



University of Hawai'i at Hilo

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Minutes Regular Meeting

Mauna Kea Management Board
Tuesday, October 4, 2016

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

Attending

MKMB: Chair Gregory Mooers, 1st Vice Chair Hannah Kihalani Springer, 2nd Vice Chair/Secretary Gregory Chun, Herring Kalua, and Douglas Simons

Kahu Kū Mauna: Shane Palacat-Nelsen (by phone)

OMKM: Wally Ishibashi, Fritz Klasner, Stephanie Nagata, Dawn Pamarang, Lukela Ruddle, Sage Van Kralingen, and Joy Yoshina

Others: Jim Albertini, Laura Aquino, Colin Aspin, Chandell Asuncion, Virginia Barnes, Andrew Brewer, Charmaine Bugado, Alohalani Cermelj, Clarence Ching, John Coney, Hanalei Fergerstrom, Hercules Freitas, Ron Fujiyoshi, Tammy Harp, Louis Hao, Nelson Ho, Stewart Hunter, Les Inouye, Camille Keawekane-Stafford, Ashley Kirkiewicz, David Lonborg, R. Pierre Martin, Dan Meisenzhal, Carol Miller, Simon Radford, Geoff Shaw, Lanny Sinkin, Marianne Takamiya, Gary Takeuchi, Kau'i Trainor, Lakea Trask, Davin Vicente, Dwight Vicente, Debbie Ward, Keahi Warfield, Ross Wilson Jr., and Peter Young

I. CALL TO ORDER

Chair Mooers called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:08 a.m.

II. APPROVAL OF MINUTES

Upon motion by Douglas Simons and seconded by Herring Kalua the minutes of the June 22, 2016, meeting of the MKMB were unanimously approved.

III. DIRECTOR'S REPORT

A. Thirty-Meter Telescope (TMT) Contested Case

Several pre-hearing conferences were held to entertain motions on various matters ranging from disqualifying the hearing officer, to striking the Conservation District Use Permit (CDUP) for the TMT, to dismissing the proceedings, to setting issues. On October 3, 2016, another pre-hearing conference was held where they set a schedule for the upcoming evidentiary hearing with the intention to start on October 18, 2016.

On September 26 there was a site visit to the TMT site followed by a stop for an overlook of the TMT site from the road leading up to the Subaru Telescope, the construction staging area near the summit, and the location along the side of the summit access road where an ahu was removed last year.

B. Outreach

Director Nagata and Fritz Klasner attended the Kona-Kohala Chamber of Commerce annual installation and awards luncheon on Friday, June 24. The Office of Maunakea Management (OMKM) is this year's recipient of the Chamber's Environmental Award for achievements in OMKM's stewardship efforts on Maunakea.

Other outreach activities included giving an update to the Rotary Club of Hilo on the studies and work OMKM initiated and completed over the past 16 years. Mr. Klasner will present at the Kona Mauka Rotary on October 11. On August 4 a tour of the University of Hawaii's (UH) managed lands and an update of OMKM's management initiatives was provided to Nancy Cook Lauer, writer for West Hawaii Today. A similar tour was given to Tom Callis with the Hawaii Tribune-Herald.

On September 24 the Office was invited to participate in a community event at Palekai, in Keaukaha, where OMKM and members of the astronomy community offered kids activities and had an opportunity to help with the refurbishing of the canoe Hokualakai. The goal is to have the canoe ready to greet Hokulea when it returns from its worldwide voyage next year.

A community weed pull event was held on August 20. There were 21 participants which included members from the Keaukaha community, Keaau Public Charter School, Maunakea observatories and UH Hilo. The next event is scheduled for October 22.

C. Staff Training

In fulfillment of the Comprehensive Management Plan (CMP) action EO-1, OMKM is working with the Visitor Information Station (VIS), Imiloa and UH Hilo staff on developing an education and outreach strategy plan. This plan will address matters relating to, for example, exhibits, roadside signs, and community education events.

Since staff trainings began in May, OMKM has conducted three staff training sessions. The latest was on active shooter training presented by Lt. Thomas Shoopay of the Hawaii County Police Department. Also presenting was Nancy Stephenson, a registered nurse with the North Hawaii Hospital, on the impacts of high altitude on the physiology of the body.

D. Ingress/Egress/Parking Project

A consultant was hired to prepare an environmental assessment (EA) for the ingress/egress/parking project near the VIS. This project is a fulfillment of the CMP that calls for installing safety measures by placing parking and drop off of passengers on the same side as the VIS to help prevent accidents. James W. Glover was hired as the contractor to add an ingress/egress lane adjacent to the road and to add a gravel parking lot below the VIS to replace parking that will be eliminated from the west side of the access road.

Debbie Ward asked if consultation with the State Historic Preservation Department (SHPD) was done before James W. Glover was hired. Director Nagata replied she believes so. A grading permit has been prepared but before the County issues a permit, SHPD needs to review and comment.

