

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: WEDNESDAY- APRIL 8, 2009  
THURSDAY - APRIL 9, 2009  
TIME: 9:00 A.M. BOTH DAYS  
PLACE: HILO HAWAIIAN HOTEL  
MOKU OLA BALLROOM  
71 BANYAN DRIVE  
HILO, HAWAII 96720

Chairperson Laura Thielen called the meeting of the Board of Land and Natural Resources to order at 9:13 a.m. The following were in attendance:

**MEMBERS**

Laura Thielen  
Jerry Edlao  
Dr. Sam Gon

Ron Agor  
Tim Johns  
Rob Pacheco

**STAFF**

Sam Lemmo/OCCL

Gordon Heit/LAND

**OTHERS**

Julie China, Deputy AG  
Barry Taniguchi  
Doug Simons  
Nahakuelea Isaac  
Tom Peek  
Gene Leslie  
Nimr Tamimi  
Judi Steinman  
Pete Lindsey  
Marti Townsend  
Kaiu Kimura  
Sharon Scheele  
Andrea Rosanoff  
Reynolds Kamakawiwaole  
Paul Coleman  
Ruby McDonald

David McClain  
Stephanie Nagata  
Kihei Soli Niheu  
Richard Ha  
Catherine Robbins  
Nelson Ho  
Fred Stone  
Leonard Tanaka  
Kealoha Pisciotta  
Bob Lindsey  
Paul Neves  
Deborah Ward  
Luana Jones  
Rick Warshauer  
Mohala Haunani  
Roberta Chu

Rose Tseng  
Dawn Chang  
Mike Fujimoto  
Arthur Hoke  
Moanikeala Akaka  
David Byrne  
Eugene Nishimura  
Cory Harden  
Keo Van Gogh  
Mary Begier  
Barbara Hastings  
Dwight Vicente

Calvin Kaleiwahea  
William Kuamo'o  
Al Lardizabal

Jacqui Hoover  
Jim Albertini  
Ron Terry  
Randy Hirokawa  
Jim Kennedy  
Clarence Ching  
Shelly Nakoa

Art Taniguchi  
Clyde Hayashi  
Hanalei Fergerstrom  
Kini Burke  
Kale Gumapac  
Harry Kekaulike Kalua  
Malia Kepapa

Ed Stevens  
Charles Brooks  
Patrick Kahawailoa'a  
Abel Simeona  
Madeline Reed  
Malcolm Kahili

\*Requested a Contested Case Hearing.

{Note: language for deletion is [bracketed], new/added is underlined}

Kumu Kimo Auwai opened with a pule.

Chairperson Thielen introduced each Land Board member communicating the requirements of State law and the BLNR hearing process asking the public to respect other testifiers. It was noted that Big Island Board Member, Rob Pacheco, will recuse from this item because his business touches Mauna Kea and may pose a conflict. The Board may break to consult with their Deputy Attorney General. Also, the Board may call a recess to come back in the evening to allow those who work during the day to come in to testify.

**Item A-1      March 27, 2009 Minutes - *TO BE DISTRIBUTED PRIOR TO THE MEETING.***

Member Agor recused.

**Approved as submitted (Pacheco, Johns)**

**Item K-1      Mauna Kea Comprehensive Management Plan (CMP), for the Mauna Kea Science Reserve and UH Management Areas, by the University of Hawaii, Island of Hawaii, TMKs; (3) 4-4-015:009&012, including portions of the summit access road that extends from Hale Pohaku to the boundary of the Mauna Kea Science Reserve, including a 400-yard wide corridor on either side of the road, excluding those areas within the adjacent Mauna Kea Ice Age Natural Area Reserve. Copies of the CMP can be reviewed at the Department of Land and Natural Resources' (DLNR) Kalanimoku Office, at 1151 Punchbowl Street, Honolulu, Hawaii, Room 131, or at the DLNR Hilo Office at 75 Aupuni Street, Room 204. A copy of the CMP may also be viewed at the DLNR, Office of Conservation and Coastal Land's Website at: <http://hawaii.gov/dlnr/occl/manual-reports>**

**The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with the Board's attorney**

**on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.**

Numerous written testimonies was e-mailed, mailed, faxed and distributed.

Member Pacheco recused himself.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands (OCCL) apologized that his back is to the audience relating that this is how the meetings are set-up, then described the responsibilities of this office including reviewing the proposed Mauna Kea Comprehensive Management Plan (CMP) and providing the Board with a recommendation on the plan noting the challenges. Mr. Lemmo reported on the history of Mauna Kea starting in 1968; the 1977 Mauna Kea Plan which he had a copy of; 1980 Hale Pohaku Master Plan; 1982 Research Development Plan - he brought a copy; Mauna Kea Science Reserve Complex Development Plan with copy in hand; 1995 Revised Management Plan for UH Management Areas which was largely incorporated into the CMP; 1998 Audit of the Management of Mauna Kea; 2000 Mauna Kea Science Reserve Master Plan, copy available; and the 2005 Follow-up Audit resulting in the creation of the Office of Mauna Kea Management (OMKM). There are twelve telescopes at the summit with one below the summit.

Mr. Lemmo spoke on who supported the CMP. Those who opposed numbered about 350 in a form letter and another 18-20 that was not a form letter. The concerns were:

- BLNR is handing over their management authority to UH.
- People questioned whether UH should be granted rule making authority.
- Questions of use of State ceded lands.
- What entity has final decision making authority on projects?
- Questions regarding the cultural framework, delineating between traditional and contemporary cultural practices.
- Lack of details on each management action - timing, funding, who doing what.
- Confusion on how some master plans and management plans relate to one another.
- FONSI not being warranted and people asking for Environmental Impact Statement.
- A request for BLNR to be the entity to prepare the management plan and not the University.
- The CMP needs to address the entire conservation district on Mauna Kea and not just the UH Management Areas.
- Continued access to the summit and how that would be handled.

