



University of Hawai'i at Hilo

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**Minutes  
Regular Meeting**

Mauna Kea Management Board  
Tuesday, November 25, 2014

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

**Attending**

- MKMB:** Chair Gregory Mooers, 1st Vice Chair Herring Kalua, Gregory Chun, Roger Imoto, Douglas Simons and Hannah Kihalani Springer
- BOR:** Barry Mizuno
- Kahu Kū Mauna:** Shane Palacat-Nelsen
- OMKM:** Wally Ishibashi, Fritz Klasner, Stephanie Nagata, Dawn Pamarang, Amber Stillman and Joy Yoshina
- Others:** Tom Chun, Hank Fegerstrom, Heather Forester, Cory Harden, Saeko Hayashi, Stewart Hunter, Alan Kusunoki, Barry Taniguchi and Cas Vanderwoude

**I. CALL TO ORDER**

Chair Mooers called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:00 a.m.

**II. APPROVAL OF MINUTES**

Upon motion by Hannah Springer and seconded by Herring Kalua the minutes of the September 16, 2014, meeting of the MKMB were unanimously approved.

**III. DIRECTOR'S REPORT**

**A. Thirty-Meter Telescope (TMT) Conservation District Use Permit (CDUP) Appeal**

At the request of the appellants an extension for filing their opening brief was granted. The deadline for filing is December 8, 2014. Upon their filing and receipt of their appeal, the University will have 40 days to submit its response.

**B. Thirty-Meter Telescope (TMT) Sublease Appeal**

The University has not received word on the status of this appeal.

**C. Thirty-Meter Telescope (TMT) Groundbreaking**

TMT had their groundbreaking ceremonies on October 7, 2014. While the site was blessed earlier in the day, the groundbreaking ceremonies did not take place as planned. The road was blocked by protestors preventing the vans transporting the guests from accessing the site.

**D. Department of Hawaiian Home Lands (DHHL)**

At its September meeting on Maui, the Department of Hawaiian Home Lands (DHHL) commissioners deferred the matter of use of the Humu'ula sheep station for commercial tour operators to their November meeting in Keaukaha. DHHL requested an informational presentation of the background, purpose and proposed use of the sheep station.

The Commission plans to vote on the matter at their December meeting. If approved, the use of the sheep station will greatly reduce the congestion at the Visitor Information Station (VIS).

#### **E. Pikes Peak**

A delegation from the DHHL and the Office of Maunakea Management (OMKM) visited Pikes Peak in Colorado in October. DHHL made arrangements with the City of Colorado Springs for a visit of their facilities and overview of their management, including the Pikes Peak Highway. There are many similarities between Pikes Peak and Maunakea. The 14,000 ft. tall Pikes Peak and the 19-mile long Pikes Peak Highway is owned by the U.S. Forest Service, but managed by the City of Colorado Springs.

#### **F. Association of Hawaiian Civic Clubs**

The annual convention of the Association of Hawaiian Civic Clubs was held during the last week of October in Waikoloa. The Office had a display booth set up for three days of the convention. It was a great opportunity to interact with the delegates and help inform them of what we are doing on the mountain.

#### **G. United Kingdom Infrared Telescope**

On October 31, 2014, the United Kingdom Infrared Telescope was officially transferred to the University of Hawaii. As the owner of the facility, the University is responsible for decommissioning the facility according to requirements of the Decommissioning Plan.

