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Minutes Regular Meeting

Mauna Kea Management Board
Wednesday, February 9, 2005

Kūkahau'ula, Room 131
640 N. A'ohoku Place
Hilo, Hawai'i 96720

Attending

- MKMB:** Chair Rob Pacheco, 1st Vice Chair Barry Taniguchi, 2nd Vice Chair/Secretary Jim Kennedy, Arthur Hoke, Ron Terry, Harry Yada
- Kahu Kū Mauna:** Ed Stevens
- OMKM:** Arnold Hiura, Stephanie Nagata, Dawn Pamarang, and William Stormont
- Others:** Doug Arnott, Jim Bell, Dawn Chang, Scott Ezer, Gary Fujihara, Ron Koehler, Bob McLaren, Aulii Mitchell, Russ Oda, Ronald Seto, Antony Schinckel, Ululani Sherlock, Christian Veillet, and Deborah Ward

I. CALL TO ORDER

Chair Rob Pacheco called the Mauna Kea Management Board (MKMB) meeting to order on February 9, 2005 at 10:05 a.m.

II. APPROVAL OF MINUTES

Ron Terry noted that Niniau Simmons and Doug Simons were mentioned in the minutes, but were not listed as attending. The minutes should be amended to reflect their attendance. It was moved by Barry Taniguchi and seconded by Arthur Hoke that the minutes of the December 16, 2004 meeting of the MKMB be accepted with corrections. The motion was carried unanimously.

III. DIRECTOR'S REPORT

A. NASA/Keck Outrigger Telescopes Project Update

NASA's Final Environmental Impact Statement (FEIS) has been published and mailed. Official notice of the availability of the FEIS will be published in the Federal Register on February 11 or 18, 2005. NASA will publish its record of decision in the Federal Register a month later. Director Stormont explained that the FEIS identifies the preferred alternative while the record of decision identifies and discusses the selected and environmentally preferred alternative sites.

The Board of Land and Natural Resources' (BLNR) decision to issue a Conservation District Use Permit (CDUP) was appealed by several of the interveners in the contested case hearing. The process involves counsel for both sides to meet with the judge to schedule a hearing. A date has not been set.

B. Legislative Update

Director Stormont reported that the Office is tracking the following bills:

S.B. No. 1474 - Directs the auditor to conduct studies: (1) evaluating whether the existing approval and decision-making procedures for the Mauna Kea Science Reserve adequately address the concerns of the public; and (2) to determine the feasibility and necessity of the creation of a Mauna Kea Science Reserve authority.

Director Stormont stated this is very similar to the proposed resolution introduced last year by Senator Lorraine Inouye, except this year it is being introduced as a bill. The Office is working with Senator Inouye's staff with suggestions for language changes to the bill. Last year the resolution passed out of the Senate and crossed over to the House. It was not heard in the House and the resolution died. This year S.B. 1474 was co-introduced by Senator Lorraine Inouye and Senator Clayton Hee, Chair of the Senate Higher Education Committee.

H.B. No. 18 - This bill clarifies the authority of the University of Hawai'i to manage any real property owned or leased by the University or under its control. If it passes, it will give the Board of Regents (BOR) authority to promulgate rules under Chapter 91, Hawai'i Revised Statutes. Director Stormont attended a hearing of the House Higher Education Committee on February 3. Testimony was presented on behalf of the University by Ruth Tsujimura, Associate General Counsel. This measure was deferred pending action by the Senate.

S.B. No. 904 - This bill is similar to H.B. 18. In addition to measures contained in the House bill, it would also allow the BOR to assess fines for violation of University rules.

Director Stormont attended a hearing held on February 8 before the Senate Higher Education Committee. He was asked to provide specific examples of the need for rules on Mauna Kea. There was discussion regarding the Department of Land and Natural Resources' (DLNR) willingness to allow the University to make its own rules for lands it manages even though they are situated in the conservation district. Senator Lorraine Inouye asked questions which only DLNR and the Attorney General (AG) could answer. A follow-up hearing was scheduled for February 15 at which time DLNR and the AG's office was asked to be present to answer questions. There was no public testimony.

If this bill passes out of the Higher Education Committee, it will go to the Judiciary and Hawaiian Affairs Committee.

Discussion

Chair Pacheco asked if Senator Lorraine Inouye talked about her vision regarding the relationship between the authority and the University, the lessee. Director Stormont replied no. She wants an independent third party to assess the current situation regarding stewardship of the mountain and to see if improvements need to be made with the existing management structure.

At present there is no companion House bill to S.B. No. 1474.

C. Commercial Permitting Authority Update

At the January BOR meeting, the Regents approved accepting responsibility and authority for the permitting commercial activities in the Mauna Kea Science Reserve. Current DLNR permits will roll over into temporary University permits using the existing DLNR language. The Office of Mauna Kea Management (OMKM) is working with the General Counsel's office on modifying these temporary permits and developing a broader range of commercial tour permits, such as day-use only permits. However, the Office is waiting to see whether the legislature will grant rule-making authority to the University (e.g. H.B. 18) before moving forward with issuing new "University" permits.

Harry Yada asked if the Board will be presented with an action item on this matter. Director Stormont said not for rolling over the existing permits. But, the Board will be asked to take action on any newly developed permits.

