

Testimony of  
Molokai Properties Limited (MPL)  
By  
Peter Nicholas, Executive Director

Regarding:

**HCR 95 and HR74**

Before the House

**Water, Land and Ocean Resources Committee**

**March 13, 2009**

Chairman Ito, Vice-Chair Har and Members of the Committee;

Thank you for the opportunity to testify on HCR 95 and HR 74. As the text of the two Resolutions is essentially identical, this testimony refers to both measures.

Much of the Resolutions' content mirrors the content of two Bills that were introduced this session into the House and to the Senate, SB1201 and HB 1295. Those Bills sought to direct the Governor to acquire Molokai Ranch from GuocoLeisure Limited, MPL's parent company.

Both the Bills and these resolutions contain many inaccuracies in their claims against MPL. Molokai Properties Limited is opposed to HCR 95 and HR 74 as being unnecessary and unwarranted.

To date my company has not commented in any forum on the calls from factions of the Molokai community for compulsory acquisition of our property. These calls began with an attempt to have the Maui County condemn the land, then with the Compulsory Acquisition Bills and now with the Resolutions before you today.

The fact that certain elements of the community desire control of the land does not justify action on the part of the State to take possession of the property and the institution of a preliminary assessment of the value of the Ranch.

There are no pressing reasons for the passage of this Resolution and many reasons to reject it. The constitutional and public policy considerations against passage of the Resolution clearly outweigh the interests of a few vocal members of the Molokai community who have been seeking to obtain control of the property for many, many years.

The time has now come to comment on or to rebuff the allegations made.

- *In April 2008 MPL shut down all of its business operations on Molokai.*

This statement is correct. MPL was cash negative from operations by more than \$3.5 million per annum and could no longer sustain the losses. A process began in 2003 to produce, in conjunction with the community, a Master Plan for the property's future. This Plan was not supported at regulatory hearings by the community. With this Plan's rejection, the company had, at that time, no hope for an economic future.

- *The County of Maui has been forced to commence litigation against MPL to enforce contracts to operate and maintain water and wastewater systems.*

The County has not been "forced" to file suit against MPL to force continued operation of the water companies, but in fact chose to in the face of public requests and political pressure to take over the systems itself. In sum, the Water companies have never ceased operation and have in fact filed rate cases with the Public Utilities Commission (PUC) to obtain a compensatory rate of return so they can continue operation. Assuming the PUC grants a just and reasonable rate to the water companies, there is no threat of cessation of operation.

Please note also that MPL has adhered to all orders and requests made by the PUC and the Department of Health (DOH). The DOH order was in fact unnecessary and is being appealed. It has expired and is no longer in effect.

- *MPL has substantially contributed to the loss of rainforests and to an increase in erosion.*

These allegations are unfounded. MPL has maintained the land in agriculture. Even under its Master Plan, more than 22,000 acres was to remain in agriculture forever under protective easements. MPL hopes the State will designate appropriate parts of its land as "Important Agricultural Lands" as it is committed to agricultural practices that stabilize the soil and maintain plant growth.

With regard to the rainforests MPL has never expanded its activities into rain forest areas. In fact in the past it has donated and leased sensitive lands to the State and the Nature Conservancy to ensure that the watersheds are preserved and the rainforests flourish.

- *MPL is now denying access to most of its landholdings to Molokai residents who relied on those lands for gathering, hunting and fishing.*

MPL has never allowed uncontrolled access to its property and the laws do not require that. MPL is well aware of its obligations. Today, MPL has contracted hunters and the land is open to all those who have permits and wish to hunt safely.

Many people throughout the State do not recognize legitimate laws requiring gun permits as they believe it is their undisputable right to hunt when and where they choose.

MPL also requires its contract hunters to donate meat every month to community members in need and to the Kupuna from the Maunaloa community.

MPL has never, in the past or in the present, nor will it in the future, deny access to any of the cultural sites on its property for legitimate cultural use. In compliance with State law, MPL has preserved key sites for future generations and has allowed them to be maintained by legitimate practitioners.

The Molokai Land Trust, a registered charitable organization that has its roots in cultural and environmental preservation, willingly assists and advises MPL on all cultural access to the property.

- *To protect and to preserve Hawaii's historic and cultural heritage, a number of private entities have recently expressed interest in the acquiring parts or all of MPL's land-holdings.....and to negotiate this, it is necessary to obtain a value now.....the Department of Land and Natural Resources is requested to conduct an independent appraisal of MPL's lands.*

MPL has been approached by a number of companies who have sought to acquire its property. To date no private entity has indicated that its principal reason for purchasing the property was to "preserve Hawaii's historic and cultural heritage."

To date, no company has been able to prove to MPL or to GuocoLeisure that it has the necessary financial strength to purchase the property at an acceptable price. This includes UPC that was named in the Bills before the House and the Senate as a potential buyer of the property for a Wind farm.

There would appear to be no reason whatsoever as to why the State should assist a potential private buyer of the property by "gifting" any potential purchaser with an appraisal report. Any private individual can obtain an appraisal of the property by hiring a qualified valuer to complete the work. It does not require DLNR to do it.

It is questionable policy for the State to insert itself into negotiations between private parties and to in fact undertake and spend taxpayer funds on an appraisal to potential benefit private parties.

