



University of Hawai'i at Hilo

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**Minutes
Regular Meeting**

Mauna Kea Management Board
Tuesday, August 25, 2015

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

Attending

- MKMB:** Chair Gregory Mooers, 1st Vice Chair Herring Kalua, Gregory Chun (via conference call), Roger Imoto, Douglas Simons, Hannah Kihalani Springer and Lehua Veincent
- BOR:** Barry Mizuno
- Kahu Kū Mauna:** Shane Palacat-Nelsen (via conference call) and Tom Chun
- OMKM:** Wally Ishibashi, Fritz Klasner, Stephanie Nagata, Scotty Paiva, Dawn Pamarang, Amber Stillman, Sage Van Kralingen and Joy Yoshina
- Others:** Dan Berman, Mamo Bezilla, Leilani Lindsey-Ka'apuni, Kerri Marks, Joe McDonough, Ka'iu Kimura, Tim Lui-Kwan, David Lonborg, Rob Pacheco, Dwight Vicente, Deborah Ward, Donald Wessels and Harry Yada

I. CALL TO ORDER

Chair Mooers called the meeting of the Mauna Kea Management Board (MKMB) to order at 10:04 a.m.

II. APPROVAL OF MINUTES

Upon motion by Hannah Springer and seconded by Lehua Veincent the minutes of the May 5, 2015, meeting of the MKMB were unanimously approved.

Upon motion by Doug Simons and seconded by Lehua Veincent the minutes of the July 28, 2015, regular and executive sessions of the MKMB were unanimously approved.

III. DIRECTOR'S REPORT

A. Comprehensive Management Plan (CMP) - Implementation

The Office of Maunakea Management's (OMKM) annual report on the status of the implementation of the CMP was presented to the Board of Land and Natural Resources (BLNR) at their June 12, 2015 meeting. OMKM is on schedule in terms of implementing the CMP actions. Many of the actions are ongoing as part of OMKM's management responsibilities, such as outreach and conducting an orientation for users. Some are in progress with many being tied to approval of administrative rules. Some actions are classified as "As Needed" being that they are activated when certain types of project or activities occur, such as construction projects. Others were identified for implementation on a mid to long-term basis. The Plan is now into the 5-year review phase, however, that review may be deferred due to circumstances arising from the Governor's plan for stewardship on the mountain.

B. Observatory Facilities 5-Year Plan

Kahu Kū Mauna Council (KKMC) has requested that all of the observatories prepare 5-year plans involving

improvements and/or additions to their facilities. The Council was not pleased with the piecemeal approach by facilities regarding their proposed projects. Instead each facility would provide a list and description of planned projects, including minor and major improvements, over a 5-year period. The Council would review these plans and minimal impact types of projects would not require additional Council review when the observatory submits their formal project requests. The plan would be updated annually for the Council's review and would always be a five year horizon. Fritz Klasner is working with Celeste Ha'o, of KKMC, on the development of this plan for presentation to the observatory directors at their annual users meeting in September.

C. Archaeological Monitoring

The annual archaeological monitoring of historic properties is nearly complete. This year the survey areas include the remote sections of the northern sector of the Science Reserve.

D. Governor's Plan for Stewardship for Maunakea

On May 26, 2015, the Governor announced major changes in the stewardship of Maunakea. His plan asks the University to make "10 significant changes related to the enhanced stewardship" of Maunakea. On June 1, 2015, the University responded briefly describing its plan for complying with the Governor's request. Among the requests were a restart of the environmental impact statement process, decommissioning 25% of the summit facilities by the time the Thirty-Meter Telescope is operational; withdrawing 10,000+ acres from the Maunakea Science Reserve and giving it back to full Department of Land and Natural Resources (DLNR) authority.

E. Environmental Impact Statement (EIS) for the Proposed New Master Lease

The Environmental Impact Statement Preparatory Notice (EISPN) will be restarted to reflect the changes requested by the Governor, in particular the withdrawal of 10,000+ acres back to full DLNR authority. This action puts into question the University's overall management functions - is it limited to the newly defined University of Hawai'i's managed lands or to the lands that is given back to DLNR that were formally part of the Science Reserve?

F. Administrative Rules

Public open house sessions were held on June 23, 24 and 25 in Kona, Hilo and Waimea respectfully. The public had the opportunity to visit and learn about the suggested rules for UH's managed lands on Maunakea. Mini surveys were also available for people to fill out. The surveys provided information on management challenges and suggested rules to address these challenges. Over 80 surveys were received and, in general, the responses were in agreement with the suggested rules.

One of the Governor's steps in his new stewardship plan was to move forward expeditiously with the development of administrative rules what would significantly limit and put conditions on non-cultural access to the mountain. With the withdrawal of lands from the Maunakea Science Reserve this puts rule making, once again, in limbo and calls for an evaluation of the current content of the suggested rules.

G. Thirty-Meter Telescope (TMT)

During the period of April 2 to June 22, 2015, activities on the mountain related to protesters were relatively calm. A number of protesters continue to camp across the Visitor Information Station (VIS). On June 22 a group of individuals erected an ahu with stones not from the summit area in the middle of the TMT access road. On June 23 another ahu was constructed on the TMT site. Those ahus are still in place.

On June 24, 2015, TMT attempted to access their construction site and were met with heavy opposition starting with a group of protesters blocking the road in front of the VIS. The police pushed back the protesters to the start of the gravel road at which point Division of Conservation and Resources Enforcement (DOCARE) officers took over. Several arrests were made of people who refused to move out of the road.

Also on June 24th, obstacles in the form of strewn rocks, boulders and rock walls prevented TMT from advancing beyond a quarter mile from the start of the gravel portion of the access road. OMKM closed the road for safety reasons. The road was reopened on July 13th following the grading and safety assessment of the road.