Mr. Taniguchi asked if it is necessary to get BOR approval for the temporary University permits. Director Stormont stated no. The BOR approved the issuing of temporary University permits at the same time it accepted the responsibility and authority for commercial activities.

In response to Ed Stevens Director Stormont confirmed that there were still only nine existing permitted commercial operators. Director Stormont remarked that the number of unpermitted operations has decreased since the ranger program has been in force.

Mr. Stevens asked if paragliders were considered a commercial venture and if they were permitted. He has seen them in the Natural Area Reserve (NAR). Director Stormont replied they are not permitted. Chair Pacheco stated activity in the NAR requires a permit from NAR.

Mr. Hoke asked about the presence of commercial operators for snow activities. Director Stormont said there were none reported.

D. Weather Conditions on the Mountain

Director Stormont reported that, due to the several recent storms, the Mauna Kea Support Services (MKSS) staff had to work hard to clear the road after each storm. There were two incidents: the first involved a snowboarder who sustained injuries requiring ranger assistance; and the second, a vehicle with a full load of snow rolled off the road at the summit switchback. Following the most recent storm, Director Stormont received a call complimenting the rangers and Visitor Information Station (VIS) staff for dealing with the crowd and handling them in a very responsible and professional manner.

E. Ranger Recruitment

The ranger corps is back to its full complement of five rangers. Kenyan Beals accepted the position and started in mid-January. Rangers work three days on the mountain with three rangers on staff on Saturdays.

IV. COMMITTEE REPORTS

A. Kahu Kū Mauna

Visitor Count on the Mountain

Mr. Stevens gave a report on the last council meeting held on January 19, 2005. Members discussed last year's visitor count on Mauna Kea. If the figure of 100,000 is correct, that would mean there was a little less than 300 visitors a day. Even 150 visitors per day is a matter of concern for the Council. In the interest of safety and resource protection, it might be necessary to look into crowd control - how to keep people from wandering into sensitive areas and staying on recognized trails. Just prior to today's Board meeting, Mr. Stevens discussed this issue with Ron Koehler who offered to provide a more detailed count to separate the numbers and show how many stop at Hale Pohaku, and how many continue on up the mountain. Mr. Stevens asked if the Office is considering studying this issue. He is aware that the Office needs the authority to develop rules and regulations, but still wanted to know if the Office was thinking about looking into this matter.

Chair Pacheco stated the Office will be commissioning a study of commercial activities on the mountain. It could be expanded to include all public visitation and use on the mountain, especially during snow days. He also stated that, collectively, the permitted commercial operators are subject to a maximum of 252 people per day for the evening tours. They usually do not reach the maximum. There are only a few commercial tours during the day. In the evening most operators are on the summit for about a half hour. All operators, with the exception of one, do not allow their passengers to walk around the summit. Passengers stay on the graded areas around the observatories to watch the sunset. Chair Pacheco suggested that the Council send letters to the legislature supporting the bill to give authority to the University to promulgate rules.

Mr. Stevens is in favor of including all public use in the study. The council is more interested in the number of visitors who go up the mountain for other than snow play.

Mr. Koehler stated he would need to study the data more and check the source of the information to determine whether the numbers reflect those going to the VIS, summit or both. He was sure it was not from the vehicle counter. Jim Kennedy felt it would make sense to understand how many people go to the summit, and how many are on the summit at any one time. Three hundred people on the mountain over the course of 10 to 12 hours a day might not be that many. Mr. Stevens stated he was comfortable with commercial operators because they exercise control. His concern is with people in rental cars. Dr. Terry suggested establishing areas and trails where people are welcomed and encouraged to go. Mauna Kea is a fantastic place to hike, but he shares Mr. Stevens' concerns about overuse and inappropriate use.

Mr. Stevens stated the most critical areas where the most precious cultural treasures are located are in the NAR, an area over which we have no control. There are excellent trails in the NAR but they should be established as authorized walking trails. Generally, hikers have good intentions and are in harmony with the environment. It is those who don't know or don't have a feel for the environment that we need something in place to discourage them. Chair Pacheco stated, in his opinion, the most effective and easiest would be to prohibit non four-wheel drive vehicles on the mountain.

Director Stormont stated it is difficult to tell someone they cannot go there, because in fact, they can. Without clear authority to regulate he is hesitant to disallow activities. There have been non-permitted incidents involving activities in the NAR. Rangers called the Department of Conservation and Resources Enforcement (DOCARE) to

report these incidents and DOCARE officers responded. Even though the University does not have legal authority in the NAR we do have some level of oversight.

MOA for the NAR

Mr. Stevens requested in the past that priority be given to the proposal to develop a Memorandum of Agreement (MOA) between the University and NAR. He would like to see OMKM provide oversight for the NAR. Director Stormont replied he will revisit that issue. There was some action on it, but it got shelved. The original thinking was to prepare a document that identifies responsibilities, as well as serve as a communication plan.

B. Committee Reports

Environment

Dr. Terry agreed to chair this committee. He met with Associate Director Nagata and put together a list of past members who may want to serve again. The committee will be meeting on Tuesday, February 15 at 4:00 p.m. Dr. Terry asked Ms. Debbie Ward, a committee member, if she had any comments.

