



## **MOLOKAI COMMUNITY MEETING July 8, 2008**

***Mahalo** for coming tonight.  
We have prepared responses to help answer some of the more frequently asked questions.*

### **1. Where did the "end of August" date for Molokai Ranch to stop water and sewer (utility) services come from?**

Molokai Ranch arbitrarily picked this date and notified the Public Utilities Commission of it in a letter dated May 30, 2008.

### **2. Who regulates (controls) public utility companies in Hawaii?**

The Hawaii Public Utilities Commission (PUC). The State Department of Health also regulates wastewater treatment facilities.

### **3. What has the Public Utilities Commission done so far?**

The PUC has:

1. Ordered the Molokai Utilities to continue to provide services unless and until the PUC approves a transfer or surrender of the utilities' Certificates of Public Convenience and Necessity (CPCN);
2. Initiated a proceeding to provide temporary rate increases;
3. Scheduled a public hearing on the proposed rate increases for Tuesday, July 15, 2008 at 10 a.m. at the Maunaloa Elementary School; and
4. Ordered Molokai Properties Limited, dba Molokai Ranch, to participate in the rate proceeding

### **4. Is the County also a customer of Molokai Ranch's water and sewer systems?**

Yes. The company provides water and sewer services to County-operated park facilities.

### **5. Is it true that the County of Maui does not want to take over the system because it can't afford to?**

Any operator, private or government, would want a careful and practical review of the situation, including necessary financial information before assuming responsibility for these private systems. To date, the company has provided very little or no information about their operations, costs, repair needs, equipment inventory, liabilities, or future costs. The County did not design or build the company's systems, and has never operated them.

## 6. Doesn't the County of Maui operate most sewer and water utilities in the county anyway?

No. The County of Maui owns and operates:  
 70% of wastewater systems and less than 50% of water systems on Maui  
 20% of wastewater systems and 0% of water systems on Lanai  
 80% of wastewater systems and 15% of water systems on Molokai

- On Molokai, water is also provided by Molokai Ranch, Department of Hawaiian Home Lands, Molokai Irrigation System and the Kawela Plantation.
- On Lanai, Water is provided by the Lanai Company.
- On Maui, in addition to the County of Maui, some of the many regulated water utilities include Hawaii Water Service Company, Kapalua Water Company, Hana Water Company, Launiupoko Water Company and the Olowalu Water Company.

It is important to note that many parts of Maui County have no wastewater service at all.

## 7. Has the County of Maui inspected Molokai Ranch's utility systems?

The County has not conducted physical inspections of the Ranch's water and sewer systems.

The County has requested documents and other information concerning the system directly from the company and through the Governor's task force leader, Abbey Mayer. The company has not responded to the County's requests for information on their utility systems.

Since no information was provided to the County, the Department of Environmental Management utilized the limited amount of information available through public information records on the sewer system owned and operated by Molokai Ranch. This preliminary endeavor revealed that the system would require a thorough assessment and full access to company records.

Some of the items that an assessment would require include:

- Records of all property connected to the utilities
- Documents disclosing condition of assets and repairs
- Maps
- Yearly operating budgets for the past 5 years
- Staffing requirements
- Projected equipment replacement schedule
- Permitting history (including violations, fines, enforcement actions)
- Billing records
- Number of water meters and sizes
- All Department of Health-conducted Sanitary Surveys for the water system
- Maintenance records of water storage tanks and reservoirs
- Existing agreements between the company and property owners connected to the systems

## 8. How many residents are affected?

Despite numerous attempts made, the County of Maui has never received an accurate report from Molokai Ranch stating the number of residents served by the privately operated systems.

In Molokai Ranch's notification letter to the PUC dated May 30, 2008, the company cites "approximately 1,200" customers. In a recent speech given by West Molokai Board president, Paul Mordisini, "more than 800 parcels of property" and "over 3,300" people are identified.

