



University of Hawai'i at Hilo

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

Telephone (808) 933-0734 Facsimile (808) 933-3208

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

**Minutes  
Regular Meeting**

Mauna Kea Management Board  
Thursday, December 11, 2008

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

**Attending**

**MKMB:** Chair Barry Taniguchi, Lisa Hadway, Herring Kalua, and Christian Veillet

**Kahu Kū Mauna:** Ed Stevens

**OMKM:** Stephanie Nagata and Dawn Pamarang

**Others:** Lois Carney, Dawn Chang, Robert Christensen, Mark Chun, Gerald De Mello, Gary Fujihara, Cory Harden, Saeko Hayashi, Nelson Ho, Arthur Hoke, Mike Maberry, Cindy Nomura, Stuart Putland, Helen Rogers, and Deborah Ward

**I. CALL TO ORDER**

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

**II. APPROVAL OF MINUTES**

It was moved by Lisa Hadway and seconded by Herring Kalua that the minutes of the September 16, 2008 meeting of the MKMB be accepted. The motion was carried unanimously.

**III. INTERIM DIRECTOR'S REPORT**

**A. Ranger Corps**

Ranger Kimo Pihana retired this past August. We are currently engaged in the process of hiring to fill the position. It is anticipated the position will be filled sometime in January.

**B. UH 24-inch Renovations**

A final inspection of the UH 24" facility was conducted on October 14. UH Hilo was granted substantial acceptance, but the final acceptance is pending completion of repair and replacement of steel rollers for the dome. The contractor plans to install the rollers on December 17.

**C. Natural Area Reserves (NAR) Cooperative Agreement**

On October 24, 2008, the Office appeared before the Board of Land and Natural Resources (BLNR) to discuss the Cooperative Agreement between OMKM and the NARS. Kahea presented their opposition stating that the University was taking over the authority to manage the NARS. Paul Conry, Administrator for the Division of Forestry & Wildlife in Honolulu, assured the BLNR that the NARS retains full authority over its lands. The Agreement will benefit the NAR because the rangers can provide oversight on the mountain. Lisa Hadway also explained how the agreement would provide benefits to both OMKM and the NAR. The BLNR authorized Chair Thielen to sign the Agreement.

#### IV. KAHU KŪ MAUNA COUNCIL (KKMC)

##### A. Comprehensive Management Plan (CMP)

Ed Stevens reported the Council met with Dawn Chang at their November meeting to go over the Council's comments on the CMP.

##### B. Extension of Terms for Larry Kimura and Hannah Springer

The Council requested that Larry Kimura and Hannah Springer serve as holdovers until completion of certain critical matters the Office and MKMB are currently facing.

##### Recommendation

OMKM recommends that the Board approve the Council's request to keep Mr. Kimura and Ms. Springer as holdovers until certain critical matters are completed, including the Cultural Resources and Natural Resources Management Plans, the Comprehensive Management Plan, the NARS Cooperative Agreement, and activity concerning the Thirty Meter Telescope project.

##### Action

It was moved by Christian Veillet and seconded by Herring Kalua to accept OMKM's recommendation to approve Larry Kimura and Hannah Springer in holdover positions. The motion was carried unanimously.

##### Discussion

Chair Taniguchi pointed out that MKMB and KKMC are not a statutory boards and believes the recent Supreme Court ruling does not apply to us. This was in reference to the Governor's decision to carry over regents whose terms expired. He does not think we are in the same situation as the Board of Regents.

##### C. Request to Fill Vacancy

The Council received a letter from member Leilehua Omphroy citing her need to step down from the Council for health reasons. The Council requests permission to seek qualified candidates to fill the vacancy on the Council.

##### Recommendation

OMKM recommends the Board approve the request to proceed with seeking qualified candidates to fill the vacancy on the Council.

##### Action

It was moved by Herring Kalua and seconded by Lisa Hadway to accept OMKM's recommendation to approve the Council's request to proceed with seeking qualified candidates to fill the vacancy on the Council. The motion was carried unanimously.

#### V. OLD BUSINESS

##### A. Comprehensive Management Plan (CMP)

Dawn Chang reported that she and Interim Director Nagata presented a briefing before the BLNR on October 10, 2008. At that meeting the Department of Land and Natural Resources' (DLNR) Office of Conservation and Coastal Lands recommended an Environmental Assessment (EA) for the CMP. The UH accepted the recommendation and is preparing an EA.

KAHEA raised several issues at the BLNR meeting. The first was why an EA was being recommended instead of an EIS. The BLNR's response was there was nothing to prevent either BLNR or a challenge on the completion or the adequacy of the EA. Kahea stated that the BLNR and its staff should be preparing the CMP, not UH. The response by the BLNR was that they do not prepare management plans, but will be independently reviewing the CMP, not rubber stamping it. KAHEA cited the Ka pa'akai case in which the Supreme Court ruled that government agencies cannot delegate their authority. Ms. Chang's view was that UH is not a developer, but is a government agency that has an affirmative obligation to preserve constitutionally guaranteed rights (PASH). The CMP addresses questions raised by the Supreme Court: (1) identification of resources, (2) potential impact of the plan on those resources, and (3) adopting mitigation or management measures.

