



University of Hawai'i at Hilo

640 N. A'ohoku Place, Room 203, Hilo, Hawai'i 96720

Telephone: (808) 933-0734 Fax: (808) 933-3208

Mailing Address: 200 W. Kawili Street, Hilo, Hawai'i 96720

**Minutes
Regular Meeting**

Mauna Kea Management Board
Tuesday, January 30, 2018

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

Attending

- MKMB:** Chair Gregory Chun, 1st Vice Chair Doug Simons, 2nd Vice Chair Lehua Veincent, Roger Imoto, Herring Kalua and Gregory Mooers
- BOR:** Wayne Higaki
- Kahu Kū Mauna:** Shane Palacat-Nelsen
- OMKM:** Fritz Klasner, Stephanie Nagata, Dawn Pamarang, Lukela Ruddle, Sage Van Kralingen, and Joy Yoshina
- Others:** Dave Corrigan, Hank Hanalei Fergstrom, Cory Harden, Jim Hayes, Jessica Kirkpatrick, Julie Leialoha, Nanci Munroe, Stewart Hunter, Jesse Souki, Gary Takeuchi, Dwight Vicente, Deborah Ward

I. CALL TO ORDER

Chair Chun called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:00 a.m. Chair Chun noted those in attendance constitute a quorum.

II. APPROVAL OF MINUTES

Upon motion by Gregory Mooers and seconded by Doug Simons the minutes of the November 28, 2017, meeting of the MKMB were unanimously approved.

III. DIRECTOR'S REPORT

A. Thirty-Meter Telescope (TMT) Contested Case

In November 2017, the Board of Land and Natural Resources (BLNR) filed a motion to consolidate the separate appeals filed by four individuals and groups of petitioners, also known as Appellants. In January 2018, the Supreme Court denied BLNR's request to consolidate. Opening briefs by three Appellants are due on February 15, 2018, followed by answering briefs by the University of Hawaii (UH) and the BLNR on March 27, 2018. Appellants have 14 days to reply to UH's and BLNR's answering briefs. The University, BLNR and Appellants can each request extensions for their respective answering briefs. The fourth appeal had a filing date of January 16, 2018, but an Opening Brief was not filed, nor was an extension to file requested. The status of this appeal is uncertain.

B. Flores II vs. Board of Land and Natural Resources

The Flores II case has been fully briefed by all parties since September 5, 2017. The Supreme Court set March 15, 2018, to hear oral arguments.

C. Office of Hawaiian Affairs (OHA) Lawsuit

The Office of Hawaiian Affairs filed its complaint against various state defendants and the UH on November 7, 2017, but the parties were not served until December 20, 2017. On January 9, 2018, the state filed its answer to the complaint. On January 10th, UH filed a Motion to Dismiss the Complaint. On January 22nd the state filed to join

UH's Motion to Dismiss. The motion is currently scheduled to be heard on February 7, 2018, at 9:00 a.m. before Judge Jeff Crabtree.

D. Updates on Summit Projects

The exterior repair and maintenance work on the University of Hawaii 2.2-meter telescope is complete except for minor troubleshooting. The scaffolding was taken down a couple of weeks ago.

The NASA Infrared Telescope's (IRTF) dome refoil project continues.

E. Hoku Ke'a Telescope Decommissioning

UH Hilo issued a request for proposals seeking bidders to remove the non-working telescope in the Hoku Ke'a summit facility. UH Hilo is working through the award process and estimates a vendor will begin removing the telescope in March 2018.

F. Annual Report to the Board of Land and Natural Resources

The Office of Maunakea Management's (OMKM) annual report on the status of the implementation of the Comprehensive Management Plan (CMP) was presented to the BLNR at its January 26, 2018 meeting. The Board members appeared to be interested and engaged in the work that OMKM has been doing and had many questions mostly about our research activities and the resources.

On the agenda also were two cases involving unpermitted commercial tour operators who were issued cease and desist notices by the Division of Conservation and Resources Enforcement (DOCARE) for operating on Forest Reserve lands. Both of the operators were fined \$2,500 by the BLNR.

G. Environmental Assessment for the Ingress/Egress and Parking Project at the Visitor Information Station (VIS)

The Department of Land and Natural Resources (DLNR) received OMKM's Conservation District Use Application (CDUA) for the ingress/egress parking project at the VIS. DLNR classified it as moderate alteration requiring a Departmental Permit. Although the DLNR chair has the authority to issue a permit, the project will be reviewed and subject to approval by the BLNR. DLNR will hold a public hearing on the ingress/egress parking project in Hilo in early March. The place and time is to be determined.