An EA was filed last week and Mr. Lemmo had copies with him for the Board. Also, copies of the amendments to the CMP were distributed to the Board. Mr. Lemmo read staff's submittal on the Description of Area and Current Use referring to Exhibit 1 and Exhibit 2, the Contents of the CMP describing each chapter, and Chapter 7 and its five (5) components. After staff digested all the information, staff felt the CMP is a good plan

and supports it, but staff had a few concerns which are reflected in the conditions they are asking the Board to approve, should the Board go with staff's recommendation. There are issues with how this plan begins and ends, who is responsible, how and when to implement. Staff's recommendation and conditions tried to reflect these concerns and it is recommended that the Board move this plan forward by approving this plan in accordance of a number of conditions which Mr. Lemmo read from staff's submittal. In addition, it should be recognized that these conditions represent conditions of approval of the permit. All of the conditions and recommendations made in the CMP are also going to be included as binding upon the University if the Board should approve the plan in its totality and not having articulated every one in this report means it will have to be followed by the University.

Member Johns asked how the amendments handed out to the Board will be treated. Have they been approved by the Board of Regents (BOR) and would the staff's recommendation change after reviewing the amendments and the comments to the EA because in the report staff indicated they did not have an opportunity to review those comments because the FONSI hadn't been issue when staff wrote this report. Mr. Lemmo suggested that the Board may need to confer with the Deputy Attorney General and said he had scanned the addendum. There are things in the CMP that should be corrected and should the Board move forward with the plan that might have to come up in subsequent meetings.

Member Johns asked Mr. Lemmo raised the point about Judge Hara's decision and staff's report noted the applicant is taking the position that this plan complies with that decision, but it seems Mr. Lemmo doesn't draw that conclusion himself. Is it the position of the Department that this plan, if approved in its current state, would comply with Judge Hara's decision and order? Mr. Lemmo's response was that he had not looked at this plan as having to comply with Judge Hara's decision because Judge Hara's decision was very narrow and focused on the fact that Keck Outrigger failed to create an adequate management plan that was in the context of the CDUP pending project. This CMP is not being submitted with a pending project and Mr. Lemmo did not judge the CMP on the standpoint of whether it complies with Judge Hara's order.

Member Johns asked whether the relationship between existing plans, 1995 Management Plan approved by BLNR and the 2000 Mauna Kea Master Plan approved by the BOR, how are these plans integrated into the CMP, were there EISs done, what kind of Chapter 343 compliance was done with regard to those two plans that are being incorporated by reference into the CMP. Mr. Lemmo said it's taking the recommendations of the 1995 Management Plan and absorbing it into the CMP. For the 2000 Master Plan with respect to the environmental requirements Mr. Lemmo said he would have to go back and check, but there was a Governor or University approved EIS. The authors of the CMP are not adopting the 2000 Master Plan in the CMP and are saying to consider some of the recommendations and policies of the 2000 Master Plan when future development occurs. But, Mr. Lemmo said he is not convinced that UH is actually adopting it as a component of their plan where the CMP authors suggested the two plans should be consistent with

one another and that they compliment one another, but Mr. Lemmo thinks the CMP authors fall short in adopting it by reference.

Member Johns asked that Section 2.1.4 of the CMP talks about issues and concerns beyond the scope of the CMP. Staff's recommendation is that you're ok with the plan with the conditions that staff stated in the recommendation notwithstanding that there may be issues or concerns in that scope that other people may feel should be addressed in a Comprehensive Management Plan. Mr. Lemmo said he is comfortable with moving the process forward, absolutely.

Member Edlao noted and asked that Mr. Lemmo has concerns regarding the sub-plan, management actions and questions about who, how and when, but yet in staff's recommendation it doesn't push those issues of who, how and when asking whether a status report is sufficient or whether they are concerns with Mr. Lemmo. Shouldn't they be addressed? The CMP identifies the needs and what has to be done, but there is no accountability of who is doing what when. Will it be the Board of Regents, but they will delegate. Mr. Lemmo said he understood that the conditions were written rather broadly referring to Recommendation condition #6 explaining that if the BOR commend with that management and implementation framework it is Mr. Lemmo's understanding that the BOR will have to provide staff with the details the Board seeks now – the who, the what, the when and the how. In addition to Recommendation condition #2, Mr. Lemmo presumes UH will tell staff who is doing it, where it is in the process, when they expect it to be done, etc. and the conditions might be general in nature, but Mr. Lemmo totally expects to see that information when it comes in the future. Chairperson Thielen elaborated that the conditions require that the University present in person and in writing to the Board of Land and Natural Resources (BLNR) which Mr. Lemmo confirmed referring to condition #7 which provides that if there is a failure to comply by the BOR the BLNR may impose additional conditions to insure compliance with the Comprehensive Management Plan where Mr. Lemmo agreed.

Member Gon said he was concerned with the environmental impacts to the summit as well as impacts to cultural resources and practices. During the history of this, the nature of and expression of, our laws regarding environmental impacts and cultural impacts had also been evolving and so many of these plans didn't have the same kind of rigors with regard to environmental and cultural impacts and asked whether it could be summarized when the environmental and cultural elements began to be inserted into these evolving documents. In particular, from the standpoint of the 2000 Mauna Kea Master Plan and the establishment of the Office of Mauna Kea Management and Kahu Ku Mauna, what the planning processes of those bodies and the incorporation of those efforts into this CMP have been. Mr. Lemmo replied saying that he looked at Mauna Kea with respect to environmental and cultural issues. Looking back on the 1977 Mauna Kea Plan he referred to a letter from Governor Ariyoshi expressing concern with the uses of Mauna Kea, concerns with environmental and cultural impacts and that a plan needed to be done. Since the mid-1970s there was recognition of the importance of Mauna Kea for its unique environment and cultural purposes. From that time environmental laws were evolving, then in 2000 a law was passed that required cultural impact assessments. That law has

required anybody preparing an environmental document to do a cultural impact assessment which is actually the better parts of the EA process now because it gives some perspective on a real issue base on why does this have a real impact on our culture. Maybe that occurred during the 2000 Master Plan so there was an effort to comply with that law or UH decided to do it.