#### **H. Master Lease Environmental Impact Statement (EIS)**

The University is moving ahead with planning for the environmental document for the proposed new master lease. The focus has been on identifying the alternative actions and resulting outcomes of each action. Three actions have been identified:

1. No Action Alternative - All subleases, including the University of Hawaii's (UH), would terminate at the end of 2033 and the lands formerly under UH's lease would revert to the Department of Land and Natural Resources (DLNR); road maintenance would be reduced as observatories would no longer be contributing to the road maintenance fund; and management related activities would be reduced or curtailed such as the ranger program and resource surveys and monitoring. Recreational and cultural activities may diminish or cease because there would no longer be vehicular access and the Visitor Information Station would close.
2. New Master Lease - The Office, Maunakea Management Board and Kahu Kū Mauna would continue as the management structure for the mountain and current management activities would continue. The old subleases would terminate and be replaced with new subleases if a facility decides it wants to continue beyond 2033. Some sites will be recycled and be reused as a telescope site, while others will be decommissioned.
3. New Master Lease for Reduced Lease Areas - Areas under the lease would include Halepōhaku and the summit access road, but the area on the summit would be reduced from 11,288 acres to a 525-acre astronomy precinct plus a buffer zone of approximately 350 acres. Road maintenance and VIS activities would continue, as well as management of the summit road corridor. The same management activities would continue within the Science Reserve except within a smaller management area. The larger portion of the Science Reserve would be returned to DLNR when the current master lease terminates.

Each of the alternatives and their impacts will be reviewed and included as part of the environmental review. DLNR was consulted being that two of the alternative actions will impact their department. An environmental prep notice will be developed and distributed sometime early next year.

Chair Mooers inquired who will be the accepting agency on the 343 environmental assessment and what the timeline would be. Director Nagata replied the governor would be the accepting authority on the EIS, as he was for the TMT EIS. For the timeline, we anticipate this will be an 18 month to two year process. The process will include Kahu Kū Mauna and this Board having a review of it before moving forward.

#### **I. Volunteer Day**

OMKM hosted its eighth volunteer day for the year on Saturday, November 15. A total of 38 volunteers pulled 41 bags of invasive weeds. The group included members of the Hawaii National Guard Youth Challenge Academy and Circle K (Kiwani's youth group). The next volunteer event will be held on December 6.

**J. Cultural and Natural Resources Brochure**

An initial limited supply of this brochure was printed. Copies were distributed to Board members for their review and comments. The Office will print more after receipt of comments.

**IV. KAHU KŪ MAUNA COUNCIL (KKMC)**

Shane Palacat-Nelsen reported the Council recently had a retreat to collaborate with new members on the Council to increase informed decision-making when given a task from the Office. At this retreat the Council's mission and role was discussed. The Council would like to start indulging in the cultural management plan and to increase its position as far as outreach is concerned for the cultural aspect of the management area. There are still two more seats to fill on the Council. We are also working with the Office on the cultural aspect of the orientation brochure.

Herring Kalua asked if there were people from the different districts on the Council. Mr. Nelsen replied the Council has taken a strong stance to include more diverse, cultural practitioners from other districts. Currently we are fulfilling almost all the districts except Ka'u.

**V. Committee Reports**

**Environment Committee – Fritz Klasner**

Fritz Klasner announced that Roger Imoto is the chair of the committee.

It was a busy fall with European honey bees at Halepōhaku. These non-native bees have undesirable ecological effects and do not belong up there. Swarm traps have been placed to try to divert the bees and help to avoid swarms around the facilities. This effort was not very successful. OMKM has been working with the Department of Agriculture as well as UH Hilo's agricultural program in getting guidance on how frequently to swap out swarm traps.

Dr. Jesse Eiben, UH Hilo College of Agriculture, Forestry & Natural Resource Management, and Jessica Kirkpatrick, OMKM, presented at the Entomological Society of America in Portland last week on life history models of the Wēkiu bug.

In October and November two public talks connected with the permafrost project were given. Dr. Kenji Yoshikawa, a University of Alaska Fairbanks faculty and tropical permafrost expert, spoke in October. Dr. Norbert Schorghofer, UH Manoa Institute for Astronomy faculty, gave a talk on the history of ice and snow on the summits of Hawaii. While on island in October, Dr. Yoshikawa revisited Hilo Intermediate School to check the temperature probe that was buried in the schoolyard a year ago. He gave four separate talks at Hilo Intermediate School showing the schoolyard's ground temperature and how it compared to Maunakea and other places around the world.