As a result of the obstructions placed and/or built in the roadway, the attorney general deemed there was imminent peril to the resources and requested the BLNR to adopt emergency rules. On July 10, 2015, the BLNR passed emergency rules that were later approved by the governor on July 14, 2015. These emergency rules prohibited individuals from possessing camping equipment and from being in the restricted area between the hours of 10 p.m. to 4 a.m. unless transiting through the restricted areas. The restricted area is defined as within one mile on either side of the access road. On July 31, 2015, DOCARE officers arrested several individuals camping across the VIS for violating the emergency rules.

On June 25, 2015, the VIS was closed, including the restrooms and portable toilets. The VIS could no longer remain open because staff were becoming more and more uncomfortable with the presence of protesters camped 24 hours across the street and their activities were having an impact on the VIS. In addition, resources, especially water usage, at the VIS were being used at an unsustainable level. On August 4, 2015, with the removal of some of the protesters by DOCARE officers, the VIS reopened.

H. Appeal of the Thirty-Meter Telescope Conservation District Use Permit (CDUP)

The appellants in the appeal of the CDUP for the TMT requested that the case be transferred from the Intermediate Court of Appeals to the Supreme Court. On June 5, 2015, the Supreme Court accepted the transfer and scheduled oral arguments for August 27, 2015.

IV. KAHU KŪ MAUNA COUNCIL (KKMC)

Shane Palacat-Nelsen reported the Council is recommending two candidates for seats on the Council. The first candidate is Ms. U'ilani Naipo. Ms. Naipo's background is in Hawaiian Studies and also kālai wa'a, particularly with makali'i. As she is accustomed to the heavens and the stars, her scope with navigation is her connection to the mauna.

The second candidate is Mr. Leningrad Elarionoff. A long-time community member, Mr. Elarionoff served on the Burial Council. His mother comes from Kohala and was a Hawaiian story teller. He was born in Ka'u and has shared his stories of the Kohala District, particularly the area of Maunakea. His interest in becoming a member of the Council is to be able to share what his mother had shared with him. He will make a good kupuna on the Council.

Action

It was moved by Doug Simons and seconded by Roger Imoto to approve the appointment of Ms. U'ilani Naipo to the Kahu Kū Mauna Council.

Lehua Veincent asked to have the nomination process explained and how the Council takes action. Mr. Palacat-Nelsen explained when there are vacant seats Council members go out into the community, including to Native Hawaiian groups, to solicit candidates. Applications are reviewed and candidates are interviewed. In the interview process, candidates are asked cultural practice questions. Candidates are then recommended to this Board for approval. Director Nagata added according to the Master Plan, the MKMB is responsible for approving members of the Council.

Hannah Kihalani Springer inquired if occupational affiliations, as well as cultural and lineal, and geography of origin or residency is taken into consideration. Mr. Palacat-Nelsen replied most recently Herring Kalua had mentioned the Council should be looking at geography, so the Council looked at geography as a priority. As far as occupation, the Council was more concerned with participation and having a good balance of different backgrounds.

Doug Simons asked who was rotating off the Council. Mr. Palacat-Nelsen replied Tiffnie Kakalia and Toni Mallow would be stepping off the Council.

Chair Mooers called for a motion. The motion was carried unanimously.

Action

It was moved by Herring Kalua and seconded by Lehua Veincent to approve the appointment of Mr. Leningrad Elarionoff to the Kahu Kū Mauna Council.

Herring Kalua expressed the need for kupuna on the Council and thanked the Council for this.

Chair Mooers called for a motion. The motion was carried unanimously.

V. Committee Reports Environment Committee

Roger Imoto deferred the report to Fritz Klasner.

The last Environment Committee meeting was held on June 17, 2015. The two main agenda items discussed were the draft climate monitoring network proposal for Maunakea (CMP action item) and updates to the invasive species plan. Tom Giambelluca, geography professor at UH Manoa and a climatologist is spearheading the climate monitoring network.

The Department of Agriculture is having a hearing today on emergency rules for the rapid 'ōhi'a death problem – there is a fungus that is impacting 'ōhi'a. The emergency rules limit the movement of untreated wood. This does not have any immediate affects for the observatories or any of the other permitted activities because we do not allow untreated wood on Maunakea.

Updates

Open House - An open house was held at Halepōhaku in late May. This was coordinated with the protesters to share information about OMKM's natural resources program.

Ant Surveys - Weekly and monthly ant surveys were conducted in June and July at Halepōhaku. No new threats have been identified since April.

Reports of Vespids - In June there were reports of wasps at the summit ahu which were using a fresh coconut as habitat. At Halepōhaku a visitor was stung by a wasp and the area was cleaned of non-native vegetation and offerings. Since then there has been no reports of wasps.

Invasive Species Plan - At the June 17th meeting two Standard Operating Procedures (SOP) for updates and four new SOPs were shared. This will go to Kahu Kū Mauna and the Board well in advance of their next meetings for review and comments.

Annual Arthropod Monitoring - The annual invasive species and wēkiu bug monitoring was completed in late June/early July. No new priority threats were identified this year through the initial screening process. There was a *Bragrada hilaris*, stink bug, found at Halepōhaku and near the summit for the first time. *B. hilaris* is an agricultural pest found throughout the Hawaiian Islands that feeds on agricultural crops. In terms of wēkiu bugs it was an average year, which is very good news. 2013 was the best year we had for wēkiu bug abundance with 2014 being the worst year.

Annual Historic Property Monitoring - Historic property (archaeological) monitoring was recently completed with our consultants, Pacific Consulting Services. Office staff accompanied them for safety purposes as well as to conduct invasive species surveys (arthropod and vegetation).

