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## Minutes Regular Meeting

Maunakea Management Board  
December 20, 2019, 2:00 pm  
Institute for Astronomy

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

**Attending**  
**MKMB:** Roberta Chu, Greg Chun, Julie Leialoha, and Doug Simons

**BOR:** Wayne Higaki (by phone)

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

**OMKM:** Stephanie Nagata, Wallace Ishibashi, Jessica Kirkpatrick, Fritz Klasner, Joy Yoshina

**Others:** Laura Aquino, Cory Harden, Ka'iu Kimura and Marcia Sakai,

### I. CALL TO ORDER

Roberta Chu called the meeting of the Maunakea Management Board to order at 2:06 pm. Those in attendance constitute a quorum.

Chair Chu requested two agenda changes:

- First, to move public comments to before the Kahu Ku Mauna council actions; and,
- Second, to remove "Item F, Approval of the Maunakea Education and Outreach Plan," from the agenda. Director Nagata stated that due to the Board of Regents resolution, more time is needed for 'Imiloa, OMKM and Mauna Kea Support Services to review and update the plan, which was begun sometime in 2015. The Board accepted the proposed agenda changes.

### II. APPROVAL OF MINUTES OF THE NOVEMBER 4, 2019 MEETING

Upon motion by Doug Simons and seconded by Julie Leialoha the minutes of the November 4, 2019 meeting of the MKMB were unanimously approved.

### **III. PUBLIC COMMENTS**

Ms. Cory Harden referred to an incident in which a truck rammed a telescope facility. Ms. Harden stated this would have best been handled by the police which has training, experience, and appropriate vehicles to handle such things. Ms. Harden also questioned that since the Maunakea access road just reopened, was the Kahu Kū Mauna (KKM) statement still relevant. Ms. Harden added that the Protectors were letting many support staff go on up, even when government officials only allowed one car per day for cultural practitioners. She concluded, stating, “UH is managing the land and getting benefits from being able to manage the land,” and “shifting the burden of enforcement over to the DOCARE.

The next public testimony was from a gentleman, who stated there was considerable opposition to a cultural center and locating the Hōkū K‘ea telescope in Halepōhaku area. He questioned why these issues were being raised again. He also referred to Article 12 in the Regents resolution, which he described calling for shuttles and tourism to be directed towards the benefit of Hawaiian Native groups, or something like that. He also asked the Board to address Article 6.

### **IV. KAHU KŪ MAUNA COUNCIL (KKMC)**

#### **A. Statement on Need for Enforcement**

Representing the KKMC, Chair Palacat-Nelsen stated that they had been working on policies set forth by the Comprehensive Management Plan since 2013. These included issues of jurisdiction and enforcement on Maunakea. The Maunakea rangers currently have no hard enforcement power and, per official correspondence from the Attorney General’s office, the Division of Conservation and Resources Enforcement (DOCARE) is the primary agent for all state lands. Chair Palacat-Nelsen asked what will happen once the Administrative Rules are approved, such as handling of automobile accidents and health issues. The Council asked if the MKMB wished to join in and support the intent of the Council addressing enforcement of the Administrative Rules on Maunakea.

Board member Greg Chun asked for clarification regarding their request, for example, would it be for a DOCARE officer to regularly patrol the area? Kahu Kū Mauna believes it would be a combination of having a regular DOCARE patrolling officer and deputizing the Rangers. It is at least an hour and a half for law enforcement response, and this timing issue needs to be addressed such as through the execution of an enforcement plan. including detaining/arresting an individual instead of just issuing citations.

There were questions about how to move forward with enforcement of UH’s rules. Is the university interested in having law enforcement authority? Director Nagata stated it was a concern and such authority would require legislative approval. Additional discussion noted that Rangers currently already monitor DLNR’s Mauna Kea Ice Age Natural Area Reserve; the statewide shortage of DOCARE officer; and even if UH were to fund DOCARE officers the officers might not be assigned specifically to Maunakea. Ms. Leialoha noted, it is still confusing who has legal authority over some of the issues taking place on Maunakea.”

Council Chair Palacat-Nelsen stated there was a lot of public testimony about UH’s failure to manage the mauna. He felt one reason for this was UH’s inability to hold anyone accountable to activities occurring up there. Would MKMB like to participate in determining how this is to be done? Palacat-Nelson stated this was his eighth year and his time was up on the Council. He was very interested in resolving the enforcement issue. Board members agreed and decided the Board action would be to explore options for enforcement. Director Nagata reminded them the Rules must first be approved by the BOR before going to the Governor, and that MKMB and the Council could generate a joint statement of a desired action.

Action

It was moved by Doug Simons and seconded by Julie Leialoha to support Kahu Kū Mauna's proposal to explore the need for enforcement. The motion was carried unanimously.

**V. AGENDA ITEMS**

**A. Approval of the Kahu Kū Mauna nominee**

Request for approval of Hedwig Nako'olani Warrington for membership to Kahu Kū Mauna. Ms. Warrington has cultural ties to Maunakea and will bring in good discussion points, expertise and professionalism. Kahu Kū Mauna confirmed irmed they completed their interview process and Ms. Warrington was unanimously approved. She would fill the seventh seat.

