



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
Friday, September 27, 2019

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

Attending

MKMB: Chair Roberta Chu, 1st Vice Chair Doug Simons, 2nd Vice Chair & Secretary Julie Leialoha, and Greg Chun

BOR: Wayne Higaki

Kahu Kū Mauna: Excused

OMKM: Wally Ishibashi, Jessica Kirkpatrick, Fritz Klasner, Stephanie Nagata, Dawn Pamarang, Lukela Ruddle, and Joy Yoshina

Others: Jim Albertini, Laura Aquino, Grace Bezilla, Michael Brestovansky, Caroline Comper, Dave Corrigan, Callie Crowder, Hank Fergerstrom, Richard Griffiths, Cory Harden, Stewart Hunter, Bonnie Irwin, Herring Kalua, Heather Kaluna, Leilani Lindsay Kaopuni, Dave Lonborg, Maile Lavea Malloe, R. Pierre Martin, Lyn'Al Nosaka, Nani Pai, Emily Peavy, Marcia Sakai, Jesse Souki, Marianne Takamiya, Don Thomas, Davin Vicente, Dwight Vicente, Andrew Waiters, and Deborah Ward

I. CALL TO ORDER

Chair Chu called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:15 a.m.

Chair Chu requested to have the order of the agenda amended. Board members agreed to a reading of a resolution in tribute to the late Barry K. Taniguchi. Due to concern of a losing quorum, the Board agreed to a change in the order of the agenda as follows: approval of the minutes, public comments, Action Items B, C, D and E. The remaining agenda items followed the original order.

II. RESOLUTION IN MEMORY OF BARRY K. TANIGUCHI

Chair Chu read a resolution from the Mauna Kea Management Board in tribute to the late Barry K. Taniguchi and a moment of silence was held.

III. APPROVAL OF MINUTES

Upon motion by Greg Chun and seconded by Doug Simons the minutes of the August 13, 2019, meeting of the MKMB were unanimously approved.

IV. DIRECTOR'S REPORT

A. Administrative Rules

The Board of Regent's review and consideration for approval of the University of Hawaii's (UH) administrative rules that was scheduled for August 22nd has been rescheduled to November 6, 2019 meeting.

B. Access to UH Managed Lands

Those working on the mountain, including UH, observatory workers, Maunakea Support Services staff, U.S Fish and Wildlife Service, landowners and lessees are allowed access through the activists road block. Everyday access is via a section of the old Saddle Road that parallels the Daniel K. Inouye Highway. This quarter-mile road connects by a short cinder segment to the Mauankea Access Road above the road block. Water tankers, long low-boys or large vehicles that cannot make the sharp turn from the old Saddle Road onto the cinder segment are allowed use of the main access road provided prior notification is given and arrangements made between law enforcement and the activists.

C. Decommissioning of the Caltech Submillimeter Telescope (CSO) and Hoku Ke‘a

The decommissioning of CSO and Hoku Ke‘a were discussed as action items under Agenda Items.

V. **KAHU KŪ MAUNA COUNCIL**

Lukela Ruddle reported that at Kahu Kū Mauna’s September 17th meeting the Council reviewed the draft administrative rules and Hōkū Ke‘a decommissioning documents. The Decommission Plan for Mauankea observatories was also reviewed.

VI. **PROGRAM REPORTS**

A. Cultural Resources

Ms. Ruddle reported that work continues on OMKM’s second edition activity book. She will be working with the Student Art Association with help from Professor Michael Marshall. Petroglyph Press will provide us with an estimate of the cost to produce.

The outline for the one day orientation is completed. It will be presented to Kahu Kū Mauna for review.

Due to the uncertainty regarding the start-up of TMT construction the annual archaeology monitoring will be limited and will not include the remote areas. Only sites easily accessed by the public will be visited. It will take about 2 days as opposed to 3 weeks to complete.

B. Natural Resources

The Environment Committee met on September 3, 2019. Primary agenda items included: a) CSO decommissioning technical report consultations, b) ant and invasive species concerns as discussed at the August Board meeting, and c) ongoing native plant restoration efforts at Halepōhaku.