In June some staff went up to Forest Reserve lands across from Halepōhaku with a group from Ka 'Umeke Kā'eo Charter School to give a presentation on invasive species.

Summer intern Christian Kaponu, whose original task was to help with displays at the VIS but given the circumstances taking place at Halepōhaku, came up with the idea for and organized the Aloha Art Festival in partnership with 'Imiloa. The festival drew approximately 500 people to 'Imiloa and resulted in several hundred art entries. Judges included Suzanne Case with DLNR, Mark Chun an astronomer, and several members of Kapu Aloha. Three pieces were chosen and will be displayed at the VIS in the near future.

Two volunteer events were held in June with the Hawai'i Youth Challenge National Guard Program. They helped to pull about 150 bags of weeds. In October we will be hosting the UH Hilo Biology Club.

The Office was fortunate to work with several interns this summer. Sean Kirkpatrick, UHH Pacific Internship Programs for Exploring Science (PIPES) intern, assisted with the erosion and cinder characterization study with Dr. Ryan Perroy. He also assisted with the historic property monitoring. He will continue his conservation biology studies at Hawaii Community College and UH Hilo this fall.

Christian Kaponu, UHH PIPES intern, organized the Aloha Art Festival. She will continue her studies this Fall at UH Manoa in the public health program.

Tisha Piilani-Pelanca, Hawaii Community College Forest Team intern, helped map all the trees at Halepōhaku. She was also our go to field person for any and all field work.

Lastly, Jessica Kirkpatrick has returned to graduate school at UH Hilo after over 3 years with OMKM. She will be working with Dr. Jesse Eiben on wēkiu bug and other arthropod habitat restoration at high elevation sites on Maunakea as a Master of Science student in the Tropical Conservation Biology and Environmental Science program.

VI. NEW BUSINESS

A. Approval of Kahu Kū Mauna Council Nominees

Action was taken on this item earlier under Item IV. Kahu Kū Mauna Council.

B. Review and Approval of Plans for Improving the Ingress/Egress and Parking at the Visitor Information Station (VIS)

Background

In 2013, the legislature appropriated \$2 million to construct infrastructure improvements, renovate mid-level facilities, and improve the summit access road.

Improvement of the Saddle Road has greatly impacted access to Maunakea. Easier physical access, combined with information on the Internet, has resulted in a tremendous increase in vehicles and visitors to the VIS. The VIS was not designed to accommodate large numbers of visitors. The capacity of the VIS is 56 people, but the number of visitors, in particular at night during stargazing, is well over a hundred. The VIS parking lot has only 22 parking spaces and overflow parking is alongside the roadway. In addition there are no streetlights or lighted walkways and conditions are very dark which makes it ideal for stargazing, but dangerous for pedestrian movement. Of great concern is the potential for vehicular or pedestrian accidents, especially when crossing the unlit road.

The summit access road between the mid-level facilities at Halepōhaku and the summit of Maunakea includes a paved section near the summit that was last paved in the 1980s. Minor repairs and maintenance of the road have been done; however, the roadway is deteriorating due to a combination of age, use, and natural earth moving processes. The edges of the road are breaking apart resulting in water undermining the road surface.

The funds appropriated by the legislature is being applied to: 1) development of a design and construction to address ingress/egress and parking to safely accommodate visitors; 2) a study for improving and repairing the summit access road in the summit region; and 3) study design for expanding the VIS.

Due to limited funds \$500,000 has been allocated for the study and design work and for the preparation of an environmental assessment. The remaining \$1.5 million will be applied to provide improved and safe parking and pedestrian movement at the VIS. The studies and design of the summit access road and VIS expansion will be used to seek additional funding from the legislature.

Project Description

A drawing of the four zones where visitors park and a comparison of the number of cars by zones for the period 2012 - 2014 were distributed. Zone 1, or the area across the street for the VIS, is the most heavily used.

An aerial of the existing layout of the VIS and buildings was shown along with drawings showing an exit lane (bus pickup and drop off lane) forking to the right of the access road and fronting the VIS, and a parking lot below (south) the VIS. Additional drawings showed the proposed infrastructure superimposed over existing terrain and buildings.

The exit lane and parking lot will be paved. The parking lot will contain about 100 stalls, which is equivalent to the number of parking "stalls" of the four zones combined. In following the natural contours of the terrain, the parking lot will be sloped resulting in each east-west section of the parking lot to be lower than the adjacent north set of stalls. The lowest section will be used for stargazing for larger educational groups.

There is a time limitation on the use of the funds – funds must be encumbered by June 30, 2016. The selection of a contractor must be finalized by June 2016. In preparation of selecting a contractor, the consultant requires several months to finalize the design and construction drawings and develop a specification list by December 2015. The University will then announce a request for proposals. It is estimated that it will take up to six months to secure a contractor following the notice for a request for proposals.

The consultants on this project are Kurt Mitchell, with Kober, Hanssen, Mitchell Architects; and Robyn Ito, with SSFM International, Inc. They presented an overview of the VIS and the design and technical aspects of Phase I Ingress/Egress Strategy. They are confident that this work will fall within the \$1.5 million construction cost and will also allow any future work that is designed up there to go forward.

Ms. Ito noted that as they were putting the design together there were some challenges. A couple of things they had to keep in mind was to provide a pick up and drop off area and that as parking spaces are increased, so do ADA (Americans with Disabilities Act) requirements. Also, the slopes already there are a challenge within itself.

Mr. Mitchell stated a topographic survey was done of the area to make sure that any improvement is less evasive at all times. The parking lot has been designed to go with the contour of the mountain so there is less cut and fill and disturbance. The parking lot is not increasing. We are just taking the parking that is up there now and putting it in a more organized and accessible environment.