Action

It was moved by Doug Simons and seconded by Greg Chun to accept Ms. Warrington's nomination. The motion was carried unanimously.

**B. Archaeological Assessment for the Caltech Submillimeter Observatory Decommissioning Project on Maunakea**

**C. Biological Setting Analysis for the Caltech Submillimeter Observatory Decommissioning**

**D. Biological Inventory and Assessment Report, Fall 2018 for the Caltech Submillimeter Observatory**

**E. Hydrogeological and Geological Evaluation for the Decommissioning of the Caltech Institute of Technology**

Consultants for CSO, Peter Young (present) and Steve Dawe (participated by phone) were on hand to answer questions. Fritz Klasner provided a summary. All four reports have undergone reviews by Kahu Kū Mauna, Environment Committee, and the Decommissioning Review Committee. The latter is a newly established community group tasked to provide reviews of the technical merits of the proposed deconstruction and restoration in fulfillment of the Decommissioning Plan, Environmental Assessment, and Department of Land and Natural Resources' permitting rules.

Agenda Item B, Archaeological Assessment, is informational only since official review and comments are provided by the State Historic Preservation Division. This report was submitted to SHPD earlier in 2019. The Board discussed the remaining three reports listed as Agenda Items C, D, and E. The reports incorporate feedback from the three reviewing entities with the following recommendations:

- Archeological assessment: historic properties are not anticipated to be directly affected by any of the decommissioning work. Archeological monitoring associated with any ground disturbing is recommended.
- Biological Setting Analysis: decommissioning produces temporary impacts from construction-type processes, but the long-term effects are expected to be positive. The the main concern, besides doing the best job possible for habitat restoration, is to minimize adverse impacts including potential for species interruption and dust generation by following best management practices and invasive species-management plan. A biological inventory assessment help to inform the biological setting analysis conducted by Dr. Jesse Eiben and assisted by Jessica Kirkpatrick. The inventory did not produce many recommendations.

- The hydrological and geological valuation was a very interesting read, with a good summary of the geology and hydrology of Maunakea. With respect to removing the cesspool there should be sampling of any remaining sludge to ensure there are no contaminants. No contaminants are anticipated.

Mr. Young noted a Phase 2 ESA would be conducted once the concrete slab is removed allowing sampling of the soil for contamination from an earlier hydraulic spill.

The Caltech site is mostly fill material so in order to restore the site to its the original topography, the fill would need to be removed. The geologic report suggests the fill came from adjacent areas when the was constructed the road through the area. The fill will be stockpiled for future restoration efforts.

Mr. Young stated the intent is full restoration of the site. A preconstruction site survey is available providing guidance as to the original look and feel of the topography. There is a little lava flow area that was taken out, which they would not be able to reconstruct. But the intent is to take the fill away so that it looks like it did before construction. The original topography was not good Wēkiu bug habitat. There spiders and caterpillars in the area, and the intent is to restore the habitat for those species.

Dr. Simons asked how much of a depression of the ground would result if 2,000 yards of fill is removed? Mr. Young replied it would be an extension of the downward slope. When you're standing on the roadway looking down, on the right-hand side it's natural landscape, once can see that the CSO site is filled in..

#### Action

Ms. Leialoha moved and seconded by Greg Chun to accept items C, D, and E, the biological setting analysis, biological inventory report, and the hydro-geological and geological evaluation. The motion was carried unanimously.

Mr. Young asked Chair Chu that, knowing the archaeological report was going to SHPD, whether it was fair to get a statement from the Board that they had no objections to the report. Mr. Young noted that the agenda only called for a review. Director Nagata asked the Board if the minutes could note the report was discussed and there no objections or issues were raised. There were no objections and Ms. Leialoha stated that was fine.

#### **G. Notice of Intent to Decommission the Hōkū Ke`a Telescope**

Dr. Chun urged the MKMB to keep this topic alive. Regents Chair Kudo believes the Regents are fully prepared to seek funding for a new teaching telescope. Dr. Chun is aware the MKMB wants a commitment from the BOR, whether in documentation or some other mechanism. He expressed uncertainty about how to address this point or how to get past it. He said he met with the UH Hilo astronomy department and is trying to support them in their efforts to build better understanding of the need and value of this teaching telescope for their program, as well as the various community benefits that could derive from it as well. He has some ideas and strategies for helping them build that understanding in the community, but at this point he wanted to see if there was any shift in people's thinking about what this Board would require in order to approve the Notice of Intent to decommission the Hōkū Ke`a telescope, and to do so expeditiously.

Director Nagata asked why the funding for the new teaching telescope was pulled out of the budget? Are they looking for legislation to fund the telescope? Dr. Chun replied his

understanding is that some of the Regents requested, or felt that there needed to be more discussion with the community about the importance and value of replacement of the Hōkū K‘ea educational telescope. Part of that discussion is also because of the proposed location of the new telescope. The preferred location at this point is Halepōhaku. Dr. Chun explained that was why he sat down with UH Hilo astronomy department, to help and support them in their efforts to engage in conversation with the community, which they have to take the lead.