Chair Thielen asked the applicant to come up to testify and said that the Board may call a break depending how long the presentation is to give the applicant an opportunity to testify before public testimony.

University of Hawaii President, David McClain greeted the Land Board and members of the community apologizing for facing his back to the audience. He thanked Mr. Lemmo for his review of the CMP introducing Harvey Tajiri - a member of the BOR, Chancellor Rose Tseng of UH - Hilo, Barry Taniguchi - head of the Mauna Kea Management Board, Stephanie Nagata - Interim Director of the Office of Mauna Kea Management (OMKM) and Dawn Chang who heads Ku'iwalu Associates who has been retained by the University to prepare the CMP. The CMP opens with a cultural anchor prepared by the Edith Kanakaole Foundation which is most appropriate. Since 2002 Hawaiian culture and values have been at the center and the heart of the University of Hawaii's strategic mission plan and read two documents which President McClain gave to the Land Board members explaining that the BOR amended its policy concerning the University's mission to explicitly articulate the University's unique commitment to Native Hawaiians and to reflect current practice in the University system and its 10 campuses describing support for Hawaiian programs, history and culture. President McClain spoke on his 2007 convocation speech referring to financial aid, tuition waivers, and scholarships for Hawaiians. Research funds have been designated for financial aid to Native Hawaiian students because the research enterprise owes a debt to the Hawaiian people for the use of these islands. Positions and operating funds for Hawaiians were noted that the University is fulfilling their commitment to the indigenous people of Hawaii.

Ka Piko O Na Moku, President McClain said he wants to be clear and explicit in acknowledging the cultural and spiritual significance of Mauna Kea to the University and it is a scientific importance as well, but we must always put the spiritual above the temple. Mauna Kea is for heaven and the earth and stars for human. President McClain acknowledged that up until the 2000 Master Plan that UH stewardship had fallen short and many in the community felt pain and hurt where he apologized to those in the community who felt that pain and hurt.

The third thing President McClain wanted to say to the Board is that the decisions about the stewardship of Mauna Kea need to be led from the Big Island. UH's 2000 Master Plan created the Office of Mauna Kea Management, Mauna Kea Management Board, and the guardians of the mountain, Kahu Ku Mauna Council. President McClain wrote to Chancellor Tseng affirming our commitment to the 2000 Master Plan and Science Reserve Master Plan adopted at the time by the BOR. The Regents confirmed that the OMKM housed at the University of Hawaii at Hilo reports to the Chancellor is the single entity to manage the comprehensive integrated plan for the Mauna Kea Science Reserve.

It is the point of contact for the summit region; it is responsible for the management of the science reserves, the summit road and Hale Pohaku; it is responsible for establishing and enforcing management policies within the parameters of general lease S-4191; it is the focus of contact for the general public; and it is a referral and facilitative agency for issues that are outside of its authority, but related to the mountain. With that, President McClain concurs with Chancellor Tseng that the OMKM is the lead entity and UH – Hilo is the lead campus in the implementation of the Comprehensive Management Plan confirming his commitment that the University will secure the funding to implement the CMP.

UH is fully supportive of this plan which is the best approach to manage Mauna Kea in the most culturally appropriate way. We are committed to the implementation of the CMP and to the financing of the OMKM and related entities. Mindful of the conditions that DLNR staff have articulated in this recommendation the BOR have placed on their April 16<sup>th</sup> meeting agenda item title the “Affirmation of the University of Hawaii’s Commitment to the Financing and Implementation of the Mauna Kea Comprehensive Management Plan.” Your University is a university whose strategic vision and values are grounded in the values of our indigenous culture of Native Hawaiians. They (UH) acknowledge the cultural and spiritual significance of Mauna Kea and the scientific significance and apologized for their management prior to 2000 which may have fallen short and caused the community pain and hurt. Decisions about the stewardship of Mauna Kea need to be led from the Big Island and will be. UH is fully supportive of the CMP as the best approach to manage Mauna Kea in the most culturally appropriate way and are committed to the implementation of the CMP and are mindful to staff’s recommendations have placed an agenda item for the BOR’s April 16<sup>th</sup> meeting.

University of Hawaii – Hilo Chancellor, Rose Tseng distributed her written testimony and read it saying UH Hilo will assume responsibility for the management of Mauna Kea through OMKM and have been the lead campus for the past eight and half years. No changes are made on Mauna Kea without considerable community oversight and involvement. Also, the Mauna Kea Management Board and Kahu Ku Mauna Council advises and works on stewardship issues. UH Hilo has the expertise and capacity to implement the CMP noting the number of employees and programs, some directed to Native Hawaiian students and outreach to public schools. And, UH Hilo is a community driven university ready to support the recommendations of the CMP which was developed by community input.

Barry Taniguchi, the Chair of the Mauna Kea Management Board (MKMB), presented his written testimony naming each of his unpaid Board members and who they represent in education, Native Hawaiian community, environmental, etc. He described how the Mauna Kea Management Board was created as an advisory Board to the UH Hilo Chancellor and the OMKM on matters related to the management of Mauna Kea and that their meetings operate under the State’s Sunshine Law provisions which are open to the public. MKMB agreed with DLNR staff’s recommendation requiring annual reviews and reports to the BLNR to keep both agencies, the University and BLNR apprised of the status and progress regarding the protection and preservation of Mauna Kea. It was noted

although the MKMB contributed to the development of the CMP they are not the authors expressing concern to Chancellor Rose Tseng whether there were sufficient resources – human, financial and authoritative – to fulfill the objectives where UH Hilo committed those resources. The MKMB reviewed the DLNR staff report and recommendations concurring and urged the BLNR to approve.