Chair Mooers asked if the parking on the road will be prohibited once the new parking lot has been constructed. Mr. Mitchell thinks it would be, but it is up to management. It was also asked if the walkway to/from the new parking lot to the VIS would be lighted in any way. Mr. Mitchell replied they could look into that and do some type of low lighting. Joe McDonough, VIS manager, explained the lighting they have now was approved by this Board about two years ago. It is low voltage ground lighting, about a foot high and red. Another question asked was if the project was scalable - meaning if it comes in over \$1.5 million, is there some way to accommodate that without scraping the plans? Mr. Mitchell replied that has been discussed. There are ways of either not filling all of the parking lot, you could build the upper part of it leaving the rest to be built at a later date, or you could build only one bay if needed to. Mr. Mitchell explained he is working with SSFM to complete their set of drawings by December so they can put it out to bid in January. The University needs the time after that to put the process together, select their contractor and award the bid.

Mr. Kalua asked if the project would be built as close as possible to the \$1.5 million and about unforeseen circumstances. Mr. Mitchell replied yes it would and explained that the University has, within their bidding process, an "x" amount of percentage that needs to be set aside for contingencies. This process will not be any different.

Ms. Springer asked about the timeframe for the relocation of the existing dorms. Mr. Mitchell stated at the start of the construction the dorms will have to be relocated. They are looking at all alternatives and options. The dorms are not in its best shape and will probably cost more to relocate them. There are other alternatives that might be easier for the VIS - anything from containers to modulars. If it comes down to the point where it should be moved and renovated, then it will be done.

Ms. Springer stated where vehicular access is not managed limiting parking stalls is not a proven method of managing parking numbers. There are already 100 cars on the ground. Will the spillover then continue to be a spillover parking area? Mr. Mitchell stated this question was brought up by KKMCC. He knows management is looking at ways to manage parking on an operational basis such as reservations for people coming up the mountain. We want to provide access for everyone from visitors to the local community. One way of doing that is limiting the amount of cars. A lot of places do that.

Mr. Veincent asked if there are numbers in regards to how often the cabins are used. Is it warranted to have them around? Does the Maunakea Observatories Support Services (MKSS) still monitor the use of the cabins? Mr. McDonough explained the cabins are essentially an extension of the Halepōhaku lodging. Right now two of the cabins are used by VIS staff. Others are used by observatory workers who wish to be isolated away from the main lodging or for overflow from the main lodging. There are 16 rooms with 4 bedrooms per cabin. Right now a third to a half are being filled on a weekly basis.

Roger Imoto asked if the issue of water runoff was being addressed in the design of the parking lot. It can get really bad up there. Ms. Ito replied they have not looked into it yet, but it is something they will address.

Chair Mooers commented these are all good questions but we need to understand that this is a conservation district and compliance with Chapter 343 and 13-5 Hawaii Administrative Rules is going to be involved. This is an introductory part of the process to look at the design. Any approval we give is contingent on the fact that it will comply with Chapter 13-5. Those issues will be raised as far as archaeology, cultural and the more detailed questions raised as far as drainage. All of these agencies will be looking at the project and allowed to comment on the draft environmental assessment (EA) as those answers must be complied within the final EA before any permit is granted. It is important to understand we will not have answers to all those questions today. What is before us today is the design, a concept that we will approve. And, if it is improved, it will be pending compliance with these rules.

Mr. Mitchell explained the process they will be going through right now is to make sure that we secure a contract. The contractor cannot start until the EA and a Finding of No Significant Impact (FONSI) is completed and a CDUP has been issued. The EA will go concurrently with the work that is going on here. The EA process will probably take longer than the design process and putting it out to bid and awarding the contract.

Mamo Bezilla commented on the wind and water flow and the importance of protecting the 'āhinahina (silversword) below the area especially with it being an endangered species. Also, in listening to the discussions, she stated it

seems like there will be a limit to access. It really does not make sense to her to spend this money and to alter the terrain, as minimal as it may be, if you already have that mindset of managing the mountain and putting a cap on it. Why not put a cap now?

Chair Mooers stated he did not believe anyone suggested a cap. It is not part of this proposal. The proposal here is to try to address the parking capacity that exists today. It is not looking at an expansion. If there are expansion plans, that would have to be done under another proposal. There is no proposal by this Board or anybody through this Board to cap the use of the mountain or the use of the VIS at any number. He apologized if that message was implied, but it is not the case.

Debbie Ward asked if the surface of the parking lot could be made permeable to avoid runoff, erosion and pollution from a hardened surface. Mr. Mitchell replied they can look into it. The two things they have to take into consideration are cost and use.

Ms. Ward also stated she had accompanied Holly McEldowney some years ago around the areas below the VIS and there were a tremendous number of archaeological points that was pointed out. Have these areas been taken into consideration?

Chair Mooers replied clearly in the 343 archaeological inventory survey and in compliance with a preservation plan, burial treatment plan, data recovery plan - all that will have to be complied with prior to the granting of a FONSI as the 343 is going forward. All that archaeology will need to be done as part of the 343 process. Mr. Mitchell added they have a consultant to assist with all of that.

Tom Chun commented, when this was brought up at the KKMC, he had concerns about the upper left existing stalls designated for ADA and permitted operators. He felt this was a strong message because those with a permit would have reserved parking. Others have to park in the lower unit and some of them may not be quite disabled. His thought is we should be thinking about or even eliminating "permitting". The message could be interpreted that we are putting the permittees in front of local people.

Kahu Kū Mauna

Kahu Kū Mauna reviewed the project at their meeting on August 19. The Council expressed the need to put this project in a bigger picture. The ingress/egress is part of the bigger picture of what is planned for the VIS. They also expressed that when we move forward to the second phase we have to look in terms of how to manage and control and not increase the number of visitors on the mountain. Also, 'Imiloa needs to be part of this whole discussion when we move forward with the VIS vision and that, more importantly, the community needs to be part of the whole overall design. They realized that safety needs to be addressed through this planning.

