if the rural residential subdivision is approved, but it is very important to minimize such impact and protect the special quality of the area. Limiting access to a walking trail that is set back behind a row of kiawe and providing a clear demarcation between the private lots and the general public access areas can help protect the integrity of the shoreline and mitigate the impact of the house lots upon the shoreline. Conservation zones provided for in the CC&Rs will protect the spiritual quality of important complexes such as Kamāka‘ipō.

- Providing More Access than In The Past

The area proposed for development of the rural residential lots is on private property. This area has been privately owned since Charles Reed Bishop purchased the Kaluako‘i ahupua‘a in 1875, 132 years ago. Since 1875, the coastal areas where the rural residential lots are projected have only been accessible by foot. Limited vehicular access has only been available for shareholders, cowboys and employees of Molokai Ranch.

On the west, the closest access point for the general public to enter on foot was the main highway, until the development of the Pāpōhaku Subdivision opened an access point at what is called Dixie Maru Bay in the 1980s. The development of the “tentallows” at Kaupoa opened vehicular access to guests of the Molokai Ranch Lodge and Beach Village as far as Kaupoa. An occasional special weekend rate for Moloka‘i residents at the Beach Village has opened up the opportunity for vehicular to those Moloka‘i residents while they are guests at the Beach Village.

On the south, the closest access point for the general public to enter on foot was at Pālā‘au until access was opened to Hale O Lono Harbor in 1998.

The proposed access point on the west shore at the proposed West shoreline park and parking area (located at Kamāka‘ipō Gulch) will be much closer than the current access point at Dixie Maru or even at the Kaupoa Beach Village.

The proposed access point on the south shore at the proposed South shoreline park and parking area (located at Pu‘u Hakina) will be closer than the current access point at Hale O Lono.

In summary, given the history of the area, the proposed development will, in fact, increase access along the west and south coastal areas. As a means of limiting the impact upon subsistence resources with the increased access, vehicular access is proposed to be up as far as the two public access points, while walking access is unlimited. Access will also be increased for the general public on other lands granted to the Moloka‘i Land Trust under the Master Plan.

- Important to Protect Subsistence Resources

Traditionally, the west and south shoreline beach and nearshore ocean was accessed for subsistence by the Ranch shareholders, cowboys, employees and their ‘ohana, and longtime

residents of Maunaloa. It is not a recreational area because of the rough ocean conditions and strong currents. Seasonally, there is good surf at Pu'u Hakina and Kaupoa, which, under this proposal, will be open to vehicles.

In order to protect the marine resources, the subsistence practitioners in the Moloka'i community had strongly urged that access be limited to foot access - so that the amount of resources harvested is limited to what can be carried out by each person. Access with vehicles and coolers will lead to over-harvesting of the resources. This advice is based upon the negative experience resulted with the opening of Kaluako'i in the 1970s, Pāpōhaku in the 1980s, and Hale O Lono in 1998. The abundant resources in each of these areas have been over-harvested.

In addition to limiting the area to foot access, rules and regulations on methods, bag limits, and seasonal harvesting under a community-based subsistence management fishing zone, as outlined in the Master Plan, will be implemented. Limited access in combination with rules and regulations which provide for accountability, a penalty process and a protocol for uses with established consequences for non-compliance are essential for the protection of the marine resources along the west and south coasts where the rural residential subdivision is being proposed.

**6.8.2 Alternative Supplies of Water**

**6.8.2.1 Summary**

Many letters and comments to the Draft EIS requested information on alternative supplies of water other than the Kākalahale Well and whether there were other sources of water that MPL could use. Further information was also requested on MPL's analysis of the desalination option, use brackish water on its own lands at the west end, and use of the brackish well water from the Palā'au Prawn Farm. The analysis of alternatives to the Kākalahale Well include consideration of the following issues raised by various comments to the Draft EIS:

- The impact of the well on neighboring wells and analysis concerning the Kākalahale Well as contained in Section 4.9.2 (Water).
- How much of the 1,000,000 gpd groundwater MPL is requesting, is allocated for future community use as opposed to the Lā'au development?

**6.8.2.2 Additional Analysis has been Conducted on the Options to Kākalahale**

MPL had presented and discussed a wide range of water alternatives at community meetings in Maunaloa, Kualapu'u, Kaunakakai, and Mana'e in mid-2006 so it could obtain more information from the community on the water issue prior to filing its Draft EIS. Based on these discussions, the principal developed by MPL was to minimize water use and, if possible, keep potable water consumption to existing limits with a minimal impact on other wells. This principal was applied in analyzing the implications of the various alternatives.

Under the Master Plan, MPL needs a total of 1,000,000 gals per day to meet the needs of community expansion (such as future affordable housing projects in Maunaloa and Kualapu'u, build out of the Industrial Park, etc.), and the needs of the Lā'au Point development.

A total of only 40% of the 1,000,000 gals from Kākalahale that MPL is requesting will be effectively allocated for Lā'au Point residential uses. This is, as outlined in the Water Plan contained within the Master Plan, after MPL reallocates some current potable water (being used

for non-potable uses) to future potable uses and uses non-potable Kākalahale water for non-potable uses throughout the property.

In July 2006, MPL presented the following table (Table 13) at community meetings throughout Moloka'i on its Water Plan under the heading: "Where Will the 1,000,000 gals of Water Go that MPL is Requesting?" The table below reflects potable and non-potable uses of water that are either taken directly from the Kākalahale source or are taken from potable sources as a result of non-potable water being utilized for things that are currently potable (or would otherwise be potable without the addition of the Kākalahale well) in other areas. In effect this shows the application of the Kākalahale water although some of the uses in the table are labeled as potable.