Native plant restoration components of the Visitor Information Station (VIS) Ingress/Egress permit is moving forward. Parking lot, access lane, and walkway components were recently completed. To mitigate erosion we are placing jute matting and planting native trees, shrubs, herbs, and grasses throughout the affected area. Species already planted include māmane, ‘āweoweo, pāwale, pua kala, and pili uka. Other species currently growing include alpine tetramolopium, *Dubautia ciliolata*, and pūkiawe. As part of this project UH is committed to plant at least 130 māmane trees, mitigation for removing up to 44 māmane trees, as described in the Environmental Assessment.

The permitted greenhouse material acquisition and construction is on hold until the situation on the Saddle Road junction is resolved.

In August two honey bee swarm traps were removed from Halepōhaku and relocated to a bee farm in Orchidland. This was done in collaboration with the Big Island Beekeepers Association. The bees removed were healthy and free of pests. The honey from these traps had a lower water content than other honey in Hawai‘i. This is likely due to the dry environment on Maunakea. The European honey bee competes with our native yellow-faced bees. Honey bee swarm traps are placed around facilities to draw bees away from public areas.

Limited researcher access has resumed, including the arthropod genetic bar-coding project and the wēkiu bug diet study. Other projects are still on hold or their permits have yet to be issued.

VII. **PUBLIC COMMENTS**

Cory Harden commented on the rules saying that the University deserves credit for holding two rounds of public hearings and making changes in response to public testimony, but felt more changes are needed.

Some of the positive changes she noted were:

1. In reference to traditional and customary practices, 20-26-3, the added statement: “(f) Native Hawaiian traditional and customary rights...shall not be abridged.”

2. In reference to public safety, 20-26-34, the term “harass” was removed because it was vague.
3. In reference to audio devices and noise, 20-26-33, chanting and singing is now allowed.

Ms. Harden also noted two revisions may have typos. Under preservation of scientific and educational resources, the summary talks about maintenance, etc. under commercial activity, but the rules seem to say differently. Under various etc., the summary talks about a revised definition of the president’s designee, but when looking at the rules, it does not seem to match that.

Ms. Harden felt the following issues were not addressed:

1. She felt that the Department of Land and Natural Resources and not UH should be writing the rules. UH’s purpose is education whereas DLNR’s is about protection of natural and cultural resources. She also felt that it was not right that UH, and its agents are exempt from following the rules.
2. The rules should follow the Public Access Sub Plan (PAP) in the Comprehensive Management Plan (CMP). This PAP calls for education, communication and collaboration at the lowest levels of control, and discretion when using higher levels of control. But the rules, instead, tend toward punitive with inadequate definitions of violations, and stiff fines and expulsion.
3. The original purpose of the rules, as recommended by the state auditor, was to address permit violations by observatories and address increases in traffic that were largely caused by commercial tours.
4. The rules should be approved by the Board of Land and Natural Resources before going to the governor for his signature.

Dwight Vicente, representing the Hawaiian Kingdom, gave a little history about ceded lands in 1898. The general lease is illegal making the rules illegal because there is no authority.

Jim Albertini stated this Board and Kahu Kū Mauna should initiate and be willing to participate in the ho’oponopono process with the kupuna and other kia’i leaders of the Maunakea movement.

Deborah Ward stated she generally supports the work that is being done to decommission the CSO site, but believes that the assertions with regard to ground water and permeability of the cinder and direction of where the ground water goes and where it ends up is confusing. She is concerned about drainage over the years from the CSO building into unlined cesspools. She mentioned the 2009 hydraulic spill and the uncertainty of the extent of contamination and the need to clean up any contaminated soil found on site.

Hanalei Fergstrom requested additional time to review the materials to better understand the situation. He also mentioned that this is not the State of Hawai’i unless someone can prove it. That being said, we still have to somehow work together.