Hanalei Fergerstrom stated the Halepōhaku area is critical habitat for palila, so there is a protocol that has to be followed. He believes the U.S. Fish and Wildlife Service has been in touch with Mr. Klasner.

Nelson Ho, Sierra Club, asked about the status of the upgrade that is below the ranger office where an existing gravel parking is located. Director Nagata replied that is all part of this ingress/egress/parking project for which an environmental assessment is being prepared.

Mr. Ho asked about OMKM's participation with the EnVision Maunakea process. Director Nagata explained OMKM is not directly involved in this process. It is actually being managed by Friends of the Future. Doug Simons added there is no official role for OMKM in the efforts being led by Friends of the Future. There is a working group with 3 people here who helped designed the program. Newsletters are produced once a month and you can visit their website at envisionmaunakea.org and sign up for their newsletters and get regular updates.

Someone from the audience asked a question regarding the ingress/egress. It was not mentioned specifically who was hired to do the EA. Director Nagata replied the company hired to do the EA is Sustainable Resources Group International, Inc. (SRGII) which is based in Honolulu. It was further explained that the permit does not go through the County Council, as it is a ministerial permit. The comment period will be posted on the Office of Environmental Quality Control (OEQC) website where the public will have an opportunity to comment.

IV. KAHU KŪ MAUNA COUNCIL (KKMC)

Shane Palacat-Nelsen reported the Council met last month and discussed the cultural resources (CR) management actions before the Board today. There were some comments regarding jurisdiction, enforcement and outreach on the issues that

are attached to the CRs. The Council agreed to move forward to see what MKMB's discussions would be. The CRs are very delicate conversations and may take more than just one day on this topic.

The Council will be having a retreat on October 7 & 8 at Halepōhaku where they will discuss Council guidelines and go over more thoroughly the process of public consultation. The Council will also view the Maunakea resource orientation video and take a tour of Halepōhaku.

Hannah Springer asked about the nature of the Council's discussion on outreach. Was it outreach with regard to the CRs and, if so, did the discussion include Ka pa'a kai o'ka aina? Mr. Palacat-Nelsen explained the Council's discussion was how they should outreach and not so much on who they outreach. Ms. Springer asked what about the state auditor's report? Mr. Palacat-Nelsen replied they have had conversations in the past regarding the state auditor's report, but not recently. Ms. Springer replied it seems that the CR items on the agenda in part address the concerns that the auditor has raised and she wondered if the Council had incorporated that into their conversations.

V. Committee Reports

Environment Committee

Fritz Klasner reported the committee met on September 27, 2016. The main order of business at that meeting was a presentation by Pat Hart on his proposed birds and bats inventory.

The rangers have been noting an increase in muddy vehicles visiting the mountain the past few months. We are still trying to figure out how to get the word out to the public that that is a concern especially from an invasive species perspective of soil, seeds, and insects that might be in vehicles.

The annual arthropod monitoring has been completed. No new threats have been identified. About 190 wēkiu bugs were captured, which is about average.

Norbert Schorghofer wrapped up the fieldwork portion of his permafrost project, and hopes to publish several journal publications. Permafrost was found in Pu'u Wēkiu, and Pu'u Haukea in the Natural Area Reserves. Those are the only two locations on Maunakea.

We have two UH Hilo students working with the Office this semester - Stephanie Pasco as an intern and Kialoa Mossman as a student assistant.

Mr. Fergerstrom reiterated his earlier concern of the Halepōhaku area being critical habitat for the palila bird. Mr. Klasner confirmed that the palila is a federally endangered species protected under the Endangered Species Act. Part of the environmental assessment preparation process for the Ingress/Egress project includes consultation with the Fish and Wildlife Service and the Division of Forestry and Wildlife.

Mr. Ho asked about earlier discussions on having wash stations and an inspection process, not only for the public but also for all construction vehicles going up to the summit. Mr. Klasner explained this Board approved the Invasive Species Plan in early 2015. The vehicle wash requirement is being applied through the Invasive Species Plan. Observatories and all construction equipment are inspected. The policies and requirements are available online. There is currently a UH Hilo graduate student studying the feasibility of a vehicle wash station.

Mr. Fergerstrom suggested considering a wash station at the base of the summit access road. Chair Mooers asked that the graduate student doing the analysis consider that as well.

Chandell Asuncion acknowledged the concern of taking invasive species up the mountain and appreciated all the solutions provided. Her concern is that if you put a wash station anywhere on the Saddle, you are actually depositing invasive species. For those who shop at the Farmer's Market, you may notice that you are bringing in fire ants into your kitchen. We have to be very careful with respect to these ideas.