**Table 13. Proposed Use of Kākalahale Well**

<b>For Non-Lā'au Point Residential uses (60%):</b>	
Build-out of Maunaloa Village and the Industrial Park:	160,500 gpd
Build-out of Kaluako'i residential	158,000 gpd
Community Directed growth at Maunaloa/ Kualapu'u	200,000 gpd
Ranch Operations	41,500 gpd
<b>Total</b>	<b>560,000 gpd</b>
Lā'au Point Public Parks Irrigation	40,000 gpd
Lā'au Point Public Parks potable water	1,000 gpd
<b>Total Lā'au potable water</b>	<b>41,000 gpd</b>
<b>For Lā'au Point Residential uses (40%):</b>	
Lā'au Point Rural Lots potable water	96,000 gpd
Lā'au Point Rural Lot Irrigation	300,000 gpd
<b>Total</b>	<b>396,000 gpd</b>
<b>Total New Uses Shown</b>	<b>997,000 gpd</b>

MPL has asserted that the Lā'au Point development is not contingent on the Kākalahale Well. However, it is the most efficient and cost-effective source of non-potable water and it does not believe its use to the levels proposed will significantly impact other wells or DHHL's 2.905 million gallon reservation in the Kualapu'u Aquifer.

In the event Kākalahale Well water is not available there are alternative sources of non-potable water. Reclaimed water from the Palā'au Shrimp Farm could be treated to make it suitable for irrigation purposes. Additionally, desalination of either brackish water from West Moloka'i aquifers or sea water, are alternative sources of irrigation water.

Desalination is not the preferred alternative because of the cost. As mentioned in MPL's Water Plan, desalting is still about four times more expensive on Moloka'i (not helped by the island's high energy costs) than developing an operating deep groundwater well.

**6.8.2.3 Alternative Water Sources Raised in Letters**

- *The Waiola Well*

MPL could go back to the Water Commission and ask to have the remand of the Waiola water use permit taken up again. However, MPL has said since the beginning of this planning process, that it does not need more potable water and that 1,000,000 gallons of brackish water would allow it to implement the Master Plan.

MPL has also said if the Master Plan is approved, it would abandon its application for this well. Accordingly, it would be inconsistent to use this source to complete our water infrastructure requirements. That having been said, MPL is aware of concerns in using the Kākahale Well, and could reconsider this alternative.

The court held that although it had be shown that pumping from the proposed Waiola well would not adversely impact the existing DHHL wells in Kualapu'u, MPL had not provided evidence to show that pumping from the Waiola well would not impact DHHL's ability to withdraw its 2.905 reservation amount from the Kualapu'u aquifer.

MPL could ask that the proceedings be re-opened to give MPL the opportunity to address the two issues the Supreme Court identified as requiring further evidence. On MPL's request, the Water Commission has not yet re-opened those proceedings.

- *Pālā'au Prawn Farm Brackish Water*

Several years ago, this source was proposed to irrigate a proposed Molokai Ranch second golf course on the West End.

With chlorides in the 1,400 parts per million ranges, it is too salty for general irrigation usage and can be used with only a limited number of salt tolerant grasses or by blending with low chloride water. Additionally, the exiting water use permit is for 864,000 gpd of which about 700,000 could be available for reuse, is an insufficient amount to meet the irrigation needs of the Water Plan, in particular the planned expansion of the community areas of Kualapu'u and Maunaloa, areas that are within MPL's water service catchment. Lā'au Point and the future build-out of Kaluako'i could be served by this source. The cost to consumers of this water would be three times that of water from the Kākahale Well because of the high cost of removing the salts.

- *Desalination*

The incentive for desalination is associated with costs. If the operational cost to desalinate water and the amortized capital costs become lower than the costs to pump and transmit water, we would choose to desalinate. Issues associated with the DHHL reservation and pipeline easements as well as the reliability of the MIS are added incentives.

After further investigation it has been determined that desalination is not a current reasonable economic alternative and it was therefore not included among those alternatives that were more rigorously explored.

As mentioned in MPL's water plan, desalting is still about four times more expensive on Moloka'i (not helped by the island's high energy costs) than developing an operating deep groundwater well.

A pilot plan on O'ahu developed in the early 2000s still remains idle today because of escalating energy costs needed, in simple terms, to push the brackish water through a membrane to remove the salts.

MPL has previously been approached by two parties proposing desalination on Moloka'i as an economic business; neither party, following their detailed investigation, wished to continue with their plans for a desalination plant.

Desalination is therefore too expensive to be considered MPL's first choice of non-potable water. However, it is an alternative if water from the Kākahale Well is not available.

- *Collecting Catchment Water: Kaho'olawe –Style from the West End.*

While Kaho'olawe and West Moloka'i have similar rainfall amounts and patterns, surface water catchment on the West End is not a viable alternative to meet its non-potable water requirements.

The Kaho'olawe rainwater catchment system was designed to collect 640,000 gallons per year and was constructed in 2002 at a cost of \$3,000,000. A comparable system to meet the West end's long-term need of 1,000,000 gallons per day would have to be about 570 times larger. Assuming for comparison purposes, it could be built at half of the unit cost on Moloka'i that would still be over \$850 million dollars.

The reliability of surface water systems are subject to weather cycles. Extended dry periods lasting 5-10 years are not uncommon. For a surface catchment system to reliably meet customer needs, it would have to be sized to deliver the required quantities of water with due consideration to these extended dry periods. In other words, it would need to be "oversized" for normal weather to be able to supply the requirements during drought conditions. Groundwater systems are able to tap aquifers that have sufficient storage to deal with long-term weather cycles.

The Kaho'olawe system was chosen because other alternatives there do not exist.

- *Why Not Develop a Brackish Well on the West End?*

Eleven exploratory wells and boreholes have been drilled on the West End between 1945 and 1991. None of these wells produced water of usable quality, even for irrigation of salt-tolerant landscaping. All wells tapped into a thin, brackish to saline basal lens supported by only a modest amount of rainfall recharge. Several of the wells also exhibited geothermal heating. At Molokai's West End, the groundwater's potential use is limited to a source of feedstock for desalting.

## 6.9 POSTPONING ACTION PENDING FURTHER STUDY OR DELAYS

Postponing or delaying the Lā'au Point project for reasons, such as allowing the ALDC to find the necessary funding to purchase Lā'au Point, puts MPL in the position of being unable to continue its ongoing operations on Moloka'i.