Dr. Simons commented it was unfortunate that Alapaki was not present, and that there had been two rounds of community commentary over the past couple of years with overwhelming positive support to keep Hōkū Ke`a. Dr. Simons said he would like to know what level of support the Regents think is needed to justify proceeding with the Regents’ resolution to fund and deploy Hōkū Ke`a. Dr. Chun responded the reason he feels the need for another round of engagement ties specifically to the proposal that the new teaching telescope be located at Halepōhaku, a location that adds another layer of complexity. Dr. Simons asked if that means another round of comment at MKMB specifically towards that question? Dr. Chun was not sure and reminded the group the issue before them is approval of Hōkū Ke`a’s NOI. Dr. Simons asked if the Regents are trying to separate the two issues. Both parties acknowledged they were not comfortable without Alapaki present. Dr. Simons stated further that without Alapaki, the MKMB is just speculating what the BOR’s strategy is to execute the Hōkū Ke`a resolution. Director Nagata reminded the Board the resolution stated: “The site shall be decommissioned no later than December 31<sup>st</sup>, 2021.”

Ms. Leialoha referred to Regent Higaki’s response from Regent Higaki hat the BOR had already approved operating and CIP budgets in a previous budget and finance committee meeting, prior to the BOR meeting at UH Hilo. Ms. Leialoha read, quoting an email, “Administration had to quickly determine what the budget for the resolution requirements would entail and amount to” and concurred that the discussion should be continued with Alapaki. Furthermore, if there are additional CIP funds needed to move Hōkū Ke`a, it would have to come up at the next legislative request for CIP funds, which pushes us back to 2023. The Board agreed the request was \$500,000 with an additional \$300,000 in CIP funding.

Dr. Chun deferred questions about summit decommissioning to Chancellor Irwin, but stated that UH Hilo is fronting the “soft costs,” all of the planning and permitting. The actual decommissioning costs would have to come from somewhere else. Dr. Simons requested clarification regarding his understanding of whether UH can proceed without the MKMB approving the NOI. Director Nagata stated they could start studies, which they have. Dr. Chun stated UH is in agreement with MKMB and does not want to go too far too fast without NOI approval.

Chancellor Irwin summarized the BOR meeting. There were a number of things in the budget; both the supplemental budget and the CIP budgets. The total package was \$300,000 for renovations to the VIS specifically to support the work that ‘Imiloa will do, and \$600,000 to support the new teaching telescope.

Chancellor Irwin’s recollection was that the agenda item referred to educational and cultural outreach but there was no mention about a telescope. Many of the Regents were uncomfortable voting for a telescope because it was not clear to the public that a telescope was going to be on the agenda or what the Regents were voting on.

The Regents wanted to see more community consultation because of what they heard at the November 6<sup>th</sup> meeting. There were diverse opinions including where the telescope should go

and how it should be handled. There were some who supported absolutely and others who were saying nothing new, even at HP. And the sense was that we needed to have perhaps more conversation and certainly if we bring it back to the Board it should be explicitly called out on the agenda.

Ms. Leialoha stated that according to others it took three years to find a location for a new teaching telescope. So why is this new? Chancellor Irwin agreed the topic wasn't new, but the Regents were sensitive because there was public testimony against anything being constructed. It seemed to be an issue about transparency and concern that UH was trying to sneak something past the public by taking a vote on something that was not explicitly stated on the agenda.

What was approved were operating and CIP budget items related to the educational and cultural programming component with language allowing those programs to take place at Halepōhaku or other suitable location as stated in the Regents' resolution. The new teaching telescope was part of the educational outreach mission at the VIS. The Regents felt if that was so, it needed to be clear that to talk about a telescope

Dr. Simons asked Chancellor Irwin how high the bar needs to be for community to support MKMB in sponsoring the decommissioning of Hōkū K'ea. Chancellor Irwin responded that was a question for the Regents which she has been trying to figure out. It was pointed out that it seemed disingenuous to try to separate decommissioning from the new telescope, particularly given the BOR's action to not fund decommissioning. Chancellor Irwin stated UH Hilo can afford to fund it from its reserves, and she has agreed to at least pay for the planning part, the first half million, and she has enough to develop the new educational telescope which she sees is a direct benefit to the campus and something the students need. In response to Dr. Simons asking how far she would go procedurally and financially to decommission the summit facility, absent the NOI, Chancellor Irwin stated she did not know the details.

The group agreed there was significant discussion remaining to be had on this agenda issue and expressed a desire for a special meeting with either or both Regent Nahale-a or Higaki, as well as discussing the plan for a new management structure for Maunakea, which the BOR required by April 2020.

## **VI. ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:40 p.m.

Respectfully submitted:

Signed by Julie Leialoha

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Julia Leialoha, Secretary, MKMB

7/22/2020

\_\_\_\_\_  
Date