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F R O M: Kelly King, Chair
Planning Committee

Kelly T. King

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO
MOLOKAI COMMUNITY PLAN UPDATE** (PC-2)

The attached informational document pertains to Item PC-2 on the Committee's agenda.

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Attachment

Chapter 11

Subarea Descriptions

East End Policy Statement – 2016 edition
Maunaloa Policy

DISCLAIMER

Chapter 11 was added by the Moloka`i Planning Commission (Commission) at their final Moloka`i Community Plan Update (Plan) review meeting on March 24, 2016. Per the Commission's recommendation, this new chapter contains the "East End Policy Statement – 2016 edition" and the "Maunaloa Policy". The Planning Department (Department) has significant concerns with both of these documents as written and recommends that the documents not be included in the Plan. The Department's primary concerns include that portions of the documents are inconsistent with the Plan and County policy, and that the documents were not vetted by the community. The "Maunaloa Policy" was submitted to the Commission as testimony at their March 10, 2016 meeting, and was never reviewed at a Commission meeting. The "East End Policy Statement – 2016 edition" was submitted to the Commission as testimony at their final meeting, March 24, 2016. An insufficient number of copies were submitted to the Commission and no public copies were provided, thus the public had no opportunity to review the document. The Department made the Commission aware of the numerous significant concerns; however the Commission voted to include the documents regardless.

In the event of discrepancies between Chapter 11 and Chapters 1 through 10, Chapters 1 through 10 shall control.

Exhibit D
EAST END POLICY STATEMENT – 2016 edition
Updated March 24, 2016

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I. INTRODUCTION AND DESCRIPTION

This East End Policy Statement was prepared by Mana'e (East End) community in the belief that the area's planning is best accomplished by the comprehensive and meaningful input of the majority of the people. It is in this light that this document was presented to the 1981 and 2001 East End Policy Statement updates to the Moloka'i Community Plan Advisory Committee for the County of Maui, and intended as a general guide in formulating future planning for growth within this area.

The document was compiled from published survey data, tax and land use maps, various county and state agency information, and extensive East End community input. Technical accuracy is as correct as possible given the circumstances under which this policy was prepared. The community welcomes correction and/or updating to the guidelines in this respect only, through the various steps this plan takes to adoption. However, it wishes that the main direction and goals of this statement remain intact to preserve the spirit under which it was prepared and the consensus it reflects as being truly an East End community plan.

This current 2016 East End Policy Statement maintains the spirit and essence of the original East End Policy Statements of 1981 and 2001. The revisions provided herein respond to the subtle changes that have occurred over the years on the East End. More significantly, it is the community's reaffirmation of the importance of protecting Mana'e as a special place for all of Moloka'i as a pu'uhonua (safe refuge), cultural kīpuka (rural area that serves as a living repository of Hawaiian traditional knowledge, understandings, and practices), and a place essential to 'āina momona (continued food and water security) for its abundant fishponds, lo'i kalo (taro patches), rich forests, streams, and springs.

Mana'e is defined as: to the East - a direction,¹ (na 'e - easterly or windward). East End kupuna descriptions go back further to a definition predating the western compass; (from which the wind blows.) Thus, not having a "magnetic" or "sunrise" orientation, but referring to a definition by locality. The description of the "east End" as applied to this statement includes the areas by ahupua'a place name.² The boundaries are from Makolelau to Hālawa along Moloka'i's South Shore and from Pelekunu to Hālawa on the North Shore. This area boundary was chosen since the lands contained are similar in actual use/ownership today and match the community lifestyle which this policy statement is meant to reflect.

The three main differences distinguishing Mana'e from the rest of the island are her geography, her environment, and her people.

East Moloka'i includes the island's highest mountain range with Kamakou peak reaching 4,970 feet above sea level. The ridges and valleys sloping off this range provide rugged and natural barriers between the various ahupua'a, and end at the

¹ Pukui, Hawaiian Dictionary, 1971, University of Hawaii Press.

² United States Department of the Interior Geological Survey Map, Island of Molokai, 1952.

sea with numerous, well-protected, sandy beaches along her winding coastline. The frequency of rainfall encourages an environment rich in water, lush tropical vegetation, and fertile soils. Perennial streams and important spring lines are found here.

Mana'e traditionally sustained the highest population on the island and contains the oldest human settlement sites in the Hawaiian archipelago dating back to 450 A.D. Mana'e contains the most important natural resources. Ola i ka wai – the life-giving waters are evident especially in Mana'e's pristine, north shore valleys that produce 3-10 million gallons of water per day and house important native aquatic and diadramous species such as 'o'opu and hihiwai. Consistent with the principles of ancient land tenure, Mana'e's native population maintains strong ties between the northeast and southeast valleys and coastline. The abundant resources present in the northeast valleys provide surplus for populations that historically and modernly reside in the southeast valleys. Māhele maps from the Kingdom of Hawai'i period and the memories of hoa'āina (native tenants) knowledgeable of their palena (land boundaries) indicate the presence of 'ili lele (disconnected strips of land) present in the north that are tied to south ahupua'a to functionally meet the subsistence and other cultural requirements of hoa'āina who need access to multiple resources. These relationships endure today with many Mana'e families accessing the north shore to fish, farm, and gather.

The natural features of the land and major streams and springs contribute to a long heritage of 'āina momona (abundance). Mana'e's major taro producing valleys of Hālawa, Wailau, and Pelekunu are lined with intact lo'i kalo (taro) terraces, wall to wall. These agricultural features and other traditional infrastructure produced much food and surplus. Ideal water conditions also support natural harbors and productive estuaries, as well as produce the muliwai (brackish water) essential for mariculture for fish and limu (seaweed) cultivation in numerous loko i'a (fishponds) that dot the southern coastline. These impressive monuments and critical sources of food production were engineered and constructed by ancient Hawaiian kūpuna (ancestors) who hand-carried basalt stones in extensive ten-mile long human chains that started from the north coast, up steep pali (cliffs), and down the southern slopes of Mana'e to the shoreline below. The south facing ahupua'a of Mana'e also boast an extensive fringing reef that residents depend on for traditional, subsistence fishing.

All of these natural assets comprise true wealth and are vital to the people's sustenance and subsistence economy. Centuries-long, multi-generational relationships to 'āina and the regular use and access to natural and cultural resources of Mana'e's north and south shore for traditional and customary Hawaiian subsistence, religious, and ceremonial practices solidify kama'āina relationships to the land.

Within this geography and environment resides a population living a lifestyle compatible with its surroundings, a uniquely Hawaiian island lifestyle often difficult

to express in words, but one that produces a point of view quickly disappearing in many parts of Hawai'i. Whether Mana'e produces the lifestyle or her residents make Mana'e what it is, the continuation of this uniqueness and the assurance it will remain for future generations are the goals of this policy statement.

Moloka'i is home to some of Hawai'i's few remaining rural communities, where despite dramatic political and social change, Native Hawaiian culture and way of life have thrived. Moloka'i, and Mana'e in particular, have been characterized as a cultural kīpuka, where kua`aina serve as repositories of Native Hawaiian values, knowledge and practices for present and future generations. Ensuring continued access to, and health of Mana'e's natural and cultural resources, is critical for the perpetuation of traditional and customary practices (e.g., fishing, gathering, cultivating lo'i, hunting, mālama iwi kūpuna, spiritual practices) in Mana'e and beyond.

Increased land speculation over the years; the loss of ancestral and kuleana lands to adverse possession and quiet title claims; and increased building of luxury homes that serve as illegal transient vacation rentals (TVRs) and short-term rental homes (STRHs) on the East End are impacting beach access; blocking traditional fishing trails along Mana'e's southern coast; encroaching on, filling in, or being built over sensitive wetlands, springs, fishponds, old 'auwai (traditional irrigation ditches) and lo'i kalo (taro patches), and burdening local residents' with elevated property tax assessments. These factors threaten food and water security, native traditional practices and rights, and the continued vitality and community cohesiveness enjoyed by Mana'e's long-time residents. These factors underscore the importance of responsible planning to preserve the essence of what makes Mana'e special.

Mana'e is the heart and lifesource of Moloka'i. The larger Moloka'i community identifies Mana'e as a pu'uhonua (safe refuge). Mana'e is a gathering place for island residents to enjoy family picnics, swimming, fishing, hunting, and hiking. Public and vehicular access to Mana'e's south-facing coastline is much easier than other parts of the island which are blocked by fencing and locked gates over large private landholdings.

Collectively, we are a community existing as a result of our history. We work to protect that which makes Mana'e unique for ourselves, our children, and generations yet to come, by responsibly planned growth. The provisions in this statement are attempts to avoid problems that have occurred many times elsewhere in Hawai'i.

II. PUBLIC FACILITIES

The majority of Mana'e's population is concentrated in the south sector, a place more easily accessible by vehicle. Public facilities include one State highway, two public rights-of-way to the shoreline, three day parks, an athletic field with

community center, two accesses to public hunting areas, and a small fire-station for fire and immediate emergency services. A number of privately owned beach accesses are in general public use, but do not qualify as such under this group. This inventory appears adequate to serve a community of this size, but additional amenities as identified below would add to the quality of life in Mana'e, while still preserving its rural character.

The following suggested improvements below is in keeping with creating the least amount of privacy infringement on adjacent residents, maximizing the responsible use of existing areas and resources, and placing the least amount of burden on county services:

A. East End Community Service Center. Residents wish to express the need for such a facility and present the following reasons:

1. Due to the central location at Kaunakakai of medical and ambulance emergency services, the distance and subsequent response time to Mana 'e is a great concern.
2. The distance from Kaunakakai limits access to the public library for Mana'e students, and other residents.
3. No provision for storage and display of the many archeological and cultural resources from Mana 'e has been provided for. Subsequent loss of these treasures to other island display centers should be prevented.

Recommendations

Establish a medical/dental/health service installation on the East End. Additionally, provide for a library/cultural center in Mana'e at an appropriate location.

B. Hunting/Conservation Cabins. As described in Section III "ENVIRONMENT & NATURAL RESOURCES," watershed protection is a priority and feral ungulates have degraded the native forest ecosystem. The State Department of Land and Natural Resources (DLNR) Watershed Partnership Program, several large landowners in Mana'e holding upland and forested properties, and The Nature Conservancy implemented the Kamalo/Kapualei East Molokai Watershed Partnership (EMoWP) in 1998 which consisted of erecting a 5.5 mile long conservation fence to protect 30,000 acres of high montane, native pristine forest from ungulates. Community hunters engaged in the conservation work by participating in aerial hunts, accessing lands along foot trails and dirt roads to thin out herds below the fenceline, and freely sharing surplus meat with the community. The EMoWP is currently proposing the expansion of its fencing efforts further east. Subsistence hunters continue to

be important in the management strategy. Feedback gathered over the course of 2-3 years in the preparation of EMoWP's Environmental Assessment (EA) and Management Proposal and the concurrent Mana'e Traditional and Customary Practices Report (Mana'e TCP Report) funded by the Office of Hawaiian Affairs (OHA) on behalf of the 'Aha Kiole o Moloka'i – Mana'e Moku provide comprehensive plans that involve ahupua'a-based, mauka-a-makai (mountain to sea) management with native community involved, including local hunters.

One of the recommendations in the Mana'e TCP Report (attached herein as Appendix A) is to install hunting/conservation cabins on the mountain along each ahupua'a or cluster of several ahupua'a to aid hunters who need to access higher elevations to control ungulate populations but cannot accomplish that on foot within a day and require rest before moving further up the mountain and/or returning home after hunting expeditions. These cabins can also serve conservation workers monitoring and repairing fenceline, doing forestry work, and removing invasive species.

Recommendation

Install public Hunting/Conservation cabins up mauka along each ahupua'a or cluster of several ahupua'a at strategic points for hunting and conservation work associated with watershed and ahupua'a management. Utilize county funds to cover and/or match dollars among government, private, and nonprofit entities to establish and maintain these mauka cabins located on private and state lands. Acquire easements and/or right-of-entry agreements to erect cabins over private lands.

C. Ocean Access/Boat Ramp Issue

There are no other recommended public facility improvements. However, the Mana'e community wishes to make clear its internal discussions regarding whether or not there is a need for improvements for ocean access from Mana'e (e.g., boat ramp construction). This is necessary to guide the Molokai Planning Commission, the County of Maui Planning Department, the Maui County Council, the Hawai'i State legislature, federal agencies and the U.S. Congress of the community's intent to table this matter for further discussion utilizing our local governance process with the 'Aha Kiole o Moloka'i as facilitator. The Mana'e community advises decision and policy-makers at all levels of government (county/municipal, state, and federal) that this matter will be handled internally at the local-level until the community is ready to make a definitive statement about the issue of improvements for ocean access.