Ms. Ward said it has been awhile since the committee last met and she is looking forward to meeting with the new members. One of her goals for the committee is to have a summit-wide management plan in writing. She understands the Board feels they are doing good management, and yet feels the public would feel more comfortable if there was a management plan that could be looked at, responded to, and addressed by a number of people and not just members of this Board. That management plan has been directed by DLNR in its recent decision to approve the Keck Outrigger project. This plan is supposed to be developed within the next two years. Ms. Ward felt that is something she would like the community to address along with this body as a whole. Dr. Terry shared her concerns and stated whatever work being done here should be viewed as work in progress and recognize there is a long way yet to go. Anyone wanting to attend the meeting was welcomed.

Hawaiian Culture

Director Stormont reported the committee met and started to interview individuals regarding protocols that are in practice on the mountain. They had a very good interview with Mr. Stevens in January. Mr. Stevens was also helpful in refining the instrument used in the interviews. The meeting scheduled for Saturday, February 12, has been postponed to early March.

Bishop Museum Protocol Project

Mr. Taniguchi asked about the status of the Bishop Museum protocol project. Director Stormont stated that the letter requesting information on the project and funding has not been sent. The Office does not know the status of the project. In response to Mr. Taniguchi's question of how much funding was left, if any, Associate Director Nagata replied we were told a ballpark figure of about \$20,000 remains.

V. OLD BUSINESS

A. Institute for Astronomy's Request to Install a Seeing Monitor at the 13 North Site

See Attachment 1 for summary of project.

Discussion

Mr. Stevens stated Kahu Kū Mauna supports OMKM's recommendation. In view of the changes put forth, the project warrants more scrutiny. Mr. Stevens asked how many feet of fiber optic cable would be used and how would it be laid. Bob McLaren replied a few hundred meters of fiber optic cable would be used and laid on the surface along side the road and IfA fully intends to keep the cable on the surface, as this is a temporary installation. There would be no anchoring for the cable; it will simply rest on the surface. The cable is in lieu of using radio transmitters, which are not allowed in the Science Reserve. The intention is to lay the cable by hand and there will be no excavation. Dr. McLaren further noted that this can be discussed in detail in the review process.

Dr. Terry inquired if IfA would have any problem with classifying this as a minor project. Dr. McLaren replied not in principle. They would, however, like to move on this. If the Board and Office foresees moving this in four to six weeks it would help IfA a lot in terms of its schedule. Chair Pacheco stated the review process needs to be completed within 30 days; to which Dr. McLaren replied he was comfortable with that.

Mr. Stevens asked if the purpose of this testing is to determine the suitability of the area as a site for the Next Generation Large Telescope (NGLT). Dr. McLaren answered yes. It is necessary to know whether the atmospheric conditions in the northwest plateau are of the same high quality that you see on the summit ridge. It is believed to be the case, but it is not certain.

Mr. Stevens stated currently the project is site specific to 13 North, but the potential of this testing could be wider than just 13 North. Dr. McLaren replied there is no proposal or intention at this time to test any other location. It is believed that 13 North sufficiently represents the area. But it is possible that something unexpected could arise. Currently, the intention is to base a decision solely on the up to three years study at 13 North .

Mr. Yada asked if IfA knew DLNR's position on the permitting of this project. Dr. McLaren stated that following a briefing to DLNR just before Christmas, IfA was asked to submit a departmental permit application. The permit application was submitted on January 10. IfA has not yet received a response. Mr. Yada also asked Dr. McLaren what is IfA's opinion on Chapter 343, that is, the position that an Environmental Assessment was not needed in connection with the departmental permit. Dr. McLaren stated as far as he understood there is no absolute connection between the two.

Mr. Yada asked who representing the University makes a decision regarding claiming an exemption – is it IfA or OMKM? His concern was where does the decision to claim an exemption on behalf of the University rest in a situation like this compared to a developed facility. Mr. Yada then asked if any pre-consultation was done. Dr. McLaren replied they did talk with the Chair of DLNR and informed him what they intended to do. Mr. Yada repeated his statement that there was no pre-consultation under 343 in terms of the process. At this point, Chair Pacheco interrupted saying this discussion was more germane to the next agenda item and requested to return to the discussion of classifying this project as a minor project.

Action

It was moved by Ron Terry and seconded by Arthur Hoke to adopt OMKM's recommendation to classify this project a minor project. The motion was carried unanimously. Director Stormont asked for the Board's decision on how to proceed with the minor project review.

Alternative 1. The Board appoint a review committee and grant the review committee authority to approve each phase. The committee makes its recommendation to the Board, who in turn makes its recommendation for approval/disapproval of the project; or

Alternative 2. A second alternative is to have OMKM review the project and bring its recommendation to the Board for its approval.

It was moved by Barry Taniguchi and seconded by Arthur Hoke to proceed with Alternative 2. To have OMKM review the project and bring its recommendation to the Board for its approval. The motion was carried unanimously. Mr. Taniguchi clarified the Board will need to have another meeting within 30 days.

B. MKMB Role and Responsibilities

Obtaining More Status and Responsibilities to the MKMB

Based on the Master Plan, MKMB is strictly advisory. Mr. Taniguchi commented that the Board and OMKM should have more authority and responsibility. This could be accomplished by putting OMKM and MKMB under the president's office. The Master Plan may need to be amended to give the Board a system-level position.