Department of Land and Natural Resources

DLNR will be consulted regarding a permit for this project. The project will not proceed until appropriate DLNR approval has been obtained and any conditions incorporated into the project.

Comprehensive Management Plan Compliance

Addressing safe vehicular and pedestrian movement is a CMP requirement:

- ACT – 2: Develop parking and visitor traffic plan.
The CMP contemplates visitor parking on the shoulder of the road and in other undesignated areas may negatively impact the resources and cause erosion. The proposed project design will address safety concerns by putting paved parking on the VIS side of the road eliminating the need for people to cross the street. It also removes vehicles from parking alongside the shoulder of the road reducing impacts and the potential for increased erosion.
- IM-9: Evaluate the need for additional parking lots and vehicle pullouts and install if necessary.
The 2000 Master Plan recommended that parking at the VIS should be evaluated to provide a safe and convenient environment for visitors. The CMP states that for safety reasons, all parking should be on the same side of the road as the VIS.

OMKM Recommendation

OMKM recommends approving the design the MKMB:

- There are no archaeological sites in the immediate area.
- This project is in fulfillment of two of the CMP management actions.

- This project addresses vehicular and pedestrian safety concerns at the VIS.

Action

It was moved by Herring Kalua and seconded by Roger Imoto to approve the conceptual design of this project. Chair Mooers called for a motion. The motion was carried unanimously.

C. Discussion - Consideration of the Withdrawal of Lands from the Mauna Kea Science Reserve

Governor Ige's proposal for the stewardship of Maunakea contains 10 recommendations to the University. One of the recommendations states to "Voluntarily return to full DLNR jurisdiction all lands (over 10,000 acres) not specifically needed for astronomy."

Chair Mooers stated this is an interesting proposal which creates several questions this Board needs to consider. Every Board member here has spent countless hours reviewing the CMP, Cultural Resources Management Plan (CRMP), Natural Resources Management Plan (NRMP), Decommissioning Plan (DP), Invasive Species Plan, etc. All of these Plans were for the 11,000 acres that the University currently manages. The question now becomes if we return 10,000+ acres back to DLNR, what is the status of those Plans? How do they divide? What is enforced? What do these Plans relate to? These Plans were created by the community with hundreds of hours and dozens of meetings to create these Plans. Are we to disregard these Plans now and apply them only to the lands in the Astronomy Precinct, which is less than 1,000 acres? What he would like to see come out of today's discussions is a recommendation or at least a series of questions we can address to the chancellor and president and Board of Regents (BOR) and their negotiations with DLNR regarding these lands.

Ms. Springer stated that regardless of the number of acres addressed in the Plans that they would be comprehensive in nature and that all of the elements that are discussed in the Plans covering those 10,000+ acres would also be discussed in this transfer.

Chair Mooers asked how the balance of the lands would be managed. Ms. Springer questioned is it not anticipated that they would return to DLNR? Chair Mooers asked under which rule? Ms. Springer was not sure.

Chair Mooers' concern was if you are on one side of the road you are managed by one set of rules by a certain agency and then when you pass a certain line, now you are being managed by another agency. Are the rules the same? The fact that these rules have been adopted, do they continue to apply to those lands?

Tim Lui-Kwan stated these are not rules, but rather Plans. Right now, by definition of the CMP, it only applies to UH management areas. Once the transfer goes through, that is going to change. The Plan was approved by the Land Board so it applies to the State, but the language in the Plan applies only to the UH managed lands. If BLNR does not change that language, it will only apply to the lands that UH retains. So the remaining lands, unless BLNR chooses to apply, will not be subject to the Plans. It does not stop BLNR, however, from actually managing their lands as they would pursuant to the CMP. He cannot see the State abandoning the Plan. Their meetings with the State is to help them understand what the overall management for Maunakea needs to be. He believes everyone is in agreement that it should be comprehensive and that it should continue. They need to figure out on their own how they apply the Plan if they want it formally. We preliminarily looked at taking it back under the Mauna Kea Forest Reserve. Unfortunately, the CMP has not been adopted for the Mauna Kea Forest Reserve. They may need to make revisions to the Mauna Kea Forest Reserve rules. Additionally, another means for them to continue the CMP is to have it as a condition of the withdrawal from our lease in the Mauna Kea Forest Reserve by an executive order. Under an executive order certain things also pass besides the land and that may include the CMP as well. These are all discussions the University and DLNR are undertaking.

Director Nagata stated Forest Reserve rules apply to all Forest Reserves. DLNR will have to make a decision whether or not they want to have specific rules for these lands. Once it goes back into Forest Reserve, there are no boundaries. The boundaries around the Science Reserve are going to disappear and it will merge into the Forest Reserve. Where would the CMP manage once it gets put into the Forest Reserve?

Mr. Imoto stated all Forest Reserve lands can be managed in different ways. That one could be managed under the CMP through regular Forest Reserve rules. He does not see any problems with that. The question is if they have the money, time and manpower to actually manage it like that. That is where the problem normally lies.

Mr. Lui-Kwan stated seeing how large the Mauna Kea Forest Reserve is, DLNR could create a subset of the entire Mauna Kea Forest Reserve specifically for the returned lands. Mr. Imoto replied if specifically created as a different

Forest Reserve, yes. But if created as a special management unit, then there are problems. There are no rules for special management and you end up with no rules again.

Mr. Lui-Kwan stated a lot of the big studies done for the CMP originally have not been done on the greater Forest Reserve. Mr. Imoto confirmed that was correct.