Initial community dialogue reveals strong opinions both for and against creating a public boat ramp and associated improvements for more ocean access. Sentiments expressed in preliminary discussions hosted by the 'Aha Kiole o

Moloka'i are summarized here, as well as provided in direct quotes from written post-it-notes from those in attendance:

Oppose Boat Ramp	Neutral	Support Boat Ramp
<ul style="list-style-type: none"> • Increased threat of overfishing along Mana'e's reefs and waters. It would especially attract commercial fishermen from Maui since the trip between islands would be much shorter with a Mana'e boat ramp. • Increased traffic and exploitation of Mana'e's reefs and waters from off-island charter tour boats (especially from Maui). • Increased boat traffic from off-island and use of Mana'e reefs and beaches will destroy Mana'e rural character and status as a pu'uhonua (safe refuge) • A boat ramp will create a tourist trap on Molokai, similar to Maui and other islands. 	<ul style="list-style-type: none"> • "Entire moku to be included in boat ramp decision." • "Share the ramp already existing in the gated area – like it was before." • "Kamalo is not a deep channel to the shore – flat bottoms launch there." • "We need to malama our fishing and boating community who take care of each other/community." 	<ul style="list-style-type: none"> • "Tired drive my truck in da salt water for launch my boat." • "Let the locals launch at Puko'o. Membership fee? Rules?" • "Needed but, where, how, why? Need to set limits to accommodate Moloka'i residents." • With a boat ramp, the large Moloka'i boats can police and patrol the waters to discourage off-island boats from exploiting Mana'e fishery. • Everyone else is selfish to block Moloka'i commercial fishermen who benefit the community by feeding them with fish they sell.

Oppose Boat Ramp	Neutral	Support Boat Ramp
<ul style="list-style-type: none"> • Associated improvements for a boat ramp and deep draft harbor may negatively alter the natural bathymetry through marine excavation; entail the dredging of precious reefs; fill and/or destroy historic fishponds, limu, crab, and fishing grounds; and desecrate underwater heiau (temples). • “No boat ramp. Not enough resources. Can’t have other people killing da grounds.” • “No boat ramp east Moloka’i. Protect resources. No commercial.” • “No problem launching boats now. Kamalo best option for us.” • “NO BOAT RAMP EAST END.” • “Concerned about increased pressure and possible exploitation of ocean resources and increase in commercial activity.” • “NO RAMP EAST END” • “No Boat Ramp.” • “No. Unnecessary.” • “Boat ramp will cause over congestion of land and ocean traffic. NO parking to accommodate increased traffic resulting from boat ramp install.” 	<ul style="list-style-type: none"> • Need to think outside the box. Consider private boat ramp, rather than public so that there can be better control of what types of boaters may access private boat ramp. 	<ul style="list-style-type: none"> • Boat ramp and deep draft capacity needed to address safety concerns for entry and exit of big boats. • Boat ramp needed for emergency services, rescue, and retrieval operations. • Just need a simple boat ramp to launch and safely return.

Oppose Boat Ramp	Neutral	Support Boat Ramp
<ul style="list-style-type: none"> • “Boat ramp is unnecessary. Invitation for unwanted amount of ocean recreation over fishing.” • “NO RAMP, NEVER!” • A fireman stated that no boat ramp is necessary for emergency rescue and retrieval operations. Their current boat and jet ski equipment is able to handle launching and returning to natural entry points that are already commonly used in Mana’e. • What is the definition of small-scale to those who want a boat ramp? Look at what happened to Hana, Maui. They wanted a small boat ramp, but after having to comply with multiple regulations ended up getting a big boat ramp that threatens to bring a lot of boat traffic in that sensitive, rural area with important fishing grounds for subsistence. We in Mana’e should be careful about the precedent we might set by asking for a boat ramp, even if we intend to have small-scale, it may be out of our hands in the end after having to meet required government specifications. • We need to be concerned about letting a “foot in the door” which threatens to bring not just one big boat, but more and more over time, and suddenly our rural lifestyle is changed forever. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

Site-Specific Concerns
<p>1) Manawai</p> <ul style="list-style-type: none"> • Boat ramp at Manawai (in front or near Wavecrest Condos) should not be an option. The impacts are too great. • Multiple fishponds in area: Puhaloa, Welelau'ulu, Kaunahiko'oko or Onahikoko, Unnamed fishpond • Underwater heiau in Manawai, part of kino (body) - a complex of multiple heiau on mountain, lowlands, and in ocean. • Fishponds are not navigable waters subject to the U.S. Commerce Clause • Fishponds are private property and also considered historical sites. • A fishpond in Manawai area is utilized for limu cultivation. A boat ramp would disturb this rich limu grounds.
<p>2) Puko'o</p> <ul style="list-style-type: none"> • Delete this option because a boat ramp here is inappropriate. • In 1984, 32 acres of the formerly known as Puko'o or Ilae's fishpond and fast lands, TMK 5-7-007-021 and TMK 5-7-007-087, were reclassified from the State Land Use Commission from Urban-Hotel (six stories) to Agricultural-Rural land use boundaries. This land use reclassification was purposefully done to be compatible with the rural cultural lifestyle of east Molokai. • This area is a high flood hazard and tsunami inundation zone. As evidenced on the U. S. Army Corps of Engineers flood boundary maps. • In the proximity of the ocean and along the shoreline is a historic property landmark. which is owned by the State of Hawaii , TMK 5-7- 07-64 • Panahaha fishpond at Puko'o is identified as Site 202, the Pacific Anthropological Record #14 Bishop Museum, Molokai: A Site Survey by Catherine C. Summers. Panahaha is 13.8 acres and a loko umeiki (fishtrap). This type of pond is unique to Moloka'i and is one of only 2 located on the east end.
<p>3) North Shore Access</p> <ul style="list-style-type: none"> • Need to more carefully consider impacts and whether any improvements for boat access to North Shore should occur. • What boat access points will be considered? Honouliwai? Halawa? Kalaupapa? • Do we want North Shore to be more easily accessible? • Potential threat to pristine resources of North Shore. Impact to hiiwai, 'o'opu and sensitive habitats. • Increased access to North Shore will increase fishing pressure. • Delete this option as it will degrade North Shore resources.

4) Kamalo

- No boat ramp in Kamalo.
- There are kama'āina from Kamalo who enjoy this area for picnics, camping, and family gatherings. This place is special to them. We should not change the character of this special place by building a boat ramp and altering the marine benthic environment with heavy machinery.
- Increased boat traffic into and out of Kamalo would also destroy the character of this place that is an important area to Kamalo families who teach their children to swim, crab, gather limu, and fish.
- Ultimately, the Kamalo people should decide because they will be most impacted by changes to their shoreline and reefs.
- There should be no major repair, restoration, or expansion of the old Kamalo Wharf and docking area. Boats should not be encouraged to park at the dock for prolonged periods, except for small boats owned by Kamalo families.

5) Community Sentiment on Boat Ramps in General in Mana'e

- Absolutely no altering of marine benthic environment.
- Absolutely no dredging of reef.
- Absolutely no destruction of fishponds.
- No use by commercial tour operations from off-island.
- No use by commercial fishermen from off-island.

Recommendations

No action and no preemptive action should be taken by the Maui County Council, Maui Planning Department, Molokai Planning Commission and any other appropriate county entity, State and Federal government actors and agencies to authorize and/or permit a boat ramp in Mana'e without the free, prior, and informed consent of the Mana'e community. The Mana'e community represented by parties and individuals who both support and oppose a boat ramp have mutually agreed to have the 'Aha Kiole o Moloka'i facilitate further discussions on this issue. They reserve the right to undergo their local and customary process of internal decision-making before coming before County, State, and Federal agencies to determine what action is appropriate and feasible for Mana'e. For further information about the role of the 'Aha Kiole o Moloka'i within the overall formal government framework within the State of Hawai'i, please review Appendix B. It should also be noted that while the 'Aha Kiole O Moloka'i provides expertise on integrating indigenous resource management practices with western management practices and utilizes indigenous governance protocols, it engages as a modern-day best practice the input and participation of all people from all races and ethnic groups who reside on Moloka'i.

For reference of consultative and active participation processes described as *Free, Prior, and Informed Consent (FPIC)* as a protocol recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the text of this

document is provided as Appendix C to our 2016 East End Policy Statement. Also incorporated here as Appendix D, and as a reference, legal authority, and guide is the federal Advisory Council on Historic Preservation's (ACHP) advisory issued on "Section 106 and the U.N. Declaration on the Rights of Indigenous Peoples: Intersections and Common Issues: Article 18 and Section 106" for matters that may impact Native Hawaiian historic and cultural sites that are listed or are eligible for inclusion on the State and National Registers for Historic Preservation (e.g., fishponds, underwater heiau, traditional fishing ko'a and shrines), and traditional/cultural landscapes, that may be impacted by the placement of a boat ramp and associated improvements (e.g., shoreline alteration, fishpond destruction, reef dredging, marine benthic excavation, etc.).

III. ENVIRONMENT AND NATURAL RESOURCES

Mana'e's environment, rich in natural resources, is a sensitive ecological system that requires the utmost in careful planning for its survival.

Water – The East End is blessed with abundant rain and numerous perennial streams. The North Shore Valleys exemplify this condition. Management of feral animal populations is required for watershed health; a healthy watershed is necessary to maintain storage capacity.

Soil - The quality of rainfalls and limited human interference has retained much of the fertile soil once found over many places on Moloka'i. Careful land management, including preservation of coastal wetlands, is important to control loss of valuable soils to erosion.

Ocean – The rich environmental characteristics of the land give rise to a pristine ocean ecosystem correspondingly as rich. Both nearshore and ocean gathering opportunities are important to maintain the traditional lifestyle of Mana'e's people.

Flora and Fauna - Many areas on the East End contain habitats where indigenous plant life still exists, as on the ridges between *Pelekunu* and *Wailau* Valleys. These habitats, whether mountain or coastal, provide the unique ecosystems necessary for endangered life to survive, and must be adequately protected and preserved.

Wetlands are numerous along the coastal regions of *Mana'e* and provide the recycling basins that control normal pollutants and minimize the impact of sedimentation on ocean systems. These areas further provide habitats for endangered birds as well as nesting grounds for several migratory species.

In short, the natural resources found on the East End of Moloka'i are extensive and require careful treatment in light of the following natural and man-made hazards they face:

Erosion - Being the most erosion-prone island in the Hawaiian chain, overgrazing of natural and introduced vegetation can have detrimental effects. The indigenous varieties of grasses (i.e. *pili*) cannot stand being eaten to the roots and trampled upon, necessitating careful management of pasture and *kula* lands. Monitoring of domestic and wild grazing animal populations by the community is of the utmost necessity. Hunting opportunities should be allowed for Molokai residents. The indiscriminate slaughtering of wildlife game should be subject to stiff penalties.

Flooding is common through the many stream beds and low lands found in *Mana'e* as evidenced on the U.S. Army Corps of Engineers flood boundary maps. The intensive use of coastal low lands for resort or multifamily is not recommended since the required modifications to the environment to overcome these problems, (stream diversions, excessive land fill, sewage treatment), would have destructive ecological effects.

Tsunami inundation areas are common along the eastern coastal areas. The many natural harbors and fishponds at the base of the steep-walled valleys serve to "funnel" these tsunamic ocean surges, and greatly accentuate the damage they can produce. Intensive coastal land use, particularly multi-family or resort use, is discouraged in view of this hazard. Intensive coastal land use in multi-family – resort is discouraged in view of this hazard.

High Water Table The low lying coastal areas of *Mana'e* are subject to tidal surges. Development, particularly commercial development for multi-family or resort use, with the corresponding sewage disposal problems that can irreparably damage ground water and marine resources, is discouraged in these areas and should be located in regions where such impacts can be minimized or avoided.

Mana'e is unique because of her environment and the natural resources it contains. To allow planning that would jeopardize the health of its environment would cause irreparable damage and loss. Losing this intricate part of *Mana'e* will make the East End just another destination area, like many other places in Hawai'i.

Recommendations

The Mana'e GIS Mapping Project (2008) is incorporated herein as Appendix E. The recommendations made in that report are hereby adopted by the *Mana'e* community in this updated East End Policy Statement and encouraged for integration as policy and action items within the body of the Molokai Community Plan where appropriate. The *Mana'e* GIS Mapping Project was initiated by Mālama Pono o Ka 'Āina, *Mana'e* Kupuna and community members due to a concern that too much development in wetlands and "wet lands" (including ancient fishponds and lands that were traditionally cultivated in taro and other food crops) were being cleared and filled in for housing development. The project was also

commissioned by the Maui County Planning Department with the intent of incorporating it into the updated Moloka'i Community Plan. It provides GPS maps of important natural and cultural resources that warrant greater protection by the County Planning Department and other land use agencies, as well as the Moloka'i Planning Commission.

As stated above, the Mana'e TCP Report (Appendix A) is incorporated into this East End Policy Statement. It contains detailed ahupua'a-based resource management strategies for watershed protection, ungulate control, agriculture, aquaculture, and food production, stream and spring restoration, native plant propagation and supporting native ecosystems in Mana'e. These objectives and action items can be found more conveniently in Tables 5.1 and 5.3 of the Mana'e TCP Report as Appendix F. The Mana'e community formally adopts the measures included there into this East End Policy Statement and encourages their inclusion as policies and action items within the Molokai Community Plan Update where appropriate.