Callie Crowder, is employed by one of the observatories as a remote observer and a 2017. She is a graduate of UH Hilo with degrees in both astronomy and physics and was opposed to the decommissioning of the Hōkū Ke‘a telescope. The reason she moved to Hawaii was to specifically study astronomy on Maunakea because it is the best site in the world for astronomy. She knew the University would provide her with the opportunity to work with the observatories in the future. There were about 20 students when she started her freshman year at UH Hilo. Some of them left the major. Others left Hawaii entirely because they did not have the opportunity to work hands-on with a professional observatory. She believes her experience on Hōkū Ke‘a helped her to get a job at one of the Maunakea observatories.

Emily Peavy, a graduate of UH Hilo with a Bachelor’s in Astronomy with a Minor in Physics spoke against the decommissioning of the Hōkū Ke‘a telescope. She stated UH Hilo is 75% Hawaii residents and that Hōkū Ke‘a is located in the one of the best places in the world to conduct and astronomy that benefits the people of Hawaii. If UH is considering decommissioning Hōkū Ke‘a it needs to also consider replacing it such as at Halepōhaku where it would continue provide opportunities for our island students and community.

Heather Kaluna, assistant professor with the UH Hilo Astronomy Department, agrees there needs to be a balance on the mauna in terms of the number of observatories. She knows we are in the process of decommissioning the UH Hilo observatory, but asks for kokua in considering other sites to provide for exemplary educational opportunities and use of the new observatory. There are those who are keen on supporting this notion of balance and who are committed to making sure that Maunakea is used properly and in a respectful way.

Davin Vicente, biology lecturer at UH Hilo, Hōkū Ke‘a is a very small telescope, but it serves a higher purpose. If the University is serious about providing STEM (Science, Technology, Engineering and Mathematics) education, maybe UH

should talk about trying to save it and not sacrifice it for a research telescope like the TMT. We talk about Native Hawaiians and locals being able to fill jobs in astronomy, but how can they do that without education?

Grace Bezilla, a student at UH Hilo, has been asking for safeguards for students suffering from the trauma that is occurring on the mountain. There is nothing currently in place for her, a student at UH, experiencing historical trauma. She requested that UH Hilo find someone who is trained of understand historical and intergenerational trauma. She was appalled that a student at UH Hilo does not have access to viewing time or does not have the right credentials to be able to operate telescopes on this island for students who came to attend UH Hilo or who lived their entire life here. She does not know why UH Hilo cannot provide students with viewing time whether it is with Hōkū Ke‘a or another telescope, but that has to be top priority because it is a University for students and that should come above research.

Maile Lavea-Malloe, UH Hilo alumni, is a scientist, but with a degree in Political Science and Administration of Justice. She was also an executive member of the student senate. This trauma is very real for many of us through the generations. We need to find a way to co-exist. Whatever was the last one up there should be the last.

Ms. Ward spoke stating she was strongly in support of the replacement of the dome and wrote letters in support of that. Moving Hōkū Ke‘a from the summit to 9,000 ft. elevation is still on Maunakea, so talking about decommissioning makes no sense. If you are going to move it to another spot on Maunakea, you might as well leave it where it is and improve it and make it functional so students have access to it.

Herring Kalua heard what was said today including the younger generation attending UH Hilo. Hōkū Ke‘a is a telescope that is already on the Maunakea and feels just a badly as everyone else. As a former member of the MKMB he stressed that if you want to know about things you need to participate and work together with the community and everyone else. We need to stop, put everything on the table, make it right and move forward.

VIII. AGENDA ITEMS

A. Hydrology Presentation by Dr. Don Thomas

Dr. Don Thomas gave a presentation titled *“Do Contaminants Released at Maunakea’s Summit Pose a Risk to Hawaii Island’s Drinking Water Quality?”* Data he accumulated over the last decades on research he has done on Maunakea was presented. A recording of his presentation is available online at <https://www.bigislandvideonews.com/2019/09/30/video-mauna-kea-hydrology-presented-by-dr-don-thomas/>

B. Approval of Hōkū Ke‘a Notice of Intent (NOI) to Decommission

Director Nagata stated the approval of the NOI to decommission Hōkū Ke‘a was brought before this Board in May 2016. During that meeting, as well as prior to that at a Kahu Kū Mauna meeting, there were a number of people that came forward who were against the decommissioning of Hōkū Ke‘a. Based on the comments and testimonies received the Board deferred taking action to approve the NOI. Instead it instructed UH Hilo to do additional community consultation.