VI. NEW BUSINESS

A. Information Only: Bird and Bat Inventory Proposal by Dr. Patrick Hart, Professor of Biology, UH Hilo

Fritz Klasner explained the objectives of this proposed study are to provide comprehensive surveys of the distribution of native Hawaiian birds and bats within sub-alpine and alpine habitats of the UH management lands and adjacent areas on Maunakea. There are a number of threatened and endangered species that may inhabit or occasionally use this area, including the 'Ua'u (Hawaiian Petrel), 'Ake'ake (Band-rumped Storm Petrel), Pālila, 'Io (Hawaiian Hawk), Nēnē, and the 'Opea'pe'a (Hawaiian Hoary Bat). Information on the distribution of these organisms will assist managers with identifying at-risk areas, prioritize management actions, and inform the public.

Starting at roughly R-1 just below Halepōhaku, Dr. Hart will use radar and look for bird movement at dawn and at dusk and go around the mountain. There would be a limited amount of actual people observing, but mostly it would be placing acoustic microphones at different frequencies at various locations. Equipment would be left out for 4-5 months to track movement, and there would be some recorders out for a full two-year period. This will be faculty-guided, student-lead research funded by OMKM.

B. Public Comments Regarding Action Items CR-5, CR-8, CR-7 and CR-9

Chairs Mooers opened the floor to the public for comments regarding Action Items CR-5, CR-8, CR-7 and CR-9.

Mr. Fergerstrom was concerned, as it seems we are making a separation between culture and religion. He started reading an email from Michael Kumukauoha Lee. Chair Mooers interrupted stating it was difficult to follow and understand his reading and asked that Mr. Fergerstrom make his reading available to staff so it can be printed and circulated among Board members. Mr. Fergerstrom was fine with doing that.

Lakea Trask stated that OMKM should not have the right to regulate cultural, spiritual and religious practices. He brought up the issue that OMKM and MKSS were responsible for destroying a cultural ahu over a year ago, which many practitioners participated in constructing. They met with OMKM over a year ago and have yet to hear back regarding the ahu. He is offended by these action items and would like OMKM to respond about the ahu.

Director Nagata answered Mr. Trask saying the Office did reach out to him corresponding in emails, but never got any responses. In the meantime there has been conversations with Mitch Fine, who he is familiar with, and Andrew Brewer on developing a grievance process. She apologized if there was any miscommunication, but she did reach out and there was no response.

Lanny Sinkin stated a year ago, when there was a blockade preventing the TMT construction crew from reaching their construction site, OMKM issued a set of restrictive rules governing spiritual practice on the mountain. The rules stated you had to show up by 1:00 and if you did not show up at 1:00 you could not go up the mountain, no more than 10 people could go up at a time, and they had to be accompanied by an OMKM ranger. They could stay for an hour and then had to come back down. Mr. Sinkin stated he is an attorney dedicated to the constitution of the United States and when he learned of those restrictions, he went to federal court in Honolulu and filed suit against OMKM and everybody else involved. Within a short period of time after his suit was filed, the rules were withdrawn and the case became moot. When he saw today's agenda with these assertions that OMKM has the authority to define spiritual practices for the traditional Hawaiian faith he was shocked. He was in federal court yesterday and filed for a temporary restraining order against the Board dealing with this issue. The judge denied the temporary restraining order last night and so he will move to the preliminary injunction phase, but the litigation has been launched. All of the Board members here today except for Mr. Chun have been served. He is astonished that we could rely on our own cultural advisory committee to speak for the Hawaiian community as to what their practices are.

Stewart Hunter, general manager for the Mauna Kea Observatories Support Services (MKSS), explained an investigation of the ahu was conducted and determined what happened and took action on matters. The matter was mentioned in the newspaper and that action was taken. However, he cannot release disciplinary management of employees to the public, as it is a matter of privacy.

Mr. Fergerstrom commented he appreciates science and what we do, but there are some very grave matters that are just not correct. For instance, the assertion by PUEO that says the state owns and has title to the summit of Maunakea. Where is that paper that states that? This is important to him as a religious practitioner. It is important that you do not make this confusion between culture and religion because this is a religious matter. We are protected three times in the constitution and also in the state constitution. If we need to go to the Federal courts we will do so. This is a religious matter and this mountain is his. He has title to it. He has blood there. And because he is a trained kahuna from the Temple of Lono, he has a kuleana that he must act upon.

Ms. Asuncion asked if the department considered taking up and practicing religious and cultural practices on the mauna. Is that why we are looking at these action items? Director Nagata replied the reason for developing these policies is that these are management actions included in the Comprehensive Management Plan approved by the Board of Land and Natural Resources. The University, by the Board of Land and Natural Resources' action, is responsible for implementing these actions. These are just policies, not rules, to serve as guidelines. As we move forward there will be some explanation as to the reasoning behind the policies developed by the Kahu Kū Mauna Council. Ms. Asuncion asked if the guidelines are for "you or for the community?" Ms. Nagata response was for

both the community and us. Ms. Asuncion stated when you talk about ahu, cremation, you are talking about her religion and not necessarily her culture. The wording on this is wrong to begin with. She does not see the word religion in these guidelines, but yet you are talking about her religious practices, her spiritual beliefs and her right to ascend the mountain and practice in a manner in which she feels is appropriate. You are not my church. You are not my priest. You are not my minister. You are no way connected to me. You never guided me spiritually. You never supported me or uplifted me. Why would she ever look to us for guidance in these areas? This is so inappropriate.