Chair Mooers commented that given we are an advisory body we should be thinking about what we would like to share with the chancellor and president and BOR that they can initiate and have discussions with BLNR.

Mr. Pacheco stated he does not know why they are going to the Forest Reserve. To him it would make more sense to expand the Natural Area Reserve System (NARS) up there. You would have a higher set of rules and you could overlay the CMP on top of that as long as they did not conflict with NARS rules. There would still be this boundary putting it in the Forest Reserve and you still have the NARS up there too. Now there would be 3 jurisdictions of land management.

Mr. Imoto commented the NARS was created to protect unique eco-systems within the State of Hawaii. Once you put NARS rules in place then a lot of your activities are restricted up there. Forest Reserves were put in place in the State to provide, number 1, water for everyone.

Mr. Lui-Kwan replied the State has also looked at expanding the NARS as an option as well. Part of the problem is manpower and resources at this point.

Mr. Lui-Kwan further explained the executive order is to transfer the land from one jurisdiction to another, which is how the State moves the lands around. The condition he talked about earlier would be a condition under the executive order itself. The governor's timeline is to have the lands withdrawn by the end of this year. They want the approval of the Land Board prior to the end of the year. The actual executive order may not happen until a year or two after that or longer.

Mr. Veincent wondered who the governor is talking to in regards to some of these things that he wants.

Chair Mooers stated that is a good question. He finds the governor's announcement of the formation of a Mauna Kea Cultural Council which will work with the BLNR and DLNR and his office to ensure that all acts from here forward are sensitive to and observant of the host culture offensive. How does that interact with Kahu Kū Mauna and the work they have done for decades? What is the governor saying about the work the Council has done? Where is the control and the cultural voice going to come from for the mountain now? Will it be this island?

Mr. Kalua stated when there is duplication, there is confusion. He would also like to know who the governor has been talking to. Right now everything is in place. He would not give back the land. We can continue the management and make sure we listen to everybody and put everything together.

Chair Mooers commented the governor's ten actions are directed toward the University. We (the MKMB) are not the University. We are an advisory group. We can advise the chancellor, the president and the BOR in any manner that we see fit. If your recommendation is that we keep the lands, then we can recommend that. If they take it back anyway, then here are issues they need to tell us. We are about to embark on doing our 5-year review of our Plan. We need to know where that Plan covers. If it is only UH managed lands then the Plan would look somewhat different.

Ms. Springer takes a different view. Her question from the beginning was why did the Science Reserve need all the 11,000 acres of land to manage. If this is the amount of land it takes to accomplish the intention of astronomical investigation from the mauna, then this may be the acreage comports with the management capabilities of the University. She thought the Reserve was too big in the first place and the smaller acreage seems like a more manageable acreage for the University keeping the intended usage of the management area in mind. Those vast tracks of land at that high elevation might be better suited for management under a Forest Reserve or a NAR. We should consider there is an inquisitive nature among individuals and agencies and that is part of what she sees playing out here - agencies docking for domain but not necessarily analyzing the management according to their capabilities.

Mr. Lui-Kwan stated if you look at the history of the plans and the permits and the leases which have gone in for Maunakea, from the very beginning it was anticipated that astronomy would be using only a small portion of the Reserve. It was very clear after the 2000 Master Plan that the remainder of the Reserve was meant to be a buffer -

scientifically and culturally for the summit area. It may have been something beyond the legality of either the State or University to manage as well as it could. At least since the 2000 Master Plan, he thinks the University has been trying to do that and have come a long way since then with the CMP and sub plans. He does not see the State or DLNR at this point backing down from a return of a tangible portion. The initiative is pretty firmly embedded at this point.

Chair Mooers thought the University would be thrilled with the transfer. He does not work for the University. He works for the community here. We are all volunteers. His concern is for the mountain. He thinks it is correct to say that the University is far better equipped to deal with only the Astronomy Precinct and does not have a problem with that. His problem is with the cultural aspect of having a different board advising the cultural management of the mountain on our island and how we segment Kahu Kū Mauna.

Mr. Imoto commented right now the Mauna Kea Forest Reserve is over 67,000 acres. Adding on another 10,000 acres would make it the largest Forest Reserve in the State.

Ms. Springer stated if this cultural concern is so mighty then hiring should have been done along the same timeline that the natural resources program manager was hired. That has been an outstanding concern from Kahu Kū Mauna that has been voiced as soon as the natural resources program manager was hired. We hear the rhetoric about concern for the culture, but the University has done no better engagement and making good their intention and, perhaps promise, to treat the cultural resources on par with the natural resources. KKMC did not form to be an institution or agent of the University. It formed to be an independent group of people from the community who were concerned about the process as it was unfolding.

Chair Mooers asked Ms. Springer what she sees KKMC's role going forward. Ms. Springer deferred to the members of the Council that were either on the phone or present today. One of her concerns brought up at the May meeting and, in her opinion, was that we were put in a position of advocating for astronomy on the mountain rather than being the kahu for the mountain. The present members can speak better to their role. If they have the na'au for the mauna, they do not need the structure of the University to act on that na'au. In our May meeting we discussed a little bit of that concern with not only the KKMC but also with the MKMB and the advance of it and that maybe there could be greater depth to the conversations that we have here and not be so focused on approving whatever the measure of the day is before us.

Chair Mooers clarified he was more interested in how she sees KKMC interacting with this new cultural advisory board for DLNR. Is there a role here?