H. Maunakea Speaker Series

The next presenter in the Maunakea Speaker Series is Dr. Elmar Schmidt, Professor of Engineering, Mathematics and Physics at SRH University of Applied Sciences in Heidelberg, Germany. His presentation is about measuring the moon's brightness and the implications it has on multiple scientific disciplines. The lecture is on February 1, 2018, 7:00 to 8:00 p.m. at the Science and Technology Building auditorium on the UH Hilo campus.

I. Outreach

OMKM continues its outreach efforts to groups who are interested in learning about OMKM's stewardship on Maunakea. Presentations have been made to various community groups. OMKM will be participating in the annual Kealakehe Elementary School science night.

J. Administrative Rules

The administrative rules are undergoing a review and edits by the Office of General Counsel (OGC). Comments were received from DLNR and are being reviewed and incorporated into the draft rules. UH hopes to consult with OHA on the draft rules.

K. Legislative Bills

S.B. 3090 was introduced by Senator Dela Cruz along with a number of other senators including Big Island Senators Kaiali'i Kahahele and Lorraine Inouye calling for the establishment of a new management authority. This management authority is intended to be self-sustaining with part of the funding coming from commercial tour and observatory fees. It does not include the University or DLNR participation. Title to the Maunakea lands would be transferred to this new management authority which would be authorized to issue leases and develop and implement rules. It would be attached temporarily to the Governor's office for administrative purposes and will consist of nine paid voting members appointed by the Governor with approval by the Senate.

H.B. 1767 requires the use of 4-wheel drive vehicles only above Halepōhaku (HP). It also prohibits individuals or businesses who transport people for a fee on the connecting roadway corridor between Halepōhaku and the Maunakea Science Reserve. Violators would be subject to a fine of \$250.

IV. KAHU KŪ MAUNA COUNCIL (KKMC)

Shane Palacat-Nelsen reported the Council met in January and reviewed maintenance schedules for the various observatories. They are looking into filling two to three more seats on the Council and to spread out representation on the island.

V. Committee Reports

A. Environment Committee

Fritz Klasner reported the next Maunakea Speaker Series event will be on Thursday, February 1st, with Dr. Elmar Schmidt who will be speaking about the lunar eclipse. On February 22nd Ryan Lyman, with the Maunakea Weather Center, will speak about the weather center forecasting process. The previous Speaker Series, held in January, featured high school students talking about their science projects.

The next volunteer weed pull event is scheduled for February 10, 2018, with UH Hilo student groups.

The Environment Committee is finalizing the scheduling of its next meeting which will feature a presentation by Diamond Tachera, a Ph.D. graduate student with the 'Ike Wai project, to present some of her ground water research. Ms. Tachera may be invited to present at a future Maunakea Speaker Series for the broader public once her research is completed.

We are starting to think about summer interns and hiring for summer help.

With the regular invasive species monitoring, we have not identified any new threats.

Dr. Steven Businger at the Maunakea Weather Center has finished his climate change downscaling forecast project and his report is forthcoming.

At the last Kahu Kū Mauna meeting, observatory projects were reviewed and there are some follow up questions with some of the observatories. Once that is done, the observatories will be notified and projects will be brought before the Board as the observatories make a decision to implement.

B. Cultural Resources

Lukela Ruddle reported she is still working on the project to work with some of the Hawaiian language students investigating the naming of physical features on Maunakea. Dr. Kimura suggested organizing a committee to look into the history of the names. It is an idea, but Ms. Ruddle would still like to do something in conjunction with the students first.

Doug Simons stated this project is related to his project with naming astronomical stars and asked if we wanted to unify them or go in two different directions. There is a meeting this afternoon in which Mr. Palacat-Nelsen will be attending as well as Dr. Kimura. This can be discussed at that meeting.

The Council will be reviewing OMKM's orientation plan.

Ms. Ruddle has been working with Janno Scheer, Stewart Hunter and 'Imiloa staff on cultural displays at the VIS. One wall has already been painted and primed for a star line mural display. They will be meeting with Michael Marshall from the UHH Art Department.

The OMKM activity book went through a minor edit and should be ready for print soon. This will be used in our upcoming outreach events.

VI. NEW BUSINESS

A. Information Only - Environmental Impact Statement (EIS) for the University of Hawaii's New Land Authorization

Jim Hayes, Planning Solutions, reported they met with Kahu Kū Mauna, DLNR, and some observatory directors. He also plans to meet with other parties, including OHA. The EIS process is required for a new land agreement for the University. UH submitted a request for a new master lease in 2013. At that time it was requested that an EIS be prepared prior to action on the approval of a lease. An EIS preparation notice published and public meetings were held in early 2015, but soon there were demonstrations and heated activity associated with the construction of the Thirty-Meter Telescope (TMT) slowed the process. The process was then restarted from the beginning.