## **9. Why doesn't the Mayor declare a state of emergency to help Molokai deal with this situation?**

The Mayor of the County of Maui is not authorized to make such a declaration. However, the Governor under state law has the following powers:

"The governor shall have the following further emergency functions and powers, irrespective of the existence of a civil defense emergency period: (4) Continuity of service. To assure the continuity of service by public utilities and other facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same." – Hawaii Revised Statutes § 128-94(4) (Emergency Functions)

With respect to wastewater treatment systems, Hawaii law states clearly:

"Notwithstanding any other law to the contrary, if the governor or the director [of the State Department of Health] determines that an imminent peril to the public health and safety is or will be caused by the discharge of waste, any combination of discharges of waste, or any management practice that requires immediate action, the governor or the director, without a public hearing, may order any person causing or contributing to the discharge of waste to immediately reduce or stop the discharge, or to reduce, stop or change the management practice, and may take any and all other actions as may be necessary." – Hawaii Revised Statutes § 342D-10 (Emergency Powers; Procedures)

## **10. Why is there so much correspondence going back and forth between the County of Maui and the State?**

The Mayor's first letter to Governor Lingle was on April 23, 2008. It was written in response to unconfirmed rumors the Mayor received about Molokai Ranch considering discontinuation of its private water and sewer systems. The letter says:

"The recent decision by Molokai Ranch to cease operations on the island of Molokai has been a serious blow. In addition to the immediate loss of jobs facing Molokai residents, informal communication indicates that Molokai Ranch is now considering discontinuing operations of its private water and wastewater systems. This news, if true, is shocking and irresponsible. Water and wastewater systems are intended to protect the public health and are, therefore, regulated by the Public Utilities Commission and the Department of Health."

The County of Maui has corresponded heavily with the State and Federal government in an effort to be clear and concise about growing concerns and the need for the State to exercise its existing regulatory powers.

We have had some success including action by the PUC directing the utilities to continue operations beyond the August 31, 2008 deadline and an order issued by the PUC that calls for the parent company of Molokai Ranch to be a party to the PUC legal proceedings.

The Mayor has written to the Governor requesting that the Governor invoke her authority and issue an emergency declaration for Molokai.

## **11. What if the PUC is unable to compel Molokai Ranch and its parent companies to continue operations until another operator can be secured and in place?**

In addition to the interest expressed by the Molokai Community Service Council, the County of Maui is aware of at least two private companies interested in operating and/or owning the utilities that Molokai Ranch is threatening to abandon. The County is also prepared to join the state in taking legal action against Molokai Ranch.

**12. Why is the Public Utilities Commission raising the utility rates?**

The PUC says that the rate increases are necessary to ensure continuation of water and wastewater utility services and satisfy claims by the company that it cannot afford to operate at the current rates.

**13. What if I can't afford the rate increase that the PUC mandates?**

The County of Maui is prepared to offer financial support to those served by the Molokai Ranch systems who will be adversely affected by a rate increase. Details on the application process and qualifications will be announced soon.

**14. Is it true that Well 17 (a current source of water), now being used by Molokai Ranch, is being used without a permit?**

That appears to be the case.

**15. What consequences will there be to Molokai Ranch if they refuse to continue to provide water and sewer services to its customers after their deadline date of August 31, 2008?**

The County of Maui supports the state regulating agencies (PUC, DOH) in pursuing all available legal remedies, including criminal charges.

**16. Why can't the County condemn Molokai Ranch's properties to help pay for the cost of operating and repairing the utilities?**

With so much unknown about the utilities' present condition and future liabilities, it is difficult to determine how much money would be needed to operate and repair the utilities over the long term. Condemnation would require the County of Maui to use taxpayer money to purchase property at fair market value.

**17. If there's a fire, will there be water for the fire fighters to use?**

We fully expect there to be. Public safety is of utmost concern and the situation is being monitored closely by our Fire Department personnel. Fire Department officials have been monitoring fire risks closely. In fact, Fire Chief Murray was on Molokai last week to assess the West End vulnerability.

**18. What can Molokai residents do to ensure that services won't be interrupted?**

Demand that the governor declare an emergency that would allow the state to take over and operate the system or subsidize a new operator with state funds.

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