Ms. Asuncion continued stating that back in February 2016 a letter was written to you, which was a compilation of many from our community, responding to a threat of removing hale ku mauna from the mountain and we have not yet received a response from your department. Director Nagata replied that the letter was addressed to Suzanne Case of the Department of Land and Natural Resources. Director Nagata further stated that OMKM could not respond on behalf of DLNR. Ms. Asuncion corrected the record saying DLNR has not responded and will follow up with them as well.

Davin Vicente commented that it has been said this is not a place to discuss land ownership. Chair Mooers clarified that this can be discussed, but this Board cannot take any action on it as they do not have the authority to determine who has control over the mountain or not. Mr. Vicente thought as a Native Hawaiian, the university institute of education does not have the right to tell him how to be a Native Hawaiian on Maunakea or any place for that matter.

Tammy Harp stated that since Kahu Kū Mauna Council was going to be on the mountain on October 7-8, she proposed that a meeting be held at the hale and they be allowed an orientation from the Council - the same one given to everyone else.

Ms. Springer felt this request would be properly posed to Kahu Kū Mauna and that the contact information could be gotten from Director Nagata. She wondered if we intend to hold to the 12 o'clock adjournment, and if our legal counsel could come to the table and inform us if there are any matters that we should be apprised of before we continue.

Chair Mooers stated there is an Executive Session scheduled so perhaps going into Executive Session now would be best.

Ms. Springer also asked if there were any agenda items they could take up in a timely fashion, take the CRs out of order and come back to them after the Executive Session.

C. Executive Session (Closed to the Public) 11:50 a.m.

To consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities related to the contested case hearing on the application for a Conservation District Use Application permit for the Thirty Meter Telescope project, pursuant to HRS §92-5(a)(4)

The Board reconvened in public session at 12:45 p.m.

D. Action Items:

- B. CR-5 Develop and Adopt Guidelines for the Culturally Appropriate Placement and Removal of Offerings**
- C. CR-8 Develop and Adopt a Management Policy for UH Management Areas on the Scattering of Cremated Human Remains**
- D. CR-7 Determination of the Appropriateness of Constructing new Hawaiian Cultural Features**
- E. CR-9 Management Policy for the Cultural Appropriateness of Building Ahu or "Stacking of Rocks"**

Ms. Springer stated the discussion of the Cultural Resources Management Plan is overdue and for that reason there may be the appearance that this discussion is tied to the Thirty-Meter Telescope issue. These are items that the state auditor has brought to our attention starting in 1998, 2005 and most recently in 2014. We are responding to the state auditor's concerns about the management of the mauna. We are conducting our work according to the legal authority that we assumed when we became members of this Board.

Herring Kalua stated that communication between us and the community in general is the biggest problem and is very important. We have Kahu Kū Mauna Council, which is responsible for the culture of the mountain. He would like to have the Council, along with Lukela Ruddle, work together with the public about their concerns and input.

Mr. Fergstrom reminded the Board of a notice of fraudulent convergence because the State of Hawaii does not own this property. It is Hawaiian Kingdom property. This is a land title case.

Chair Mooers stated given the comments received today and as announced by Mr. Kalua of the lack of communication, the Board is uncomfortable with taking any actions on Items B, C, D and E until there is additional consultation with the community. We rely heavily on Kahu Kū Mauna and their outreach process with the community.

Action

Ms. Springer moved to defer agenda items VI. B, C, D and E. Herring Kalua seconded the motion.

Discussion

Ms. Springer clarified the process stating discussion on these Cultural Resources Management Plan items is going to continue through Kahu Kū Mauna. Kahu Kū Mauna will come back to this Board with a draft of these items.

Chair Mooers interjected explaining no. Once Kahu Kū Mauna makes a recommendation it comes to this Board for more public testimony and Board action. He further explained that the process involving the Board of Regents and the governor's office, and the need for public hearings is related to the rules and not the CRs.

Action

The action to defer agenda items VI. D. Action Items B, C, D and E were unanimously carried.

Chair Mooers addressed the public stating if they wish to testify on these items they will have the opportunity after the remaining action items on the agenda have been addressed. At that time he will open the floor to the public for comments.

E. Submillimeter Array (SMA) Parking Lot Geotechnical Investigation

SMA requests to conduct a geotechnical investigation consisting of four borings within the existing SMA parking lot and collection of a sample of surface soil to compare with the boring material.