During the intervening years the Hōkū Ke‘a team led by its director, Pierre Martin, looked at other locations to locate Hōkū Ke‘a. They looked at the possibility of the Mauna Loa Observatory, which at that time was looking to obtain a lease from DLNR to expand its area. The DLNR, however, denied their request so Mauna Loa was not a location that Hōkū Ke‘a could go to. The team received an invitation to set up their telescope on Hualalai. They tested the site, but found there was too much humidity which could damage the mirror and its instruments. They ran tests at Halepōhaku and found the seeing value is good for their purposes as an educational and research telescope. They talked to individuals in the community about the potential for relocating at Halepōhaku and were told to continue to explore Halepōhaku as a potential site.

The Board was reminded that the telescope had been removed in 2018. The removal did not require formal notification to UH to proceed with decommissioning. The NOI starts the formal decommissioning process. The Board is being asked to reconsider and approve the NOI. The decommissioning of Hōkū Ke‘a arose out of Governor Ige’s 10-point plan which requested the University decommission 3 of its telescopes.

Comments

Julie Leialoha did not agree with the NOI. She agrees a new location needs to be established, if not on the summit than at Halepōhaku. To take that away the teaching telescope from UH Hilo students was not right. We need to establish actions for student participation to continue on Maunakea in some capacity. The instrument has been removed and things are now moving forward on deciding whether to remove the existing structure. In her personal opinion it is unfortunate that alternatives other than looking for a different site were not fully explored.

Doug Simons stated we heard a lot of testimony this morning and, unless he is mistaken, they are all in favor of providing this educational resource for these students. He is dumbfounded by the fact that we (the Board), over three years ago the MKMB deferred approving the NOI for public consideration and here we are again. Sounds like we have the same testimony we had back in 2016 on what to do with Hōkū Ke‘a. As the originator of the Maunakea Scholars and programs providing high school kids with access to Maunakea, he is deeply passionate about the importance of providing direct hands-on access to telescopes at the student level. He wanted to go on record stating he is not necessarily in favor of putting Hōkū Ke‘a on the summit. He recognizes it has to be taken down for TMT. He has not heard anything close to a good reason why it could not go to Halepōhaku. He understands it could be deployed in a matter of weeks if the decision was made to do that. What we are waiting for is a decision in Honolulu to actually move forward with that as opposed to money or something else. It is a shame that it is taking so long to get essentially nowhere with this telescope in terms of finding a home for it.

Dr. Simons brought a mirror that he ground and polished the mirror when he was 16 years old. It took him 300 hours to do it. When Callie [Crowder] talks about the importance of hands-on experience, this is hands on, this mirror is hand ground. He added he is the director of two Maunakea observatories and a direct product of this experience he had as a kid. He is tangible evidence of what was discussed here. If you give students the opportunity it is transformative for them in terms of the potential for their careers.

Dr. Simons stated if this goes to a vote, he has already decided to abstain. Given the Board only has four votes, means the motion is not going to move forward. He urged that if the NOI is brought forward that there is a credible plan to deploy Hōkū Ke‘a and Halepōhaku seems like a perfectly reasonable approach. He felt that if the Board were to approve this motion to accept the NOI, we remove pressure to deploy the facility at Halepōhaku. There would be absolutely no motivation at that point. In good conscience knowing what he knows and being who he is and listening to the testimony, would support the students in this room. If we prefer to defer it, as we did before, and reconsider as a Board we can do that as well. Either way, it is not going to move ahead today.

Greg Chun commented when the governor came out with his 10-point plan we were all flabbergasted because it came out of the blue. It is what it is and it established a direction that the University had to move. One of the challenges with decommissioning and the selection of specific observatories is the observatories have valid legal sub-leases to be on the summit until 2033. The idea of picking and choosing provides some legal challenges for the University and for the State. A commitment was made by the University to decommission five. Three of those five are owned by the University, which are the only ones UH has control and say over. Unfortunately, Hōkū Ke‘a is one of them. He wants to support the students as well, but finds ourselves in a position where we have to decommission Hōkū Ke‘a. We need to separate the decommissioning of Hōkū Ke‘a from the relocation of a new Hōkū Ke‘a. That is the reality of how sites have been selected at this point in time.