IV. CULTURAL RESOURCES AND TRADITIONAL LAND USES

For the Native Hawaiian, Mana'e was figuratively any place "more East" of where they lived; and with their tradition, this meant "closer to the sun". The Hawaiians looked towards the East as symbolic of their beginnings as a race of people and of their culture. Their *hale* faced the East, reflecting this orientation. Mana 'e was considered more traditional, so to speak.

It is within this context that an East End Molokai, or Mana'e plan should be designed. This section serves to describe the traditional resources of the East End, historically and presently, and at the same time, direct this policy statement towards a more beneficial and realistic land use with respect to traditional values.

The Mana'e community wishes to include here the provision of the Hawai'i State Constitution, Article 12, Section 7, which recognizes Native Hawaiian traditional and customary rights:

"The State reaffirms and 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 right of the State to regulate such rights".

The Mana'e community further wishes to include the provisions of the Hawai'i State Constitution, Article 11, Sections 1 and 7, which recognize that water is a public trust resource:

Section 1: "For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and

shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.”

Section 7: “The State has an obligation to protect, control and regulate the use of Hawaii’s water resources for the benefit of the people. . . .”

The full text of these constitutional and statutory laws are provided in Appendix H.

Traditional lands are considered to be land formerly or presently employed in traditional Hawaiian uses. More specifically, this would be land remaining ideally suited to embody the concept of Aloha Aina, Land Care rather than Land Use, where the aloha dedication and concern given to the aina was returned, providing all the needs and wants required to sustain this traditional love. Fertile soil and the proximity of adequate water would be conditions of traditional agricultural land.

Presently, Mana'e contains a large inventory of traditional lands. Historically, Hawaiians knew no land ownership. They shared the land. There were political divisions of land called ahupua'a, or districts with natural geophysical boundaries. There were areas where Hawaiians built their homes, raised their families and grew their 'uala (sweet potato), now called kuleana. There were also areas where they cultivated their kalo (taro), together, as a community. Access to the mountains for gathering of materials for building or for medical needs were guaranteed as was access to and along the shoreline for fishing. In addition, the Hawaiians collectively built, stocked, managed, and shared the resources of their ahupua'a fishponds. Fresh water was essential for personal needs, and Hawaiians knew that the streams had to empty into the ocean in order to continue the delicate brackish water environment for spawning of fish and the harvesting of limu (seaweed). These very streams also fed the 'auwai (aqueduct) to sustain the lo'i kalo, which in turn supplied the fishponds with all the nutrients necessary for maximum productivity. Above all, there was a strong sense of community kuleana for survival of generations to come, dependent upon the care of the resources of the mountains, flatlands, marshlands, fishponds, reefs and ocean.

Even given the social, economic, political and environmental conditions of Hawaii today, and particularly Molokai, one cannot ignore the relative integrity of the East End area's cultural resources. There are numerous archeological sites (most yet to be surveyed), perennial streams, marshlands which were cultivated with kalo, fishponds, bountiful coastal areas and limited accesses maintained for hunting and fishing. The interconnecting of the environment with the resident for his well-being and survival, continues to play a major role in the lives of Mana'e residents. The embodying concept of aloha 'āina with regards to traditional land use is even more important today in light of economic and development pressures. There is a strong identification of Hawaiians with

their Mana'e lands, and a supportive community for a subsistence kind of lifestyle and desire for this way of life, which is more in keeping with the ways of the kūpuna (elders), and the previous occupants of this area.

The people of Mana'e wish to permanently secure this style of living, traditional in basic philosophy. This is their privilege, given judicial, legislative or administrative resolutions for an alternative plan that might be developed. The following are recommendations, given the fragile environment, traditional land uses and cultural lifestyle of the East End of Moloka'i:

Recommendations

1. Conserve and preserve the integrity of archaeological sites, both large and small. Complete documentation of all sites to support preservation of the cultural integrity of such sites or districts. Nominate sites to the State and Federal registers of historic places, including renominating all sites that were dropped from the State Register of Historic Places in 1979. Appendix G provides the University of Hawai'i Archaeological Training Project, Kamalō which provided an inventory survey of archaeological sites in Kamalō. The sites identified in the Kamalō survey, all sites referenced in Catherine Summers Molokai Site Survey book and subsequent archaeological reports and cultural impact assessments completed over the years and that will be conducted in the future should also be included for nomination to the State and National Register of Historic Places.
2. Full consideration shall be given to locations which have religious and cultural significance to the people of Mana'e. Scientific and formal historical considerations do not necessarily reflect all the cares and concerns of the Native Hawaiian and Mana'e residents.
3. Consideration should be given to inventory access trails and roads as traditional and cultural features.
4. Support access for practitioners to mauka and makai areas for hunting, gathering and traditional cultural practices. Guarantee access pursuant to appropriate management plans, guarantee access for practitioners to mauna and makai areas for hunting, gathering, and traditional and customary practices; historic sites, sacred and traditional places, and Wailau.
5. Review land use policies for all coastal areas, wetlands, and lands engineered for kalo cultivation (lo'i kalo/'auwai) to preserve those lands to their cultural and environmental purpose. Work to preserve lands previously used for kalo cultivation for kalo cultivation.
6. Because of the high potential for aquaculture use of fishponds, there should be blanket recognition that these areas should not be developed for any

other purposes. Archaeological and historic concerns shall be considered before reuse of fishponds to preserve scientific knowledge contained. Effort shall be made to preserve and maintain any fishpond system complex such as hatchery, pond, or trap characteristics.

7. Discourage tourist related accommodations or businesses which will subsequently change the social infrastructure of the area.
 8. Encourage cultural and traditional land use programs.
 9. Ensure that traditional and culturally significant lands are conserved, preserved, and protected. Consider designations to protect and preserve traditional lands under the State of Hawaii, Department of Land and Natural Resources' conservation regulations, through County zoning, or other appropriate method, including the creation of a Traditional Land Use (TLU) Overlay. As mentioned above, the Mana'e GIS Mapping Project (2008) is incorporated herein as Appendix E and adopted by the Mana'e community in this updated East End Policy Statement for integration as policy and action items within the body of the Molokai Community Plan where appropriate. One of the important outcomes of that project was a recommendation to create a Traditional Land Use (TLU) Overlay. The purpose of the TLU Overlay is to protect Mana'e's numerous cultural and natural resources that form one of the most intact cultural landscapes in all of Hawai'i. Many Mana'e residents, especially the kama'āina, have a strong interconnection with the land and these resources, including for subsistence uses, as well as for religious, spiritual, and ceremonial purposes. We agree with this recommendation and therefore, formally incorporate it here in this East End Policy Statement and encourage integrating a TLU Overlay within the updated Moloka'i Community Plan. This is in keeping with the Maui County Planning Department assurances that it would work towards creating a TLU Overlay.
 10. Support proper management of fresh water resources in order to ensure sufficient water for food production, drinking water, native stream life, healthy estuaries, and ground water recharge. The health of our streams and nearshore estuarine environments depend upon sufficient freshwater discharge. Pursuant to the Hawai'i Constitution, Article XI, sections 1 and 7, water is a public trust resource, held in trust by the State for the benefit of the people, for both present and future generations. Public trust purposes, which receive priority over private commercial uses, include domestic uses, Native Hawaiian and traditional and customary rights, appurtenant rights, environmental protection, and reservations for the Department of Hawaiian Homelands.
- A. Hālawā Valley Hālawā Valley is incredibly rich in archaeological and cultural properties. The 1975 Bishop Museum survey (which only is partially complete) has

identified the oldest habitation site yet found on Moloka'i. The study reveals astounding patterns of pre-historic ecological adaptations by our Mana'e kupuna. Hālawā contains many heiau, pu'uhonua, ko'a, fishponds, habitation sites, complex after complex of lo'i and their auwai systems, all of which are in an excellent state of preservation.

There are seasonal surfing conditions, which are among the best for Molokai. There is presently private access through Haka'ano for hunting.

Recommendations

1. Encourage managed public access for recreation, hunting, and other subsistence activities as well as a protocol for the exercise of traditional and customary activities by the Hawaiian community.
2. Encourage plans for cooperative lo'i kalo cultivation, land restoration using native (indigenous) plant materials, and designated camping facilities.
3. Encourage proper use of Hālawā Bay by surfers, boaters and other recreational users.
4. Encourage development of a cultural resource management plan with strong community input.

- B. Kukui O Lanikaula The traditional home of *Lanikaula*, the famous prophet of Moloka'i in the 16th century, who counseled and prophesied in a manner for which he was respected throughout Hawai'i Nei. His *kuku'i* grove is still considered by Hawaiians today as sacred, and of religious significance for traditional practitioners.

Recommendations

1. Immediate plans for erosion control and replanting of the *kukui* tree grove should be made. Appropriate access to the grove should be provided, with development of a management plan. Consider supporting purchase of the area by a governmental or private entity in order to facilitate traditional and religious use.

2. This area should not be promoted by the visitor industry.

- C. Pu'u o Hoku In recent years, there has been a renewed interest in Polynesian navigation. Theories have been developed and tested by the voyaging canoe Hokule'a, that include Pu'u o Hoku as a navigational site, but more explicitly, an area where the ancient Hawaiian navigators would study and then teach this navigational skill for the journeys back to Tahiti.

Recommendation

This pu'u should be restudied and preserved as a traditional area for observation and teaching. Access should be negotiated.

D. Ke'ana O Hina (Hina's Cave) *Molokai-nui a Hina* (Moloka'i Great Child of Hina) is one of the ancient names attributed to our island. Hina is Moloka'i's mother. It is said that she resided in Kalua'aha. All other islands in Hawai'i, according to tradition, were born from *Papa* (Earth Mother). This mating of *Wakea* Father Sky with the goddess *Hina* has made Moloka'i special for those who can call Moloka'i their ancestral home. The site is located on private lands where cattle ranching operations take place. Kama'aina have reported that the cave of Hina has collapsed.

Recommendations:

1. Restore Hina's cave.
2. Work with private landowner to cordon the area off and institute appropriate protections from physical damages and deterioration from erosion.
3. for protection from cattle and other sources of erosion
4. Consider institution governmental protections through "Natural Area Reserve" designation or other appropriate measures.
5. Provide responsible and appropriate access for traditional and customary Hawaiian religious and ceremonial practice.
6. This site should not be promoted by the visitory industry.

E. Nā Pu'uohonua or Wahi Pana (Cultural Refuges and Sacred Places) of Mana'e

There are numerous areas in *Mana'e*, some associated with *heiau*, which are still considered today as sacred places and should not be altered, for example, *Kakahaku* (*Moanui*), *Paku'i* (*Manawai*) and the areas of *Kalua'aha* and *Mapulehu*. Because of their significance, plans for alteration should be reviewed to ensure that activities, even if they don't meet the definition of "development" will not affect the integrity of the "*mana*" of the place.

V. SOCIAL AND ECONOMIC RESOURCES

Mana'e is made up of people with a wide variety of backgrounds, origins and cultures. The majority of the community shares a common system of values best explained by the following:

1. A profound concern for the land and the care it deserves.
2. An avid interest in the ocean for its recreational value as well as for the bountiful sustenance it can provide.
3. A deep respect for Hawaiian culture, past and present.
4. A strong sense of community, and aloha for the *Mana'e* lifestyle.

According to Nov 2015 draft of Molokai Community Plan “The 2009-2013 estimated median family income (MFI) for East Moloka’i was \$51,807 which was 65% of the \$79,963 statewide MFI; West Moloka’i MFI was \$44,656 which was 56% of the statewide MFI.” Updated census data is currently unavailable; however, it was estimated from the previous East End Policy Statement that Mana’e has over 200 households, averaging 3.7 persons each. This limited breakdown suggests growth pattern guidelines must be unusually strict to prevent commercial development displacement of the larger portion of this population. By income and educational measures, *Mana’e* residents cannot compete with the average state-wide levels and planning; the County of Maui / Moloka’i Community Plan must reflect this concern. Economic growth has to proceed with this value/income system in perspective.

Recommendations

1. Pursuing economic opportunities that are suited to the skills of the residents and that sustainably utilize resources of the land will help retain Mana’e’s rural lifestyle and aid in the preservation of Mana’e’s many unique cultural and natural resources for the next generation. Any economic development plans for Mana’e should limit and discourage tourism-related industries, and instead focus on ecologically responsible and sustainable agriculture, aquaculture, and other small scale industries.
2. A preferred economic development model to follow would be one that makes use of the present natural and social resources available in Mana’e. The East End residents urge the County of Maui to coordinate the various State, private and county agencies into a meaningful attempt to develop an economic strategy for Mana’e.
3. Appropriate areas for consideration include Aquaculture, Agriculture and mini-cottage industries that are compatible and consistent with the rural and traditional community values and unique qualities East End residents desire to preserve. Examples of appropriate economic development can be found in Appendix F.