The SMA parking lot is about 20 years old. Its current state, with numerous large cracks and crumbling margins, presents a safety hazard to SMA staff and equipment, and to the visiting public. Pursuant to its 1995 sublease, the Smithsonian Astrophysical Observatory (SAO) is required to keep the SMA facilities and improvements in good repair. SAO is planning to conduct a geotechnical study, consisting of drilling boreholes at four locations within the existing parking lot and comparing the boring material with a sample of surface soil (4" in diameter and 8' deep). The surface sample will be collected from an area previously disturbed and will be adjacent to the parking lot. The data will be used to assess options for repairing the pavement. The geotechnical study will ascertain the composition and strength of the underlying soil, as well as the strength of existing pavement and base-course. SAO-SMA will submit a detailed proposal to OMKM and seek appropriate permits, prior to undertaking any pavement restoration, remediation, or replacement.

Kahu Kū Mauna

Kahu Kū Mauna Council was consulted as part of SMA's 5 Year Plan on January 20, 2016, and requested in-depth consultation. In-depth consultation was conducted on September 8, 2016, and no further concerns were raised given the project approval request is limited in scope to data collection.

DLNR Rules

The Department of Land and Natural Resources (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.

Comprehensive Management Plan Compliance

The project was reviewed for compliance with the Comprehensive Management Plan. During the proposed work, SAO-SMA and its subcontractors will comply with all applicable OMKM policies and procedures. Compliance actions include use of potable water to minimize dust from borings; assist in providing for parking for all users in the Astronomy Precinct; discourage off-road vehicle use and parking; and assist in confining tours and stargazing activities to previously disturbed ground surfaces and established parking areas.

Recommendation

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

1. The proposed request does not increase the size of the facility and is solely a request for updated permitting of existing infrastructure.
2. There are no archaeological sites in the immediate area.
3. The project maximizes infrastructure use with minimal impact to the immediate surroundings and summit region.

If this project is classified Minimal Impact, OMKM recommends SMA be allowed to proceed with the permit application.

Conditions

OMKM recommends the following conditions:

1. Only potable water will be used for drilling operations.
2. Only native material will be used to backfill the boreholes: cuttings from the boreholes themselves or excess material previously disturbed during construction of the SMA buildings. If necessary, excess material might be obtained from the stockpile at the old batch plant near the road fork. In this case, SMA will seek OMKM guidance before proceeding.
3. Notify OMKM in writing at least 5 days prior to beginning fieldwork on UH managed lands (Halepōhaku, Road Corridor, Maunakea Science Reserve, or Astronomy Precinct).
4. All project participants must attend a Maunakea orientation prior to fieldwork.
5. Use a 4-wheel drive vehicle when traveling above Halepōhaku.
6. Allow OMKM Rangers to visit and monitor activities.
7. Comply with all actions and measures described in the proposal, including (community) benefits, CMP compliance list, and mitigation measures.
8. Ensure that loose tools or equipment are not left unattended and are properly stored at the end of each day.
9. In preparation for high wind conditions (including verification that temporary and permanent infrastructure can sustain 120mph winds), protocols must include measures to ensure debris and equipment is not blown from the job site.
10. All improvements shall be designed and installed to withstand the severe weather conditions on the mountain.
11. 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.
12. Employ invasive species prevention best practices, including inspections of materials by a DLNR-approved biologist as appropriate prior to entering UH managed lands.
13. Motorized equipment, when stationary, must have a drain-pan in place suitable for catching fuel or fluid leaks. To allow for expansion with reduced atmospheric pressure, fuel tanks should not be more than 3/4 full prior to transport to the summit (unless used as the fuel source for transport to the summit).
14. Large, heavy, or oversized loads must submit notification to the Maunakea Road Conditions listserve at least one-day prior to delivery. Loads requiring an escort on public roadways must have this escort accompany them to the final destination. Projects failing to do so must obtain approval from the Maunakea Rangers before arriving at Halepōhaku or may be denied entry to Halepōhaku or above.
15. Collected specimens that are not consumed in analysis will be returned to OMKM unless otherwise specified.
16. Electronic and paper copies of all publications resulting from the work will be provided to OMKM.
17. Notify OMKM in writing when field activity associated with the project is completed.
18. The project must be completed within the time frame specified in the proposal and (when applicable) DLNR approval. Projects not completed within this timeframe are not allowed to continue (or commence) without explicit, prior, written approval from OMKM.

Actions

It was moved by Herring Kalua and seconded by Douglas Simons to classify this project as Minimal Impact. The motion was carried unanimously.

It was moved by Herring Kalua and seconded by Gregory Chun to approve the project with conditions as proposed and to allow SMA to proceed with the permit application. The motion was carried unanimously.

F. University of Hawaii 2.2-m Telescope Maintenance and Repair

The University of Hawaii Institute for Astronomy proposes to repair the exterior façade and dome of the UH 2.2-meter (“UH 88”), in order to comply with the 1968 General Lease (S-4191) conditions which stipulates UH shall ‘maintain, repair, and keep all improvements in good condition;’ to rectify safety deficiencies identified in audits; and to conduct efficient observatory operations.