Stephanie Nagata, Interim Director of the Office of Mauna Kea Management, distributed her slideshow handout saying that she had been with the OMKM since July 2000 and will present a slideshow on what OMKM has done over the past eight and half years. OMKM protects the cultural resources, the biological resources, the physical environment, recreational resources, research, educational resources and OMKM informs visitors about the significance of Mauna Kea and how to visit Mauna Kea safely. The area OMKM is responsible for protecting includes Hale Pohaku, the road corridor along the Mauna Kea Summit Access Road and the Mauna Kea Science Reserve. (See Exhibit 1 of the staff's submittal.) With respect to cultural resources OMKM are responsible for protecting historic sites, the cultural landscape as well as the cultural practices. In August 2001, in reference to Poliahu (the goddess of the snow) and at the request of the Kahu Ku Mauna Council, OMKM with the assistance of Ron Collier of Mauna Kea Support Services closed the road to the summit of Poliahu to vehicular traffic. A ceremony was held in August 2001 to commemorate the event and also the unveiling of a sign noting that Pu'u Poliahu is a sacred site.

In 2004, OMKM engaged the services of Kepa Maly, an ethnographer and historian to undertake an archival and oral history project. Kepa visited museums and archives on the East Coast including Washington D.C., Denver and Honolulu to research archive documents. The result of his research was a 1200 page, 2 volume compilation of a collection of Native Hawaiian traditions, historical accounts and oral history interviews. In 2005, OMKM with the assistance of Bob McClain at the Institute for Astronomy and the Mauna Kea Observatories funded a four year archaeological survey of the entire Science Reserve. Two maps were presented – one shows the historic sites prior to 2000 and the map on the left shows the sites that have been inventoried and documented since completion of the inventory in 2008. There are 222 sites reported in the Science Reserve. Others are termed "fine spots" which are manmade remains that are obviously modern features and for features that the consultants weren't comfortable classifying because they weren't certain of the age or the function of these sites. But the number of these fine spots is increasing which was pointed out on a map. Upon completion of the survey in 2008 the number of fine spots recorded is now 336. Most of the fine spots are stacked and piled rocks. A slide showing Lake Waiiau after a ceremony at the lake shows these rocks. OMKM is concerned with removal of rocks from their natural state and the potential of removing rocks from historic sites.

OMKM also engaged in initiatives involving the wekiu bug which was described in detail. In 1999, the US Fish and Wildlife Service listed the wekiu bug for Federal protection which was a concern for OMKM and started annual surveys of the wekiu bug from 2002. 2004 OMKM established the wekiu bug committee which includes scientists from UH, Bishop Museum and members of DLNR. OMKM and Mauna Kea



observatories funded projects to study the wekiu bug, its habitat and winds. Since 2007, OMKM along with Bishop Museum started annual surveys on alien insects. The US Fish and Wildlife wants the CMP approved and implemented before OMKM finalizes the Candidate Conservation Agreement.

The OMKM Ranger Program was started in 2001 with two rangers, then to four in 2004 and five in 2005 which is the current number. The rangers interface with visitors, inform visitors about the significance of Mauna Kea and how to visit Mauna Kea safely. These rangers provide first responder first aid, monitor commercial tours and film crews, and conduct bi-annual CDUP inspections. Photos were shown of graffiti, footprints on and in the pu'us, vandalism and traffic describing situations with vehicles and people using equipment not designed for snow use. OMKM created a Ranger Report Database in 2001 and includes data on people, incidents, vehicles, etc.

OMKM established a resource library including 1200 reports and EISs on natural resources and is intended to compliment the Hawaiian Collection at the UH Hilo Molokini Library. Also, OMKM funded a GIS mapping project which they will use for information gathering purposes for all current and future data gathering and collection. OMKM has entered into a cooperative agreement with the DLNR to provide OMKM rangers cooperative training with DLNR personnel and OMKM rangers will monitor and enter the Mauna Kea Ice Age Natural Area Reserve for unusual and inappropriate behavior or activity.

OMKM requested that the Board approve the CMP with the recommended conditions. The CMP gives UH renewed purpose and direction in protecting Mauna Kea's resources, but no plan is perfect and those strengths and weakness will be revealed as OMKM implements the CMP which provides the opportunity to update it.

Representing Ku'iwalu, Dawn Chang briefed the Land Board on the CMP by presenting a slide show which she distributed to each Land Board member. After reading the first slide she recalled Aunty Pua Kanahela's comment "Dawn, I look forward to the day when all the telescopes are down." where Ms. Chang said that someone is going to have to do this plan and it should be by people who have some cultural sensitivity. The Mauna Kea CMP Consultant Team is The Edith Kanaka'ole Foundation; Rechtman Consulting (Hilo); Sustainable Resources Group International, Inc.; Pacific Consulting Services, Inc; McNeil Wilson Anthology; and Ku'iwalu including the community who put in many hours to put together this plan, as well as the OMKM and Kahu Ku Mauna.