Dr. Chun added it has been contemplated in previous master plans that there would be an educational telescope at Halepōhaku. Putting a telescope at Halepōhaku would be consistent with previous master plans.

Wayne Higaki asked if the Board were to approve the NOI, where does it go next. Director Nagata explained once the Board approves the NOI it allows the University to move forward with the decommissioning process. The next step would be for the development of a site decommissioning plan, which would include an environmental assessment (EA). We have already been informed by DLNR that this decommissioning will require an EA. It would take into account the various scenarios as to what degree the structure(s) would be removed and to what degree the site would be restored. The impacts of the various alternatives would be reviewed and disclosed in the EA. A preferred action would then be selected and following that the University would move forward with the Conservation District Use Application (CDUA) with DLNR. Because the NOI was already submitted in 2016, it has already been forwarded to DLNR, so that step has already been done.

Regent Higaki asked what a deferral would do. Director Nagata stated if the decision is to defer, then the University would not be able to move forward pursuant to the decommissioning plan with the actual removal and start of the full environmental assessment process.

Chair Chu asked if the NOI to decommission could be coupled with a recommendation to move forward with a new telescope for educational purposes for students at Halepōhaku. Or, does it have to be looked at separately? She hears very clearly that 1) this action is not going to pass, and 2) because it was deferred three years ago and there really has been no progress, is there a way of going back to the Board of Regents (BOR) to say that an intent to decommission needs to be included with efforts to move forward with a new telescope so that there is no misunderstanding. There should be another name so that people can keep Hōkū Ke‘a as one telescope and name a new one. She does not believe we will be able to move forward unless we provide more direction to the regents.

Regent Higaki explained the Regents would have to determine how they fulfill the requirements by the governor relative to TMT and the decommissioning of x number of telescopes. He added as a regent, he does not get to vote on matters for the Maunakea Management Board.

Director Nagata stated the location of the new teaching telescope at Halepōhaku is separate from the decommissioning process. Her thinking is if UH Hilo wants to go forward with installing the new teaching telescope at Halepōhaku they could do so and it does not necessarily have to be tied to decommissioning. The decommissioning plan did not think about the possibility of removing one and putting another one up. Asking for permission to put up a new telescope would really be a separate process from decommissioning.

Ms. Leialoha stated this Board's role is to advise the BOR with regards to actions that concern Maunakea. In this particular situation, her advice as a Board member is that there be an alternative developed that included supporting students who would like to use Hōkū Ke'a or another site prior to the NOI or the Board approving decommissioning. Like Dr. Simons, she also is leery with regards to if it disappears nothing will happen and that would be an injustice to the students that we should be supporting.

Dr. Simons commented to Regents Higaki's point, this would actually wind up at DLNR. This is where the road block is. They could unlock this whole thing fairly quickly if they wanted to and we could still comply with the TMT Conservation District Use Permit (CDUP). He is not advocating that we not decommission on the summit, but he is tired of the delays and getting a telescope deployed for reasons that he cannot accept anymore.

Regent Higaki stated he can only speak for himself as one Regent and not for the Board of Regents. He felt this Board should send a strong message to the Regents. A strong message is a vote that carries that kind of strength, and believes a deferral would not do that.

Action

Doug Simons called for a motion and it was seconded by Julie Leialoha. The motion is to approve the NOI for decommissioning of the Hōkū Ke'a as recommended by OMKM. The results of the vote will make it clear what the message is. The results of the vote were 1:2:1. (Chun in favor of, Leialoha and Chu opposed, and Simons abstained.)

Chair Chu qualified the vote with a message that there needs to be a resolution to the educational telescope on Maunakea. She personally agrees with Board members Leialoha and Simons. The issue is not if there is going to be a telescope, but where it is going to be. We need to have that in place to move forward.