MPL's cash flow is negative from its operations by approximately \$3.8 million per year, plus the cost of capital replacement items and repair and maintenance costs. The Lā'au Point project will provide the funds to re-open the Kaluako'i Hotel and revitalize the town of Maunaloa, enabling the company to realize economic returns on many of its land holdings that previously had no return.

MPL is the largest single private contributor to the island of Moloka'i. Without MPL, the island would lose \$9 million that it brings to the economy. This means that the \$9 million the company

contributes directly and indirectly to the Moloka'i economy would be terminated: \$3.8 million in on-island wages and benefits, \$2.6 million annually in on-island supplier payments, \$850,000 in taxes; and \$1.9 million spent by tourists who stay at its tourism establishments.

Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant *Community-Based Master Land Use Plan for Molokai Ranch*. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time.

The most realistic method of achieving the maximum return for its properties is to sell the 101 parcels and other subdivided lots to individual buyers who will pay the best price.

The alternative of postponing action pending further study may allow some of the objectives of Lā'au Point to be met eventually. This alternative, however, is not considered acceptable for the following reasons:

- This EIS and its related technical studies provide a thorough evaluation of the Lā'au Point project's impacts and would provide for mitigation where warranted.
- Entitlement processing for Lā'au Point will include obtaining a State Land Use District Boundary Amendment, a Community Plan Amendment, a Change in Zoning, a Special Management Area Use Permit, and a County Special Use Permit. All of these steps provide for public input and comments, as well as opportunities for the public and decision makers to ask for more information or further study. Notwithstanding the entitlement process, community members engaged in a planning process to achieve the Plan in 2003. The Moloka'i community has been kept informed of the planning process and status of the project.
- There is need for the implementation of the *Community-Based Master Land Use Plan for Molokai Ranch*:
  - MPL is currently operating on a negative cash-flow basis, and needs funding for its current tourism and agricultural operations to ensure the continued employment of its current staff.
  - The community desires to renovate and re-open the 152-room Kaluako'i Hotel and upgrade the Kaluako'i Golf Course, which is considered crucial for revitalizing the Moloka'i economy and providing more than 100 jobs for Moloka'i residents.
  - The slow economy on Moloka'i is creating an out-migration of its young people. Moloka'i has not yet recovered from the plantation closures. The island still needs economic opportunities that will provide a diversity of jobs, including management positions and alternatives to the visitor industry. A viable MPL and the benefits of implementing the Plan will contribute to a more stable economy.

Statement Regarding Detailed Analysis of Reasonable Alternatives – MPL has addressed all of the rational alternatives that have been suggested. MPL has analyzed all of these alternatives to the degree necessary to determine which among them are reasonable and feasible alternatives. MPL then selected these reasonable and feasible alternatives for detailed analysis and study.

**Attachment**  
**Revised Section 7.5**  
**(Unresolved Issues)**

**7.5 UNRESOLVED ISSUES**

Unresolved issues are invariably associated with projects in the planning and preliminary design stages, or due to negotiation of complicated agreements for such a unique project, primarily because there is so much reliance on the Moloka'i Land Trust for such things as monitoring access to the shoreline, and the enforcement of the project's CC&Rs.

Notwithstanding MPL's efforts, some aspects of the water issue remain unresolved between stakeholders at this stage of the planning process, as well as the final completion of several agreements between the Land Trust and MPL as mentioned in the previous paragraph.

**7.5.1 Water**

Water— In connection conjunction with the participants who were involved in preparing the Community-Based Master Land Use Plan for Molokai Ranch, MPL developed a proposed Water Plan. A key feature of the Water Plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the current customers of the two ~~two~~ three private water systems operated by MPL and MPL's future developments proposed under the Community-Based Master Land Use Plan for Molokai Ranch. These sources include the permitted 1,018,000 gpd from Well 17 in the Kualapu'u Aquifer and surface water from the Molokai Ranch Mountain Water system. The constructed, but currently unused, Kākahale well in the Kamiloloa Aquifer is being proposed as a new non-potable water source. The Kākahale Well 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.

The Kākahale Well is an ideal source of non-potable water. The well is owned by MPL and already constructed (though not in production). More importantly, because the well site is hydro geologically isolated by subsurface intrusive structures, withdrawing water from the Kākahale Well is unlikely to have any adverse impact on existing wells in the Kualapu'u aquifer, on DHHL's ability to withdraw its 2.905 mgd reservation amount from the Kualapu'u aquifer, or the development of potable water in the Kamiloloa aquifer.

In the Water Plan, MPL proposes that water from Well 17 be used solely for potable water needs. Irrigation uses, currently permitted under the Well 17 permit, will be supplied from other sources. Under this plan, MPL will not need to seek any more potable water than what is currently developed. MPL will sign covenants preventing it from ever seeking further potable water permits from the State Commission on Water Resource Management (CWRM), and will abandon the Waiola Well application.

The MIS was planned, designed, and constructed under a special Act of Congress (Reclamation Act of 1954) to develop surface water and high-level groundwater (Wells 0855-01, -02, and -03) in Waikolu Valley in northeastern Moloka'i to irrigate farmlands in central and western parts of the island. The MIS originally served large-scale pineapple operations, but was converted to serve diversified agriculture after the pineapple operations closed in the late 1970s. The system also serves the native Hawaiian homesteads in Ho'olehua, and pursuant to HRS section 168-4, Hawaiian homesteads have a prior right to two-thirds of the water currently developed by the MIS. The MIS transports 1,500,000 gpd via a 10-mile transmission link to an open reservoir at Kualapu'u, where it is stored prior to entering a distribution network extending from Ho'olehua to Mahana.