These proposals can compatibly coexist within the value framework of the East End community, and compete in the market economy. The resident opinion is to stress the desire to preserve this lifestyle we have, and tailor growth so as not to lose the greater part of it, or forfeit the options we leave for our children.

VI. LAND USE

Many of the goals meant to help preserve the rural lifestyle of *Mana’e* have to do with land use. *Mana’e* has many conditions and problems confronting residents in this area. Its problems need to be clearly understood to effectively provide the answers the community seeks to ensure their local lifestyle can continue for future generations. The following concerns can be examined in order to better understand existing conditions.

The *Mana'e* community was ahead of its time to recognize in 1981 the need for better land use policies to protect and preserve the unique aspects of rural Hawaiian community life, cultural resources and environment. Many of the specific concerns noted in the EEPS (1981) are covered by existing State and County laws and regulations in 2016.

A. Ownership, Titles and Boundaries

Land ownership in *Mana'e* is generally held in two size groups, both of which follow boundaries as granted in the Great *Mahele* of 1835-1848. The large *ahupua'a* of the former kings and chiefs have become the estates of today, while the small *kuleana* grants of the tenant farmers have become the agricultural residences of the East End. Historic factors such as natural disasters, economic requirements, military commitments and educational needs have caused shifts of population to other areas of the State for entire generations at a time. Absentee owners of today do not always know the exact physical location of their lands. *Ahupua'a* ownership and metes and bounds have remained fairly clear within the large family estates, while *kuleana* ownership, on the other hand, often has not.

The socio-economic position of the typical *kuleana* owner over the 130-year period has produced a descendant heir ownership problem that has made 50% of the *kuleana* land untradeable because of unclear title, the cost of quiet title proceedings, and the number of multiple owners on *kuleana* parcels. The smaller *kuleana* grants have not been as clearly defined as the larger estates. The peculiar historic arrangement of original boundaries, the inaccuracies of original surveying techniques, as well as sheer numbers all contribute to a descendent heir ownership of *kuleana* lands that is problematic.

B. Taxes

In this respect, both the *ahupua'a* and *kuleana* land owners are in the same problem category. The increase in land tax has created financial hardships. The *ahupua'a* owner is usually able to manage any increase in land taxes; the *kuleana* owner often is not.

These unique *Mana'e* situations combined with the conventional statewide problems of land tax and development produce hurdles over which responsible land use and land tax assessment becomes a problem. Tax burdens on *kuleana* may be alleviated by assessments based on actual use, rather than potential use value.

Recommendation

Encourage residents to explore existing *kalo* and *kuleana* land tax relief options.

C. Geography

The physical problems facing responsible land use are another unique aspect of *Mana'e*. Although statistically the East End contains one-half of Molokai's land area, the actual

acreage suitable for intensive land use is well below that figure. The high mountain range and accompanying valleys leave only a small portion available, making any subsequent development produce a far greater long-range impacts than might be first anticipated.

VII. A LEGAL FRAMEWORK FOR LAND USE POLICY, PERMITTING, AND DECISION-MAKING

The following section provides an important legal framework in which agencies are must follow when engaging in decision making actions that may impact Native Hawaiian traditional and customary practices. Hawai'i Revised Statute § 1-1 guides agencies to look to Hawaiian judicial precedence and custom and usage in making their decisions. Agencies are required to protect their kuleana rights of *hoa'āina* or kuleana.

A. The 'Aha Kiole: The People's Councils and The Eight Realms of Decision Making

“According to Kumu John Ka'imikaua the purpose of the 'aha councils was to utilize the expertise of those with 'ike (knowledge) to *mālama 'āina*, to care for the natural resources, and to produce food in abundance not just for the people, but for successive generations. 'Aha council leadership was determined by the people who collectively understood who the experts were in their community.’³

With this in mind, when you look at Hawaiian custom and usage, the ancient traditions of which Moloka'i's 'āina *momona* was based upon are the eight realms of decision making from the ancient 'aha councils. Historically, the 'aha councils of Moloka'i considered the following eight realms before making their decisions:

- 1) ***Moana-Nui-Ākea*** – the farthest out to sea or along the ocean's horizon one could perceive from atop the highest vantage point in one's area.
- 2) ***Kahakai Pepeiao*** – where the high tide is to where the *lepo* (soil) starts. This is typically the splash zone where crab, *limu* (seaweed), and 'opihi (limpet) may be located; sea cliffs; or a gentle shoreline dotted with a coastal strand of vegetation; sands where turtles and seabirds nest; or extensive sand dune environs.
- 3) ***Ma Uka*** – from the point where the *lepo* (soil) starts to the top of the mountain.
- 4) ***Nā Muliwai*** – all the sources of fresh water, ground/artesian water, rivers, streams, springs, including springs along the coastline that mix with seawater.
- 5) ***Ka Lewalani*** – everything above the land, the air, the sky, the clouds, the birds, the rainbows.
- 6) ***Kanaka Hōnua*** – the natural resources important to sustain people. However, management is based on providing for the benefit of the

³ Malia Akutagawa, Shaelene Kamaka'ala, Harmonie Williams, et al., OFFICE OF HAWAIIAN AFFAIRS, TRADITIONAL & CUSTOMARY PRACTICES REPORT FOR MANA'E, MOLOKA'I, 47 (2016).

resources themselves rather than from the standpoint of how they serve people.

- 7) **Papahelōlona** – knowledge and intellect that is a valuable resource to be respected, maintained, and managed properly. This is the knowledge of the kahuna, the astronomers, the healers, and other carriers of ‘ike.
- 8) **Ke ‘Ihi‘ihi** – elements that maintain the sanctity or sacredness of certain places.⁴

This ancient decision making matrix honors our ancestral past and wisdom, by looking to the needs of the present and ensuring that our decisions provide for abundance for future generations yet unborn. For every decision made and every land use proposal, any proposed amendments to the Moloka‘i Community Plan or any permit request, should be analyzed according to the impacts of these eight realms and the decision making matrix should be applied because these are customary laws from ancient times, which were codified by the Kingdom, and adopted by the State of Hawai‘i. These laws are inherent rights of Native Hawaiians to self-determination and sovereignty.

Additionally, international law recognizes the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which President Obama signed this into law in 2010. Since then, various federal advisory councils that serve as advisory bodies to federal agencies, have provided guidelines for which to implement UNDRIP and to implement provisions for free, prior, and informed consent of native peoples. As such, we here by adopt the UNDRIP and its underlying principles as a mandate that the State and County government must adhere to in making land use decisions in collaboration with native individuals and communities on Moloka‘i.

‘There are certain vested rights of native Hawaiian ahupua‘a tenants (hoa‘āina) that have their origins in the ancient land tenure system. This customary law was codified by the Hawaiian Kingdom and later adopted by the State of Hawai‘i. The State has reaffirmed these rights in its Constitution and statutes. A unique body of jurisprudence has developed around these laws which reflect a heightened obligation by the State and its political subdivisions to reasonably protect traditional and customary Native Hawaiian rights on both public and private lands.’⁵

The native people of Mana‘e and Moloka‘i continue to strongly with their cultural practices and their relationship to ‘āina. For these reasons, this community plan is a reflection of self-determination and the community’s right to determine its own autonomy. As a people, the greater Hawaiian community is exploring different avenues to attain sovereignty. However, as the Mana‘e and Moloka‘i

⁴ Interview with Dr. Kawika Winter, Director, Limahuli Garden and Pres., Hā‘ena Makai Watch Coordinator, and former member of the late Kumu John Ka‘imikaua’s Halau Hula o Kukunaokalā in Honolulu, Haw. (Dec. 10, 2014).

⁵ Akutagawa, Kamaka‘ala, Williams, et al., TRADITIONAL & CUSTOMARY PRACTICES REPORT FOR MANA‘E, *supra* note 4 at 58.

community engages with local government, international, federal, state, and county laws need to be recognized and upheld.

B. Sources of Native Hawaiian Rights Law

The Hawai'i State Constitution reaffirms these rights--particularly Hawaiian access rights--which are protected in ones ahupua'a of residence⁶ or if shown to be customary, in other ahupua'a without the benefit of tenancy if shown that this was the accepted custom and long-standing practice.⁷ All State and County agencies and decision making bodies are obligated under the Hawai'i State Constitution and various statutes to ensure that these Hawaiian rights are not regulate out of existence. There are affirmative obligations to protect Hawaiian custom and usage and the resources that Native Hawaiians depend upon.⁸ State and County agencies must make an independent assessment regarding the impact that a proposed action may have on Native Hawaiian traditional and customary practices, and must consider the following three factors:

(A) 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;

(B) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and

(C) the feasible action, if any, to be taken . . . by the [State and/or its political subdivisions] to reasonably protect native Hawaiian rights if they are found to exist.⁹

C. 'Ohana Values: The Foundations of Hawaiian Traditional and Customary Practices

'Dr. Davianna Pōmaika'i McGregor interviewed a large number of kama'āina informants residing in "cultural kīpuka" (rural areas that have maintained cultural understandings and practices)¹⁰ who identified common 'ohana cultural values and customs for subsistence and mālama. It is the essence of these understandings that should be the standard by which to measure whether

⁶ FORMAN & SUSAN K. SERRANO, HO'OHANA AKU, A HO'OLA AKU HO'OLA AKU: A LEGAL PRIMER FOR TRADITIONAL AND CUSTOMARY RIGHTS IN HAWAII' I 9 (2012) [hereinafter FORMAN & SERRANO, HO'OHANA AKU, A HO'OLA AKU] (citing Kalipi, 66 Haw. at 9, 656 P.2d at 750).

⁷ Pele Def. Fund v. Paty (*Pele I*), 73 Haw. 578, 620, 837 P.2d 1247, 1272 (1992). See FORMAN & SUSAN K. SERRANO, HO'OHANA AKU, A HO'OLA AKU, *supra* note 7, at 13 (citing *Pele I*, 73 Haw. at 620, 837 P.2d at 1272).

⁸ Ka Pa'akai O Ka 'Aina v. Land Use Comm'n, 94 Hawai'i 31, 7 P.3d 1068, 1083 (2000).

⁹ FORMAN & SUSAN K. SERRANO, HO'OHANA AKU, A HO'OLA AKU, *supra* note 7, at 17 (citing *Ka Pa'akai*).

¹⁰ DAVIANNA PŌMAIKA'I MCGREGOR, NĀ KUA'ĀINA: LIVING HAWAIIAN CULTURE, 21 (2007).

something is a customary practice or not.¹¹ According to Dr. McGregor, what distinguishes Hawaiian custom and practice is the honor and respect for traditional 'ohana cultural values and customs to guide subsistence harvesting of natural resources. Such 'ohana values and customs include but are not limited to the following:

- 1) Only take what is needed.
- 2) Don't waste natural resources.
- 3) Gather according to the life cycle of the resources. Allow the native resources to reproduce. Don't fish during their spawning seasons.
- 4) Alternate areas to gather, fish and hunt. Don't keep going back to the same place. Allow the resource to replenish itself.
- 5) If an area has a declining resource, observe a kapu on harvesting until it comes back. Weed, replant and water if appropriate.
- 6) Resources are always abundant and accessible to those who possess the knowledge about their location and have the skill to obtain them. There is no need to overuse a more accessible area.
- 7) Respect and protect the knowledge which has been passed down inter-generationally, from one generation to the next. Do not carelessly give it away to outsiders.
- 8) Respect each other's areas. Families usually fish, hunt, and gather in the areas traditionally used by their ancestors. If they go into an area outside their own for some specific purpose, they usually go with people from that area.
- 9) Throughout the expedition keep focused on the purpose and goal for which you set out to fish, hunt, or gather.
- 10) Be aware of the natural elements and stay alert to natural signs, e.g. falling boulders as a sign of flash flooding.
- 11) Share what is gathered with family and neighbors.
- 12) Take care of the kūpuna who passed on the knowledge and experience of what to do and are now too old to go out on their own.
- 13) Don't talk openly about plans for going out to subsistence hunt, gather, or fish.
- 14) Respect the resources. Respect the spirits of the land, forest, ocean. Don't get loud and boisterous.
- 15) Respect family 'aumakua. Don't gather the resources sacred to them.¹²

VIII. SUMMARY

The East End Policy Statement contains changes, extends existing guidelines, and includes many innovative measures. We are a community existing as a result of our history. We work to protect that which makes *Mana'e* unique for ourselves, our children,

¹¹ Akutagawa, Kamaka'ala, Williams, et al., TRADITIONAL & CUSTOMARY PRACTICES REPORT FOR MANA'E, *supra* note 4 at 7-58.