There were volunteer weed pull events in November 15 and December 6. OMKM staff assisted Kamehameha high school student, Israel Stillman with putting together plant benches for his science project. His next step is to plant and germinate the seeds that were collected. Hopefully next year we will have enough seedlings to do some out planting at Halepōhaku.

Hannah Kihalani Springer asked if the honey bee activity was associated with commercial beekeeping. Mr. Klasner replied as far as he knows, not at that elevation.

Chair Mooers asked if the swarm traps have any impact on other species, particularly with any endangered species. Mr. Klasner replied no, none that was observed.

**VI. NEW BUSINESS**

**A. Submillimeter Array (SMA) Request to Install a:**

- 1) Fuel Leak Sensor to Existing Underground Piping and Repaint/Re-label the Fuel Tank; and**
- 2) Supplemental Cooling Unit and Associated Refrigerant and Electrical Conduit for their Computer Room**

The Submillimeter Array is requesting approval to: a) install a fuel leak sensor to existing underground piping in compliance with new State of Hawaii requirements and repaint / re-label the fuel tank, and b) install a supplemental cooling unit and associated refrigerant and electrical conduit for their computer room.

The purpose of the underground piping leak detector is to comply with recently revised state law, while repainting and re-labeling the fuel tank will ensure compliance with updated National Fire Protection Association (NFPA) policy recommendations. The additional air conditioning unit will allow for SMA to make the most of their existing

scientific infrastructure by increasing computing capacity inside the building while ensuring existing infrastructure can continue operation.

#### Kahu Kū Mauna Council

Kahu Kū Mauna reviewed the proposal on October 14, 2014. The Council expressed their appreciation for the opportunity to review the proposal, but had no project-specific comments.

#### Comprehensive Management Plan (CMP) Compliance

This project was reviewed for compliance with the Comprehensive Management Plan.

#### Department of Land and Natural Resources (DLNR)

DLNR will be contacted and applicable site plan or permits obtained pursuant to administrative rules in the Conservation District. The project will not proceed until appropriate DLNR approval has been obtained and any conditions incorporated into the project.

#### Recommendation

OMKM recommends this project be classified Minimal Impact based on the following:

- The proposed request does not increase the size of facility.
- There are no archaeological sites in the immediate area.
- Shallow trenching is necessary for compliance with new statutory requirements for underground fuel storage tanks and occurs within SMA's developed area on the summit.
- The impact to the immediate surroundings and summit region is negligible.

If this project is classified minimal impact, OMKM recommends SMA be allowed to proceed, pending DLNR approval and compliance with any requirements.

#### Conditions

OMKM recommends the following conditions:

1. Notify OMKM in writing at least 5 days prior to beginning field work on UH managed lands.
2. Allow OMKM Rangers to visit and monitor activities.
3. Invasive species prevention best practices will be employed, including inspections of materials by OMKM staff prior to entering UH managed lands.
4. Comply with all actions and measures described in the proposal, including (community) benefits, CMP compliance list, and mitigation measures.
5. Ensure that loose tools or equipment are not left unattended.
6. In preparation for high wind conditions, protocols must include measures to ensure debris and equipment are not blown from the job site.
7. Remove and properly dispose of all waste material. All perishable items including food, food wrappers and containers, etc. shall be removed from the site at the end of each day and properly disposed of.
8. The approval may not be transferred or assigned. All persons associated with this project must carry a copy of the permit while they are working on University-managed lands.
9. The project must be completed within 24 months of MKMB approval. Projects not completed within this timeframe are not allowed to continue (or commence) without explicit, prior, written approval from OMKM.
10. Notify OMKM in writing when field activity associated with the project is completed.

#### Action

It was moved by Hannah Springer and seconded by Herring Kalua to approve and classify this project as Minimal Impact.

Cory Harden inquired if there would be additional noise generated by the additional cooling unit. Alan Kusunoki replied the unit is internal to the computer room so noise would be limited to the interior area. They have never received any noise complaints.

