



University of Hawai'i at Hilo

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**Minutes
Regular Meeting**

Mauna Kea Management Board
Thursday, November 3, 2011

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

Attending

MKMB: 2nd Vice Chair/Secretary Ron Terry, Lisa Hadway, Herring Kalua, Gregory Mooers, and Christian Veillet

Kahu Kū Mauna: Tiffnie Kakalia

OMKM: Stephanie Nagata and Dawn Pamarang

Others: David Byrne, Ming Tang Chen, Cory Harden, Stewart Hunter, Bob McLaren, Scotty Paiva, Derrick Salmon, Ed Stevens, Dwight Vicente

I. CALL TO ORDER

2nd Vice Chair Ron Terry called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:00 a.m.

II. APPROVAL OF MINUTES

Upon motion by Herring Kalua and seconded by Lisa Hadway the minutes of the August 9, 2011 meeting of the MKMB were unanimously approved.

III. INTERIM DIRECTOR'S REPORT

A. Thirty-Meter Telescope (TMT) Conservation District Use Application (CDUA) Contested Case

Evidentiary portion of the contested case concluded on September 30th. The original timetable was August 15 – 18 and August 25th, but due to all six petitioners participating in the cross examination of the University of Hawaii's (UH) witnesses, UH did not conclude its evidentiary portion until the afternoon of August 18. It took over two days to cross examine all of the petitioner's witnesses, followed by closing arguments on September 30th.

The next step is the filing of Findings of Fact and Conclusions of Law by opposing sides. The deadline to file is November 17th. Each party has 10 days to comment on the other's Findings of Facts. The Hearing Officer will then submit his recommendations to the BLNR. Rules provide each party up to 21 days to comment on the Hearing Officer's recommendation and another 21 days to comment or object to the other parties' comments/objections. The final step is a hearing before the Board of Land and Natural Resources (BLNR).

B. Mauna Kea Comprehensive Management Plan Appeal

In 2009 the Board of Land and Natural Resources denied a contested case for the Comprehensive Management Plan (CMP). This decision was appealed to the Circuit Court which upheld the University's position that the appellants failed to meet its burden of showing that their rights, duties or privileges were adversely affected by the adoption of the CMP, and the court further ruled they did not have jurisdiction to hear an agency appeal. The appellants appealed the Third Circuit decision to the Intermediate Court of Appeals (ICA). The UH request for oral arguments before the ICA was granted and is scheduled for November 9th.

C. Outrigger Telescope Project Appeal

The Hawaii Supreme Court denied a hearing of the appeal by the petitioners of the Outrigger Telescope project. The petitioners were appealing the denial by the Third Circuit and ICA that they should receive attorney fees under the private attorney general doctrine.

D. Police Assistance

Rangers have encountered situations in which people are stranded on the mountain either due to car trouble or domestic dispute. In some instances rangers provided transportation to these stranded individuals. We feel UH does not have the authority, and from a liability perspective, to provide transportation for these individuals. Temporary shelter however can be provided if needed. Chief Ranger Scotty Paiva spoke with the Hawaii County Police Department who has agreed to assist the rangers with stranded visitors.

E. Pohakuloa Training Area (PTA) High-Altitude Mountainous Environmental Training (HAMET)

The Army was granted a temporary permit by the BLNR to conduct their helicopter training. This training was for a limited duration for Hawaii based troops who are scheduled for deployment early next year. Chief Ranger Paiva reported the rangers did not report any noise nor did they see any helicopters from Pu'u Poliahu and from the general summit region during their patrols.

F. Vacant Positions Recruitment

The recruitment for the Cultural Resources position has been closed. We were not successful in finding a qualified candidate for the position. We will be re-evaluating the position description and qualifications and will re-initiate the recruitment.

We are still in the recruitment process of hiring a natural resources manager and hope to wrap that up within the next week or so.

G. Removal of the Wēkiu Bug from the U.S. Fish and Wildlife Service's Candidate's List

The U.S. Fish and Wildlife Service removed the wēkiu bug as a candidate for federal listing as an endangered or threatened species. The official notice was published in the October 26th Federal Register citing that information from 11 years of study contributed new information about the bug's habitat and extended range. It states that "Management of the Mauna Kea summit area by the Office of Mauna Kea Management includes continued monitoring of the wēkiu bug and its habitat, and scientific studies to assist in managing and protecting wekiu bug populations and habitat." It also cites the University's plans, including the 2000 Master Plan, Comprehensive Management Plan and the four sub plans, and the formal review of new projects on Mauna Kea all contribute to the protection and conservation of the wekiu bug.