Maintenance of the UH 88 telescope has been deferred over the past decades. The following is a list of major repair areas:

- Remove - old, unused instruments and instrument mounts. Replace and reduce camera and weather instrumentation with fewer, more powerful units.
- Wiring – Dome ground conductor, grounding wires, cables, brackets, and other necessary infrastructure to be moved, repaired, or replaced to address visual impact, facility maintenance requirements and safety concerns.
- Siding – The façade sidings are of differing materials and are coming loose from the fixed base structure, particularly on the north, east, and west-facing sides. Project will replace sidings (excepting the south face), and add internal insulation, so that all have the same galvalume finish and profile.
- Paint – Currently, the dome and base are white with all metal trim, while the catwalk and guardrail are painted tan. All will be repainted in existing color scheme.
- Catwalk – The existing catwalk and guardrail were identified as safety hazards for proximity to the rotating dome. A new steel catwalk, guardrail will be installed farther from the dome, as well as a new roof access ladder with safety cage.
- Coude building roofing – Like-to-like replacement of current roofing material and installation of new roof drain with heat trace to prevent damage from accumulation of ice.

Kahu Kū Mauna

Kahu Kū Mauna Council reviewed the proposal as part of IfA's 5 Year Plan on January 20, 2016, and requested in-depth consultation. In-depth consultation occurred during the Council's September 8, 2016, meeting. The Council expressed interest that the observatory's old building materials be recycled to the greatest extent possible and that IfA prepare and disseminate a communication plan for this activity prior to the start of work to advise the public of pending activity and prevent confusion among different observatory construction/decommission activities.

DLNR Rules

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.

Comprehensive Management Plan Compliance

The project was reviewed for compliance with the Comprehensive Management Plan. All activities, including construction activity, university-sponsored tours, and visitor access, would be confined to areas previously disturbed.

Recommendation

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

1. The proposed request does not increase the size of the facility and is solely a request for updated permitting of existing infrastructure.
2. There are no archaeological sites in the immediate area.
3. The project maximizes infrastructure use with negligible impact to the immediate surroundings and summit region.

If this project is classified Minimal Impact, OMKM recommends IfA be allowed to proceed with the permit application.

Conditions

OMKM recommends the following conditions:

1. Notify OMKM in writing at least 5 days prior to beginning fieldwork on UH managed lands (Halepōhaku, Road Corridor, Maunakea Science Reserve, or Astronomy Precinct).
2. All project participants must attend a Maunakea orientation *prior to* participating in fieldwork.
3. Use a 4-wheel drive vehicle when traveling above Halepōhaku.
4. Allow OMKM Rangers to visit and monitor activities.
5. Comply with all actions and measures described in the proposal, including (community) benefits, CMP compliance list, and mitigation measures.
6. Ensure that loose tools or equipment are not left unattended and are properly stored at the end of each day.
7. In preparation for high wind conditions (including verification that temporary and permanent infrastructure can sustain 120mph winds), protocols must include measures to ensure debris and equipment is not blown from the job site.
8. All improvements shall be designed and installed to withstand the severe weather conditions on the mountain.
9. 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.

10. Employ invasive species prevention best practices, including inspections of materials by a DLNR-approved biologist as appropriate prior to entering UH managed lands.
11. Motorized equipment, when stationary, must have a drain-pan in place suitable for catching fuel or fluid leaks. To allow for expansion with reduced atmospheric pressure, fuel tanks should not be more than 3/4 full prior to transport to the summit (unless used as the fuel source for transport to the summit).
12. Large, heavy, or oversized loads must submit notification to the Maunakea Road Conditions listserve at least one-day prior to delivery. Loads requiring an escort on public roadways must have this escort accompany them to the final destination. Projects failing to do so must obtain approval from the Maunakea Rangers before arriving at Halepōhaku or may be denied entry to Halepōhaku or above.
13. Nēnē (*Branta sandvicensis*) may be present (at Halepōhaku). If a nēnē appears within 100 feet (30.5 meters) of ongoing work, all activity should be temporarily suspended until the animal leaves the area of its own accord. Feeding of nēnē is prohibited.
14. 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.
15. No use of mechanized equipment is allowed unless authorized by this permit.
16. Identify and comply with other permit requirements, such as County of Hawaii building permits or Department of Land & Natural Resources (see both any applicable DLNR permit and HAR §13-5-42 Standard conditions).
17. Notify OMKM in writing when field activity associated with the project is completed.
18. The project must be completed within the time frame specified in the proposal and (when applicable) DLNR approval. Projects not completed within this timeframe are not allowed to continue (or commence) without explicit, prior, written approval from OMKM.

Discussions

Doug Simons asked for the duration of this project. His concern was that normally during spring is when they get the highest winds. With a lot of construction material there is the potential of high winds blowing material around. Mr. Klasner replied if everything goes as planned they would start in May and be done by October. Mr. Klasner stated one of the conditions includes making sure everything is designed to withstand 120 miles an hour winds. They are also proposing to bring up 20-40 feet containers so that all materials can be placed inside containers.