#### INTRODUCTION:

Development of the CMP Focused on Addressing Past Concerns:

1. Acknowledging the Cultural Significance of Mauna Kea
  - a. Acknowledging the Historic Cultural Significance of Mauna Kea
  - b. Acknowledging Mauna Kea as a Living Cultural Resource
2. Involving the community in management decisions concerning Mauna Kea
  - a. Extensive Community Engagement Process
3. Honor the past work and management plans

- a. Built Upon Existing Management Plans
- 4. Comply with conservation district goals, Judge Hara's decision and the Ka Pa'akai analytical framework related to the protection of native Hawaiian rights.
  - a. Developed the CMP to be in legal compliance with Legislative Intent of Conservation Lands
  - b. Developed the CMP to be in Legal Compliance with Judge Hara's Decision
  - c. Developed the CMP to be in Legal Compliance with the Hawaii Supreme Court's Analytical Framework Provided for in Ka Pa'akai

A. Comprehensive Management Plan Cultural Significance  
Cultural Anchor

- 1. Cultural Orientation
- 2. Introduction
  - a. Issues and Concerns beyond the scope of the CMP
- 3. Management Environment
- 4. Community Engagement Process
  - a. Hawaiian Consultation Principles
  - b. Consulted Process and Methods Appendix A
- 5. Cultural and Natural Resources
  - a. Identification of the Valued Cultural Resources
  - b. Identification of Historic Properties and Archaeological Resources
  - c. Identification of Natural Resources
- 6. Human Environment
  - a. Threats to the Resources
  - > **The CMP is not proposing any land use in the Management Actions, but rather recommended actions for OMKM to consider as they implement the CMP which OMKM will be responsible for and any future land use of conservation lands will go before the BLNR for approval.**
- 7. Management Actions
  - a. Native Hawaiian Cultural Resources
    - 1. Management
    - 2. Cultural Practices
    - 3. Historic Properties
  - b. Natural Resources
    - 1. Threat Prevention and Control
    - 2. Ecosystem Protection, Enhancement, and Restoration
    - 3. Program Management
    - 4. Inventory, Monitoring and Research
  - c. Education and Outreach
    - 1. Program Development
    - 2. Education
    - 3. Outreach
  - d. Astronomical Resources
    - 1. Protection of Astronomical Resources

- e. Activities and Uses
  - 1. General Management
  - 2. Recreational
  - 3. Commercial
  - 4. Scientific Research
- f. Permitting and Enforcement
  - 1. Laws and Regulations
  - 2. Enforcement
- g. Infrastructure and Maintenance
  - 1. Routine Maintenance
  - 2. Infrastructure
  - 3. Sustainable Technologies
- h. Construction Guidelines
  - 1. General Requirements
  - 2. Best Management Practices
- i. Site Recycling, Decommissioning, Demolition and Restoration
- j. Considering Future Land Use
  - 1. Facility Planning Guidelines
- k. Operations and Implementation
  - 1. Monitoring, Evaluation and Updates
- 8. What the CMP Doesn't Do
- 9. Environmental Assessment
- 10. CMP Comments and Recommended Changes
 

If the BLNR agree to adopt the recommended changes they will become part of the CMP and there will not be a subsequent need to submit this to the BOR asking to consider the amended revisions as part of the CMP. A redlined copy and clean copy will be given to Mr. Lemmo.
- 11. Status of Legislation on Rule Making Authorization HB 1174, SD3, HD1
 

This measure is for authorization by the legislature for the University of the Hawaii to adopt administrative rules to manage Mauna Kea.

Chair Thielen explained that the Land Board members will ask questions of the applicant then open for public testimony, but will take a short recess. A gentleman asked whether the public could get the amended copies of the CMP where Chair Thielen asked OMKM or UH to provide copies to the public and noted that the Land Board received redlined versions along with the slide presentation.

Member Gon departed to catch his flight.

11:36 am RECESS

11:55 am RECONVENED

Chair Thielen reiterated that that the Land Board members will question the presenter(s) then open for public testimony noting that there are a lot of people signed up and that a couple people have to leave early who will be called first then the Board will go down the

list to give everyone an opportunity to testify. At one point the Land Board members will take a short lunch break and come back to continue public testimony. Chair Thielen apologized that Member Gon had to leave for a prior engagement that he could not break and will come back in the morning. He conveyed his apologies to the people here mentioning that he had questions for the University, but many of those were answered during Dawn Chang's presentation. UH will be here tomorrow morning where Member Gon will have an opportunity to ask any questions then.

Chancellor Tseng answered Member Edlao's question regarding who are the under represented groups or underserved groups like Filipinos, Hawaiians, Pacific Island Students get special assistance and mentoring.

Per Member Edlao's inquiry Mr. Taniguchi explained his earlier comment that some people made comments that the CMP is not a complete plan and we should not adopt it and wait next year where he compared it to computers getting better each year. The CMP will always evolve.

Member Edlao asked about the number of officers, whether DOCARE has a presence and if future plans call for DOCARE to be present. Ms. Nagata explained that OMKM would like to have more than five officers to cover during instances of sick and vacation leave. Right now there is a minimum of two officers everyday and three on the weekends. DOCARE only shows up when called and will still have a role in enforcing the Natural Area Reserve and Forest Reserve.

Member Edlao asked Ms. Chang about issues beyond the scope of the CMP and that she mentioned that it would be another day's discussion with other people involved, when does she anticipate doing this and in what format. Ms. Chang said that UH wanted to first prioritize protecting the natural and cultural resources which is a policy issue on when those discussions will happen. President McClain explained that the 2000 Master Plan approved by the BOR provides procedures for considering new facilities and there are flow charts within the Master Plan on how its suppose to be handled. The CMP alludes to that description and it talks about design review committees. Also, OMKM and MKMB have adopted some internal procedures for reviewing new projects as they come along. This is Master Plan territory which is enforced. Mr. Taniguchi noted that the BLNR has the final say. Although it's an internal process within the University to review these projects once it passes it still has to come before the BLNR for approval for a CDUA or CDUP. The University doesn't make the decision to allow future development or not.

