



Protecting Native Hawaiian Traditional and Customary Rights
and Our Fragile Environment

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State Land Use Commission
P.O. Box 2359
Honolulu, Hawai'i 96804

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Aloha Commission Members,

KAHEA: The Hawaiian-Environmental Alliance strongly opposes the luxury development proposed for La'au Point on the Island of Molokai. KAHEA is a local non-profit organization with over 2,000 members, including Native Hawaiian cultural practitioners, kupuna, fishers, conservationists, and scientists, working to protect Hawai'i's unique natural and cultural resources. We oppose the proposal by Molokai Properties Limited to build 200 luxury estates at La'au Point because it compromises the recovery the highly endangered Hawaiian monk seal and undermines Native Hawaiian cultural and subsistence practices.

DEVELOPMENT AT LA'AU POINT CONTRIBUTES TO EXTINCTION OF HAWAIIAN MONK SEALS

The Hawaiian monk seal is approaching extinction. With only 1,200 individuals left at the current rate of decline, it is expected that in the next ten years there will insufficient genetic diversity in the species to support a recovery. While the threats to the Hawaiian monk seal are many, there are only a few solutions that human intervention can offer: supporting seal pups to maturity and protecting habitat critical to the species' survival.

Although scientists with the National Oceanic and Atmospheric Administration's (NOAA) Monk Seal Recovery Team are focusing their efforts on supporting, those efforts have not been successful. Monk seal pups are not surviving to maturity because of predation, starvation, and entanglement.

The only other meaningful avenue for human intervention to successfully prevent the loss of Hawai'i's only marine mammal is habitat protection. New research indicates that the main Hawaiian Islands, not the Northwestern Hawaiian Islands, are the historical foraging and breeding grounds for the endangered seal. It is becoming clear that the natural coral reef barriers and graduated shorelines of the main islands are more conducive to successful monk seal breeding, but that increased development along the shoreline has forced the seal populations north. Scientists are renewing efforts to protect the shorelines where Hawaiian monk seals birth and nurse their calves.

Unfortunately, the proposed construction of 200 luxury homes – half of which are directly on the shoreline – at La'au Point directly undermines that effort. The developer's attempt to mitigate the inherent conflict between increased human presence at the shore and the Hawaiian monk seal's need for isolation are woefully inadequate.

The reality is La'au Point is a key monk seal haul beach precisely because it is isolated for human activity. By creating human settlements here, along this shoreline, the developer will displace the 9-10 Hawaiian monk seals known to frequent this beach. The developer's commitment to cordon off the seals with yellow tape is an insufficient remedy. It does not address the fact that the 100 luxury homes along the shoreline will force the seals to find another more secluded beach to haul out on.

To effectively mitigate the harm this proposed development causes the highly endangered Hawaiian monk seals, the developer should:

1. designate critical habitat for the Hawaiian monk seal at La'au Point
2. not construct any beachfront structures
3. prevent new homeowners from accessing the beach from La'au Point property

DEVELOPMENT AT LA'AU POINT SEVERELY UNDERMINES CONSTITUTIONALLY-PROTECTED TRADITIONAL AND CULTURAL PRACTICE

We applaud the developer's suggestion for a home-owner education program – such a system would likely have greatly benefited communities on Oahu and Maui 50 years ago.

Unfortunately, in this situation, this remedy is wholly inadequate to protect some of last remaining unencumbered lands in the Hawaiian Islands and extremely offensive to Native Hawaiian traditional and cultural practitioners.

There is an inherent conflict between the developer's proposal to construct 200 luxury homes at La'au Point and the community's stated need and desire to preserve this area for subsistence and cultural practice. Molokai is one of a few communities that still have the resources to sustain traditional subsistence practices. Encouraging human settlement in these remotes areas directly contradicts the community's long-standing effort to protect their traditional way of life. No amount of education can counter-act the inherent conflict of erecting permanent structures in a place valued for its current natural state.

The developer's attempt to mitigate the harm of the proposed 200 luxury home project on public access to the shoreline and traditional customary practice is inadequate. The set aside of 2 public access routes for 40 miles of shoreline is woefully insufficient. The developer's suggestion to employ a private border guard and customs agent to regulate the public access and use of La'au Point is offensive and unconstitutional.

State law requires that public access to the shoreline be available every quarter mile. (See, HRS §115). Currently the developer has set aside only two public access routes, one at each end of a 40-mile shoreline. While it is true that in its natural state La'au Point could be adequately accessed with only two routes, the fact that developer is proposing to transform this wild landscape into a residential subdivision triggers the requirements of section 115 and the need for public access routes. The unfortunate consequence of allowing this construction to proceed is the loss of this beautiful, wild landscape.

The developer should not be allowed to regulate public use of constitutionally protected public trust resources along the shoreline or to regulate constitutionally protected Native Hawaiian

cultural practices. The right to access areas mauka-to-makai to gather materials for traditional and customary practices is protected by the Hawai'i Constitution (See, Haw. Const. Art. XII, § 7, HRS § 1-1, 7-1). Similarly, the Hawai'i Supreme Court recognized that all shorelines are public trust resources protected by the constitution. (See, Public Access Shoreline Hawai'i vs. Hawai'i County Planning Commission (1995)). A private entity cannot regulate the exercise of these rights. The resource manager proposal should therefore be abandoned.

Mahalo,

A handwritten signature in black ink that reads "Marti Townsend". The signature is written in a cursive, flowing style.

Marti Townsend
Program Director

Cc:

Office of Environmental Quality Control
Molokai Properties Limited