C. Approval of Caltech Submillimeter Observatory (CSO) Decommissioning Phase 1 Environmental Site Assessment (ESA)

Fritz Klasner explained, as identified in the 2010 Decommissioning Plan for Mauna Kea Observatories, the decommissioning process involves the preparation of a Site Decommissioning Plan (SDP). The SDP is composed of four major steps: (1) a Notice of Intent, (2) an environmental due diligence review, (3) a Site Deconstruction and Removal Plan and, (4) a Site Restoration Plan. The MKMB is required to review and approve each step.

The purpose of an Environmental Due Diligence review is to identify recognized environmental conditions as defined by the American Society for Testing and Materials (ASTM), associated with the project site. The term "recognized environmental conditions" means the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property.

This due diligence consists of two initial steps:

1. A "Phase I Environmental Site Assessment" is intended to satisfy one of the requirements to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on liability with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601) and petroleum products.
2. If recognized environmental conditions are identified, additional investigative analysis in the form of a Phase II ESA is typically required.

The only significant issue identified in the Phase I Environmental Site Assessment is the possibility of remaining contamination due to the 2009 hydraulic oil spill and, possibly, a prior spill at an unknown prior date (perhaps during

construction of the CSO). The report recommends a Phase II Environmental Site Assessment in connection to this spill to be undertaken at a later point during decommissioning when the spill area is made fully accessible. The Phase II Environmental Site Assessment may result in a recommendation for remediation. Community reviews also resulted in the request that the remnant cesspool sludge be similarly tested for contaminants during the Site Deconstruction and Removal process.

The process and timeline for completing the Phase II ESA will be summarized in the forthcoming Draft Environmental Assessment. The actual Phase II process however, cannot be completed until the building is being removed because the substrate in question is under the building and telescope pier foundation. The Phase II ESA will identify whether any remedial action is warranted by the Department of Health and Department of Land and Natural Resources, as well as this Board, as these steps progress.

Discussions

Dr. Chun asked when Phase II would be done. Mr. Klasner replied because of the location of the 2009 spill, to dig up contaminated material, if any is present, would require breaking up the foundation, which CSO is concerned could undermine the foundation. The process will be spelled out in the EA, but the implementation cannot occur until they actually start breaking up the foundation.

Regent Higaki asked if it was reasonable to establish a deadline for Phase II. Mr. Klasner replied any deadline for Phase II would be tied to the actual foundation removal process. Depending on what they find, a remedial action plan might have to be prepared which involves working closely with the DOH through the removal process.

Regent Higaki stated there are conversations at the BOR level about setting deadlines. He would encourage proactive action at this level to look at establishing deadlines instead of having timelines established from a higher level.

Chair Chu asked if the telescope is still in the CSO building. Mr. Klasner replied, yes, the CSO mirror is still in place.

Dr. Chun sought confirmation that there is still the site deconstruction and removal plan and restoration plan to be prepared. Mr. Klasner confirmed the need for completing these documents and added there is also the environmental assessment process and a Board issued CDUP. Dr. Chun asked if there was a timeline for applying for the CDUP. Mr. Klasner replied the last version he saw had it sometime in 2020. We have yet to release a draft environmental assessment and that has mandated public comment times. The CDUA process has legally mandated public comments as well.

Action

Chair Chu called for a vote for all in favor of approving the CSO decommissioning Phase I Environmental Site Assessment. All were in favor and the motion carried unanimously.

D. Approval of Caltech Submillimeter Observatory Decommissioning Hazardous Material Report

Fritz Klasner explained the Hazardous Materials report, while not explicitly a part of due diligence process defined in the 2010 Decommissioning Plan, is a standard and required component of building demolition.

An Asbestos, Lead Paint and Mold Survey (aka Haz Mat Report) was conducted, to identify the existence (if any), extent, and condition of hazardous materials present in and on the building. This information will be incorporated into the decommissioning design. The results of this report will inform the infrastructure deconstruction and removal process for CSO, for example the type of hazardous material abatement permits that would be obtained, and procedures to be followed during decommissioning. This report is expected to be included as an appendix in the forthcoming Environmental Assessment.