Chair Pacheco stated that there were discussions about this when this Board was created. The Master Plan contained ambiguities and even some contradictions. This could be one of the reasons for a bill like the one introduced by Senator Lorraine Inouye. He also felt the public may not be aware there is a venue for it to participate in the management of the mountain. Personally he would not want to see a new state authority created.

Mr. Taniguchi commented there would be a lot of other issues as well, e.g. the lease which is with the University and not with the authority. Since the University is the lessee and the University can control its lands, we should try to work within the university system and elevate the MKMB to a higher level. He believes creating a new authority would be worse than what currently exists.

Chair Pacheco added, what does this Board do? Why are we here, and what kind of influence do we have over the management of the mountain in the long term? It would be helpful if staff developed a proposal regarding where this Board could be placed within the university system and how to address the dilemma regarding the decision making process and management of the mountain. Also how would the proposed changes alleviate and facilitate the community's input into the management of the mountain? If these issues are not resolved the University and IfA will continually be faced with the same issues and fights.

With respect to committees, Dr. Terry had earlier recommended that committees serve as public arenas for input in the management of the mountain.

Mr. Taniguchi suggested an idea he heard from someone that IfA be brought to UH Hilo. This would put UH Hilo in complete control of the mountain. In response to Mr. Taniguchi's questions whether IfA was ever under the system, Dr. McLaren replied it was always under Manoa.

Chair Pacheco opened up this discussion to the public for insights on this issue.

Who is Responsible for Chapter 343 Determinations

Dr. Terry asked about the handling of the exemption issue, a subject that was brought up at the last meeting, and which Mr. Yada brought up today. Who is in charge? Does MKMB have any say in this? Should MKMB require consultation? Dr. Terry felt we should revisit the idea of an exemption list for the mountain itself.

Dr. McLaren stated if a workable, practical mechanism for doing Chapter 343 determinations could be developed it would be better to have it done outside the organization that is proposing it. It would need to be properly set up with associated responsibilities because determinations made could be challenged. Dr. McLaren thought that, in principle, OMKM could do that. It would be a significant responsibility. They could rely on the Environment Committee to provide advice and guidelines. From his experience, it would be a good way to go. He is not opposed to it as long as it is clearly constituted to function properly. Dr. McLaren added that in the early 70s, some of this was done by Facilities Planning, a system's office within the university.

Distrust of the University and Decision Making Policy

Dr. Terry asked Chair Pacheco what his view was on the bill for the audit. Will the audit come up with some creative ideas for empowering our Board? Chair Pacheco stated he did not know, but there seems to be continued mistrust and dissatisfaction of what is happening on the mountain. Dr. McLaren added many of the ideas currently being discussed were raised during the Master Plan deliberations and are summarized in the final chapter of the Master Plan.

Mr. Taniguchi stated he may be wrong, but there seems to be a basic distrust of the University. It is not only about the IfA, but the University in general, and DLNR. There is the perception that neither entity can manage Mauna Kea. This notion goes back to pre 1996, or least pre 2000. What needs to be done, and which has not been done, is to look at what has happened since 2004 and see if things have improved. He is not saying that OMKM and MKMB are the greatest, but he believes things have improved considerably. The basis of the discontent is based on distrust for the University and DLNR.

Mr. Yada stated, in his opinion, the legislation and attempts to form an authority basically stem from the fact that following the approval of the Master Plan, the outriggers project was the first test of the new process. The loss of confidence in the Master Plan and its processes is the result of dissatisfaction with how the process proceeded and the decisions that were made relating to the outriggers project. He believes this is the reason for the move to take the management away from the University. There is potential for making it work internally at the university – such as moving OMKM, providing more authority, and reporting to a higher level. The problem started back when NASA/Keck was developing its Environmental Assessment (EA) and was asked to do an EIS. The University should have recognized the NASA project as the first test. In Mr. Yada's opinion, NASA should have done an EIS even though it felt an EA was sufficient. The University should have taken the position that this is our mountain, our lease, and, therefore, NASA, "you do an EIS and not an EA". But, again it is not clear who makes the decision.

Mr. Taniguchi recalled that OMKM's first recommendation was an EIS. We had taken that position, but other powers within the University decided not to follow those recommendation. This is why we need to elevate this body to get people to listen.

Mr. Yada felt MKMB should not have been put in a position where it felt it had to recommend sending a letter to the president asking for an extension on the University's conservation district use application (CDUA). There should be a structure within UH to determine how decisions are made and who makes those decisions. Since IfA is the applicant for permits, it should not be put in a position to make decisions relating to project review and permitting. This is clearly a conflict of interest. Within the university OMKM probably represents the only "objective" third party that can make decisions.

Chair Pacheco felt MKMB is not viewed as objective because it is an advisory board. There is still the perception the MKMB and OMKM are part of IfA. So, how do we fix it? Is this something we need to go back to the Master Plan to revise? Is there flexibility within the Master Plan to go back and revisit this issue?

Mr. Taniguchi felt the Master Plan needed to be amended. However, amending the Master Plan might result in the same contentious situation that occurred during the development of the Plan. The Board is aware of the issues and would not want to see people keep bringing up pre 1990's issues. The amendment should be simple – give the MKMB the authority. Mr. Taniguchi added he did not think minor projects like the ones before the Board should go to the president. The decision should be made here. The president probably does not know anything about it and will probably just sign off. We need the authority to do this.