¹² DAVIANNA MCGREGOR, THE NATURE CONSERVANCY, CULTURAL ASSESSMENT FOR THE KAMAKOU PRESERVE, MAKAKUPA'IA AND KAWELA, ISLAND OF MOLOKA'I 16-17 (2006).

and generations yet to come, by responsibly planned growth. The provisions in this statement are attempts to avoid problems that have occurred many times elsewhere in Hawai'i as a result of irresponsible growth.

The community is made up of many individuals and must reflect the concerns of all, regardless of land ownership or economic position, in order to be representative and meaningful. Commercial development cannot continue to substantially alter community patterns, trading the benefit of economic gain for the expensive loss of community identity, values and its precious lifestyle. Development is welcome, but must be made realistically responsible to the people it affects, or, as elsewhere in Hawaii, we may become victims of the growth we seek without realizing the losses we may suffer. Investors will, we hope, share in the solution of community problems, not only profit from the valuable natural and social resources *Mana'e* has to offer.

MAUNALOA POLICY

I. INTRODUCTION AND DESCRIPTION:

This **MAUNALOA POLICY** Statement was prepared by the *West End* community. We as a people believe the West End planning is best accomplished by the comprehensive and meaningful input of the majority of the residents. The following document is presented, in this light, to the 2015 Molokai Community Plan Committee for the County of Maui, and is intended as a general guide in formulating future planning for growth within this West End area.

It was compiled from published survey data, current tax and land use maps, Community Plan speaker information, various county and state agency information, and extensive *West End* community input over the past year. Technical accuracy is as correct as possible under the circumstances this policy was prepared. The community welcomes correction and/or updating to the guidelines in this respect only, through the various steps this plan takes to adoption. That the main direction and goals of this statement remain intact to preserve and reflect the spirit under which it was prepared and the consensus of the *West End* Community Plan.

West End is defined as: to the *West* - a direction.¹ Thus, having a "magnetic" or "sunset" orientation. The description of the "*West End*" as applied to this statement includes the areas by *ahupua* 'a place name.²

The boundaries are from *Papohaku* to *Waiakane* on the South Shore of the West and from *Kawahiau* to *Naaukahihi* on the North Shore of the West; and from *Kawahiau* to *Papohaku* on the West Shore; and from *Kawailoa* to *Naaukahihi* on the East Shore of the West.³

The *West End* presently, is a fragile, narrow, coastal community, serving as residences. Land ownership for the largest portion is under Molokai Ranch control. The three main differences distinguishing from the rest of Molokai are her geography, her environment, and her people. To these values can be added statistical figures showing over 376⁴ households, averaging 3.7 persons each (approximately 1,504 population),

¹ United States Department of the Interior Geological Survey Map, Island of Molokai, 1952.

² Pukui, Hawaiian Dictionary, 1971, University of Hawaii Press.

³ Hawaiian Government Survey Map of Molokai, Triangulation by W.D.Alexander and M.D.Monsarrat, 1897; Map by F.S.Dodge. C.J.Willis and S.M.Kanakanui.

⁴ Data from 2013 www.city-data.com/city/Maunaloa-Hawaii.htm.

with median incomes of \$39,000.00⁵ per year, which includes wealthy owners in Kaluakoi.

The median income for the majority of Maunaloa community's population is \$8,000.00 to \$15,000.00.⁶ The great majority is in federal and state funded housing. The great number of the Maunaloa residents is on welfare, section 8 assistance, or both. There are fee simple lots interspersed. Many of the Maunaloa residents survive within the subsistence economy of hunting and fishing.

West Molokai includes the mountain range with *Kopala and Amikopala* peaks reaching 3,000 feet above sea level. The ridges and valleys sloping off this range provide rugged and natural barriers. Natural sandy beaches wind along the coastline. The coastline harbors a large variety of marine life.

Within this geography and environment reside the residents of Maunaloa, with its inherent challenges of a dense population in close living quarters. The goals of this policy statement is to improve and enrich the lives of the *West End* residents.

II. SUBSISTENCE:

Molokai is home to one of the few remaining rural communities in the state recognized as a cultural kipuka, a repository of Native Hawaiian values, knowledge, and practices.⁷ Apart from Ni'ihau, the island is home to the highest percentage of Native Hawaiians. Molokai, unlike the rest of the state, has also continued to retain a substantial amount of available lands and resources for traditional and customary and subsistence practices. Such traditions and customs are actively practiced and evolving. Many Molokai families rely upon traditional and customary and subsistence practices, not just to feed their families, but to contribute to the perpetuation of Native Hawaiian culture, spirituality, and connection to the land and ancestors. As a cultural kipuka, Molokai is thus an "[oasis] from which traditional Native Hawaiian culture can be regenerated and revitalized."⁸

⁵ Data from 2013 www.city-data.com/city/Maunaloa-Hawaii.htm.

⁶ <http://www.city-data.com/city/Maunaloa-Hawaii.html>. This is to differentiate the difference in median between Kaluakoi and Maunaloa displaying why Maunaloa is primarily subsistence.

⁷ Dr. Davianna McGregor, a leading scholar and expert on Native Hawaiian traditional and customary rights, notes that only a handful of Native Hawaiian communities have managed to continue, unbroken, the traditions and customs of their ancestors. Dr. McGregor has identified the island of Moloka'i as one of the few remaining intact Native Hawaiian communities. McGregor explains that protecting these cultural kipuka is essential to the perpetuation of Native Hawaiian culture throughout Hawai'i, because they are oases from which "Native Hawaiian culture can be regenerated and revitalized in the setting of contemporary Hawai'i." DAVIANNA POMAIKA', MCGREGOR, NA KUA'AINA: LIVING HAWAIIAN CULTURE, UNIVERSITY OF HAWAI'I, PRESS 8, 12 (2007).

⁸ Id.

The ability of Native Hawaiians on Molokai to continue traditional and customary practices may play a critical role in maintaining our island's cultural integrity across Ka Pae 'Aina o Hawai'i (the Hawaiian Archipelago). Ensuring continued access to, and the health of Molokai's natural and cultural resources, is critical for the perpetuation of traditional and customary practices, including fishing, gathering, cultivating lo'i, hunting, caring for burials, and accessing sacred and religious sites.

Axis Deer were given to King Kamehameha V and were part of the kingdom from 1860s. In this subsistence culture of the *West End Maunaloa* residents, deer are crucial for the survival of families. Subsistence should supercede commercialized hunting. Subsistence hunting, one hunts for game when food is needed. Hunting opportunities should be limited to Molokai residents. In the past generations working in harmony with lessees of Molokai Ranch posed no problem. We would let them know we needed to hunt deer for food for our families. The lessee would check his calendar and let us know an appropriate date we could hunt. The current lessee treats the land as his, refusing entry to Maunaloa residents to hunt for what has fed our families for generations.

An appropriate hunting management plan is crucial for our subsistence hunting, to prevent overgrazing, to control the deer population, and to maintain a strong genetic strain of deer. The problem with overgrazing is not only lack of nutrition of the deer, but the additional erosion issue caused by deer by overgrazing. With the overgrazing and resulting erosion is the silting of our oceans and the killing of our reefs unbalancing the sea's ecology. This threat further impacts our fishing which along with deer sustains our families.

The danger with commercialization is the changing of our life's resource to a commodity. When that resource becomes a commodity, what we need to eat becomes a crime to shoot for our survival. That forces us to become criminals to survive. Bottom line, we should retain gathering rights for subsistence rather than being forced to become criminals to survive.

Selling of meat is objected to by the majority of the Maunaloa residents. Domestic and wild grazing animal monitoring by the community is of the utmost necessity. Commercialization of this resource infringes on the subsistence of the Maunaloa residents.

GOAL AND ACTION:

A. Access to Hunting Grounds:

1. When hunting for subsistence to feed their families, Maunaloa hunters should be given priority for hunting passes.

2. Current lessee should be held in compliance by Molokai Ranch to permit Maunaloa hunters to their gathering rights for subsistence.

B. Implementing Hunting Management Plan:

1. A two (2) Buck Tag System Pass of a group of ten (10) hunters will be issued to them in which they will be responsible for hunting unlimited does but an overall limit of hunting two (2) bucks that day. The deer controlled management hunting should be maintained between Molokai Ranch and Maunaloa residents. Certain time of year take out does, another time of the year, bucks. Bucks reach their antler peak within 4-5 years. There is a focus to control the deer population to prevent overgrazing and to keep deer genetically healthy for the future generations. Tag system to be implemented for the entire year.
2. **SHUT DOWN SEASON:** Winter is the shutdown season. October through February is the drop season for bucks and does. Does give birth and bucks drop their horns.
3. **OPEN SEASON:** Open season for the bucks and does is from spring through summer, March through September. The bucks breeding season is from the end of spring through summer. Balance will be maintained by controlled management hunting between subsistence and trophy hunters. Shoot for food then you trophy hunt for your two (2) bucks. Any buck with horns from base to tip of 31 inches is considered for the trophy hunt.
4. Give Maunaloa community first PRIORITY on passes for subsistence. Maunaloa hunters responsible for 2 Buck Tag system per ten (10) hunters unlimited does, but allowed to shoot 2 bucks that day. Two buck system will prevent indiscriminate shooting by trophy hunters. A good measure is shooting bucks with antlers measuring 31 inches from base to tip.
5. Another facet of management control is shooting old bucks and diseased deer. This is every hunter's responsibility to maintain genetic strength.

The Maunaloa hunting community is in the process of educating the younger hunters to follow this hunting management plan. The intention is to set an excellent example for the young for a proper hunting management. The challenge is to get knuckleheads to comply.

C. Fishing:

Fishing is also done for subsistence. Sustainability is for all future generations of Molokai. There are three (3) fish ponds around Waikane Gulch that is in bad disrepair.

It is full of mud, grass, and mangrove. The rocks have all fallen and need to be restored. The resource of o'io, mullet, and moi will feed many in the Maunaloa community. The structure is still there. It remains a sustainable resource of o'io, mullet, and moi. Fish ponds are the life of the people and part of the 'aina. No man can own it. Fishponds belong to the people.

The importance of maintaining the ecology of the sea is at the same time protecting a resource that must be sustained. Every individual must malama the ocean as they malama the 'aina. With carelessness and greed, this great resource will be sadly depleted for our future generations.

In the past generations working in harmony with lessees of Molokai Ranch posed no problem. We would let them know we needed to fish for food for our families. The present lessee has refused Maunaloa residents access to their gathering rights. This current lessee treats the land as his, refusing entry to what has fed our families for generations.

GOALS AND ACTION:

A. Clean and Restore:

1. The three (3) fish ponds around Waikane Gulch be restored, cleaned, and maintained. Access will remain under Molokai Ranch control. Molokai Ranch to provide needed supplies for the restoration and cleanup of the fish ponds. The Maunaloa residents provide their labor for the restoration, cleanup, and maintenance of these ponds.
2. De-silt fishponds, remove mangrove and wood chip for biomass use, repair pond walls, successively strip keawe for biomass and replant with indigenous grasses and food bearing trees to control siltation

B. Malama (Take Care of, Preserve, Protect) the Ocean:

1. Every individual use common sense. Leave the area better than when you arrived. Bring opala (rubbish) in, take rubbish out. Dump into a trash bin.
2. Coral reefs are fragile. Prevent destruction.
3. Take steps to prevent siltation. Silt has detrimental effects on coral reefs, fish, limu, and other resources, Maunaloa needs for subsistence.
4. Make sure sewage system is operating to prevent sewage spillage.

In short, the natural resources of deer and marine life found on the *West End* of Molokai are extensive and require careful treatment. Working in harmony with Molokai Ranch is crucial for a win-win situation.

III. CONTAMINATED WATER CONCERN:

Maunaloa residents this 2015 year received a mail informing them that the water was contaminated. Though the problem is supposedly resolved, water coming out of the spigot is still an unhealthy brown. A teacher at Maunaloa purchases water for her

students refusing to allow them to drink from the water faucet. There are many keiki and kupuna in the Maunaloa community.