The Asbestos, Lead Paint and Mold Survey results documented:

- None of the sampled suspect ACM material contained detectable concentrations of asbestos.
- Six locations were identified as having surfaces painted with lead-based paint (LBP), i.e. concentrations in excess of 5,000 mg/kg.
- Seven locations were identified as having surfaces painted with lead-containing paint (LCP), i.e. concentrations less than 5,000 mg/kg.
- Indoor and outdoor air sample types and percentages of fungi identified were similar; meaning indoor airborne mold concentrations were not found to be elevated.
- Moisture damaged ceiling tiles were observe and contained elevated volumes of the mold *Alternaria* sp. were observed.

Report recommendations:

- Manage and/or remove and dispose of hazardous and regulated materials in accordance with applicable local, state, and federal regulations, prior to renovation and/or demolition activities that may disturb these materials.
- Remove and dispose of all loose and flaking LCP and LBP that may be disturbed during demolition activities in accordance with applicable local, state, and federal regulations.
- Spot remove and dispose of LCP and LBP in areas that have the potential to become airborne or otherwise create dust (i.e. from sanding, drilling, friction, etc.) during demolition activities.
- Any remediation and demolition contractor(s) must take appropriate measures to comply with applicable EPA, OSHA and HIOSH regulations pertaining to the handling of lead containing materials and worker protection. Note that OSHA and HIOSH regulate activities that disturb paint which contain any detectable concentration of lead. Detectable levels of lead in the paint were found throughout the Subject Site.
- Have air monitoring conducted for airborne lead by qualified personnel during any lead paint disturbance and general renovation activities of areas that were determined to contain this contaminant.
- Conduct multi-incremental sampling of soils surrounding the Subject Site prior to and after any exterior lead paint disturbance activities. This was also recommended during the community review process and has been standard practice for Maunakea projects over the past few years.
- Previously water damaged ceiling tiles located throughout the Subject Site should be removed and disposed of properly.

Discussions

Ms. Leialoha inquired if the issue regarding the potential additional testing for the drainage mitigation that Ms. Ward brought up would be included in this hazardous plan. Mr. Klasner explained as part of the Phase I community consultation someone did ask about the cesspool sludge to determine if there were any potential contaminants with cesspool sludge. That cesspool sludge will also be tested for contamination as well as testing underneath the foundation. There is no near-surface groundwater at this site. In the Phase II report there was a cover letter that identified that the surface groundwater that was referred to in the body of their report was actually about 10,000 feet down. They had a clarification in that cover letter.

Action

Chair Chu called for a vote for all in favor of approving the CSO decommissioning hazardous materials report as presented. All were in favor and the motion carried unanimously.

E. Chapter 20-26 Administrative Rules Review

Director Nagata stated back in 2018 the University held public hearings on the draft rules. A large number of comments and testimonies were received resulting in some changes to the rules. The changes were significant enough that we then held a second round of public hearings in June 2019. The comments were similar to those heard or received during the first public hearings, thus only minor changes were made. The changes were mostly clarification of language, and elimination of vague and overly broad language. The current draft of the rules were reviewed by Kahu Kū Mauna and they had some suggestions that added clarification to the rules and did not result in substantive changes.

Initially the rules were to be presented to the BOR at their August meeting, but it was rescheduled to November 6.

Discussions

Ms. Leialoha asked if the rules would go back to DLNR for their review. Chair Chu explained this is for review and comment so we are only providing additional comments to what the Board already has seen.

Director Nagata stated these rules are not approved by the Board of Land and Natural Resources. We are governed by a separate statute, which goes to BOR for approval then the governor for his approval.

Ms. Harden started to speak, but Regent Higaki interrupted stating his understanding of Robert's Rules is that it does not allow public comment during a board meeting (discussion). He did not want it to disqualify the discussion.

Dr. Chun stated the way to handle Ms. Harden's comments is to pass it on to the Regents. The changes made are the result of listening. The first round resulted in substantial changes that required us to do a second round. Changes made following the second round are non-substantial.

IX. Adjournment

There being no further business the meeting was adjourned at 12:34 p.m.

Respectfully submitted:

Signed by Julie Leialoha

November 4, 2019

Julie Leialoha, Secretary, MKMB

Date