Associate Director Nagata suggested that if the Board was given the authority to make decisions and if there is a disagreement with the decision, then an appeal could be made to the BOR. Associate Director Nagata suggested that the Office prepare a document addressing the issues raised at today's meeting. Board members responded positively to this suggestion. Chair Pacheco added developing a "laundry list" of decision making issues and problems would be a good start. It could also be reviewed by IfA and Mauna Kea Support Services for their comments.

Mr. Yada commented he did not think any applicant, including the IfA, would want to go through what NASA is experiencing. He feels the University will continually face NASA-type situations until such time the University, internally, clearly defines the lines of authority. Further the University must create the perception that there is an independent body making critical decisions on behalf of the University, and that the decision making includes the public.

Debbie Ward commented that the Master Plan called for the establishment of OMKM and this management authority and included the number of telescopes to be built in the future. But the Master Plan was not taken to DLNR for approval. One reason relates to an executive order dating back to the early 1980s that asked the University to establish the carrying capacity for the number of telescopes that could be built on the mountain. The decision was that there would be 13 telescopes. That number has been exceeded, or at least reached its limit. With the Kecks, it would exceed 13. The Master Plan stated more would be built, whether it's PanSTARRS, NGLT, or others. This concept has not been approved by DLNR. Ms. Ward thinks the reason the Master Plan was not submitted to DLNR for approval was because of anticipated resistance due to the large unspecified number of telescopes that would be added to the current number of 13. The Board needs to address the carrying capacity. How many telescopes are enough? Will footprints be recycled? Will telescopes be decommissioned? The two contentious issues of the Master Plan include: where is OMKM in relation to IfA; and how many more telescopes is this really approving.

Chair Pacheco commented the issue of observatories versus telescopes is problematic. The public sees telescopes as observatories. They think if PanSTARRS goes up that will mean six telescopes. Actually it's one observatory.

Ms. Ward stated that the issue of authority has to do with funding and is not just a power grab. It is a way of looking at funding resource protection, something the University ignored in the past or its attempts were considered inadequate. The idea of an authority would be to assess the telescopes a particular sum that would be used for management. This would ensure there is a natural/cultural resource protection person on staff and sufficient funds to do the types of management that needs to be done.

Dr. Terry noted these are all important points and suggested moving along the agenda, but not neglect what Ms. Ward had to say as part of the "laundry list" because it directly ties in.

Associate Director Nagata clarified that OMKM had a discussion with DLNR regarding whether or not to take the Master Plan to the Land Board. The discussion revealed the management portion of the Master Plan was not significantly different from the 1995 Management Plan, and therefore, it was not deemed necessary to take it to the Land Board for approval. Further, the Land Board only approved the management portion of the complex development plan that was developed by the University. They never approved the total number of telescopes. Associate Director Nagata asked Dr. McLaren if her understanding of this was correct. Dr. McLaren replied that was his understanding also. Associate Director Nagata continued saying the Land Board did not want to be put in a position where they would approve a certain number of telescopes when the scope of the projects were unknown. This is why only the management portions of the various University plans were approved by the Land Board.

Chair Pacheco reiterated that the Office will write up a “laundry list” and synopsis on these issues and provide some ideas on how this can move forward. The Office will report back to the Board in two months.

VI. NEW BUSINESS

A. Installation of Septic Tanks at Hale Pohaku

See attachment 2 for project summary.

Action

It was moved by Arthur Hoke and seconded by Ron Terry to adopt OMKM’s recommendation to classify this project a minor project.

Discussion

Dr. Terry asked why it was necessary to install several septic tanks instead of one central wastewater system. Mr. Koehler explained it would involve much more excavation to join all the pipes from the various facilities involved into one very large leach field. Because the location of the site is away from any ground water sources, the Department of Health agreed to allow the use of existing cesspools as leach fields. All that is required is the digging of a large enough hole to hold the septic tanks. There will not be a need for extra excavation work to establish leach fields.

Mr. Taniguchi asked if the proposed project met EPA requirements. Dr. Terry stated it would meet the requirements of the EPA and Department of Health (DOH) as stated in the proposal.

Use of Imported Rock as Fill.

Dr. Terry did not feel that importing rocks from Hilo was appropriate. The Saddle Road project is required to excavate rocks locally especially to avoid the introduction of alien invertebrates. Is there any thought about getting local rock? The Saddle Road project has a stock pile of cleaner rock. Dr. Terry also suggested that steam cleaning the rock from Hilo would be cheaper and better. He is not against that idea as long as the rock brought up to the mountain is guaranteed to be free of insects.

Mr. Koehler stated he has no problem with obtaining rock from the Saddle Road project and will work with Dr. Terry in determining the logistics of getting the rock. He further explained that only a small volume of rock would be needed. The project calls for three ferrocement, and one plastic, septic tanks. Backfill is not required except for the hole containing the plastic septic tank.

Director Stormont stated he had discussions with Mr. Koehler in the past about bringing up rock for road maintenance. Director Stormont queried other individuals about these same concerns. Their feedback was that typically rock that is quarried is sub-surface material and has very little, if any, organic material and do not often make good host material. Dr. Terry stated this is correct as long as it doesn’t sit too long in the quarry storage area. But if it does, then there is a problem. Mr. Yada mentioned another source of gravel is the military. They have a quarry at Pohakuloa.