Ms. Springer replied we started as a citizen's group through the courtesy of the University to integrate it into the CMP. We run the risk when it is whether the governor's hui or KKMC - within the Hawaiian community you have the full range of opinions, attitudes, dispositions, occupations, geography of origins that you do in any other group. When we expect there to be a voice that will be harmonious, she wonders if we could ask the same of a Portuguese cultural advisory group, or a Japanese cultural advisory group. To her there is an unrealistic expectation on native Hawaiians to speak in a way that we do not ask anyone else to speak in, but that is in part because of our position on the aina and the mauna so it is understood. The KKMC came from the community. She would ask the current members how they would imagine that to unfold.

Doug Simons stated he could never get away with what the State is trying to do in the sense of requesting this transfer in the absence of a plan. He does not know what is going to happen if we go forward with the process which is on a super fast track. This is with his citizen hat on that he shares your concerns. He is not against turning 10,000 acres back to the State. He just wants to know what the plan is. That is not an unreasonable question to ask before giving his approval to go forward. From the astronomy standpoint, you are absolutely right in the sense that it is small fraction of 10,000 acres that the observatories actually use. He just does not know what we are getting into. The State is about the only entity he knows that can initiate this process in the absence of explaining what their intentions are in a clear way that give us some confidence that the transfer they are seeking is going to meet our expectations. He would vote no. What he would like to see is a plan for what they intend to use the land for. He echoed Ms. Springer's comments about the cultural dimension of all this. There is always something coming up within the astronomy community and there is always an environmental report. He would dearly love to see programs and projects founded in the cultural dimension of the future of Maunakea. He would strongly support hiring someone to fill that role.

Mr. Imoto stated what he heard from DLNR and with respect to the cultural aspect they still would prefer that the University manage all of the cultural issues on the mountain. They do not have the resources or expertise to take on

that task. To have the University just manage the small little portion and have the rest of it just fall through the wayside does not make any sense. Who is going to do the metes and bounds survey to do the transfer? That is very costly.

Chair Mooers found it odd that the governor has said that the University has not managed the cultural resources and to hear that DLNR wants the University to transfer the land but yet continue to manage the cultural resources. That makes no sense.

Mr. Veincent replied that is ridiculous because from our perspective, culture is land and land is culture. You cannot separate the two. It seems like perhaps some of these duties of the Mauna Kea Cultural Council is to enlighten the governor with some of the cultural practices that is so appropriate to know at this time. The separation of the culture and the land is not something that should or can happen because it is one and the same.

Chair Mooers stated Mr. Lui-Kwan is correct when he says in many ways the ship has sailed. The governor has mandated that 10,000+ acres be returned and they will be. As we represent the community and provide guidance to the University, what would we like to say to the University that they should be saying or asking of DLNR? What is your plan for the land? How are you going to fund it? What is the role of the University or does the University have a role at all? What is the application of the CMP? Any ideas? What is the best way to simulate this information?

Ms. Springer replied there are at least 3 questions we could inquire with the governor regarding:

1. That there be due and proper planning for the chancellor and beyond - what are the practicality of the jurisdictional divisions that would result in the proposed transfer?
2. What is the extent of a metes and bounds survey?
3. Who is he talking to? What was the consultation process that led him to make this recommendation?

Mr. Pacheco appreciated Ms. Springer's questions. One thing this Board should remember is that this transfer of property is two steps. First the (Land) Board has to approve it and then it goes to the governor for an executive order. The (Land) Board recommends an executive order. He thinks this Board should work on the Land Board and ask those questions to the Land Board. As former MKMB members, we have talked about this in the past. We do not need these lands. They should be back with DLNR. And, DLNR has said they do not want them. They do not have the resources to take care of it. The Department understands that. By asking those questions it could cause pause for the Land Board to have those answers from the executive office before they make a decision.

Harry Yada agreed with Mr. Pacheco to the extent that this idea of giving back 10,000 acres is not a new idea. We talked about this years ago. The issue was resources. His point is the governor can put whatever he wants in his release, but there is a whole process to accomplish it and it is just not totally up to him. Is an EIS required to put lands into Forest Reserve? Mr. Imoto replied no, an EIS is not required, just public hearings.

Mamo Bezilla commented that there is another avenue. Apparently UH has more funding so UH could, in an act of good faith and in a way of accepting the kuleana having had these lands and have a motion to provide a certain amount, a certain avenue of giving back because if you want to be cultural, you try not to give things back any less than what you got. She proposed to these leaders to allow the University to have an avenue to give back to those lands. In perpetuity, maybe? The University has funding to take care of these 10,000 acres. She also thanked everyone who has ever worked on Kahu Kū Mauna and everyone for being volunteers here on this Board.

A male from the audience stated he understands the governor wants the UH to give back the lands because it has not been a good steward of the land. He agrees. There are 13 telescopes and infrastructure on the mountain. To him, coming from a science background and being Hawaiian, he is trying to understand why we are developing so much of a conservation district. Giving back the land to make it better so we can move forward with the TMT project is not fixing the problem. The problem is the mauna is not being properly managed. Give back the land, give back the whole land. The way the land should be managed is like an eco-system. It is a whole system, one big eco-system. The whole movement is Aloha Aina, not about no telescopes, or no science. It is Aloha Aina. We are trying to maintain what we have as long as we can.

Ms. Springer stated the 3 questions to the governor can remain as stated because that is our letter of inquiry to the executive, but there are a couple of other things we might consider. With regard to the previous speakers encouragement for us to think of the mauna as a whole, regardless of where the lines are drawn, there are a variety of management entities on the mauna. The name of this body is Maunakea Management Board. She wonders if this body might be an, if not the, appropriate vehicle for pursuing a more comprehensive eco-system-like consideration of the mauna. With the emphasis on management, as long as she has been involved, since the legislative auditor's

report came out in 1998, that has always been the concern - the management of the mountain. When the media and political voices have made it Hawaiians against science or kanaka against astronomy, they routinely misrepresent the concerns of the people that have come to the mauna. The concern has always been the management of the mauna. Can this body be a lynch pin for comprehensive conversations among the different actors on the mauna? Another motion we might consider is a motion of encouragement to the Office of Maunakea Management to hire a position correlate to the natural resources program manager to implement the Cultural Resources Management Plan.