When originally constructed, the MIS was administered by the State Board of Land and Natural Resources (BLNR). In 1975, the BLNR entered into an agreement (the Agreement) with Kaluako'i Corporation (Kaluako'i), renting "space" in the MIS for Kaluako'i to transport water from Well 17 to Mahana. Under the terms of the Agreement, Kaluako'i would pump water from Well 17 into the MIS system and withdraw the water at Mahana. At Mahana, the Well 17 water is then treated to potable standards and used to supply potable water to Maunaloa town, the Pāpōhaku and Kaluako'i subdivisions, the Kaluako'i condominiums, and for other residential purposes as well as to meet the potable water needs of the resort areas on the West End. To account for potential system losses along the way, Kaluako'i was allowed to withdraw a lesser amount than was put in from Well 17. Additionally, Kaluako'i paid lease rent to the MIS. The Agreement was for the use of "excess capacity" in the system and provided that if there was no longer sufficient capacity in the system then the use would have to be relinquished on reasonable notice. As a result of the Agreement no other infrastructure to transport Well 17 water to the West end of Moloka'i was put into place.

The 1975 Agreement was extended by the BLNR in 1985. In 1988, Kaluako'i assigned its interest in the Agreement to Kukui (Moloka'i), Inc. (KMD), which assignment was consented to by the BLNR.

Effective July 1, 1989, administration and management of the MIS was transferred from the BLNR to the State Department of Agriculture (DOA). In December 1989, the Agreement was amended to reflect the statutory transfer to the DOA.

Subsequently, the Agreement was extended twice through December 31, 2005. In late 2001, KMI assigned the Agreement to Kaluako'i Water, LLC (KWLLC), a Hawai'i limited liability company wholly owned by Molokai Properties Limited. The DOA acknowledged the assignment in early 2002.

Prior to and following the Agreement termination date of December 31, 2005, KWLLC and the DOA have been engaged in negotiations for the continued use of the MIS to transport Well 17 water to Mahana, and the DOA has conducted community meetings on the matter. By September 2007, a further extension to the Agreement was in the final stages of being completed following community input on aspects of the Agreement. The Agreement had been open for public input on Moloka'i before the MIS Advisory Board prior to its execution by the parties.

The extension agreement had not been executed when, on September 12, 2007, DOA, through its Deputy Attorney General, officially determined that any agreement for the continued use of the MIS by KWLLC would be subject to the preparation of an environmental disclosure document pursuant to HRS Chapter 343. As of this writing, KWLLC continues to utilize the MIS to transport water; however, the DOA's Deputy Attorney General indicated in writing that the practice should cease pending preparation of the environmental disclosure document. Currently, there is no alternative means of transporting water from Well 17 to end users in Kaluako'i. Several alternatives are possible, each of which requires acquisition of new easements or modification of existing easements, as well as engineering and cost studies. These items have to be addressed before MPL can rationally identify the practicable alternatives.

The MIS currently transports up to 1.018 mgd of water (12-month moving average) pumped from Well 17 to Mahana for distribution to existing, current users in Kaluako'i. Well 17 water will continue to be used by Kaluako'i customers whether or not the Lā'au Point project is

approved. Thus, the issue of how to transport water from Well 17 to either Mahana or to Kaluako'i will have to be resolved regardless of the Lā'au Point project. Inasmuch as the MIS issue affects existing, current uses, there is an element of urgency, and it is likely that the MIS issue will be resolved prior to any discretionary land use decisions being made on the Lā'au Point project. Therefore, the decisions made with respect to continued use of the MIS may have to be made without consideration of the Lā'au Point project.

Because there are existing customers in Kaluako'i dependent upon Well 17 water, water will have to somehow be transported from Well 17 to the facilities owned by MPL for further distribution to end users at Kaluako'i. Either the MIS will continue to be used or alternate infrastructure will be developed for this purpose. Either way, the infrastructure used to transport water from Well 17 to MPL distribution facilities will also be used to transport potable water to Lā'au Point. Therefore, even if use of the MIS to transport Well 17 water is discontinued, there will be a means of getting potable water to Lā'au Point. The decisions made with respect to this MIS issue, however, will affect infrastructure planning for the transport and distribution of potable water to Lā'au Point.

These water system improvements will need to be developed with the cooperation and consent of the County of Maui (DWS) and the CWRM. MPL will work has been working with the DWS and Department of Hawaiian Homes Lands (DHHL) to meet their future water needs, and all requirements of the CWRM. MPL must seek a water use permit from the State CWRM for its Kākalahale Well, and to vary the supply areas of its current permits.

For many participants in the community meetings, water is the primary cultural resource. They feel that drawing brackish water out of the Kākalahale Well will have a huge impact on the culture and way of life on Moloka'i. They expressed concern that the additional water proposed to be drawn out of the Kākalahale Well, even if it is brackish, will strain and diminish the water table on Moloka'i, increasing salinity levels of ocean discharge and in neighboring wells. They refer to findings in the Waiola Well Water Use Permit contested case before the Hawai'i State Commission on Water Resource Management which examined the potential impacts of withdrawing groundwater and affecting shoreline seepage on near shore marine resources makai of Kākalahale.

Hawaiian homesteaders, especially those with lots in Ho'olehua, feel that the greatest cultural impact of the Lā'au Point project is the MPL Water Plan (discussed in Section 6 of Appendix A and Section 4.9.2 of this EIS). They feel that the withdrawal of an additional 1,000,000 gallons per day of brackish water from the Kākalahale Well will take away water that DHHL will need to support future expansion of agriculture and residential lots on their Moloka'i lands.

MPL unquestionably supports the reservation of 2.9 million gallons reserved in the Kualapu'u aquifer for Hawaiian homestead users. At an average of 1,000 gallons per day, this amounts to drinking water for an additional 2,900 homesteads. A recent study by DHHL's consultants indicates that even after building out both Ho'olehua and Kalama'ula under DHHL's *Moloka'i Island Plan*, there will still be 698,900 gpd in the Kualapu'u Aquifer reserved for DHHL. This gives confidence that DHHL's future water needs are well protected. The recent two-dimensional modeling completed by USGS as part of the Kaunakakai Stream Ecosystem Restoration Project, gives additional confidence that the Kākalahale Well will have minimal impact on DHHL.

MPL has long acknowledged publicly that its water use would yield to DHHL's priority reservation rights to water. Further mitigation measures for potential water impacts are discussed in Section 4.9.2 of this EIS.