Member Johns said after looking through all the documents he wanted to confirm with the University or sub-contractors/contractors did not sub-contract with Bishop Museum in the development of the CMP which UH confirmed. Member Johns asked for commitment of the implementation of the CMP, and the commitment UH made today regarding the stewardship and decisions about Big Island's needs to be made on the Big Island. What was the involvement of the OMKM and its Advisory Board in development of the CMP? Also, those commitments made today will be formalized by the BOR, but

because the President is retiring soon and Chancellor Tseng will be leaving soon, too. If MKMB raised concerns about resources and commitment for implementation of the plan then how can we get those assurances? President McClain reported that OMKM looked for a need of a plan in 2007 and concluded that the resources at OMKM were sufficient to have the plan done inside. Outsourcing will become necessary to meet the progress at the rate UH wanted to. OMKM will still be involved going forward where Dawn and her team is faithful to that sentiment. On the resource issue, UH currently funds the OMKM at a rate approaching \$1 million dollars a year. Stephanie has put together an estimate for what it would take to fund the CMP which runs about \$1 ½ million additional funding a year which the president anticipates she will bring before the BOR. President McClain confirmed his commitment in financing the plan and referred to the BOR agenda title "Affirmation of the University of Hawaii's Commitment to Financing and Implementation of the Plan." Although, President McClain may not be here the commitment is made with the authority of the office.

Member Johns asked Dawn that the CMP does not propose any new land uses, but your slide earlier talked about conclusion of law from Judge Hara's decision that said the management plan is the plan he called for and must cover multiple land uses within the larger overall area that UH controls. If you are not talking about land uses then how does it comply with his decision? Ms. Chang explained that OMKM viewed Judge Hara's decision to consider multiple land uses, not confined to astronomy, but to also consider the infrastructure, recreational, commercial, all the multiple uses in developing a CMP. With respect to proposed uses, what Judge Hara did say was approval of a CMP was a pre-condition to any new development. The way they interpreted Judge Hara's decision is the management plan addresses and develops management tools for existing and potential future uses, but it does not authorize any future use. That will go through its' own independent review process, through Chapter 343, through the CDUP process, but initially it must be in compliance with the CMP. The CMP is not proposing submitting an independent use in the plan other than a set of management recommendations of which OMKM can impose.

Member Johns asked that the CMP talks about the implementation of management and framework at a time before the development of any new land use system. He doesn't want to get to the point where the University will say we don't have to do a management implementation framework because we aren't proposing any new land uses, but now he hears UH expressing commitment to implement the CMP today before proposing any land uses. Ms. Chang said it was UH's understanding that when a new telescope development comes forward they will have to comply with all the conservation use district requirements. UH understood Judge Hara's decision was you need this overall CMP. As developments come in with their own management plan and EIS, but will be required to comply with all the regulations under the State's administrative rules. Member Johns said he understood the process. Mr. Lemmo said he heard Member Johns say that you need to do these things before any new development, but then when a new development comes forward you aren't under the gun to get it done quickly. Member Johns said he heard a commitment today that they (UH) will implement the CMP regardless. That is why maybe the condition needs to be revised, maybe. He wanted to

make sure if the Department is getting commitments people are going to implement what is described in the plan if that happens with or without a triggering land use by Judge Hara's decision. Ms. Chang agreed and said we also recognized that today even if there is no future land use Mauna Kea still needs to be managed and these plans need to be implemented where Member Johns said that is his point whether or not you come in with a CDUP or CDUA then there's a lot of management catch up that needs to be done and he is hearing commitments that the University is willing to do that which is his question. Mr. Taniguchi responded saying this is why the MKMB endorses the conditions. The condition calls for annual reporting and it has to give the progress of what is happening which is a mechanism to monitor whether the University is ready to make this commitment or not. There is nothing better than to have transparency where the University wants the Land Board to know what they are doing citing Ms. Nagata's presentation on what OMKM has done over the past eight years and things are getting done. Chancellor Tseng said that UH-Hilo plans to implement the plan whether there is development or not.

Member Agor commented that he was happy to hear that the University made a commitment to address continually the host culture.

Chair Thielen asked referring to the slide show that the CMP is built on existing management plans, but it was mentioned under adaptive management plans are going to be evolving and more work under that, citing the Papahānaumokuākea Master Plan as an example of adaptive management. But, the Chair wanted to know whether the cultural and natural resource plans that the OMKM is completing now will be adopted and the University intends to amend the CMP to incorporate them? Is that accurate? Ms. Nagata said that OMKM is in the process of completing those two plans and would like to use those plans for moving forward in the implementation of the CMP, but is not sure whether or not they will append it to the CMP because it hasn't been discussed, yet. But, they plan to use those two plans as part of the implementation process. Ms. Chang said that those two plans was not ready when OMKM submitted the CMP, however, they do provide critical information. The completion of the archaeological inventory survey has important information that decisions need to be made. If she may have miss spoken, the intent of her comment was to say that they built upon existing plans, but as new information becomes available either through the cultural resources management plan or the natural resources management plan or maybe another EIS needs to be done if the plan needs to be amended to reflect that new information then appropriate recommendations would be made to amend the plan to incorporate that information. At this point they are not going to attach or amend the plan to incorporate all those plans because a lot of that information has to be included in the CMP. You look puzzled? I didn't answer your question.