MPL and its shareholders continually review the future of its property on Molokai. The current difficult economic conditions make it difficult to see a path forward at this time.

Should these Resolutions pass, MPL would be unlikely to commit any resources to the property.

Thank you for the opportunity to present this testimony.

A handwritten signature in black ink, appearing to read 'P.A. Nicholas', written in a cursive style.

P.A.Nicholas  
Executive Director  
Molokai Properties Limited.

Testimony in Support of House Concurrent Resolution 95  
(Molokai Ranch Appraisal Bill)

To: Representative Ken Ito, Chair  
Water, Land and Ocean Resources  
Committee Hawaii State Capitol, Room 420  
415 South Beretania Street  
Honolulu, Hawai'i 96813

From: Moloka'i Community Members (see all names and addresses below)

Re: Support for Passage of HCR 95, Requesting DLNR to Conduct an Appraisal of  
Molokai Properties Limited Landholdings

Date: March 12, 2009

Aloha Chairman Ito:

The Moloka'i residents listed below are in full support of House Concurrent Bill 95, which requests the Department of Land & Natural Resources to conduct an independent appraisal of the landholdings of Molokai Properties Limited ("Molokai Ranch"). This Resolution was introduced as a followup to House Bill 1295, which has been tabled for this session. HB 1295 would authorize the state to condemn Molokai Ranch. Also attached to this letter is a February 13, 2009 request for a hearing on HB 1295. More than 100 Moloka'i residents wrote in support of condemning Molokai Ranch. Although the relatively short hearing notice for HCR 95 did not enable us to contact all of them in person to request their support for this Resolution, their support for the condemnation bill includes support for a fair appraisal of the Ranch's holdings.

One of the main current concerns for Moloka'i residents is the Ranch's threat to shut down its utility services. Even though the PUC has raised the Ranch's water and sewer rates up to 178%, the Ranch continues to refuse to make any long-term commitment to provide these services to its customers. In an order dated August 14, 2008, the state Department of Health said that: **"The cessation of drinking water and wastewater services by [the Ranch] is an imminent peril to the public health and safety."**

Moloka'i needs protection from a foreign company that, according to the Department of Health, has threatened the public health and safety of 1,200 Moloka'i residents.

**There are private investors ready and willing to purchase the Ranch at a fair price.** To pursue the purchase, a fair price must be established and DLNR could assist in determining that price.

Mahalo nui for your support for Moloka'i!

cc: Representative Calvin Say, House Speaker  
Representative Mele Carroll, Chair of Hawaiian Affairs

Today, March 12, 2009, the following adult residents of the island of  
Moloka'i approved this letter:

<p>Malia Akutagawa P.O. Box 1715 Kaunakakai, Hawai'i 96748</p>	<p>Jane Lee P.O. Box 801 Kaunakakai, Hawai'i 96748</p>
<p>Bettygene O. &amp; Harris Dudoit P.O. Box 926 Kaunakakai, Hawai'i 96748</p>	<p>Wayde &amp; Adele Lee P.O. Box 1032 Kaunakakai, Hawai'i 96748 Kaunakakai, Hawai'i 96748</p>
<p>Sean Ellis P.O. Box 632 Kaunakakai, Hawai'i 96748</p>	<p>Marlene &amp; Harry Purdy P.O. Box 84 Ho'olehua, Hawai'i 96729</p>
<p>Vanda Hanakahi P.O. Box 507 Ho'olehua, Hawai'i 96729</p>	<p>Robert Waipa Purdy P.O. Box 249 Kualapu'u, Hawai'i 96757</p>
<p>Karen Holt P.O. Box 354 Kaunakakai, Hawai'i 96748</p>	<p>Mr. and Mrs. Timmy Leong Napua Leong P.O. Box 73 Kaunakakai, Hawai'i 96748</p>
<p>Glenn &amp; Nancy Izawa P.O. Box 1083 Kaunakakai, Hawai'i 96748</p>	<p>Cheryl Sakamoto &amp; Rick Harder P.O. Box 344 Maunaloa, Hawai'i 96770</p>
<p>Karen Joao P.O. Box 632 Kaunakakai, Hawai'i 96748</p>	<p>Jane &amp; Glenn Teves P.O. Box 260 Kualapu'u, Hawai'i 96757</p>
<p>Donna &amp; Steve Morgan Kekoa, Kai &amp; Keala Morgan P.O. Box 72 Maunaloa, Hawai'i 96770</p>	<p>Bill &amp; Lynn Vogt P.O. Box 338 Maunaloa, Hawai'i 96770</p>
<p>Bridget Mowat P.O. Box 315 Kaunakakai, Hawai'i 96748</p>	<p>Harmonee Williams Joshua Pastrana P.O. Box 1334 Kaunakakai, Hawai'i 96748</p>
<p>Moke Kim P.O. Box 267 Kualapu'u, Hawai'i 96757</p>	<p>Melinda &amp; Matt Yamashita P.O. Box 1304 Kaunakakai, Hawai'i 96748</p>
<p>Ronald Kimball HC01 Box 171 Kaunakakai, Hawai'i 96748</p>	<p>Todd Yamashita P.O. Box 1306 Kaunakakai, Hawai'i 96748</p>