MPL is actively working with DHHL, the County of Maui DWS, and the US Geological Survey to comprehensively evaluate and seek a solution to Moloka'i's cumulative water demands and resources. The goal is to appropriately locate wells and manage pumping such that all of the parties will be able, to the greatest extent possible, withdraw sufficient water to meet their needs. It is expected that many of Moloka'i's water issues will be addressed by a comprehensive modeling analysis. Although the specifics of the water resource issues and modeling analysis have yet to be identified by DHHL, Maui DWS, MPL, the CWRM, and other homeowner associations and the study is likely to commence later in 2007. MPL has long acknowledged publicly that its water use would yield to DHHL's priority reservation rights to water. Further mitigation measures for potential water impacts are discussed in Section 4.9.2 of this EIS.

MPL is participating in these studies and cooperative efforts notwithstanding the fact that it is highly unlikely that pumping 1.0 mgd from the Kākahale Well will diminish the other parties' ability to develop the water they need, or, conversely, that water withdrawals by others will impact MPL's ability to withdraw 1.0 mgd from the Kākahale Well.

In the event Kākahale Well water is not available, however, there are alternative sources of non-potable water. Reclaimed water from the Pālā'au Shrimp Farm could be treated to make it suitable for irrigation purposes. Additionally, desalinization of either brackish water from West Moloka'i aquifers or sea water are alternative sources of irrigation water.

Therefore, the currently unresolved issue of water should not forestall proceeding with required approvals for the Lā'au Point project because:

1. It is highly unlikely that pumping 1.0 mgd from the Kākahale Well will diminish other parties' ability to develop the water they need, or, conversely, that water withdrawals by others will impact MPL's ability to withdraw 1.0 mgd from the Kākahale Well; and
2. In the event Kākahale Well water is not available, there are alternative sources of non-potable water available to MPL: a) reclaimed water from the Pālā'au Shrimp Farm could be treated to make it suitable for irrigation purposes; and b) desalinization of either brackish water from West Moloka'i aquifers or sea water are alternative sources of irrigation water.

#### **7.5.2 Lā'au Point Homeowners' CC&Rs**

The details and draft provisions outlining the Lā'au Point CC&Rs are referred to extensively in Section 2.3.6 (Covenants).

The CC&Rs, which also detail design guidelines for houses within the project area, were under review by the Moloka'i Land Trust at the time of the filing of this Final EIS and were not finalized. The Moloka'i Land Trust will: 1) be a party to the CC&Rs; 2) have a seat on the homeowner's association; and 3) be the CC&Rs enforcing organization.

The principal and important covenants relating to no further subdivision, restricting the use of water over the entire project and the allocation of income to the Community Development Corporation from lot sales are immutable and already have been agreed to.

MPL will have the draft CC&Rs available prior to the LUC hearings on the State Land Use District Boundary Amendment petition so the views of Commissioners may be incorporated into the final CC&Rs. It is not usual to complete CC&Rs until after a project is given approval, but in this instance MPL believes input is important prior to their finalization.

#### **7.5.3 Easement Over Expanded Conservation District Lands**

The Community-Based Master Land Use Plan for Molokai Ranch calls for the Moloka'i Land Trust to hold an easement (Easement) over 306 acres of the expanded Conservation District area of 434 acres (the remaining 128 acres of the 434-acre expanded Conservation District will be held by the Land Trust in fee, as will the 17 acres of parks). The Land Trust and the Lā'au Point homeowners will jointly manage the 434-acre expanded Conservation District and the 17 acres of parks (total 451 acres) through participation on a "council" of homeowners and Land Trust representatives and nominees.

The easement, to be held by the Moloka'i Land Trust over the 306 acres, will incorporate the provisions of the Shoreline Access and Management Plan (SAMP) which is included in Appendix B. The SAMP was approved by the Moloka'i Land Trust in August 2007.

The Moloka'i Land Trust will require the easement be in place prior to the project's implementation.

#### **7.5.4 Moloka'i Community Development Corporation**

The Moloka'i Community Development Corporation (CDC), responsible for the implementation of the affordable housing provisions anticipated under the Community-Based Master Land Use Plan for Molokai Ranch, will be incorporated by October 2007 and registered as a State entity.

Currently in preparation is the CDC's strategic plan to implement the affordable housing provisions in line with the CDC's funding sources of: 1) five percent of net lot sales; and 2) the use of land donated to the CDC as part of the implementation of the Community-Based Master Land Use Plan for Molokai Ranch. References to the CDC's mission statement and activities are further outlined in Section 2.1.9 (Moloka'i Community Development Corporation (CDC)).

## Attachment

### Revised Permits & Approvals

#### REVISED PERMITS AND APPROVALS

Section 1.1 (Project Profile) has been amended in the Final EIS as follows:

**Permits/Approvals**

**Required:**

Compliance with Chapter 343, HRS  
 State Land Use District Boundary Amendment  
 Compliance with Chapter 6E, HRS (SHPD)  
 Community Plan Amendment  
 Change in Zoning  
 Special Management Area Use Permit  
 County Special Use Permit  
 Subdivision Approval  
Conservation District Administrative Rule Amendment  
 Grading/Building Permit  
 NPDES permit  
Water Use Permit  
Approval for Distribution System for a Public Water System  
Recycled Water System Approval

Section 1.7.4 (Required Permits and Approvals) and Table 10 in Section 5.3 (Approvals and Permits) has been amended in the Final EIS as follows:

Permit/Approval	Responsible Agency
Chapter 343, HRS Compliance	State Land Use Commission Office of Environmental Quality Control
State Land Use District Boundary Amendment	State Land Use Commission
Community Plan Amendment	County of Maui Planning Department Moloka'i Planning Commission Maui County Council
Change in Zoning	County of Maui Planning Department Moloka'i Planning Commission Maui County Council
Special Management Area	County of Maui Planning Department Moloka'i Planning Commission
County Special Use Permit	County of Maui Planning Department Moloka'i Planning Commission
Chapter 6E, HRS Compliance	State Historic Preservation Division
<u>Conservation District Use Permit</u>	<u>State Department/Board of Land &amp; Natural Resources</u>
<u>Conservation District Administrative Rule Amendment</u>	<u>State Department/Board of Land &amp; Natural Resources</u>
Subdivision Approval	County of Maui Department of Public Works & Environmental Management
Grading/Building Permits	County of Maui Department of Public Works & Environmental Management
National Pollutant Discharge Elimination System (NPDES) Permit	State Department of Health
Water Use Permit	State Commission on Water Resource Management
<u>Approval for Distribution System for a Public Water System</u>	State Department of Health
<u>Recycled Water System Approval</u>	State Department of Health

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
COMMISSIONER  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
ROBERT E. MARUDA  
DEPUTY DIRECTOR - LAND  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONSERVATION  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
BIODIVERSITY  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAROLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

February 13, 2007

Mr. Alan Suwa  
PBR Hawaii  
100 Bishop Street  
ASB Tower, Suite 650  
Honolulu, Hawaii 96813

LOG NO: 2007.0484  
DOC NO: 0702NM10  
Archaeology

## Attachment

# February 13, 2007 SHPD Correspondence

Dear Mr. Suwa:

**SUBJECT: Chapter 6E-42 Historic Preservation Review (County/Molokai Properties Limited)  
Revised Data Recovery Plan Papohaku to Hakina Ahupua'a o Kaliako'i Island o  
Moloka'i (Majors, CLH, 2006)  
West Moloka'i, Island of Moloka'i  
TMK: (2) 5-1-002: 30; 5-1-006: 157; 5-1-008: 04, 03, 06, 07, 13, 14, 15, 21 and 25**

Thank you for submitting the revised data recovery plan which is 875 acres for a residential community comprising of mixed residential uses, cultural preserves, parks and shoreline access.

Data recovery is to take place at the following sites: 697, 698, 743, 745, 746, 749, 755, 756, 758, 760, 761, 762, 1118, 1121, 1124, 1125, 1130, 1131, 1132, 1134, 1136, 1141, and 1145. Data recovery work is to include: relocation of these sites by GPS, mapping, testing and surface collections. Sites 761, 1125 and 1136 once relocated might be outside of the subdivision boundaries. We concur that if these three sites are outside the subdivision boundaries they will be preserved and included in an amended preservation plan which would include appropriate buffers around the sites.

This plan also mentions the road corridor survey and resurvey work. We recommend that this be completed as soon as possible.

Research questions on the data recovery will address land use in the settlement margins, agricultural practices, lithic production and mauka-makai routes. We concur with this framework for the research. Ideally the data recovery work shall take place prior to construction. To ensure that these sites are protected during construction and archaeological data recovery can take place, we recommend that all sites set for data recovery shall be marked by highly visible flagging tape.

This plan is approved. If you have any questions, please call Nancy McMahon, our Molokai Archaeologist at 808-742-7033.

Aloha,

  
Melanie Chinen, Administrator  
State Historic Preservation Division

NM:jen

c: Anthony Ching, State Land Use Commission P.O. Box 2359, Honolulu, HI 96804  
OEQC, 235 S. Beretania St. Suite 702, Honolulu, HI 96813  
Peter Nicholas, Molokai Properties Limited 745 Fort Street Mall, Suite 600, Hon, HI 96813  
Mo Majors, Cultural Landscapes Hawaii



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, Hawaii 96814-4700  
(808) 944-2200 • Fax: (808) 973-2941

JUN 21 2007

**Attachment**

**June 21, 2007 NOAA  
Correspondence**

Mr. Thomas S. Witten  
President, FBR Hawaii  
1001 Bishop Street  
ASB Tower, Suite 650  
Honolulu, HI 96813

Dear Mr. Witten:

Thank you for your letter of April 17, 2007 regarding our discussions concerning potential impacts to monk seals at the proposed La'au Point development.

As described in our February 5, 2007 letter, the National Marine Fisheries Service (NMFS) considers La'au Point important monk seal habitat. As we discussed, we do have non-systematic data collected by NMFS staff, other agencies, and public reports of monk seals at La'au Point.

NMFS believes it would not be necessary to conduct a survey at the site to ascertain that La'au Point is important monk seal habitat, as that is already known. We do believe however (as expressed at our meeting) that there should be a monitoring program established whereby some regular surveys are conducted before, during, and after the development to determine whether or not monk seal use of this habitat changes as the land and ocean use changes. NMFS would be happy to consult with you on the design of such a monitoring plan to ensure that the information collected is the most useful possible and consistent with other information collected.

I commend you for making a commitment to address the very real threats to seals posed by this development – disturbance, domestic animals, and fishery interactions. Finally, NMFS has no information on hawksbill turtle use of this area. There may be hawksbill turtle foraging or nesting, but NMFS has thus far not collected any information on this species at this location.

Sincerely,

Chris E. Yates  
Assistant Regional Administrator  
For Protected Resources



November 1, 2007

Chris E. Yates  
U.S. Department of Commerce  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, Hawai'i 96814-4700

**SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Yates:

Thank you for your letter dated February 5, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We note that we have previously met with you on March 21, 2007 and July 12, 2007, and sent you an initial response to your February 5, 2007 comments on April 17, 2007, following our first consultation meeting. With this letter, we respond to your comments on the Draft EIS contained in your letter dated February 5, 2007.

We appreciate the breadth of knowledge you provided about Hawaiian monk seals and their presence at in the Lā'au Point areas. We acknowledge that the Lā'au Point area is frequented by Hawaiian monk seals and is considered a good Hawaiian monk seal habitat because of its limited access, sandy beach substrate, and proximity to foraging areas.

We note that NOAA National Marine Fisheries Service (NMFS) has non-systematic Hawaiian monk seal data provided by public sightings, other agency staff, and NMFS biologists. Although not systematic, these documented sightings provide reasonable conclusion that Lā'au Point is an important habitat for monk seals.