Purpose of proposed land authorizations

The purpose is to request land authorizations for the continuation of astronomy on Maunakea. The secondary purpose and objective is to fold in new authorizations that took effect since entering into the original lease. That includes the Comprehensive Management Plan and its associated sub plans, as well as ideas on how new sub leases would be configured with existing observatories and any new developers, and administrative rules.

Overview of and input on alternatives

The EIS will address three alternatives in detail:

1. *No Action*. Currently there are two existing leases (11,288-acre Mauna Kea Science Reserve (MKSR) and 19 acre Halepōhaku) and a non-exclusive easement for the roadway between the MKSR and HP. The current situation would continue until the leases expire in 2033. By the end of 2033, all existing astronomy sublessees would decommission their facilities and all the land would be returned to DLNR.
2. *Continued use of Reduced Area*. A reduced area would continue under the UH land authorization. The areas include the 525-acre portion of the MKSR (observatories and road), 71-acre road between MKSR and HP, and 19 acres at HP. Roughly 10,738 acres would revert to DLNR. The roadway between HP and the summit would be part of the land authorization instead of an easement as it currently exists. In that way, the same tenure would exist from HP along the road and to the observatories.
3. *Continued use of Existing Area*. UH would continue to have authorization over all of the existing areas. The roadway between HP and the MKSR would be all under one land authorization. The land authorization would include the 11,288 acre MKSR, 71 acre road between MKSR and HP, and 19 acre HP parcel.

Other things included in the alternatives are types of land authorization that would be agreed to. The master lease is foremost among those. UH is also considering other potential land tenure agreements that could be included. One is an executive order, which is similar to Haleakalā.

Other components of a new land agreement:

- Agreement term that allows 50 years of operation of all currently-permitted observatories, including the TMT.
- All new agreements between UH and existing and future telescope operators will require increased payments that will help sustain and expand UH management activities.

Astronomy uses under the new land agreement:

- Certain observatories will be decommissioned before TMT begins scientific operation.
- Additional observatories may be decommissioned before 2033.
- No new sites will be developed.
- Existing observatories not decommissioned may (a) continue operations, (b) be expanded or modified, or (c) be redeveloped or recycled. The scope of any redevelopment or modifications will occur within their existing footprints so that no new land is disturbed. The leased areas will not change.

Management of non-astronomy visitors will be another topic discussed in the EIS. This is primarily in the context of the CMP and its Public Access Plan. We are not creating a new master plan or any new guidelines. We are using the existing framework and reflecting how that framework is likely to adapt and be enforced under a new agreement.

The goal is to have the EIS preparation notice available to the public before the end of February. There will be a 30-day comment period and public open houses will occur during that time in Honolulu, Waimea, and Hilo. After the 30-day period comments will be collected and considered and a draft EIS will be prepared. There is a lot of existing knowledge about Maunakea and no new studies are contemplated except a new cultural impact assessment. This will start as soon as they have the alternatives refined based on the input received during the scoping period. They hope to have the draft EIS available by end of 2018 followed by a 45-day comment period and then work on the final EIS.

Gregory Mooers asked who the accepting agency would be and who would be doing the cultural impact assessment. Mr. Hayes replied the accepting agency would be the governor and Pacific Consulting Services Inc. would be the subcontracted consultant. Mr. Mooers asked Mr. Hayes if he examined Senate Bill 3090 to which Mr. Hayes replied he has. Mr. Mooers stated the impact then would be to terminate your work. Mr. Hayes stated there would be significant changes should that bill pass.

Doug Simons asked how long before the EIS will be ready for the governor's signature. Mr. Hayes replied if everything goes as planned the goal is the summer of 2019.

Nanci Munroe stated that during the TMT hearing there was testimony a cultural assessment was not included with the [TMT] EIS when it came out for public comments. She is happy to hear that one will be done and asked for assurance that it will be included. Mr. Hayes replied it will be included in the draft EIS as an appendix. Depending on the status of the interviews and other parts of the process, there may be a need to update it after the draft EIS is reviewed by the public. He does not believe it will be considered a final document as it appears in the draft EIS appendix.

Ms. Munroe asked if Alternative 2 includes the Northern Plateau where the TMT is proposed. Mr. Hayes replied yes, it is included.