Ms. Chang reported she was engaged in ongoing community outreach. The first series of public meetings and community outreach, including the small talk-story sessions, was to listen to the community about their concerns

and management issues. The second series of public meetings were held in Kona, Waimea, and Hilo on November 14, 17, and 18. They gave us some good input on management recommendations.

We continue to have small talk-story sessions as we move forward. We will continue community outreach throughout the entire process. The intent of these public outreach efforts is to insure that those comments are incorporated into the management recommendations and the CMP.

It is anticipated that a draft of the CMP will be completed in January. It is the intent that OMKM be able to provide a draft of the CMP to the Legislature to seek rule-making authority.

In October, Interim Director Nagata and Ms. Chang did a presentation before the Association of Hawaiian Civic Clubs at their annual convention on Kauai. The Hilo Civic Club proposed two resolutions: 1) to support the approval of a CMP, not necessarily this CMP, but a CMP for Mauna Kea, and 2) to support rule-making authority for UH. The two resolutions were heard and discussed in the Association's Native Rights Committee which unanimously approved to move the two resolutions out of committee and on to the convention floor. The resolutions were approved by the delegates to the convention.

**B. Mauna Kea Observatories Support Services (MKSS) Transfer**

Christian Veillet reported that the observatory directors met to discuss the issue of the MKSS transfer. They established a committee of four to look into this matter. Committee members include Gary Davis, Joint Astronomy Center; Doug Simons, Gemini; Alan Tokunaga, NASA Infrared Telescope; and Christian Veillet, Canada-France-Hawaii Telescope. They would like an opportunity to discuss the transfer with the next executive director of OMKM because he or she will be playing a very important role as the supervisor of the general manager of MKSS. Dr. Veillet is examining an issue related to the MKSS RCUH account to see how it can easily move within RCUH so that the new Principal Investigator can establish a working relationship with the director of OMKM.

**C. Institute for Astronomy (IfA) - Request to Replace the Existing Canada-France-Hawaii Weather Tower with an Atmospheric Monitor and Weather Station Tower**

At the September 16, 2008 meeting, the Board classified this project a Minor Project, thus initiating a Minor Project Review. President McClain concurred with MKMB's recommendation and classified the project a Minor Project.

IfA, in collaboration with CFHT and Keck Observatory, is proposing to replace the existing 40-foot tower with a 31-foot tower. The replacement tower will have a platform that will house instruments that measure atmospheric turbulence and image quality, as well as traditional weather instruments. The tower will be placed on the existing concrete slab.

OMKM reviewed IfA's original schematic and design submittals. With input from the KKMC, OMKM requested IfA reconsider the design to reduce the dimensions of the platform and consider alternate colors for the tower. IfA evaluated their original design and submitted two alternate designs: 1) retain the catwalk but eliminate the railing, or 2) remove both the catwalk and railing.

Kahu Kū Mauna Council

After reviewing the proposal and alternative options, KKMC felt Option 2 was the least objectionable. Removing the catwalk and the railing not only trimmed the diameter of the platform by about 2' 6", but it also reduces the visual impact. For safety purposes, it is recommended that they use a crane to hoist people while engaged in maintenance work activities. The Council also felt the tower should be painted white to conform to the color of the existing facilities on the summit.

The Council also responded favorably to the observatories' willingness to share facilities among themselves instead of each observatory putting up separate towers and instruments.

Department of Land and Natural Resources (DLNR) Permit/Approval

IfA will submit a request to the DLNR for a permit pending approval by MKMB.

### Recommendation

OMKM recommends the Board advise the University of Hawaii at Hilo Chancellor and the President that this project be approved contingent on approval and/or receipt of a permit from DLNR. OMKM's recommendation is based on the following:

- The proposed activity does not significantly impact the surrounding environment.
- The proposed structure will be installed on an existing concrete pad.
- No excavation is involved.
- There are no archaeological sites near the proposed site.
- The information generated from the instruments on the tower will be published on the Mauna Kea Weather Center's website and available to the public.

### Conditions

OMKM recommends the following conditions:

1. Submit notice of approval and/or copy of the permit from DLNR.
2. Notify OMKM when it will commence summit construction activities.
3. Keep surrounding work area clean of any incidental debris.
4. Comply with conditions of DLNR Permit.
5. Allow OMKM rangers to visit and monitor installation activities.
6. Notify OMKM upon completion of the project.