We acknowledge that the specific threats to monk seals that could be expected as a result of the project include: 1) human-caused disturbance; 2) disturbance, physical harm, and potential disease transfer from dogs; and 3) hooking and entanglement associated with shore-based fishing.

To incorporate the relevant above information provided in your letter under the headings, "Use of Lā'au Point area by Hawaiian monk seals," "Favorable characteristics of the Lā'au Point area as monk seal habitat," and "Potential deleterious effects of proposed action," into the Final EIS, in the Final EIS Section 3.7 (Fauna) will be revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

**Attachment**

***Response Letter to NOAA NMFS***

**Concerns regarding proposed mitigating measures**

1. *The DEIS proposes to limit public entry points to just two sites at opposite ends of the project area. However, even these two entry points will facilitate far greater access to the area beaches, which indeed is a goal of the plan. Further, it seems clear that residents of the proposed housing development will have multiple beach access points. It is not clear how members of the public will be prevented from accessing the shoreline from the residential areas.*

**Response:** As you point out, the project will create two public access points at each end of the project. Homeowners may access the shoreline from the residential area; however, they will be required to adhere to the rules of the Shoreline Access Management Plan (SAMP). The lack of infrastructure and paths through to the shoreline, and the density of the foliage and rough terrain as a practical and natural barrier, will support adherence to the SAMP and serve to limit widespread access to the shoreline.

To incorporate the relevant above information into the Final EIS, in the Final EIS Section 4.3 will be revised as follows:

Some community members have expressed concerns that subdivision lot owners and their friends will have preferential access to the coast. Their concern is that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle. To some community members, affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal. Informants also expressed concern that landowners might call police if they see the general public walking on the beach, as this has happened at Pāpōhaku. To mitigate these concerns, all Lā'au Point homeowners will be required to undergo an education program about the restrictions on access, its importance, and the requirements of the SAMP. Adherence to the SAMP is mandatory. In addition, the educational process, the lack of infrastructure and paths through to the shoreline, and the density of the foliage and rough terrain as a practical and natural barrier, will support adherence to the SAMP and serve to limit widespread access to the shoreline.

2. *The DEIS states that residents and visitors will be educated about proper behavior when monk seal are encountered in the project area, though details of how this will be achieved are not provided. This is a laudable goal and may indeed reduce the risks of some impacts on monk seals, especially among people who are compliant by nature. However, education without enforcement will not address the problem of persons who do not choose to respect guidelines of behavior. Additionally, one of the challenges of such education programs in Hawaii is that there is a large transient population of tourists. This segment of the population will also enjoy greater access to La'au Point if the proposed development occurs, and it is not clear how these people will be educated and policed.*

**Response:** The SAMP sets forth an education program required of all homeowners and visitors to the area that covers: cultural practices; cultural sensitivity and respect; environmental protection and concerns; historical significance of the area and resources; and the social fabric, traditions and culture of the Moloka'i community. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area.

Education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations—and not be limited to any one form. It is intended that everyone be required to undertake the educational requirement. From a practical standpoint it is recognized that short term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To incorporate the relevant above information into the Final EIS, in the Final EIS Section 4.3 will be revised as follows:

**Education (cultural and environmental of homeowners) – All homeowners must undertake an education program. This program will be designed to create awareness and will mitigate cultural and social impacts as well as instruct and inform homeowners and users of the rules and requirements of the SAMP and the cultural and biological resources being protected. The educational program sets forth topic areas on Hawaiian culture and Molokai social and cultural traditions to mitigate concerns that homeowners will not be sensitive to, or understand, the cultural environment they are entering. The program will explain rules on the handling of cultural and archaeological sites, their significance and use in the Hawaiian culture to prevent destruction and desecration and to provide recognition of the rights of families and practitioners to access the sites. Education on the social fabric of Molokai is designed to inform homeowners of the subsistence lifestyle and traditional use of the area for hunting, fishing, and gathering and its importance to Molokai's way of life. Training on the rules regarding Hawaiian monk seals and notice of the opportunity to volunteer in monitoring programs will be given to ensure adherence to the Hawaiian monk seal requirements. Similar instruction is required for biological assets to ensure their preservation. Additional training is to be provided to educate the homeowners on the rules and management policies regarding enforcement to ensure adherence to the SAMP guidelines and rules.**

3. *A measure proposed to mitigate impact of increased shoreline access is: "... a caretaker or Land Trust steward will supervise access to ensure that damage to the environment does not take place, and that those who access the area have taken the appropriate education classes in traditional subsistence gathering and access responsibilities, safety and protocol." The apparent intention of this measure is primarily to allay concerns that opening the area to fishing will result in depletion of*

Chris E. Yates, Assistant Regional Administrator  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
November 1, 2007  
Page 4 of 5

*subsistence resources. It is not clear that the Land Trust steward would be charged with ensuring protection of monk seals. Moreover, it is not clear what authority the steward would have to actually police and enforce fishing practices, or any other behavior of beach visitors. Thus, we must anticipate that this measure will not provide adequate protection to monk seals at La'au Point.*

**Response:** The "Monk Seal Protection Program" established in the SAMP has incorporated the information gained from our consultations with NOAA. Elements of the SAMP program were taken from the draft *Recovery Plan for the Hawaiian Monk Seal* (NOAA, 2006). The SAMP reiterates the rules required to ensure non-disturbance of Monk seal habitat and the promotion of La'au Point as an area for Monk seals to frequent and "haul out."