Cesspools to be used as Leach Fields

Mr. Stevens stated that since cesspools were not built to serve as leach fields how would they work here? Would it improve the treatment of the water? Mr. Koehler explained the actual treatment is in the septic tank itself. The water that flows out of the septic tank needs to go into an area where it is distributed over a wider area. Mr. Koehler explained that each septic tank will be hooked up to an existing cesspool which serves as a leach field.

Mr. Taniguchi explained most of the solid waste will remain in the septic tanks, just the liquid portion will flow into the cesspools.

Mr. Stevens stated he did not see how this was an improvement. The water flows from the holding tank directly into the cesspool and not through a leach field. Chair Pacheco explained bacterial decomposition of all fecal and organic materials take place in the septic tank and does not flow out with the water. The cesspool is designed to disburse the liquid. The liquid effluent from the septic tank will be cleaner than current raw input from the sewer lines. Director Stormont added the design proposed in this project is a closed system. The septic tank will need to be pumped out periodically. It makes the system better and more sanitary.

Mr. Koehler stated a hydrologist was not commissioned to study the remoteness of the sources of ground water. Chair Pacheco replied the DOH’s review of the engineer’s report answers those questions. Mr. Stevens asked whether the ideas presented here would be used to address concerns regarding the cesspools on the summit. Chair

Pacheco replied he is no expert, but he has discussed this with others and read that the water table is far above the lens cap on the island. It will take hundreds, if not thousands, of years to reach the water table.

Size of Septic Tanks

Mr. Stevens asked what size cesspools needed to be replaced? Mr. Koehler replied large capacity cesspools as determined by established EPA guidelines. Mr. Stevens asked if any of the tanks on the summit fall in the large capacity category. Mr. Koehler replied there are a couple on the summit, but did not know the details. Director Stormont stated they are much smaller. Mr. Koehler added the Visitor Center has quite a bit of water use. Mr. Stevens said that now that he knows about the heavy usage at Hale Pohaku he is wondering what the situation is on the summit.

Dr. Terry commented that Mr. Stevens' major point is that we should close the cesspools on the summit. Dr. Terry asked if the Board has come out in favor of that. Chair Pacheco said he has not heard discussions about closing the summit cesspools. Mr. Taniguchi stated maybe the Board should take the lead and request the observatories do a determination in relation to EPA requirements. Dr. Terry stated that any new observatory that is developed will need to have a septic tank. He personally felt that all the old observatories, if they're going to continue to function, should also have septic tanks.

Mr. Stevens commented he was in favor of this project until he read the part about connecting the septic tanks to the cesspools because they are not designed as leach fields. Mr. Hoke stated with respect to the cesspools on the summit it would be in the best interest if cesspools were replaced by septic tanks. Dr. McLaren replied the EIS for the outriggers contains a good inventory of the summit facilities. Director Stormont replied most of the facilities already have septic tanks and there are only two or three that have cesspools.

Debbie Ward stated if we are going to do a water flush and if we are trucking the water up, we should truck everything back down again. The other thing is maybe there is an alternative to a water flush, thus reducing the amount of material requiring disposal. Dr. Terry stated he wasn't sure taking a honey wagon up and down the mountain would have less environmental impact than having no wastewater going into the mountain. These are all good issues that should be looked at and is something the Environment Committee could explore more in detail.

Ms. Ward also asked if the State Historic Preservation was consulted regarding cultural sites in the Hale Pohaku area. She knows there are some near the Visitor Center. Mr. Koehler replied that the proposed location of the septic tank at the Visitor Center is in the area where prior excavation has occurred. The only documented cultural sites in that area are pretty far away.

Action

Barry Taniguchi suggested incorporating the following conditions in the motion:

- a. making sure imported backfill material is free from insects and other forms of alien species;
- b. the MKSS and contractor adhere to conditions in the proposal, as well as OMKM's conditions; and
- c. IfA must receive DLNR approval before proceeding.

It was also agreed to proceed with Alternative 2. Have OMKM review the project and bring its recommendation to the Board for its approval. The motion was carried unanimously.

B. Results of the Design Development Discussion of the Design Review for the NASA/Keck Outrigger Telescopes Project

Director Stormont reported he did not complete his report for the Board. When the report is completed he will transmit it to both the Board and Kahu Kū Mauna members. Director Stormont stated he would like to discuss this with council members at an upcoming Council meeting to get their thoughts on the matter.

Chair Pacheco asked if the same people were still on the review committee. Director Stormont replied yes, they are the same. Arthur Hoke represents the Management Board and Ed Stevens represents the Kahu Kū Mauna Council.

VII. ANNOUNCEMENTS

Decommissioning of Facilities

Debbie Ward stated some time ago there was a request that the Board come up with some guidelines for the decommissioning and replacement of domes. She wondered if the Board acted. She has not seen anything in previous minutes. Mr. Taniguchi stated while there was discussion on this, the Board has not acted on it. It is a bigger issue and not something we can just put together.

Ms. Ward stated they had asked for guidance on what would be required to restore the land to its natural state because they wanted to do some cost studies with people on the mainland who would be able to do that kind of thing. She thought something should be done within the next 10 years and did not think it should sit on the table forever. She felt it needs to be addressed by the Board.