Chair Mooers called for a motion. The motion was carried unanimously.

#### Action

It was moved by Roger Imoto and seconded by Hannah Springer to approve the project with the conditions as stated and to allow SMA to proceed.

Dr. Simons asked for clarification on the procedure to be used to access the underground pipe. What will be done to mitigate any risk of fuel leaks in the process of potentially penetrating through the pipe. Mr. Kusunoki replied the fuel piping currently has a shield around it and there is also a warning tape just about six inches above it. The reason for going to a hand-dug method is to minimize any possibility of damaging the piping. Hand excavation is the best way to do it.

Chair Mooers called for a motion. The motion was carried unanimously.

#### **B. Maunakea Invasive Species Management Plan - Review**

The Comprehensive Management Plan includes an action item to develop an Invasive Species Management plan. Cas Vanderwoude and Heather Forester, both with the Hawaii Ant Lab were introduced. Dr. Vanderwoude is the person behind the strategy and how to spell the plan out in terms of a risk mitigation method. Ms. Forester's role with the Hawaii Ant Lab is to do outreach.

There are two main parts to the plan: 1) the main plan which identifies general priorities and polices, and 2) a series of appendices that elucidate detailed process steps. The Board was asked to review the document to ensure the main areas of concern were covered and that the plan is on the correct track. The Board was also asked to review the draft to ensure the issues were addressed in a technically accurate manner and appropriate level of detail.

- 1) December 15, 2014: comments due on current draft from Kahu Kū Mauna and Maunakea Management Board.
- 2) December 2014 – early January 2015. Hawaii Ant Lab and OMKM incorporation of comments received.
- 3) January 2015: redistribute main plan and at a minimum Standard Operating Procedure (SOP) 1 (Vehicle Cleaning & Inspection), SOP 2 (Inspections & Cleaning: Equipment & Supplies), and SOP 3 (Food Shipments (Receiving)) for final review by Environment Committee, DLNR technical staff, etc.
- 4) February 2015, approximate: Submission to Maunakea Management Board for approval at its next regular meeting.
- 5) March 2015, approximate: Submit to DLNR for Site Plan Approval under Hawaii Administrative Rules.

Copies of the draft were distributed to the DLNR members on the Environment Committee for their review. As we understand, from a permitting perspective, DLNR does not approve the plan, except for the individual land uses that might apply.

Two items that came up in the Environment Committee meetings were: 1) cultural offerings and how to address issues of plant and food offerings; and 2) pesticide use.

Tom Chun commented that one problem with this plan is that the regulations will apply to those who use the facilities, but the public is one of the biggest topics of concern that needs to be regulated. The plans will only regulate those that can be regulated. If it does not involve the general public, no matter how good a law or regulation exists, it will not work. Besides addressing the users - observatories and commercial operators, how will the general public be addressed?

Ms. Springer inquired if the Office ever submits testimony to the legislature with regard to, for example, the Department of Agriculture who has the purview over monitoring incoming materials to the state, and does the Office ever comment on their budget and recommending increasing their budget and staffing to limit the importation of undesirable species given the sensitive area of Maunakea. Director Nagata replied this is a good point, but no, the Office has not. It is something we should probably consider.

#### **C. Maunakea Comprehensive Management Plan (CMP) Updates - Review**

Director Nagata explained the philosophy behind the CMP was to be adaptive and calls for periodic reviews and amendments to reflect changes that occurred over time and adjust and modify management actions as required. Chapters 1 - 6 of the CMP contains background and historical material. Chapter 7 contains management actions.

It is now five years since the CMP was approved by the Board of Land and Natural Resources (BLNR), and five years is the first review milestone. The CMP has gone through an initial review. However, being that it is only five years since the CMP was put into action, it was felt that insufficient time has passed to fully vet all the management actions. For this first evaluation, the changes are basically housekeeping measures. For example, updating old information, replacing the two word spelling of place names with one word and eliminating redundancies. Some actions were clarified to avoid confusion by ensuring there is only one set of actions instead of multiple actions for

the same issue. For example, the CMP includes an action relating to invasive species management, but the CMP also requires the development of an invasive species management plan.