This does not mean that the University can relax its efforts, but to the contrary, UH must continue its vigilant efforts to protect the bug. The Office of Mauna Kea Management (OMKM) will continue its annual surveys of wēkiu and alien species. The Office is working with the Big Island Invasive Species Committee on the development of an invasive prevention, control and response plan. The Office is also funding a 4-year climate change study and a 4-year arthropod study.

H. Asia-Pacific Economic Cooperation (APEC) – Chinese Media Familiarization Astronomy Tour

The successful familiarization tour for the Chinese media in July resulted in a request for two more tours on September 16th and 22nd. They first visited 'Imiloa and then headed up the mountain. Gemini, Canada-France-Hawaii Telescope (CFHT) and Subaru hosted tours of their facilities.

I. University of Hawai'i Board of Regents Visit to Mauna Kea

UH Hilo hosted a visit by the Board of Regents to 'Imiloa and the mountain on September 30th. Chancellor Straney and Chair Barry Taniguchi accompanied the group which was also given a tour of Keck Observatory.

J. International Alpine and Subalpine Symposium

The dates for this symposium are August 4 – 8, 2012. The current title of the symposium is Vulnerable Island in the Sky: Science and management of tropical island alpine and sub-alpine ecosystems. Topics will include climate change impacts, vegetation dynamics, biodiversity, ecotourism, management strategies and geospatial applications.

K. Office Statistics

Interim Director Nagata reported on some statistics from 2001 to present:

- Incidents 2002 – 2011 - The highest numbers of incidents were health related.
- Vehicle Stats 2006 – 2010 - The highest number were observatory vehicles, followed by 4-wheel drive vehicles, commercial tour operators, then 2-wheel drive vehicles. The highest number of vehicle incidents involved mechanical failure followed by crashes and brake failures. Many of the types of crashes were weather related followed by brake failures, and those who lost control of their vehicle.
- Film Requests 2001 – 2010 – The highest number of requests were for documentary/educational/news filming.

IV. KAHU KŪ MAUNA COUNCIL (KKMC)

Tiffnie Kakalia reported that the Army Pohakuloa Training Area (PTA) personnel asked to meet with Council members to give an update on PTA projects. The Council will be meeting with PTA personnel on Tuesday, December 6th.

V. Committee Reports

A. Environment Committee

Dr. Terry added the Alpine Symposium is very important and can be a very prestigious event for UH. The focus is not so much on Mauna Kea but on all tropical island alpine environments. There will be people from around the world coming. The papers will be mostly scientific, but there will be some on management. This event will be held at Hawaii Preparatory Academy in Waimea.

Dr. Terry mentioned he received some emails from Debbie Ward about the de-listing of the wekiu bug. She felt it was not justified and is looking for some review by those interested in the status and fate of the bug to take a look at what the U.S. Fish and Wildlife Service has done. We will independently be looking at that.

VI. NEW BUSINESS

A. National Aeronautics and Space Administration (NASA) Astrobiology Institute Request

The NASA Astrobiology Institute, University of Hawaii, is requesting to install two temperature data loggers on Pu‘u Wēkiu for a period of two years.

The purpose is to determine if the mean annual temperature is increasing by measuring the near surface temperatures at two locations where Alfred Woodcock documented the permafrost health on Mauna Kea. It is assumed that the annual mean temperature on the surface is approximately the same as the mean annual temperature at depth. A mean surface temperature above freezing would suggest the ice is beginning to melt.

Project Summary

- Emplace two HOBO U12-008 data loggers for a period of two years on Pu‘u Wēkiu.
- Data loggers will be buried to a maximum depth of 2” below the surface.
- Similar data loggers have been successfully used on Mt. McKinley and Mt. Kilimanjaro.
- Each data logger measures about 5” wide by 1.24” deep.
- Each instrument will measure temperature in 15 minute intervals.
- After one year, the applicant will download the data and replace the batteries.
- The data loggers will be removed after two years.
- It will require only one person to walk into the crater.
- A similar request is being made with the Natural Area Reserve to install two data loggers on Pu‘u Hau Kea.