Mr. Stevens stated that this is an action item Kahu Kū Mauna is discussing right now and will be writing it up to present to the Board for consideration. In the event an observatory becomes totally obsolete, what is there to stop agencies from just walking off and abandoning its facility? We need to have some sort of performance or security bond so if they do walk off than we have the funding to dismantle. Dr. Terry asked Mr. Stevens if he was addressing the restoration of the site to its natural conditions too. Mr. Stevens reply was yes. It is very important and it needs to be included somewhere, maybe a revised Master Plan where it calls for a dismantling plan. There is only one user on the mountain who has been studying the cost of dismantling. The rest should be cognizant of that as well. If we have to, we should call for a dismantling plan from the rest of the observatories.

Mr. Yada commented this should be addressed in the subleases. He assumes there is some satisfactory return. Dr. McLaren explained there are other options that can be negotiated, but if nothing else is negotiated, then the subject holder is required to remove the improvements. Mr. Stevens remarked the wording in the lease is vague and not something he would consider a real lease document.

Chair Pacheco stated once the Board receives Kahu Kū Mauna's request, the Office can extract language from the sublease document and we can start with that.

Memorandum of Agreement between OMKM and NAR

Mr. Stevens commented that he felt the Office is overwhelmed with tasks. Director Stormont responded the Office was quite busy. Mr. Stevens asked if staff was needed to help facilitate things. The Director and Associate Director should be managers not staff persons. He felt the Board should be thinking about how to relieve the situation. The Memorandum of Agreement with the NAR has been delayed for a long time and he understood why so he has not pushed it. He would like to see it materialize this year.

Arthur Hoke replied, if the Board was in the parent role, that would be its responsibility. The University system is in the parent role; it is their responsibility. Chair Pacheco commented there have been discussions with the Office about their staffing needs and types of personnel needed for all the different types of things going on. Do we need to staff a biologist or a cultural person? The special conditions for the Outrigger Project calls for certain types of personnel. Chair Pacheco suggested putting this on a future meeting agenda to brainstorm or have the Office present staffing plans and needs.

Mr. Taniguchi thought this would tie in to the roles and responsibilities because if we're picking up more responsibility, than we definitely need more staff.

VIII. NEXT MEETING

As the Board will need to meet within 30 days, the next scheduled meeting is Monday, March 7, 2005 at 10:00 a.m.

IX. ADJOURNMENT

There being no further business before the meeting, it was moved by Dr. James Kennedy and seconded by Dr. Ron Terry to adjourn the meeting. Chair Pacheco adjourned the regular meeting at 12:15 p.m.

Respectfully submitted:

Signed by Jim Kennedy
Dr. James Kennedy, Secretary, MKMB

March 7, 2005
Date

Previous Action Taken by the Board

In October 2003 OMKM received a project request from IfA to install a tower to house a seeing monitor on the Northwest plateau on the summit of Mauna Kea. At the October 28, 2003 meeting the board recommended to the President that IfA's proposed project be classified a minor project. In addition the Board approved IfA's request. The purpose of the tower and seeing monitor was to conduct seeing tests in the northwest plateau. The Board's approval was contingent pending the issuance of a permit from DLNR.

President Dobbelle concurred with MKMB's recommendation.

IfA Change of Request

Further evaluation by IfA of the proposed site indicated it was not a suitable location due to the surrounding topography. It is now proposing to change the location to the 13 North site, which is located at the end of the road. In addition, IfA is proposing to add additional equipment, and a fiber optics communications cable between the site and the nearest SMA pad. IfA recently prepared and submitted a Departmental Permit request to DLNR based on its revised location and equipment needs.

OMKM Recommendation

Although the purpose and objective of the project – to assess the seeing quality on the north plateau – has not changed, the Office feels that the requested modifications to the original proposal may be sufficient to change the scope of the project.

OMKM recommends:

Classifying this project a Minor Project and subject to the Master Plan review process for minor projects.

(It should be noted that originally OMKM inadvertently recommended approval of the project without first undertaking a formal review as required under the Master Plan.)

If the Board recommends Minor Project classification, and if the President concurs with the Board's decision, OMKM will initiate the Minor Project review process.

Review Procedures for Minor Projects

The review process involves three phases. Each phase of the review requires approval. However, the Master Plan does not state who makes the approval. Further the Master Plan states the review process for minor projects should be completed within 30 days of the submittal of the review documents.

Alternative 1. The Board appoint a review committee and grant the review committee authority to approve each phase. The committee makes its recommendation to the Board, who in turn makes its recommendation for approval/disapproval of the project.

Alternative 2. A second alternative is to have OMKM review the project and bring its recommendation to the Board for its approval.

What follows either alternative is submittal of the Boards' recommendation up the chain of command.

UH MKSS has submitted a request to install four septic tanks at the Hale Pohaku mid-level support facilities. Board action is required for the following:

1. Designate a project classification – insignificant or minor.
2. a. If the project is classified as insignificant, approve or disapprove MKSS' request to proceed with the project.
b. If the project is classified as minor, instruct OMKM to proceed according to the minor project review process as described in the 2000 Master Plan.