The water the Maunaloa community drinks travels an irrigation ditch. In this ditch is tilapia. The spraying of the fields surrounding the irrigation ditch also impacts the quality of the drinking water. By the time the water reaches our faucets, it still remains an unpalatable brown. Promises were made on several occasions by Molokai Ranch. The article is in the Molokai Dispatch, noting that this water transport and quality issue has existed a number of years. "For the past five years, Molokai Properties Limited, better known as Molokai Ranch, has been illegally transporting drinking water to west end residents through water lines intended to serve agricultural users. Now, they are seeking to legalize their use of the Molokai Irrigation System (MIS) and obtain a permit to continue transporting water through the irrigation lines".⁹

According to the Molokai Dispatch the Molokai Irrigation System, MIS, was last improved in 1960. "**Improvements to the System:** According to the video presented by the DOA, the MIS system is approaching its project life and needs to begin replacement of its major components. The system, which was originally scheduled to have four stages of development that would allow for transport of over 20 million gallons of water per day (mgd), only ever saw the completion of stage one, which was finished in the 1960s and currently has a capacity to transport two to three mgd, according to Teruya."¹⁰

According to the Molokai Dispatch, September 10, 2007, "**Molokai Ranch to Lose Access to Molokai Irrigation System. Attorney General: Molokai Ranch must get off the Molokai Irrigation System until an environmental assessment has been completed.** Molokai Ranch must complete an environmental assessment in order to continue using the Molokai Irrigation System (MIS) to transport water to its west-end properties. A letter from the attorney general's office said that the Ranch must get off the state run pipeline until the study is done. In the letter, deputy attorney general, Myra M. Kaichi, said Molokai Ranch must remain off of the system "until all environmental effects, if any, are sufficiently and properly addressed."¹¹

From Molokai Dispatch February 28, 2011. "West Molokai gets the bulk of its drinking water from Well 17, which is located next to Kualapu`u town. The use of this Well 17 has been illegal for the past four years. How can this be? It must be politics....they put the clean water from Well 17 into the dirty agricultural water of the Molokai Irrigation System (MIS). They do this so they can use the existing MIS water transmission pipe to

⁹ <https://themolokaidispatch.com/ranch-seeks-to-renew-water-permit/>. Molokai Dispatch, 7/29/2012, by Eileen Chao, **Ranch Seeks to Renew Water Permit**

¹⁰ <https://themolokaidispatch.com/know-your-water-know-your-responsibilities/>. Molokai Dispatch, 10/28/2012, by Eileen Chao, **Know Your Water, Know Your Responsibilities**

¹¹ <https://themolokaidispatch.com/molokai-ranch-lose-access-molokai-irrigation-system/>. Molokai Dispatch, 10/10/2007, by Hilary Dyer, **Molokai Ranch to Lose Access to Molokai Irrigation System**

get to West End, instead of putting in their own line like they promised. And it gets worse – for the past two years the use of this transmission line has also been illegal...we have Molokai Ranch operating an illegal well, using an illegal pipeline and yet charging customers ridiculous water prices on West End¹²

GOALS AND ACTION:

A. Update Water Transport System:

1. Check, update and if necessary, reconstruct the infrastructure water delivery system to West End.
2. Start the construction in 2016 or 2017.
3. Test for contaminants every two (2) months. Have results validated by a third-party, such as Abbey Lab.
4. Department of Health and University of Hawaii to do separate testing of water.
5. Test for contaminants at the residential faucets of seven (7) homes quarterly.
6. Ensure safe, efficient and reliable island-wide water systems through protection, improvement, regular testing, replacement, and enhancement of the existing water supply and development of new water sources.
7. Lower water rates. Maunaloa pays highest rates in the nation¹³ for contaminated water

IV. COMMUNITY SERVICE CENTER:

The distance and subsequent response time of emergency services to *West End* has been a great concern; moreover, response time is likely to increase as island growth continues. The remote location of *West End* with respect to *Kaunakakai* limits its access to human services in many categories.

Due to the central location of these services and the relative length of the island, an emergency at one end empties the service facility, leaving the opposite end uncovered.

Again, distance from *Kaunakakai* limits access to the public library, eliminating the many elementary-aged students and senior citizens of this area from its service.

No provisions for storage/display of the many archeological and cultural resources *West End* holds have been provided for. Subsequent loss of Molokai treasures to other island display centers must be prevented.

¹² <https://themolokaidispatch.com/molokai-ranch-water-wars/>. Molokai Dispatch, by Molokai Dispatch Staff
Molokai Ranch Water Wars

¹³ <https://themolokaidispatch.com/appeal-of-ranch-water-rates-denied/>. Molokai Dispatch, 7/1/2012, by Eileen Chao, **Appeal of Ranch Water Rates Denied**

Drug abuse is one of the top concerns of the Maunaloa community. With dense population living conditions, unemployment, and welfare mentality, drug abuse becomes a problem.

Residents must travel off-island if they wish to cremate a loved one's remains. Kupuna (elders) have made a request for a Molokai crematorium.

GOALS AND ACTION:

A. Build a Community Center:

1. Build a *West End* Community Service Center. This facility will house medical, dental, health, and drug abuse services. A library-cultural center will be part of this community center.
2. Build a drug abuse treatment halfway house (which should be isolated to permit for proper drug treatment) on the *West End*.
3. Build a fire station and a police station.
4. Build a crematorium.
5. Have ambulance services housed in the Community Service Center.

The *location of these service centers should be on the West End* on the top of *Kaluakoi*. This location best serves the entire *West End*.

V. PUBLIC FACILITIES:

Due to the geographic makeup of the *West End's* shore, public facilities include one State highway, seven public rights-of-way to the beach, one day park, and a community center. A number of privately owned beach accesses are in general public use, but do not qualify as such under this group. No public access to hunting.

The seven beach access paths are Kaunala (Dixies), Pakaa, Puukoai (High Parking Lot), Poolau (Shit Creek), Midway, Papohaku Beach Park, and Pohakumauliuli (Make Horse).

West End has a mixed residential population; however, these access paths are used by the entire island, as well as a growing visitor industry, for its attractive recreational and hunting value.

Molokai's ocean-oriented population is restricted to one boat launching ramp (in *Kaunakakai*), which is expected to provide access to over 70 miles of prime coastal and offshore fishing areas. The exorbitant fuel consumption cost and weather difficulties prohibit use of much of this area.

The community presents these recommendations. The entire island would benefit over the effective duration of this community plan. These solutions/improvements are chosen to create the least amount of privacy infringement on adjacent residents while

maximizing use of the available areas/resources and sharing the burden among the State of Hawaii, Department of Transportation, Harbors Division and Molokai Ranch.

GOALS AND ACTION:

A. Fix Roads and Access Paths to Beaches:

1. Repave Kaluakoi road, it is in bad need of repair. Both Molokai Ranch and the City and County and wealthy landowners should share the repair cost. All City and County vehicles utilize the same road.
2. Fix deplorable conditions of access paths.

B. Maintain Public Facilities in Existence:

1. Keep public facilities in proper maintenance.

VI. ENVIRONMENT AND NATURAL RESOURCES:

West End's environment, rich in natural resources, balances on a sensitive ecological system that requires the utmost in planning care for its survival. A detailed understanding of its content and the hazards it faces are required to carry out this task.

Water - The importance of water to the Native Hawaiian people is captured in the 'olelo no'eau, "ala i ka Wai (Water is Life)." Traditional Hawaiian management of this precious resource assured mauka to makai stream flow, which provided sufficient water for food production, drinking water, native stream life, healthy estuaries, and groundwater recharge. Groundwater sources, such as springs and anchialine ponds, were also highly respected and cared for. Today, access to and proper management of water continues to be necessary for a thriving Native Hawaiian people and culture. The health of Molokai's streams, fishponds, and nearshore and estuarine environments depend upon sufficient freshwater discharge. Decreases in the levels or quality of discharge from over withdrawal or stream diversions may have devastating impacts to marine resources, as well as the cultural and subsistence practices that depend on these resources.

Pursuant to the Hawaii Constitution, Article XI, sections 1 and 7, water is a public trust resource, held in trust by the State for the benefit of the people, for both present and future generations.¹⁴ Recent court decisions have affirmed that state and county

¹⁴ *See, e.g.,* HAW. CONST. ART. XI SECS. 1 & 7, ART. XII SEC. 7; HRS§§ 1-1, 7-1, 174C-101; HRS CHAPTER 174C; *In re Water Use Permit Applications*, 94 Hawaii 97, 9 P. 3d 409 (2000) (Waiahole I); *Ko'olau Agricultural Co., Ltd. v. Comm'n on Water Res. Mgmt.*, 83 Hawaii 484, 927 P.2d 1367 (1996); *Reppun v. Bd. Of Water*. *See, e.g.,* HAW. CONST. ART. XI SECS. 1 & 7, ART. XII SEC. 7; HRS§§ 1-1, 7-1, 174C-101; HRS CHAPTER 174C; *In re Water Use Permit Applications*, 94 Hawaii 97, 9 P. 3d 409 (2000) (Waiahole I); *Ko'olau Agricultural Co., Ltd. v. Comm'n on Water Res. Mgmt.*, 83 Hawaii 484, 927 P.2d 1367 (1996); *Reppun v. Bd. Of Water* ~ 65 Hawaii 531, 656 P.2d 57 (1982).

permitting agencies have affirmative and independent obligations to ensure that our public trust water resources are protected and used for the public benefit. This means that traditional and customary practitioners, domestic users, the Department of Hawaiian Home Lands, appurtenant right holders, and the environment should receive priority consideration in the decisions that may affect the allocation of public trust water resources. Use of Molokai's precious and limited water supply has given rise to a number of challenges over new wells, water allocation, groundwater pumping, and the use of transmission lines, which have yet to be resolved.¹⁵

Soil - The soil once fertile is now lacking in nutrients. Being the most erosion-prone island in the Hawaiian chain, overgrazing of natural and introduced vegetation can have detrimental effects. The indigenous varieties of grasses (i.e. *pili*) cannot stand being eaten to the roots and trampled upon, necessitating careful management of pasture and *Kula* lands.¹⁶ Because of overgrazing, the runoff mud goes into the fish ponds and kills off the reefs. Soil depletion is the direct result of overuse of the planting of pineapple fields. Agriculturally the soil is of poor quality.

Ocean - The rich environmental characteristics of the land give rise to a pristine ecosystem correspondingly as rich. Both nearshore and ocean gathering opportunities remain adequate for commercial as well as domestic purposes.

Flora and Fauna - *Kamakou Preserves* on the *West End* contain habitats where indigenous plant life still exists. These habitats, whether mountain or coastal located, often provide the surroundings necessary for endangered animal life to survive, such as the *Koloa Duck* and *Hawaiian Stilt*. These areas further provide habitats for endangered birds as well as nesting grounds for several migratory species.

GOALS AND ACTION:

A. Water:

1. Control withdrawal from wells. Expanded withdrawal may have significant effects to freshwater discharge into streams, which may have a detrimental effect on natural, cultural, and subsistence resources.
2. Recognize the priority water rights of Native Hawaiian's under the Hawaiian Homes Commission Act, the Hawai'i Constitution, the State Water Code, and court decisions. Protect, restore, and enhance surface and subsurface water sources.

¹⁵See *In Re Wai'ola O Molokai, Inc.*, 103 Hawaii 401 (2004) and *In Re Water Use Permit Application ("Kukui Molokai Inc.")*, 174 P.3d 320 (2007). These cases remain unresolved, but have been remanded to the Hawaii Commission on Water Resource Management.

¹⁶Hawaiian Dictionary Mary Kawena Pukui/Samuel H. Elbert copyright 1986 University Hawaii Press. Pg. 178. 1. n. Plain, field, open country, pasture. An act of 1884 distinguished dry or *kula* land from wet or taro land.

3. Support better management and oversight of water withdrawal, including through complete reporting for all existing wells and permitted groundwater withdrawals, to ensure accurate sustainable yields.
4. Recognize that water is held in public trust by the State, for the benefit of the people. Public trust purposes, which receive priority over private commercial uses, include domestic uses, Native Hawaiian and traditional and customary rights, appurtenant rights, environmental protection, and reservations for the Department of Hawaiian Homelands.¹⁷
5. Protect, restore, and enhance surface and subsurface water sources, stream habitats, and priority watershed areas to support groundwater aquifer recharge, aquatic and environmental processes, and riparian, scenic, recreational, and Native Hawaiian cultural resources, as well as constitutionally-protected Native Hawaiian traditional and customary practices.¹⁸

B. Control Erosion:

1. Control deer population.
2. Control cattle grazing.
3. Replant areas with indigenous plants.
4. The possibility of growing marijuana as a medicinal crop would fertilize the soil and boost Molokai's economy.

C. Be Prepared for Tsunami:

1. Inundation areas are common along the Kaluakoi coastal areas. Again, intensive coastal land use in multi-family - resort is discouraged in view of this hazard.
2. High Water-table of the low lying coastal areas of *West End* are subject to tidal surges. Commercial development as multi-family or resort, with their corresponding sewage disposal problems can irreparably damage this ground water along with the pristine ocean water it is in contact with. This activity is discouraged in these areas and must be located in regions where this impact can be avoided.

¹⁷ See Waiahole I, 94 Hawaii 137-39 and Waiaola o Molokai, 103 Hawaii 401, 431, (2004). See also, HAW. CONST. ART. XI SECS. 1 & 7, ART. XII SEC. 7; HRS §§ 1-1,7-1, 174C-101; HRS CHAPTER 174C; In re Water Use Permit Applications, 94 Hawaii 97, 9 P. 3d 409 (2000) (Wai'hole I); Ko'olau Agricultural Co., Ltd. v. Comm'n on Water Res. Mgmt., 83 Hawarl 484,927 P.2d 1367 (1996); Reppun v. Bd. Of Water Supply, 65 Hawaii 531, 656 P.2d 57 (1982). For additional information, see also D. KAPUA'ALA SPROAT, OIA I KA WAI: A LEGAL PRIMER FOR WATER USE AND MANAGEMENT IN HAWAI'I (2009), available at <https://www.law.hawaii.edu/files/content/news/18470/WaterPrimer.pdf>.