### Action

It was moved by Herring Kalua and seconded by Lisa Hadway to accept OMKM's recommendation to advise the University of Hawaii at Hilo Chancellor and the President that this project be approved with conditions and contingent on approval and/or receipt of a permit from DLNR. The motion was carried unanimously.

## **VI. NEW BUSINESS**

### **A. Institute for Astronomy and Canada-France-Hawaii Telescope (CFHT) - Request to Install a Solmirus All-Sky Infrared Visible Analyzer (ASIVA) Unit on the Roof of the Summit Lunch Room**

Interim Director Nagata clarified that although this agenda item stated Canada-France-Hawaii, it is actually the IfA that is proposing to permanently install the ASIVA unit. The proponent is an individual by the name of Glenn Morrison, who is an IfA in-house astronomer and faculty member assigned to CFHT. This request is not just for the CFHT or the IfA, but is on behalf of all the Mauna Kea observatories. Information generated from this instrument will be available to all observatories.

### Department of Land and Natural Resources (DLNR) Permit/Approval

IfA will submit a request to the DLNR for a permit pending approval by MKMB.

### Recommendation

OMKM recommends the Board classify this project Minimal Impact and approve it contingent on approval and/or receipt of a permit from DLNR. OMKM's recommendation is based on the following:

- The proposed activity does not significantly impact the surrounding environment.
- The proposed equipment will be installed on the roof of an existing building.
- No excavation is involved.
- There are no archaeological sites near the proposed site.
- The information generated from the instruments on the tower will be published on the Mauna Kea Weather Center's website and available to the public.

### Conditions

OMKM recommends the following conditions:

1. Submit copy of the notice of approval and/or permit from DLNR.
2. Notify OMKM when it will commence summit construction activities.
3. Keep surrounding work area clean of any incidental debris.
4. If a DLNR permit is required, comply with the conditions of the DLNR Permit.

5. Allow OMKM rangers to visit and monitor installation activities.
6. Notify OMKM upon completion of the project.

Before continuing, Chair Taniguchi declared that he, as Chairman, determined that Dr. Veillet is not in conflict. This is a project that involves all observatories and not just CFHT, therefore, it is not something that is going to benefit only the CFHT observatory. In the past the astronomy representative on the board was not considered in conflict when a project was not specific to his facility. Dr. Veillet was welcomed to participate both in the discussion and voting on the matter.

Action

It was moved by Herring Kalua and seconded by Lisa Hadway to accept OMKM's recommendation to classify this project Minimal Impact and approve it with conditions. The motion was carried unanimously.

**VII. ANNOUNCEMENTS**

Cory Harden asked Ms. Chang if BLNR was given a briefing by their counsel on who should be doing the plan. Ms. Chang clarified that the BLNR asked the Attorney General for a briefing on the Ka pa'akai case, not on whether DLNR should do the plan or not. She did not know if the briefing took place.

Chair Taniguchi commented the Ka pa'akai case did not involve the BLNR or the DLNR. It involved the LUC (Land Use Commission). His understanding is that the facts in the Ka pa'akai case are different from what is happening now. He cautioned that people easily jump to conclusions without understanding the facts or attempt to wrongfully apply facts from one case to another.

Ms. Harden noted that it was mentioned that UH is not a developer, but doesn't UH own the 24" telescope? Chair Taniguchi stated the 24" telescope was one of the original telescopes placed on Mauna Kea. The IfA offered the UH 24" telescope to UH Hilo as an educational scope for instructional purposes. UH Hilo obtained grant money to upgrade the telescope facility within the footprint of the existing 24" telescope. Mike Maberry stated that UH IfA did not develop the 24" but later took ownership of the 24", and later transferred it to UH Hilo.

Debbie Ward stated that for all the CDUAs (Conservation District Use Applications) the University is the primary applicant and it claims that none of the other co-operators are actually parties to the application. She does not understand how the distinction can be made that UH is not a developer.

Chair Taniguchi explained prior to the approval of the Master Plan, IfA was the conduit for activity on Mauna Kea. He does not know what they did in the past, but we operate differently today. A lot of people refer to activities that took place 15-20-years-ago and do not give credence to what has happened in the last eight years. We have done a lot in the last eight years.

Nelson Ho asked if the EA will accompany the CMP and who is the consulting group? Interim Director Nagata replied OMKM's consultants are working on the EA.

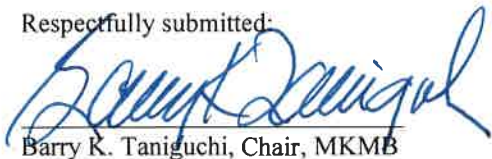
**VIII. NEXT MEETING**

The Office will poll Board members for the next meeting date.

**IX. ADJOURNMENT**

There being no further business, Chair Taniguchi adjourned the meeting at 10:50 a.m.

Respectfully submitted:

  
Barry K. Taniguchi, Chair, MKMB

1-9-09  
Date