In response to your comment regarding the duties of the Resource Manager in relation to Hawaiian Monk Seal protection, in the Final EIS Section 3.7 (Fauna) will be revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

- The DEIS states that "A State Land Use District Boundary Amendment is proposed to protect and expand the existing Conservation District (shoreline area) by 254 acres, thereby increasing the amount of shoreline and habitats, such as for monk seals, put into permanent protection" (p. 17). This statement appears to suggest that if the plan is implemented, monk seals will somehow be afforded greater protection than they currently enjoy. In fact, the elements of the proposed plan discussed here suggest just the opposite will occur.*

**Response:** We note that the current Conservation District designation of the shoreline area affords protection from many activities that could be detrimental to monk seals. It is noted that the additional potential human visits to the project area could result in an increase in the likelihood of human conflict with Monk seals. It is anticipated however that the education program and the supervision of the Resource Manager will minimize the conflict. At present there is considerable human visitation to the area that is unsupervised and the threat to the Monk seals is potentially greater from fewer area users. We also note that the current vacant status of the property affords protection to the area as well. However, if the property were developed to its potential allowed under its existing Agricultural District designation, and thereby the Conservation District near the shoreline was not expanded, development could occur closer to the shoreline than what is being proposed by this project.

- In addition to our concerns, NMFS recently received a total of 22 letters from Molokai residents voicing their concerns for the monk seals of La'au Point. Residents are well aware of the importance of this currently remote and relatively undisturbed habitat to monk seals. While we typically do not respond to public outcry over coastal development, the letters are indicative of the degree of public support for protection of the seals and this valuable habitat.*

**Response:** We acknowledge your comment.

- Because this species is highly endangered and susceptible to disturbance by human presence, we are very interested in ensuring that the mitigation measures developed for this project will effectively protect seals when they haul out on beaches in the development area. In particular, we believe that the potential for increased disturbance warrants your consideration of hiring a full-time Hawaiian monk seal protection specialist, who could both educate the public about the seals and also protect them from the expected interactions. We are available to discuss this suggestion as well as any other*

Chris E. Yates, Assistant Regional Administrator  
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT  
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*ideas you may have for ways to ensure that the seals will not be adversely impacted by this development.*

**Response:** We appreciate the consultation and expertise NOAA has already provided in developing mitigation measures to protect Hawaiian monk seals. We look forward to a continued relationship in developing monitoring programs, training, and other issues to protect Hawaiian monk seals. The SAMP does provide for hiring Resource Manager(s) to protect the cultural, biological, and social resources of the area, including Hawaiian monk seals. In response to your comment, in Final EIS Section 3.7 (Fauna) will be revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

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 3.7 (Fauna)

cc: Anthony Ching, State Land Use Commission  
Office of Environmental Quality Control  
Jeff Hunt, Maui Planning Department  
Thomas S. Witten, PBR HAWAII



**Attachment**  
**First Land Trust Donation**  
**Mokio Parcel**

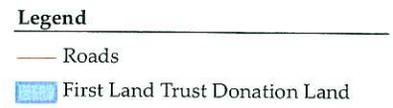
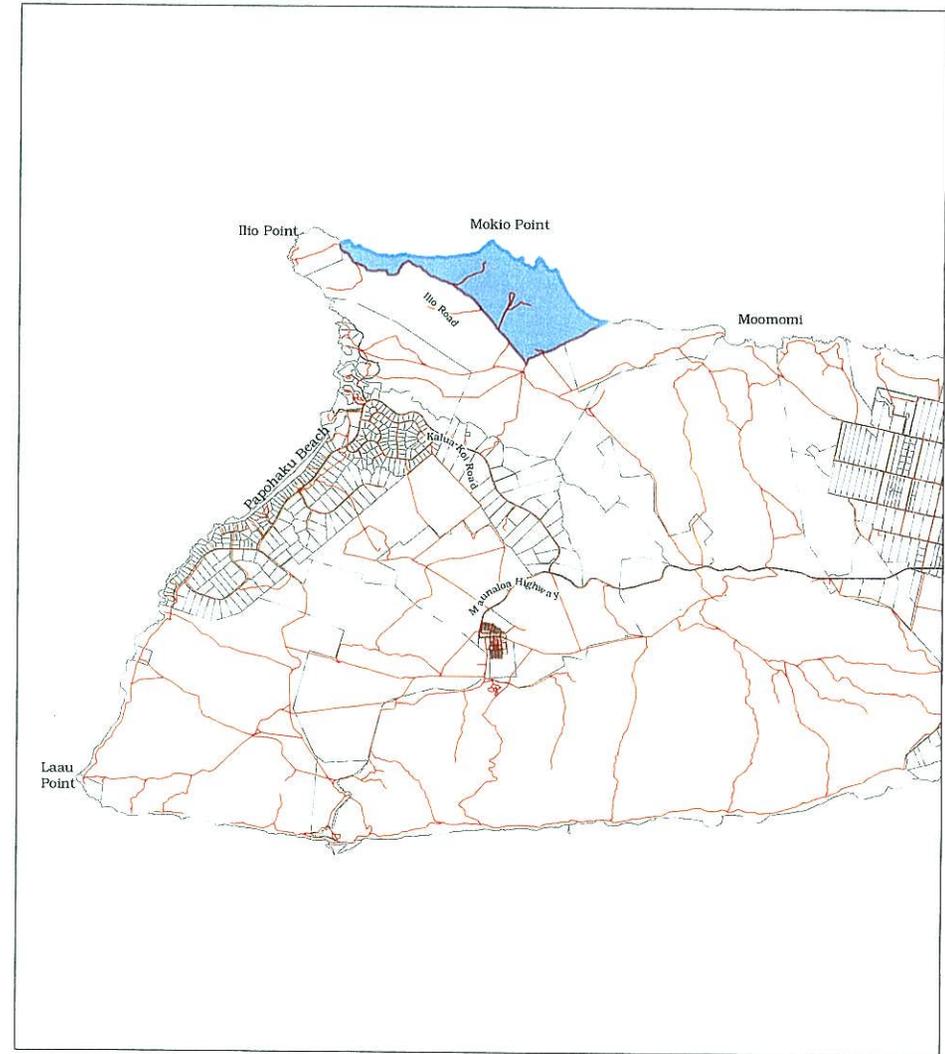
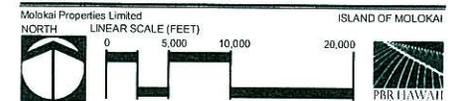


Figure 11  
 First Land Trust Donation - Mokio Parcel  
**Lā'au Point**



Disclaimer: This graphic has been prepared for general planning purposes only.