PROJECT SUMMARY

Background

- The U.S. Environmental Protection Agency has issued a regulation requiring the closure of all large-capacity cesspools by April 5, 2005.
- A private engineer, in consultation with the State Department of Health, has determined that five (5) cesspools at Hale Pohaku require closure.
- Cesspools at Hale Pohaku that service the common area building (currently two cesspools), two dormitory buildings (B and C, one cesspool each), and the Visitor Information Station (one cesspool) require replacement and closure per the new EPA regulation.
- To complete the “closure,” one new septic tank will be installed for each of the buildings and placed in-line with the current wastewater systems, with the existing cesspools being utilized as leach fields for the new septic tanks in keeping with the new EPA regulation.
- It should be emphasized that while this action is being taken to meet new federal regulations, it also is a positive step toward more responsible handling of wastewater on Mauna Kea.

Proposed Action

- MKSS proposed to have a private contractor install four (4) new, ferrocement or polyethylene septic tanks, one each for the common area building, dormitories B and C, and the Visitor Information Station;
- The septic tanks vary in size and dimensions based on current and expected necessary capacity.
- Each new septic tank will be installed in line between the facility wastewater source pipe and the existing cesspool.
- The new septic tanks must be installed to ensure the existing cesspools can be closed by April 5, 2005 to comply with the new EPA regulations.

Construction Activity

- Excavation will be necessary for the installation of each new septic tank. The largest, a 2,500 gallon tank for the common area building, will require an excavation of approximately 29 cubic yards of material. The smallest, a 1,000 gallon tank for Dormitory C, will require excavation of approximately 16 cubic yards of material. A total of approximately 80 cubic yards of material will be excavated.
- The new tanks will be installed between each building's wastewater outflow pipe and the existing cesspool. The cesspools will then be used as leach fields for liquid that drains from the septic tanks.
- Some of the excavated material will be used as backfill around and atop the newly installed tanks. The make-up of the excavated material (cinder vs. coarse material vs. fines) will determine how much is used as backfill.
- It may be necessary to bring as much as 20 cubic yards of coarse material from a quarry in Hilo. This material, if necessary, will be inspected before leaving Hilo for signs of insects or plant material. This material is typically sub-surface and devoid of organic material.
- In either event, the top 12 inches of backfill will be material from on-site.

- Remaining excavated material may be used for road maintenance on the unpaved portion of the summit access road, depending on size and coarseness.
- Each of the new tank sites is currently accessible by the necessary construction equipment, which will include either a small excavator or a backhoe, and has been previously excavated for the original cesspool installations.

Environmental and Cultural Resource Concerns

- There will be no disturbance to any existing vegetation in the respective construction areas, with the exception of the possible minor disturbance of mamane tree roots for the new tank at the Visitor Information Station.
- There are no surface cultural features in the construction areas. Each site has been excavated in the past; it is not expected that there will be subsurface features.

Mitigation Measures

- Contractor(s) and MKSS staff will ensure all construction materials, supplies, and equipment is properly secured at the end of each work day.
- In the event that actions must be taken that are beyond what is described in the Project Description, MKSS will first notify OMKM for consultation.
- In the event that there is an inadvertent discovery of human remains or other suspected cultural feature or remnant, MKSS will halt all work immediately and contact OMKM and the State Historic Preservation Office for consultation and disposition.
- The contractor(s) and MKSS will ensure that all trash and debris are stored properly in the event of strong winds and removed from the site both during and/or upon completion of the project.

DLNR Permit

As described in a letter from Dr. Robert McLaren, IfA Associate Director, to DLNR Chairperson Mr. Peter Young, UH IfA believes the proposed project:

- a. Falls within the exempt classes of action set forth in Section 11-200-8, exemption class (3), Environmental Impact Statement Rules; and
- b. Is accessory to the existing uses permitted under CDUP HA-1430, the UH Conservation District Use Permit for operations at Hale Pohaku; and
- c. As such, the proposed project requires Site Plan approval by the Department.

OMKM concurs with the UH IfA assessment of the project's status with respect to the above described exemptions and permitting requirements. However, DLNR has not as yet issued the permit and OMKM will recommend that the Mauna Kea Management Board action be contingent on DLNR approval of UH IfA's request for Site Plan approval.

OMKM Recommendations:

Classifying this project a Minor Project and subject to the Master Plan review process for minor projects.

(It should be noted originally it was OMKM's recommendation for this project to be classified insignificant, but after further review and because of the level of excavation work to be done, OMKM recommends a minor project classification.)

If the Board recommends Minor Project classification, and if the President concurs with the Boards' decision, OMKM will initiate the Minor Project review process.

Review Procedures for Minor Projects

The review process involves three phases. Each phase of the review requires approval. However, the Master Plan does not state who makes the approval. Further the Master Plan states the review process for minor projects should be completed within 30 days of the submittal of the review documents.

Alternative 1. The Board appoint a review committee and grant the review committee authority to approve each phase. The committee makes its recommendation to the Board, who in turn makes its recommendation for approval/disapproval of the project.

Alternative 2. A second alternative is to have OMKM review the project and bring its recommendation to the Board for its approval.

What follows either alternative is submittal of the Boards' recommendation up the chain of command.

Conditions

In addition to the mitigation measures described above in the Project Summary, OMKM recommends MKSS:

1. Schedule a meeting with representatives of the contractor(s), MKSS, and OMKM to review the project process, and all mitigation measures and conditions prior to commencement of any work activities.
2. Notify OMKM of the construction activity schedule.
3. Notify OMKM if off-site backfill material will be necessary to ensure OMKM is satisfied with the inspection process for insects and plants.
4. Allow OMKM rangers to visit and monitor construction activities.
5. Notify OMKM of completion of the project.