Kahu Kū Mauna Council

The Council reviewed the proposal and did not find this project objectionable. They did, however, request that the data loggers be removed two years after they are installed.

OMKM Recommendation

OMKM recommends the Board classify this Minimal Impact and allow the applicant to proceed. OMKM’s recommendation is based on the following:

- The proposed activity does not significantly impact the surrounding environment.
- The proposed installation is temporary.
- Minimal digging is involved.
- There are no archaeological sites near the proposed site.
- The data will be useful to OMKM.

Conditions

OMKM recommends the following conditions:

1. Submit copies of correspondence between the applicant and DLNR.
2. If a DLNR permit is issued submit a copy to OMKM.
3. If a DLNR permit is granted, comply with conditions of the Permit.
4. Notify OMKM when it will install the data loggers.
5. An OMKM ranger will accompany the applicant when they install, check and remove the data loggers.
6. Remove the data loggers two years following the installation.

Action

It was moved by Greg Mooers and seconded by Herring Kalua to accept OMKM's recommendation to classify this project as Minimal Impact and allow the applicant to proceed with conditions as stated. The motion was carried unanimously.

B. Canada-France-Hawaii Telescope Request

The CFHT requests permission to add up to 12 vent apertures and associated closures to its existing building dome.

Department of Land and Natural Resources (DLNR) Rules

According to DLNR Conservation District rules, HAR 13-5:

NO PERMIT is required if replacement or reconstruction of existing structure and facilities as identified in the exempt classes established in section 11-200-8, where the new structure will be located approximately on the same site and will have substantially the same purpose, capacity density, height, and dimensions as the structure replaced.

A DEPARTMENTAL PERMIT is required if operations, repair, maintenance, or renovation of existing structures, facilities, equipment which are different from the original permit or which are different from the department-approved construction plans.

UH exemption under 11-200-8 includes the replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced. This includes the replacement or reconstruction of existing building on lands owned, leased or rented by the University.

Kahu Kū Mauna Council

The Kahu Ku Mauna Council (KKMC) did not have a chance to review this as their meeting is next week Tuesday, November 8. A copy of the proposal shall be distributed to the Council and discussed at the next meeting.

OMKM Recommendation

Generally, OMKM does not require observatories to obtain permission for maintenance activities, such as painting, or repair to the external features of their facilities. OMKM views this as a maintenance activity and, therefore, MKMB action is not required. It is not certain which of the two rules DLNR will apply to this project. If a permit is required, it would be helpful to DLNR to know MKMB's position on the project. Therefore, OMKM recommends the following:

1. Classify this a Minimal Impact project
2. Approve the project with the condition that the Kahu Ku Mauna Council has an opportunity to review the project.
3. If there are no major objections from the Council, the applicant shall be allowed to proceed. If there are objections, the applicant shall be notified to try to address the Council's concerns. If necessary, MKMB may need to re-evaluate this project.

OMKM's recommendation is based on the following:

- The proposed activity does not significantly impact the surrounding environment.
- The proposed structure will be installed on an existing building.
- No excavation is involved.

- There are no archaeological sites near the proposed site.
- It will not impact wēkiu bug habitat.
- The installation is temporary.
- The weather data will be made available to the public on the internet.

Conditions

OMKM recommends the following conditions:

1. Submit copies of correspondence between the applicant and DLNR.
2. If a DLNR permit is issued submit a copy to OMKM.
3. If a DLNR permit is granted, comply with conditions of the Permit.
4. Notify OMKM when it will begin working on this project.
5. All equipment and materials are to be secured on a daily basis.
6. The site is to be kept clean and free of debris.
7. All perishable materials, in particular food, food wrappers, etc. brought up by the contractor are to be removed daily from the site.
8. The crane and other heavy vehicles must be power washed, in particular the wheels and wheel wells prior to driving up to the summit. A notice that this action has taken place, including date and location shall be provided to OMKM.
9. OMKM rangers will be allowed to visit and monitor activities.
10. Notify OMKM when the project is completed.

Discussion

Ed Stevens understood in Council discussions that the issue of installing vents was a maintenance item and would be reviewed as information only by the Council. Interim Director Nagata stated she discussed this project with Council Chair Baybayan and based on the description his opinion was that he felt this was a maintenance project and that it would not be adding to the footprint of the facility and there would be no excavation involved. He felt this could be presented as informational to the Council. Ms. Kakalia replied it would be a courtesy to the rest of Council to review it.