The CMP actions were also reviewed for consistency. In particular, the primary reasons for action are resource protection and health and safety of visitors and those who work on the mountain.

The CMP calls for a five year progress report. OMKM also believes that a progress report was not necessary being that OMKM gives an annual report to the BLNR on the status of the implementation of the CMP. The next annual report to the BLNR would essentially cover the past five years of activities.

The Board is being asked to review the changes in Chapter 7 and send any comments or modifications they feel should be made.

- 1) December 31, 2014: Maunakea Management Board submits comments and suggestions on the CMP to OMKM. Suggested emphasis of this review is Section 7.
- 2) January 2015: OMKM incorporate Maunakea Management Board and Kahu Kū Mauna comments and suggestions on the CMP into a revised version.
- 3) February 2015, approximate: Complete, revised CMP submitted to the Maunakea Management Board for approval at its next regular meeting.
- 4) After February 2015:
  - a. Revised CMP, approved by the Maunakea Management Board, is submitted to the University of Hawaii Board of Regents and then the Board of Land and Natural Resources for review and approval.
  - b. Subplans to the CMP will be subject to the same review and approval in 2015.

Barry Taniguchi asked if the Office will be providing opportunities for public input into this process. Where can we submit our comments? Director Nagata replied that has not been considered, but it is probably a good point. We could do open house activities for the public to come and review and comment on the CMP.

## **VII. ANNOUNCEMENTS**

Wallace Ishibashi introduced Hank Hanalei Fergerstrom. Mr. Fergerstrom stated he is a religious practitioner with the House of Lono and is very familiar with Maunakea. What prompted a lot of their actions was the TMT ground breaking. It is not a mystery to anybody that Mr. Fergerstrom and many other Hawaiians object to the whole Science Reserve and astronomy facilities. Yet, Mr. Fergerstrom also wanted to make clear that the House of Lono is not an enemy of astronomy development, and is not trying to stop astronomy. Instead, Mr. Fergerstrom expressed a desire for astronomy to take a deeper look and understand that it is occupying "their" temple with little regard to Hawaiian practitioners. Mr. Fergerstrom stated a need to bridge that gap better because it is an unnecessary discomfort for everyone.

Mr. Fergerstrom stated it was unclear from information on the internet what the University's intentions were regarding the closing of the road. His purpose for being on the mountain was to present a notice alerting TMT and UH they were on Hawaiian Kingdom land and no permission was given or sought from the Hawaiian government for their operations on the mountain. The conversation of the continued existence of the Hawaiian Kingdom is getting stronger every day. He expressed there needs to be a better way to communicate. Why were people not informed that the road was to be closed?

Mr. Fergerstrom was also on the mountain engaged in other activities besides giving the notice. He admitted that one of his intents was to give the notice of trespassing on Hawaiian Kingdom land. There are many things that happen on the mountain that do not have anything to do with astronomy. They are very important things which have been done for hundreds and hundreds of years, but are probably not known to most because most people are not in that spiritual realm or part of a religious order that would allow you to know those kinds of things.

Under the ceded lands trust, education is one of the five designated beneficiaries of the ceded lands trust, but astronomy is not. Many issues such as this will be addressed in court. There is no treaty of annexation, so there are no ceded lands. This matter has been brought up in the International Courts. In addition, Professor Chang, Keanu Sai, and a group of law professors wrote to the attorney general of the United States whether or not the Hawaiian Kingdom exists and whether or not the State of Hawaii actually exists. Because by presumption of law, the Hawaiian Kingdom still does exist and there is nothing that has been presented to our people that shows any authority to assert a jurisdiction in my country by the United States.