Chair Thielen said she was trying to figure this out. She understands if a separate body goes up to Mauna Kea and does a plan giving the example that if Bishop Museum is working on something else and a scientist goes up there to do some type of study, a UH summer class goes up there to do a survey that is information by a third party that comes in and you adapt your strategies and actions based upon that. Right now Ms. Chang

mentioned two plans being prepared by the OMKM which is a little different this is the body charged with managing the mountain. She thought she heard when those plans are complete they will be adopted or the CMP maybe amended to incorporate them and now she isn't clear. Mr. Taniguchi said that before Judge Hara's decision came up OMKM already knew they had to develop management plans for the mountain and they started work on the development of a natural resources management plan and a cultural resources management plan that they were going to combine what they called at that time an integrated management plan for Mauna Kea. The term Comprehensive Management Plan was a term created by Judge Hara's decision in 2007. Ms. Nagata presented information of what was done the last eight years with inventories, but before a plan could be put together they needed to develop their inventory listing of what is there in order to manage it. The idea was to take some of the research already done and integrate it into the CMP. The CMP was expanded to include other areas like cultural overview and all these other things that Ms. Chang did. Ms. Chang took the details of the cultural resources management plan and natural resources management plan lifted it and incorporated into the CMP. It was Mr. Taniguchi's understanding that their plans are very detailed in what steps to take. The conceptual ideas were taken as broad management goals so what they intend to do is when the CMP is adopted what is in there is not what UH disagrees with they agree with what needs to be there. It's like what is in the outline heading. What is in the other plans are detailed which they will only use to implement or achieve major those major headings.

Chair Thielen asked she understands the CMP mentions there are going to be sub-plans and the Board understands there is going to be more plans that your management plan has adopted and any of these sub-plans is going to be much detailed. What she is trying to figure out is what is going to be the status of the OMKM cultural and natural resource plans. Are they going to be sub-plans to the CMP so that they will be incorporated, she is asking is that the intention of the University to incorporate those as part of the CMP as a sub-plan or whatever? Ms. Nagata response was the CMP is the overarching document if it is approved they will go forward and finish their plans which will comply with the CMP. Their two plans will need to comply with the CMP and the CMP providing the overarching guidelines as they go forward to finalizing the two plans.

Chair Thielen said she understands that any sub-plan would need to comply with the overarching CMP. The question is the cultural and natural resource plans UH is developing going to become, somehow, a part of that CMP either as a sub-plan or whatever else so that activities must comply with them because they are part of that University plan. Because the action strategies listed in the CMP includes a series of things that need to be done. Future sub-plans need to be developed and what the Chair is asking is are all those things going become a part of the CMP that the University endorses and then brings before this Board as part of an amendment and then they all become part of the guiding policies, criterias, and objectives for Mauna Kea. Member Johns said this question is meant for a higher up (position to answer) because are these sub-plans incorporated ...President McClain offered an analogy explaining that the BOR has three levels of policy at the University: BOR policy, executive policies which provides more details, and in certain areas because many details are necessary,

administrative policies which refer to executive policies and executive policies refer to BOR policies. It will be a judgment call as we weed out some of these sub-plans. Some of them are clearly of the nature involve major policy issues which should go before the BLNR and they will bring to you. Others involve working out a lot of details of making something that needs to happen and they may not bring to the BLNR. Member Johns noted that UH has to report to the BLNR on the development of the sub-plans because the sub-plans start to deviate then become amendments through the CMP then it's a different course, but it sounds like these are going to be sub-plans that is going to be consistent with the CMP. A member of the audience interrupted. Member Johns asked his question was whether the plans that are going to be incorporated if they are consistent with the CMP then they are going to be sub-plans and be reported to the BLNR on an annual basis. If they deviate from that then they become amendments to the CMP that would then need to come before BLNR for approval. Is that a fair statement? President McClain agreed that it was well stated.

Chair Thielen said going back to the natural and cultural resource plans being developed by OMKM she thought referring to President McClain that he mentioned that some cases there maybe actions and sub-plans that are relatively minor that may or may not come before the Board other than through an annual reporting process, but when Ms. Chang made her CMP presentation President McClain noted that the cultural and natural resource focus and guidance are very central to this overall plan. Chair Thielen can't speak for her fellow Board members, but for herself those on-going plans started many years ago, pieces of which were incorporated into this CMP, but OMKM is continuing and is going to be completing those natural and cultural resource plans would be of significant importance to have the University manage its Mauna Kea. When Chair Thielen heard her (Ms. Chang) made at the presentation she was pleased to hear on what the Chair thought Ms. Chang said these plans will be incorporated into the CMP and that the University maybe bringing forward an amendment to the Board, but now she is a little less clear about what the intention are for those documents. And, again Chair Thielen said Member Johns statement is fair, it is really something more for the University to answer because they are proceeding with developing those plans. Mr. Taniguchi said that on the local level MKMB has taken the position they are for transparency and they have nothing to lose, but to bring the plans before the BLNR and sharing it to make it part of the CMP thinking they have a lot to gain by doing that. And, as far as the local speaking for Ms. Nagata, himself, and Kau Ku Mauna, they would prefer that. Bring the sub-plans before the BLNR to say this is what they want to do and so that the BLNR is aware of what they (OMKM, MKMB) are doing. The days of secrecy and do what you want to do is in the past as far as they are concerned. Mr. Taniguchi said he thinks it's a strong possibility that they may bring this as a plan amendment.

Ms. Chang clarified her statement during her presentation was to acknowledge the good work that those two plans had brought forward that we have to a large extent utilized significant information that is already prepared. Those plans are almost completed, but she doesn't see those plans changing the CMP. They will be adding some additional information, but it doesn't intend to change any of the philosophies, the goals, the approaches or even the management recommendations. Ms. Chang's comment was to



acknowledge the good work that OMKM has been doing for many years and Kuiwalu tried to incorporate to the extent that other information was available into the plan. The plan is consistent that is just additional information that they are providing should there be anything major it will come back to the Land Board. This is just additional information that would be helpful for OMKM to make some management decisions.