¹⁸ These priority uses of water are constitutionally and statutorily established bases for protecting, and in some cases, restoring stream flow to support traditional and customary uses. See, e.g., Waiahole I; see also HRS § 174C~2(c) ("[A]dequate provision shall be made for the protection of traditional and customary Hawaiian rights ...").

D. Keep Ocean Pristine:

1. Protect mauka to makai stream flow, which is essential to the survival of native stream life.
2. Prevent erosion and silt deposits.
3. Protect coral reefs from degradation.
4. Clear invasive limu and fish.
5. Keep sewage system repaired and operable to prevent sewage spillage.
6. Pick up rubbish. Take opala with you and throw in the trash bin.

E. Prevent Invasive Species Growth:

1. Use common sense. Brush shoes and clothing before entering Kamakou.
2. When you travel in vehicle up to Kamakou, make sure tires are brushed free of roots, pollen, and seeds.
3. Use common sense to preserve the area how you found it.

VII. CULTURAL RESOURCES AND TRADITIONAL LAND USES:

For the Native Hawaiian, *West End* was figuratively any place "more West" of where they lived; and with their tradition, this meant "closer to the sunset".

It is within this context that a ***Maunaloa West End*** plan should be designed. This section serves to describe the traditional resources of the *West End*, historically and presently, and at the same time, direct this policy statement towards a more beneficial and realistic land use with respect to traditional values.

The *West End* community wishes to include here the provision of the Hawaiian State Constitution, Chapter 12, Section 7, which reads:

"The State reaffirms and 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 right of the State to regulate such rights."

State and county governments and agencies have obligations to protect the traditional and customary practices of Native Hawaiians. Relying on the rights recognized in key constitutional and statutory provisions, as well as court decisions. The Hawai'i Supreme Court established an analytical framework for State and

county agencies to follow when considering land use and development projects.¹⁹ Under this framework, agencies must identify 1) the scope of valued cultural, historical, and natural resources in the area, including the extent to which traditional and customary rights are exercised; 2) the extent to which these resources will affect or be impaired by the proposed action; and 3) the feasible action, if any, to be taken to reasonably protect native Hawaiian rights, if found to exist.

In 2000, recognizing that the State had a specific “duty to promote and protect cultural beliefs, practices, and resources of native Hawaiians as well as other ethnic groups,” the legislature determined that Hawaii’s environmental review process, HRS Chapter 343, should include a consideration of the effects of proposed action on cultural practices.²⁰ Guidelines for cultural impact assessments clarify that the analysis should include information relating to the practices and beliefs of cultural or ethnic groups in and around the project area, and that individuals and organizations with expertise should be consulted.

Traditional lands embody the concept of *Aloha Aina*, Land Care (malama the ‘aina) rather than Land Use. Aloha, dedication, and concern is returned providing all the needs and wants required to sustain this traditional love.

Historically, Hawaiians knew no land ownership. They shared the land. There were political divisions of land called ahupua'a, or districts with natural geophysical boundaries. There were areas where Hawaiians built their homes, raised their families and grew their *'uala* (sweet potato). There were also areas where they cultivated their kalo (taro), together, as a community.

Visitors and residents alike are less than cognizant of the importance of preventing damage to hunting and fishing and cultural resources.

Accesses to the mountains for gathering of materials for building or for medical needs were guaranteed as were accesses to and along the shoreline for fishing. In addition, the Hawaiians collectively built, stocked, managed, and shared the resources of their *ahupua'a*. Water was essential for personal needs. Hawaiians knew that the streams had to empty into the ocean in order to continue the delicate brackish water environment for spawning of fish and the harvesting of limu (seaweed). These very streams also fed the *auwai* (aqueduct), which in turn supplied the streamlife with all the nutrients necessary for productivity. Above all, there was a strong sense of community (*ahupua'a*) and *ohana*. The *kuleana* (responsibility) for the land and the environment, and resources of the mountains, flatlands, marshlands, fishponds, reefs and ocean is also carried by the people for the survival of generations to come. Given the social,

¹⁹ See *Ka Pa'akai o Ka 'Aina v. Land Use Comm'n*, 94 Hawaii 31 (2000); see also *Pele Defense Fund v. Paty*, 73 Hawaii 578 (1992); see also *Public Access Shoreline Hawaii v. Hawaii County Planning Comm'n*, 79 Hawaii 425 (1995).

²⁰ Act 50 (2000).

economic, political and environmental conditions of Molokai, the relative integrity of the *West End* area's cultural resources of over 200 cultural sites²¹ must be protected and maintained. There are numerous archeological sites (most yet to be surveyed), bountiful coastal areas and limited accesses maintained for hunting and fishing. The interconnecting of the land with the environment, the resident and the well-being of his survival, plays a major role for *West End* residents. The concept of *aloha aina* with regards to traditional land practice is ever more important today in light of impending loss of the resource to economic and development pressures. There is a strong identity of Hawaiians with the lands, and a supportive community for a subsistence kind of lifestyle and desire for this way of life, in keeping with the ways of the *kupuna* (elders).

Throughout Molokai's landscape there is an abundance of archaeological and historic sites and traditional cultural properties that document habitation by ancient Hawaiians, as well as the more recent immigrants and their settlements. Archeological, historic, and cultural resources combine to express the heritage of the people and place. Today, numerous Native Hawaiian traditional and customary practices, including fishing, gathering, cultivating *lo'i* hunting, caring for burials, and accessing sacred and religious sites, continue to be practiced on Molokai. The health of Molokai's natural and cultural resources, and access to these resources by Native Hawaiian practitioners, *mauka* to *makai*, is critical to the perpetuation of Native Hawaiian culture. Many residents practice a subsistence lifestyle, relying upon the island's resources for fishing, hunting, and gathering. The people of Molokai are proud of their history, cultural identity, and unique Molokai lifestyle, and are determined to uphold and strengthen these qualities for future generations.

The island's natural resources are intimately connected to the cultural resources. Together they provide the foundation for the traditional Hawaiian lifestyle. Until the 1800s, a communal system of land tenure and subsistence enabled *ahupua'a* tenants to access the land and its resources for subsistence, medicinal, cultural, religious, and other purposes. By the mid 1800s, Europeans and Americans were established on Molokai. During the *Mahele* (land division) private interests in land were established, but these interests were subject to the rights of native tenants. As the European and American populations increased, the plantation and ranching industries took hold of the island, producing 19 commercial ventures operating throughout the 1800s and 1900s. Several small-scale attempts at sugarcane cultivation were made between 1870 and 1900.

The people of *West End* wish to secure this style of living, traditional in basic philosophy due to subsistence economy of the *West End* (*Maunaloa* area). This is their privilege.

²¹ Halona Ka'opu'iki possesses photos of these cultural sites.

GOALS AND ACTION:

A. Educate and Develop:

1. Educate visitors, including visitors engaged in hunting and fishing, about the importance of natural and cultural resources to the cultural and subsistence practices of Molokai's residents, and how they may prevent damage to these resources.
2. Recognize and support sustainable agricultural, forestry, and game best management practices and sustainable subsistence fishery management as key elements to maintain, preserve, and protect Molokai's land, water, and marine resources.
3. Support the development of game, fishery, and coastal management areas and management plans.
4. Support the establishment of the island as a community-based subsistence fishing area pursuant to HRS 188-22.6 in order to preserve marine and nearshore resources for generations to come.
5. Promote the education of visitors on the significance of historic and cultural sites, how to be respectful of these sites, and how to support the maintenance and preservation of these sites.
6. Educate property owners regarding the need to prevent damage to or destruction of historic and cultural sites.
7. Develop educational materials addressing heritage and natural resources impacts from unpermitted ground altering activities; disseminate educational materials widely, including to private landowners and visitors; provide instructions for reporting unpermitted activities.
8. Develop Moloka'i cultural events (Makahiki and Ka Hula Piko) and tourism guidelines that protect island culture and natural resources.
9. Fracking and nuclear power plants are disallowed.

B. Survey and Document:

1. Survey and documentation all archaeological sites with immediate efforts toward preservation of the cultural integrity of such sites or districts, including nominations to the State and Federal registers of historic sites.
2. Renominate all sites that were dropped from the State Register of Historic Places in 1979 in the *West End*.
3. Necessary to conserve and preserve the entire range of archaeological or historical properties with smaller sites given deserved priority as equally as large site.
4. Full consideration given to the religious and cultural significance of locations as well as established practices.

C. Guarantee Access and Preservation:

1. Guaranteed accesses with appropriate management plans:
 - a. Mauka, makai, West and East directions of the ahupua'a for gathering purposes and hunting
 - b. Historic sites and sacred traditional places
 - c. Shoreline
2. Blanket recognition that fishponds remain intact, not to be developed for any other purposes. Fishponds have the high potential for aquacultural use. Archaeological and historic concerns shall be considered before reuse of fishponds to preserve scientific knowledge contained. Preserve and maintain any fishpond system complex such as hatchery, pond, or trap characteristics
3. Tax shelters and/or incentives to accomplish the above.

D. Moratorium:

1. A moratorium on the use of water which will guarantee the environmental conditions necessary to promote the above.
2. A permanent moratorium against the development of tourist related accommodations or businesses which will subsequently change the social infrastructure of the area.

E. Create Programs, Conserve, Preserve, Protect:

1. Create additional cultural and traditional land use programs (i.e., a *Lima Hana O Na Opio* at *Ka 'emole* and *Ke Kula Ho 'O Naauao Moloka'i* at *Keawanui*).
2. Extend conservation protection to traditional lands under the State of Hawaii, Department of Land and Natural Resources regulations.
3. Insure and appropriately preserve this valuable resource, the most certain recommendation would be the creation of an additional land use designation category under State and County parameters, "Traditional Land", with corresponding permitted use.

F. Reforestation of Mount Ka'ana:

1. Reforest with Native (indigenous) plants be done.
2. Reinforce the surrounding fence to protect replanting from deer and cattle.
3. Access to Mount Ka'ana be provided by permission from Molokai Ranch. This area should not be promoted by the visitor's industries. *Mount Ka'ana*, the famous birthplace of hula, is known as the piko (the center, navel). It is home of the Goddess Laka. The Goddess Laka is a person who was deified when she became the patroness of the hula and respected throughout Hawaii. Mount

Ka'ana is still considered sacred by Hawaiians and the hula world today. Ka'ana

remains significant in traditional cultural and religious hula practices today.

VIII. SOCIAL AND ECONOMIC RESOURCES

West End is made up of residents having a wide variety of backgrounds, origins and cultures. Of these differences, the majority of the community shares a common system of values best explained by the following:

1. A profound concern for the land and the care it deserves, for the support it can provide.
2. An avid interest in the ocean for its recreational value as well as for the bountiful sustenance it can provide.
3. A deep respect for Hawaiian cultural remnants of the past in the numerous *heiaus*, activity areas, and the grave sites **West End** contains.
4. A strong sense of community, more particularly, **West End** community, and the common activities it comprises, such as sports, educational programs, and growth.
5. A firm belief in lifestyle and *aloha* for **West End** it portrays.

To these values can be added statistical figures showing over 376²² households, averaging 3.7 persons each (approximately 1,504 population), with median incomes of \$39,353.00 per year, which includes wealthy owners in Kaluakoi. The median income for the majority of Maunaloa community's population is \$8,000.00 to \$15,000.00²³. The reason being that the great majority is in federal and state funded housing. The a great number of the Maunaloa residents is on welfare, section 8 assistance, or both. There are fee simple lots interspersed. Many of the Maunaloa residents survive within the subsistence economy of hunting and fishing.

This limited breakdown suggests growth pattern guidelines must be unusually strict to prevent commercial development displacement of the larger portion of this population. By income, educational measures, and economic opportunity of **West End** residents, growth pattern guideline concern, must be reflected by the County of Maui.

Economic growth has to proceed with this value/income system in perspective. Placing the **West End** in a single industry category as resort will subject residents to an employment situation for which there is little experience or training. Jobs would be of service-maintenance orientation and competition from in-migration would be high as on Maui.

A preferred avenue to follow would be one that makes better use of the present natural and social resources available in **West End**.

An economic development scheme suited to the skills of the residents, the

²² Data from 2013 www.city-data.com/city/Maunaloa-Hawaii.htm

²³ <http://www.city-data.com/city/Maunaloa-Hawaii.html>. This is to differentiate the difference in median between Kaluakoi and Maunaloa displaying why Maunaloa is primarily subsistence

resources of the land and one providing an employment position that can combine pride, a sense of accomplishment, possibilities for expansion and a general sense of well-being on the part of the community.