Chair Mooers stated this Board will recommend to have staff prepare a letter to the UH president via the chancellor to the BOR and eventually get to the DLNR. We do not have to vote yes or no on the transfer. All we can do is say we are familiar with your press release and concerns and we discussed the implications of that and these are questions we have that should be addressed.

Ms. Springer thought we would be addressing the executive office since that is the letterhead we are responding to. We could perhaps copy the parties you stated. Chair Mooers asked if it would be more appropriate for us to ask the University to do it since we advise the University. Mr. Lui-Kwan replied it would be more appropriate to direct it to the BOR through the chancellor and UH president. Chair Mooers added copying the governor also. Director Nagata will draft a letter and circulate for comments.

Director Nagata informed the Board that the Cultural Resources Management position is moving forward.

D. Request to the University of Hawai'i Board of Regents to Amend the Comprehensive Management Plan to Apply Only to the Lands Managed by the University

Background

On May 26, 2015, the governor announced his proposed way for moving forward with the stewardship of Maunakea. His proposal called upon the University to implement 10 actions including "voluntarily return to full DLNR jurisdiction all lands (over 10,000 acres) not specifically needed for astronomy." The 10,000+ acres would be withdrawn from UH's lease of the Maunakea Science Reserve. Although the governor did not specify the disposition of the returned lands, it is widely assumed that the lands will be put back into the Forest Reserve which falls under the jurisdiction of DLNR.

The CMP defines the University's managed lands as the 11,288-acre Maunakea Science Reserve, the access road and the mid-level facility at Halepōhaku. The withdrawal of the lands from the Maunakea Science Reserve places the withdrawn parcel under two management jurisdictions, UH and DLNR. This obligates DLNR to manage its reacquired lands under the conditions of the CMP as opposed to their preferred way of managing their lands. For purposes of giving "full jurisdiction to DLNR" and clear authority to manage the withdrawn lands, the CMP needs to be amended to state that the CMP applies only to the lands managed by the University as defined in the leases and easements with DLNR.

Discussion

Chair Mooers recapped that according to Legal Counsel Tim Lui-Kwan, the CMP applies only to the lands managed by the University. If that is the case, do we need to request the BOR to amend the CMP? Or, do we want the BOR to confirm that it applies only to the UH managed lands?

Director Nagata believed that the BOR should confirm because the CMP specifically identifies the UH managed lands Science Reserve as 11, 288 acres. By taking an action you are adding clarity to the situation that the CMP applies only to UH managed land regardless of how much the acreage is. And, in compliance with the governor's mandate of giving the 10,000+ acres back to full DLNR authority, if we just withdraw the lands and keep the CMP the way it is, then you have that withdrawn lands covered by the CMP and DLNR. Now you would have two entities responsible for the same parcel. We need to have clarity.

Ms. Ward commented that from her perspective, the issue of managing introduced arthropods and alien species would be much more difficult for the University should this land be returned because DLNR does not have the resources to do this type of monitoring which the University has worked so hard to manage up to this point. She commended Mr. Klasner and Director Nagata on the development of the invasive species plan.

Mr. Lui-Kwan explained the withdrawal process. There will be a request to withdraw land from the Mauna Kea Science Reserve lease. That approval has to come first from the BLNR. The request is going to be made by the University to the BLNR. BLNR will vote on it and may or may not put conditions on it. We may or may not agree to such conditions in terms of whether or not we continue with such studies as the invasive species monitoring, arthropod monitoring, archaeological monitoring, etc. What he actually sees is an extended transition period.

Between the Land Board's approval and the executive order, which will have to be executed and approved by the governor, there will be a lot of time. We have not decided yet who is going to be paying for it. Enforcement will also be a big issue. Enforcement is based on jurisdiction and if we are changing jurisdictions here, that has to be clarified. After everything is "packaged" it then goes to the governor. There is no 343 requirement nor does it trigger an EA or an EIS or departmental permit. The governor, as the executive, makes the order. However, it is subject to reversal or voiding by the legislature at their following session. So, after all this, it still has to go pass one legislative session. It is a political as well as a regulatory process. There will be a lot of negotiations between the University and DLNR. The most challenging issues will be resources and jurisdiction.

Director Nagata added once the University and DLNR comes to some kind of agreement as to what it going to be withdrawn it still has to come to Kahu Kū Mauna and this Board for their recommendations. Recommendations will then go to the BOR. There are still a lot of steps involved.

Action

Chair Mooers called for a motion to send a letter to the BOR via the UH president via the chancellor requesting clarification that the application of the CMP will only be to lands managed by the University.

The motion was moved by Hannah Kihalani Springer and seconded by Herring Kalua. The motion was carried unanimously.

VII. ANNOUNCEMENTS

Dwight Vicente commented on the question of title. There is no authority coming from the Admission Act to create the State of Hawaii. It was all a fraud to begin with. The lands still belong to the Hawaiian Kingdom and they are the only ones that have jurisdiction. It has never been transferred to anyone. The land title is still in question. UH did not have a lease in 1968. There are no demise lands here. They are either designated Crown Lands or government lands. It still belongs to the Kingdom. He reserved the rights to the Kingdom.

VIII. NEXT MEETING

The next meeting will be scheduled for Tuesday, September 22, 2015.

IX. ADJOURNMENT

There being no further business Chair Mooers adjourned the meeting at 12:43 p.m.

Respectfully submitted:

Signed by Gregory R. Mooers
Gregory R. Mooers, Chair, MKMB

9-22-15
Date