Ms. Springer asked for clarification on the proposed completion date. Is it December 2017 or 2018 as mentioned in the write up? Mr. Klasner explained the intended completion date would be in October 2017, which is the contractor's goal. The contract requirements have a contract expiration date, but also because the next step is submittal to the Office of Conservation and Coastal Lands for their review for a permit, we add a year in case something comes up that would delay the project the applications would not need to be resubmitted.

Actions

It was moved by Herring Kalua and seconded by Douglas Simons to classify this project as Minimal Impact. The motion was carried unanimously.

It was moved by Hannah Springer and seconded by Gregory Chun to approve the project with conditions as stated and to allow IfA to proceed with the permit application. The motion was carried unanimously.

G. Review and Approval of Draft Administrative Rules

Chair Mooers stated these rules have been drafted based on a series of public open houses held over the last year around the island. The action we would take today would be to recommend to the Board of Regents that these rules be taken to the governor to authorize the University to hold public hearings for comments and revisions. This is just one preliminary step in the process.

Action

It was moved by Gregory Chun and seconded by Douglas Simons to move the rules forward. The motion was carried unanimously.

VII. OLD BUSINESS

A. Governor's 10-Point Plan

Back in May 2015 the governor issued a statement regarding Maunakea and specifically as related to the Thirty-Meter Telescope project. His statement contained 10 steps for better stewardship. A couple of those steps relate directly to this Board and actions we might or might not take.

One of the items was Item 8 - Voluntarily return to full DLNR jurisdiction all lands (over 10,000 acres) not specifically needed for astronomy. The Board forwarded a letter to the governor through the Board of Regents

(BOR) seeking clarification as to how this determination was made, why this request was made, and how it might be related to the management of the mountain. To this date we have not received any response from the BOR or the governor. Due to the ongoing contested case hearing the governor does not feel it would be appropriate for him to respond. The question that this Board is struggling with is how do we make a recommendation on the treatment of 10,000 acres when we have rules that were drafted to protect the UH managed land. Further we are not clear about who would assume control and what rules would apply.

Director Nagata added the University is supposed to be entering into a memorandum of agreement with the Department of Land and Natural Resources (DLNR), but we have come to the Maunakea Management Board for advice and guidance. Is this a good idea and if so, how should we move forward with it? Another item in the governor's 10-point plan is the environmental impact statement (EIS) the University is preparing for the new master lease. The EIS will be looking at impacts of several alternatives such as various parcel sizes the University would end up managing, such as a smaller Science Reserve (e.g., minus 10,000 acres). One thought is to wait until the EIS is completed to look at determinations of the impacts of the different sizes and give back to DLNR. Another process is EnVision Maunakea. This process will also help to inform this Board as to what the community vision is for Maunakea. These are the two processes currently ongoing that could help this Board in trying to make a determination or recommendation as to the give back of 10,000 acres.

Dr. Simons suggested we could look at the agreement being crafted with DLNR. He feels this is like a solution in search of a problem. He does not understand what is being solved by the 10,000-acre land transfer to begin with. It is hard for him to come to a conclusion.

Chair Mooers agreed adding the governor's 10-point plan was in response to TMT which does not have a permit and may never take place. If it does not take place, what is the appropriate action for these 10,000 acres? Is it to have the Office of Maunakea Management continue to manage it? Until we can get some feedback, he feels we should not take a position. We represent the community and he is hearing a lot of people from the community that are very concerned about the idea of DLNR taking over these lands with no resources to do so. There are conversations we need to have that we have not had. His preference is not to take any action or make any proposals at this time.

B. Decommissioning of Telescopes Updates

Hoku Ke'a (This subject agenda item was moved up after Approval of Minutes)

R. Pierre Martin reported the new dome for Hoku Ke'a was received in July. The telescope was received one month ago and has been assembled in the lab at UH Hilo. Right now they have all the equipment to rebuild the new Hoku Ke'a observatory. In the next couple of months they will continue testing in the lab. Eventually they will need to bring all the equipment outside for further testing. The first choice is to install it somewhere on campus. Hilo is not a very good site to do astronomy. Besides being cloudy, there is also high humidity in the air. This is only a temporary solution just to make sure the observatory can be ready to go. In parallel to all this technology, they have been talking with several groups about how to integrate this observatory to make it available to the community. There are several solutions for that. The main one is availability. It can be available at nights for local communities. Observations can be done remotely or done at the site itself. They also talked about how to improve STEM (Science, Technology, Engineering and Math) in Hawaii by helping science teachers to know more about astronomy. They are short a site right now, but hopefully they can find a place soon so all can benefit.