Dr. Terry responded that makes it a little easier for the Board since they normally like to have KKMC review projects first. Given these circumstances the Board can take some conditional action on this request.

Lisa Hadway inquired what classifies something as minimal versus minor. Ms. Hadway stated we are looking at putting in 5" data loggers that is minimal impact. This is six months of construction on the summit. She is not comfortable with classifying this as minimal impact and thought it should be classified as a minor project. She added also that she is not comfortable moving ahead without KKMC's recommendations.

Action

It was moved by Herring Kalua and seconded by Greg Mooers to accept OMKM's recommendation to classify this project as Minimal Impact and approve the project with the condition that the Kahu Kū Mauna Council has an opportunity to review the project and provide input. If there are no major objections from the Council, the applicant shall be allowed to proceed. If there are objections, the applicant shall be notified to address the Council's concerns. If necessary, the MKMB may need to re-evaluate this project.

Discussion

Ms. Hadway inquired what needs to happen if her view is to classify this as a minor project. Interim Director Nagata responded that if this is classified minor project, it will go through the minor project review process and a committee will be convened to review the design of the proposed project.

Ms. Hadway asked the applicant about the cranes and lifts operating outside the dome to lift the vents. Derrick Salmon explained they have defined where they want the vents, but an engineering firm will be hired to do the detailed design, fabrication and installation. Two installation procedures have been identified. One is for the majority of the work to take place inside the building. There are means for them to get vent units into the building and install them from inside. This would still require someone on the outside to cut the actual hole. The other option is to do all the installation from the outside. This would involve a single tall crane and a man basket.

They are hoping to minimize the impact on telescope operations. We expect that these units be delivered to the summit and then installed at least one a week if not one every two days.

Ms. Hadway asked for the project to be classified as a minor project. Dr. Terry stated there is a current motion on the floor which was seconded. Mr. Kalua was asked if he was amendable to changing his motion from minimal to minor. Mr. Kalua stated he would leave his motion as it stands as minimal impact. At the request of Gregory Mooers, Interim Director Nagata explained what would constitute a minimal impact project versus a minor project.

Mr. Mooers stated it looks like there are two issues Ms. Hadway raised. One is the amount of time the process would be ongoing, which to him does not matter that much. He is looking at the impact of the external work including the use of a crane. Is there any other precedence of others using cranes?

Interim Director Nagata replied when the facilities paint their domes they need to use a crane to access their dome. This may take about six months. Painting is characterized as maintenance project and does not require approval. It is a requirement of the sublease to maintain the facility in good condition.

Ms. Hadway asked about the storage of the 12 units on the outside of the facility for three months. Is that your estimate? Mr. Salmon replied that was his estimate. He added they might ask for a staging area, but he was not sure at this time.

Action

Dr. Terry called for the motion. Three members (Terry, Mooers, and Kalua) voted in favor with one member (Hadway) opposing. It was noted that Christian Veillet recused himself from voting. A concurrence of four voting members shall be necessary to make any action of the Board valid. Having no quorum for a favorable vote this action item was deferred to a future meeting. This would also give the Board the advantage of having the input from Kahu Kū Mauna. Ms. Hadway highlighted that we defer given that Kahu Kū Mauna has not had the opportunity to take this up.

VII. ANNOUNCEMENTS

Dwight Vicente, representing the Hawaiian Kingdom, stated that what is going on is all part of a fraud.

Cory Harden encouraged the Board to be more proactive in looking into a possible review of the de-listing of the wēkiu bug. She is disappointed with the Board's reaction regarding the wēkiu bug. With it off the list she thought a lot of protections have been removed. She wished she saw stronger support on the Board for reviewing that decision. She is also disappointed with the Board's reaction on this last issue with the crane and air vents. She wished she saw greater concern from the Board for the environment and cultural resources and everything on Mauna Kea.

VIII. NEXT MEETING

Board members will be polled for future meeting dates.

IX. ADJOURNMENT

There being no further business 2nd Vice Chair Terry adjourned the meeting at 11:05 a.m.

Respectfully submitted:

Signed by Dr. Ron Terry
Dr. Ron Terry, Secretary, MKMB

2/22/12
Date