The U.N. War Report deals with conflicts from all continents. Hawaii just missed this past publication, but it is going to

be in next year's publication as being an occupied country. So far there has been no attempt by the United States to refute the presumption of laws that the Hawaiian Kingdom continues to exist and, therefore, the State of Hawaii does not exist. The ceded lands are the stolen lands of the Hawaiian Kingdom. That is, if there was ceded lands, and if there was actually a treaty, which there is no evidence that there ever was.

On the night of October 6<sup>th</sup>, rangers and police department personnel told Mr. Fergerstrom he was going to be arrested, but no one could tell him for what. What was he doing that was arrestable? They came to a stand-still. Mr. Fergerstrom feels there would be greater understanding and appreciation to understand his reasons for action. It was not until the morning of the 7<sup>th</sup> that Mr. Ishibashi came and told him he would be arrested because of the layout of the road. When informed about the logistics of traffic movement, public safety and being able to get an emergency vehicle through the road, Mr. Fergerstrom stated he then understood these factors and became cooperative.

Mr. Fergerstrom is attempting to establish a bridge for better and easier communication. He gave Mr. Ishibashi a four-hour long video to look at. It is powerful and compelling because it fills in many gaps on the legal history and where Hawaii stands in the international arena to regain sovereignty as the Hawaiian Kingdom.

First Vice Chair Kalua asked Mr. Fergerstrom how many groups are trying to unite the Hawaiian people and to identify some of the groups by name. Mr. Fergerstrom replied there are at least five groups.

First Vice Chair Kalua then asked if Mr. Fergerstrom was born on this island on a homestead. The reply was no, not on a homestead, but yes on this island.

First Vice Chair Kalua stated he was the fourth generation of his family to be born and raised on the Keaukaha homestead, which just celebrated 90 years, and is watching this whole movement very carefully. First Vice Chair Kalua asked Mr. Fergerstrom if he ever went to all the homesteads on the six islands to educate the people. Mr. Fergerstrom replied no, he has not.

First Vice Chair Kalua stated he wanted to learn more from Mr. Fergerstrom, so he will be the first group. He also dreams of seeing the celebration of Keaukaha's 100 year anniversary, 10 years from now. He may not be here, but he wants to be sure all the five groups or more are on the same sheet of music, and for individuals like Fergerstrom to provide the education first. He feels kinship with all persons present and volunteers on many boards. First Vice Chair Kalua also related that he would like to retain U.S. citizenship if Hawaii becomes a kingdom for the following reasons: 1) he was born and raised here; 2) he served the U.S. military; 3) he worked for the government; and 4) he is receiving Medicare. With all of this, and through his cultural learning of ocean, land and mountain, he is able to survive. First Vice Chair Kalua requested that before Mr. Fergerstrom educates the rest of the people, he should go to all the communities and volunteered to accompany Mr. Fergerstrom in his efforts to help educate the Hawaiian people.

Mr. Fergerstrom thanked First Vice Chair Kalua and accepted his offer. Mr. Fergerstrom also agreed that there needs to be outreach into their own communities. Education is the key.

Chair Mooers stated it is obviously a very complex issue. The key, and what applies here, is understanding one another and appreciating what each group is trying to accomplish. However, the MKMB is not a venue to decide legal issues as far as ownership or validity of the State of Hawaii or Kingdom of Hawaii, but instead its kuleana is to understand and appreciate one another. Chair Mooers expressed personal appreciation to Mr. Fergerstrom for coming and sharing his thoughts, and stated that this is something we need to keep in mind as we go forward. Chair Mooers concluded that, as with so much in life, it is not so much what you do, it is how you do it and how you treat people along the way. If we can show respect for one another and appreciate one another, it may not solve all our problems or answer all the questions, but it will sure make our life far more enjoyable.

## **VIII. NEXT MEETING**

The Board will be polled to determine the next meeting date.

## **IX. ADJOURNMENT**

There being no further business Chair Mooers adjourned the meeting at 11:25 a.m.

Respectfully submitted:

Signed by Dr. Gregory Chun  
Dr. Gregory Chun, Secretary, MKMB

Feb. 10, 2015  
Date