Keahi Warfield testified why science education in Hawaii, on Maunakea, in Keaukaha, and all of our communities throughout the State of Hawaii is beneficial. He presented his own 10-point plan on how Hōkū Ke'a can be adopted and utilized by UH Hilo and the community:

1. By providing expertise, project implementation and collaboration amongst primary, secondary and post-secondary students of the public educational institutions.
2. Educational outreach to Hawaii communities in knowledge use and operation of its capabilities.
3. Utilization by UH Hilo students where colleges of physics and astronomy are undergraduate degree programs currently being offered.
4. Intergenerational mentoring that professors, graduate, and undergraduate students can be involved with to meet community service expectations and perhaps for scholarship.
5. By providing at risk youth an educational opportunity to explore and engage in unique Science and Technology programs currently not being offered anywhere else in Hawaii.
6. To instill a sense of pride and identity for language, cultural practice and self-esteem in the development of *na'auao* enlightenment and sustainability.
7. To create a bridge between all astronomy present on the mountain and to engage with the island community in a "hands-on" fashion.

8. As an opportunity to work in partnership with UH Hilo institutions such as 'Imiloa to extend outreach education and relevance of culture and science.
9. As a way to include indigenous knowledge in science programs.
10. Opens avenues for indigenous people/children to pursue careers in science.

Caltech Submillimeter Observatory (CSO)

CSO continues to move forward with their preparations to formally begin the design compliance and permitting process. Ultimately no facility deconstruction will occur until the appropriate permits and environmental compliance and consultation is complete.

VIII. ANNOUNCEMENTS

Mikihala Roy asked the Board to remain flexible knowing that things change. This land belongs to the Hawaiian people who trust in their akua and in their ancestors. We believed that astronomers really did want to hear of the cosmology of the Hawaiian people. Now you are ready to hear the cosmology of the Hawaiian people; it is loud and strong.

Alohalani (Hope) Cermelj referenced a document (Antiquities Act 1906-2006) given to Board members before entering into executive session. Three items on the agenda that was just deferred have broken this act. This mauna is sacred to the people.

Lanny Sinkin stated you are dealing with a faith that was actively suppressed over a long period of time that began to re-emerge in the early in 1970s. The University filed an opposition to a motion he had filed. He stated it was an attack on the Temple of Lono. There is nothing authoritarian about the Temple. The TMT has the process rigged for contested case. There is no question the hearing officer is going to approve whatever she wants to do. We are in there providing evidence and building a record. It will get reversed at the Supreme Court and sent back down and TMT will give up and go to Chile or somewhere else.

Andrew Brewer stated he is here today as a private Hawaiian national, not a U.S. citizen and is here to speak because this is his homeland. He is committed to solutions. Director Nagata brought his name up earlier speaking of the grievance mechanism being worked on and it is his position that we can work together to make a change. We can create a solution that is amicable for all of our communities. Just because he is part of the Hawaiian Kingdom and that he recognizes a monarch does not mean that you have to think that he is trying to take away our rights.

Ronald Fujiyoshi, pastor of the Ola'a First Hawaiian Church in Kurtistown, speaking as a religious person was appalled to find out on the agenda there were changes to practice and religion. A big part of religion is practice. If you alter the practice, then you are altering the religion. He does not think the Office of Maunakea Management has the right to alter a person's religion. This is not your kuleana. He is surprised that Kahu Kū Mauna approved this to bring to the Board. He is glad that this process will be respected until the community can give their input.

Jim Albertini stated the items on the agenda appear to be an attempt to control religious spiritual practice. He commends the Board for deferring action on this. At a meeting such as this, the details of these items should be available to the public and requested for copies of these proposed items. He wanted to make clear that he has been informed there are Hawaiian burials now in the ahu on the site of the proposed TMT. He commented that this attempt to control Hawaiian religious spiritual practice appears to him as a blatant violation of the U.S. first amendment where the state is interfering with the freedom of religion.

Kau'i Trainor stated she grew up in a Hawaiian family living a certain way and knowing some basic things but not fully understanding those things until she started going up to the mountain. For those who have the desire to learn more about their ancestors, religion and practice, making these guidelines prevents us from learning because we are not active practitioners. She wants to learn and wants to go back to the ways of her ancestors. When she started to get involved with the mountain she started to receive many spiritual and sacred things that affected her. She hopes by deferring this she can be involved in the process.

Chandell Asuncion talked about a comment that was made earlier and that also applies to the four rules discussed. The comment was about the value of education in our community with respect to science. The content of this meeting is at the expense of cultural, traditional, religious, spiritual practice of our people. It is a battle now between culture, religion and science. If our keiki chooses religion, culture or spiritual practices today and they head to the mauna today, they are faced with a threat. Why do we face an army when we attempt to practice our cultural, our religion, or our spiritual practices on the mauna? If our community needs to come to you and help you find solutions, you have to consider who you are in their eyes.

Tammy Harp wanted to see the hale be grandfathered in. She feels that is appropriate. Regarding the CRs, as far as she understands there are no boundaries for scattering at the beach. The mountain should be no different than the beach. She stated that she would like to see whatever else is up there that is in good condition is part of the feature instead of being dismantled.

IX. NEXT MEETING

Board members will be polled for the next meeting date.

X. ADJOURNMENT

There being no further business Chair Mooers adjourned the meeting at 2:00 p.m.

Respectfully submitted:

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

2-14-17
Date