Ms. Munroe asked about executive orders and allowance of a 50-year lease. Who makes those executive orders? Is it the governor as the executive or someone from the University? Mr. Hayes stated he is not a lawyer and does not know the details of how executive orders work but, as he understands, the BLNR makes a request to the governor and the governor issues an executive order.

Ms. Munroe asked about decommissioning and having a site reused by other entities. If they are not going to be reused there is a requirement for restoration. Restoration of a pu'u that was blasted away has not been mentioned. How do you restore? Do those requirements get filled by the individual telescope company? Who is involved with the restoration of a site once it has been destroyed? Mr. Hayes replied site restoration and telescope decommissioning is a requirement of the individual observatory. This document and work that he is doing is about the overall land agreement for the Maunakea summit area, MKSR and HP. It is not specific to the lease terms of the existing observatories.

Director Nagata further explained the decommissioning of an observatory will follow the decommissioning process and it does have to address what level of restoration will be done, which will go through a consultation process. Ms. Munroe wondered if the observatories took pictures of how it looked before it was developed. Director Nagata replied she believes there are some.

Dwight Vicente commented that Minute Order 19 [TMT contested case] left out a lot of the legal questions dealing with the land title and Hawaiian Kingdom. How does it affect this process? Mr. Hayes replied he was not sure he understood the question. Mr. Vicente stated the Hawaiian Kingdom only had 25-year leases. Now you asking for a 65 year lease which is not Hawaiian Kingdom law. Many things related to the Hawaiian Kingdom were left out in the kangaroo administrative process that just took place. Chair Chun appreciated Mr. Vicente's comments and stated that we are operating under the current regime notwithstanding all cultural and historical arguments. The issues you are raising are outside the scope of this EIS.

Deborah Ward asked about Alternatives 2 and 3 with regards to the road, which is currently a state road. You stated that it might be included in the lease itself. Would that reduce it from a shared easement to an exclusive use? Mr. Hayes stated right now it is a non-exclusive easement. The objective here is to make it consistent. The CMP and the way the road is maintained today would continue as far as access for the general public. He does not think there would be a difference from the current situation. Right now it would essentially move the point where you transition from the easement to the lease. The transition now occurs at the Science Reserve boundary, under the new alternatives, the transition would take place at Halepōhaku. It would become a part of whatever the land authorization may be. It would be up to the BLNR to decide what the appropriate agreement would be.

Ms. Ward asked if the new agreements with telescope operators and increased payments to pay for management would include an assessment of fair market value. Mr. Hayes was not sure. How exactly was Planning Solutions selected to be the company to prepare the EIS? Mr. Hayes replied they were selected in 2014, but he was not with the company at that time so he is not sure of the specifics.

Ms. Ward continued stating that restoration is a requirement of the sublessees, however the general lease does not require the restoration, so it is actually the lessee, which is the University that is required to restore the site. Is that correct? Director Nagata replied the University will need to comply with the Decommissioning Plan which calls for different levels of restoration, so it is the University's which is ultimately responsible.

Ms. Ward asked Director Nagata how Planning Solutions was selected. Director Nagata explained that the selection was done through our attorneys. Ms. Ward asked if that is a normal procedure where the attorneys select the company. Director Nagata was not sure.

B. Information Only - Trail Sign Near Pu'uwēkiu

Fritz Klasner reported that a site plan approval application was prepared in anticipation of replacing an existing "Do No Enter" sign on the summit. There is a sign that is currently attached to a guardrail opposite the UH 88-inch summit facility. In spite of the sign, visitors hop over the guardrail and hike down a steep "social trail" (not an official trail) which connects to the main trail leading to the summit of Pu'uwēkiu. The request to DLNR would be to replace the existing sign with a universal no hiking sign. In addition, OMKM is requesting to add a universal no hiking sign at a nearby guardrail location to discourage the use of another "social trail". The objective is to discourage visitors from hopping over the guardrail and creating erosion issues. Visitors would still have access to the normal and preferred route.

At their January 16, 2018, meeting the Kahu Kū Mauna Council concurred the sign needs to be replaced. OMKM will contact DLNR regarding whether a site plan or permit is required for replacement signs.

VII. EXECUTIVE SESSION

The Board moved into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities pursuant to HRS §92-5(a)(4). Executive session commenced at 10:55 a.m.

The Board reconvened in public session at 11:40 a.m.

VIII. ANNOUNCEMENTS

There were no announcements.

IX. NEXT MEETING

Board members will be polled for a meeting date.

X. ADJOURNMENT

There being no further business Chair Chun adjourned the meeting at 11:47 a.m.

Respectfully submitted:

Signed by Lehua M. Veincent
Lehua M. Veincent, Secretary, MKMB

5/22/2018
Date