Molokai Ranch carries the kuleana (responsibility) to malama (take care, preserve, protect) the land under their care. Great irresponsibility was displayed in the destruction of what were once beautiful coconut trees. Rather than seeking further construction, rebuild what is currently existing. This would generate employment providing island wide benefit to residents and tourist alike. These derelict buildings are a potentially great economic resource. This is a quote from Molokai Dispatch 2012 issue. (<https://themolokaidispatch.com/ranch-seeks-to-renew-water-permit/>)
“**New Ranch Developments:** Rumbaoa said the Ranch is planning on re-opening the Kaluakoi Resort Hotel—which would host 144 rooms –and 18-hole golf course in the near future.”

The *West End* residents urge the County of Maui to coordinate the various State, private, and county agencies to carry out these goals and actions.

GOALS AND ACTION:

A. Aquaculture:

1. Direct proposals by private aquaculture to the *West End*.
2. Apply County assistance to aqua-system already in operation if one exists.
3. Investigate possibilities for ocean aquaculture for fishponds and pilot studies begun in both "traditional" and "modern" techniques.
4. County economic development programs assist community representatives in securing public and private grants, techniques and marketing information, land acquisition and management for achieving this economic base.
5. Begin an aquaculture curriculum in Community College institute adult and student education programs through the University of Hawaii, Department of Education, Kamehameha School/Bishop Museum, and private industry.
6. Investigate and initiate Aquaculture programs for the following industries on Molokai:
 - a. marine sea turtle hatchery;
 - b. Pacific spiny lobster hatchery;
 - c. cultured pearl farming;
 - d. oyster farming;
 - e. bait fish projects; and
 - f. seaweed and crab farming.
7. Assist total agriculture- aquaculture programs where permits:
 - a. de-silt fishponds;
 - b. remove mangrove and wood chip for biomass use;
 - c. repair pond walls;

- d. successively strip keawe for biomass and replant with indigenous grasses and food bearing trees to control siltation; and
- e. locate agriculture - aquaculture operations to beneficially utilize entire location.

B. Agriculture:

1. With tax assessment abilities, encourage agricultural use of available lands in *West End*. Consider the growing of medicinal Marijuana as a viable economic crop.
2. Open more State land to agriculture endeavors and assist with application formalities.
3. Coordinate common marketing techniques to aid distribution.
4. Discourage non-agricultural use of agricultural lands.
5. County encouragement of private investment to be directed to available *West End* areas. Positive assistance be provided to induce commitment to the long range, low profit-density of agriculture in the *West End* area rather than the fast, high profit of resort.
6. State, County and private sectors make available water resources (e.g., wells, rivers) solely for diversified agriculture and animal husbandry. The State and County should identify all available and potential water sources on the island and see whether they could assist in transporting this water to the community for diversified agriculture purposes and at reasonable agricultural price rates (e.g. State buying water from private landowners and selling to community at low agricultural rates).

C. Restore:

1. Restore golf course, restaurant and surrounding buildings at Kaluakoi. Negotiate with Molokai Ranch to restore with the help of the City and County. This would create employment opportunity as well as tourist interests while utilizing what is already present. The infrastructure still exists at Kaluakoi. This restoration will help rebuild rapport and bridge the distrust that exists between the *West End* residents and the Molokai Ranch.
2. Create driving range and mini golf course. This creates employment opportunity as well as serve tourist interests. Location would be along Maunaloa Highway on the makai side where a large open space exists.
3. Restore theatre. Basic theater infrastructure in Maunaloa still exists. We would suggest digital downloads to cut operation costs. Negotiate with the vendors of movies for minimal costs.
4. Create Mom n Pop restaurants that deliver to *West End* residents. Due to exorbitant costs of maintaining a business on Molokai, the Mom n Pop stores are a more reasonable alternative. Whether there is a number or simply one (1)

that rotates menus remains to be seen. Delivery of meals is an enhancement to the business.

5. Provide fishing net manufacturing plant. A plant that produces nets at a reasonable cost would be beneficial Island wide. This segues into the people's love of the 'aina and their traditional lifestyle and subsistence living.
6. Reconstruct a camp area for utilization by the Molokai community for conference meetings and large events. This would be a win-win for Molokai community and Molokai Ranch. Provide Island wide education for use and maintenance.

The opportunities for alternative economic growth are unlimited in *West End* and these listed are but a few that can coexist within the value framework of the *West End* community. The resident opinion is to stress the desire **to preserve** this lifestyle we have, and tailor growth so as not to lose the greater part of it or forfeit the options we hope to keep for our children.

IX. LAND USE:

Many of the goals of the community are contained in the area of land use. *West End* has many conditions and problems confronting its residents in this area. Its problems need to be clearly understood to effectively provide the answers the community seeks to ensure their local lifestyle and the lifestyles of future generations. Balance must be maintained among community, city and county, state, and Molokai Ranch to create a win-win situation.

Geography-The physical problems facing responsible land use are another aspect. Although statistically the *West End* contains one-half of Molokai's land area, the actual acreage suitable for intensive land use management is well below that figure. The mountain range and accompanying valleys leave only a small portion available, making any subsequent development product a far greater long range impact than might be first anticipated.

No matter what construction growth the *West End* community experiences, the cost to present residences are to be kept the same and without increase to fees and/or taxes. This prevents the state on capitalizing on unwanted growth by the people and punishing *West End* community residents with increased fees and taxes to increase the state's coffers.

GOALS AND ACTION:

A. Taxes:

1. The Maui County to fix tax laws to actual use rather than general area use or potential value use. The depressed economic standard on Molokai should be considered in rendering taxes. The majority of livelihood is subsistence.

B. Commercial Development:

1. Limit the height of buildings on the *West End* to a maximum of two stories.
2. Limit retail-commercial services on the *West End* to those businesses catering to the residents of the community (e.g., gas station, Mom n Pop businesses).
3. In reference to "commercial development", fix what already exists and make anew. That is Kaluakoi with its restaurant, golf course, empty hotel buildings, and the tent-a-lows at the Kolo, Paniolo, and Kaupo areas. This is regarded by the community to include resort, multi-family apartment/condominium, "residential" agricultural subdivision, or industrial types of uses. Where differences exist between agency determination of "commercial development" and the community's view of the project, *West End* residents reserve the right of choice in settling such matters and the development application shall be directed to the community for review.
4. Commercial development of land in *West End* whether "resort", "multifamily apartment/condominium", "estate ag-subdivisions" or "industrial", be directed to the Maunaloa community for review, once guided by the appropriate agencies of the State of Hawaii and the County of Maui with regard to providing innovative solutions to the aforementioned (problems) section of this land use category. *West End* residents reserve the right of choice in settling such matters and the development application shall be directed to the community for review.
5. Developers be made aware of these difficulties. Developers must do responsible planning to overcome these problems and community impact. Development application to reviewing agencies shall contain addresses to these categories with respect to affected landowners, and meaningful solutions thereto. *West End* residents reserve the right of choice in settling such matters and the development application shall be directed to the community for review.
Development difficulties recommendations:
 - a. Professional title search of all land parcels within 1000 feet of development to include "unlocated *kuleanas*" and notification of all possible owners and heirs.
 - b. Registered survey by developer of all surrounding land parcels within 1000 feet of project to pinpoint location and boundaries as well as clear question of "unlocated *kuleanas*" if owners or heirs request this donated service.
 - c. Provide access to accommodate present-day modes of transportation to all "land-locked" or unlocated parcels.
 - d. Provide access to continue traditional gathering rights.
 - e. Prepare a social impact assessment, identifying potential impact on the community and proposed mitigative measures.
 - f. Document notification to affected landowners and lessees adjacent to a commercial development shall be made at preliminary application review submission.

6. Maunaloa community take an active part in proposed development. Where responsible community concern exists over the impact of a proposed development, and these concerns are in conflict with governmental reviewing agency, as well as the developer, or his authorized representatives, shall be present to responsibly answer residents' questions. The results of this public interview shall become part of the application and be used in determining its approval, denial, or provisional changes/additions.
 - a. Subdivision of ahupua 'a into "ag lots" shall be made to a size that reflects soil type, soil quality and land slope, which will encourage agricultural use.
 - b. A professional agricultural feasibility study demonstration to match typical lot sizes shall be made by the developer as a condition of permit approval. Appropriate lot size shall be determined by the developer's agricultural feasibility study.
 - c. Potential water source development shall be shown prior to approval so as to not overtax present systems or require more water transfer from the North Shore Valleys. Also, the developer shall demonstrate techniques of water conservation such as recycling or other appropriate schemes.
 - d. At least one-fourth of each individual agricultural lot-owner's property should be under permanent crop cover, such as trees.
 - e. County and State infrastructure must be shown to be adequate or near updating, to minimize development impact.
 - f. All sewage, drainage and environmental problems must be adequately addressed prior to approval. Where differences between agency, developer, or responsible community members exist over "adequacy", an environmental impact statement shall be professionally prepared by the developer in accordance with HRS 343 to answer these concerns. The "Statement" shall become part of the application and be made available for review by affected parties.
 - g. Archaeological, cultural and historical remains in the development area or surrounding affected region shall be professionally and traditionally investigated before any actual construction begins. A conservation and preservation orientation is mandated in the consideration of the treatment of archaeological, historical and cultural sites. Historic sites should be saved after they have been identified, rather than bulldozed. Ongoing site monitoring by a professional archaeological entity shall continue throughout the project's development so significant cultural, religious, or scientific properties can be protected and preserved in their natural surroundings for future generations.
 - h. Desecration of grave sites will be treated hastily in the following manner by developers:

- medical examination of remains to separate individuals;
- storage of individual remains in containers of native Hawaiian wood immediately after examination;
- meaningful attempt by developer to research and notify descendants;
- upon successful contact, reinterment of remains in container at exact location of original burial with complete and appropriate ceremony;
- under no circumstances are artifacts to be separated from remains or grave sites. They shall be replaced with burial;
- all artifacts should be documented;
- commercial land development of coastal areas shall be in strict accordance with the Coastal Zone Management rules and regulations as adopted by the Hawaii State Legislature in 1975;
- the *West End* community recommends that the entire island be place in the County Special Management Area. At the least, the *West End* area should be included in the SMA; and
- stream channel diversion, filling, bed undermining or material removal for commercial purposes be discouraged by appropriate government enforcement agencies. Where unavoidable, the foregoing activity be carefully assessed by an environmental impact statement prior to commencement and it's worth balanced against human need and environmental alteration. Periodic maintenance and/or clearing by County or State, by their contracted representatives.

5. Wetlands include identified springs and marsh areas, as well as coastal wetlands areas. Wetland alterations such as filling, draining, or other activity disrupting its ecological function be prohibited unless the need outweighs the environmental loss.

- All environmental, coastal zone wetland and wildlife regulations shall be enforced by government regulatory agencies when dealing with commercial development and traditional lands.
- A continuation of the wetland/wildlife survey of Molokai should be continued into the *West End* area with documentation of traditional lands.
- Destruction of these lands by commercial development should be accompanied by penalties making further desecration uneconomical. Land owners should be encouraged to return traditional lands to former use or use compatible with its traditional value by tax credits.

- Geographical location of commercial development, if centered away from resident impact areas, will lessen the high priced speculative costs of the limited land areas usable in *West End* and reduce consequent resident displacement in many cases.
- Traditionally valuable lands should be given a separate and distinct category under the State of Hawaii Land Use Commission District Boundaries to read: Urban, Rural, Agricultural, Traditional and Conservation.
- All fishponds and *taro* lands shall be designated Traditional. This would elevate viable agricultural and aquacultural lands from Conservation to Traditional, and apply only traditional methods to traditional uses. This would protect the fragile ecological balance of centuries; allow Hawaiian culture and values to become a practical way of life today, and not force the land into the financially competitive market of Agricultural designation;
- All natural resources within the "Traditional" designation shall be protected from disruption except under permitted uses.
- All Hawaiian cultural, historical, and prehistoric sites be designated "Traditional".
- Land Tax Assessment: Property taxes, previously administered by the State, are now under the jurisdiction of the County of Maui, and the *West End* Community sees this as an effective tool in the implementation of this policy statement. For example, landowners who permit individual access across their property might receive compensation, and in cases of compelling public need, could be offered incentives to permit public access, rather than condemnation threats. The community further recommends the administration of this idea be suitably documented in public tax records as a guard against any showing of favoritism.

C. MISCELLANEOUS GOALS AND ACTIONS:

1. Implement a program to identify all *kuleana* lands on Molokai.
2. Implement a program for the reforestation of *kula* lands and other forest areas with native plants.

This section on land use contains changes, extends existing guidelines, and includes many innovative measures. We are a community existing as a result of our history. We seek to protect that which makes *West End* unique for ourselves, our children, and generations yet to come, by responsibly planned growth. The provisions in this statement are attempts to enrich and enhance our *West End* community's responsible growth.

The community is made up of many individuals and must reflect the concerns of all, regardless of land ownership or economic position, in order to be representative and meaningful. Commercial development must be made realistically responsible to the people it affects to prevent loss of identity, values and its precious lifestyle. Investors will share in the solution of community problems, as well as profit from the valuable natural and social resources *West End* has to offer.