Chair Thielen said there was some discussion earlier about public access to the mountain and this came up in Ms. Chang's presentation, but wanted some clarity. Chair Thielen thought Ms. Chang mentioned that the CMP does not restrict public access and that any future restriction on access would be subject to greater community dialogue and adoption of rules. Chair Thielen wanted to be clear that under the lease the BLNR has with the University retains the public access rights and that it's clear for OMKM and the University that the University would not have the authority to adopt rules to restrict public access and that if they were to do so under the conditions listed here #5 what is being proposed here by staff the BLNR would not be delegating any other authority to the BOR other than what has been already delegated in the lease. Since public access has not been delegated that would be an issue that would have to be managed by the BLNR rather than through the University. Ms. Chang said they understand that during the preparation of the CMP as they looked to the various cultural and natural resources access was an issue related to the challenges faced with preserving or protecting the resources, but it was not the intention of the University to circumvent DLNR's authority over the public road that should be kept open. This plan wasn't attempting to override BLNR's authority. What they wanted to do was to have some thoughtful discussion on some of the challenging issues related to access and should there be any recommendations regarding the access which will always be brought before the BLNR. They were identifying a management issue and it was not intended to adopt a policy restricting access. Member Johns asked the legislation OMKM is pursuing change that issue. Ms. Chang said she doesn't think so. The University continues to have what DLNR gives them under the lease. They aren't getting anything more than what they have. The legislation isn't giving the University any more authority than what they have already in the lease.

Chair Thielen asked referring to when President McClain spoke he mentioned that the CMP alludes to the Master Plan and that any new developments would be a flow chart of the processes it would go through and that Master Plan is enforced. Could President McClain confirm that the University in the event of any new developments they would also be guided by having to make sure that they're not disrespecting or violating any of the guiding overarching principles in this CMP. President McClain affirmed that.

Chair Thielen said that's all for now, but she wants to come back to revisit the cultural and natural resource plans because she has some concerns with how those will be ultimately addressed. She doesn't expect those to change what OMKM/University has in the CMP, but rather to providing greater detail and specificity and what she would like to hear after the University/OMKM has some time to talk it over. Chair Thielen posed the question what do you think should be done with those plans when they're completed. Should they be amended to the CMP as sub-plans, should they be incorporated in the

CMP with greater specificity, should they be different than a plan that is done by an outside entity like a science group going up there just more resources we can add to our library because of the status of OMKM and because of the history of that planning effort. She would like to come back to that after the Board hears public testimony. Member Johns agreed saying that if that is the case their still integral than the Board is being asked to approve a plan that is incomplete. Ms. Chang said that the University and OMKM will go back and further explore this noting that those plans are not an integral part of the CMP. They were started by OMKM, the information they used as part of their planning process as they did the 1995 Management Plan, as the did the auditor's report, as they did the Master Plan that was used to develop the CMP, but it is not an integral part of the CMP. The CMP stands alone and does not rely or depend upon those independent documents to be approved if the CMP is complete. They have been doing this for the last six years and the time has come that they need to move forward on managing Mauna Kea with the best information they have available. She wants to be clear that those two plans are not an integral part of the CMP that needs to be approved before the CMP is complete. Chair Thielen said referring to the Papahānaumokuākea/Northwest Hawaiian Islands Management Plan, in that plan it was noted a series of sub-plans that needed to be done including a science plan and there was no concern at that point that the Monument Management Plan was incomplete it's a recognition that plans are developed at a specific point in time, things change, people are continuing to do research, and that you'll be constantly adding to that information and incorporate it. But, the question more is as you move forward and more information is gained continuing to do work what status does that new information have. Say these two plans were completed and were included as part of this, five years from now you'll be going back to do more plans and the question is plans done by the OMKM what is their relationship to the CMP whether today or five years from now or 10 years from now because OMKM is being told that is the entity primarily responsible for the day to day management. She hopes that the future planning efforts by OMKM are going to be considered as you would be prioritizing OMKM work that needs to be done under the CMP implementation and any additional work going forward and that the University would also view that as a link to that CMP whether you amend the CMP or it becomes a self plan or as you update the CMP every five or 10 years whatever is normal in planning circles. Things coming out of OMKM seemed to deserve some type of higher status rather than a plan done by a third party. Member Johns agreed saying that it is consistent with commitments that the University seems to be making today that the stewardship decisions regarding Mauna Kea should be on the Big Island or driven by the Big Island. Ms. Chang said that is consistent with what the plan is proposing agreeing with the Chairperson's explanation.

Chair Thielen said that three people have to leave early and will come up first, then we will go back to the list in order and then call for anyone else who haven't signed up to come up to speak. Also, she stressed that she will not place a time limit on the public testimony, but asked that people respect the fact that there are many people who want an opportunity to come up to speak.

Doug Simons representing the Gemini Observatory and a resident of the Big Island spoke on his relation to Mauna Kea through hiking and hunting acknowledging his reverence of

the Hawaiian culture and needing the mountain to protect that culture. A 1609 Galileo sketch was presented and a star of today to give peoples a different perspective of evidence for the potential of discovery. Mr. Simons read written testimony from the directors of 11 of the Mauna Kea observatories.

Kihei Soli Niheu from a Nuclear Free and Independent Pacific gave notice to people who have an interest in the mountain relating that the Supreme Court says the State has jurisdiction. Mr. Niheu mentioned the apology bill that the State of Hawaii does not have clear title nor anyone going up Mauna Kea and that he was against the CMP.

Mike Fujimoto, President and CEO of HPM Building Supply, had distributed his written testimony asking to approve the CMP.

Nahakuelea Isaac spoke about the bickering between Hawaiian Kingdom, State, etc. Money is involved, effects on the next generation and what happens if there is more development.

Richard Ha is a farmer and a member of the 30-Meter Telescope Board handed out his written testimony explaining that he joined the committee because it wasn't done right before and described a situation at Keaukaha Elementary School needing funds to go on excursions. The CMP is not perfect, but we can't wait and supports it.

Arthur Hoke representing Kahu Ku Mauna distributed his written testimony supporting approval of the CMP noting that UH has been given the responsibility, but not the authority urging the Land Board to pass the CMP and to monitor it regularly. Mr. Hoke gave his background, that he was the first Chair of the MKMB and described the Master Plan. There are problems of access, foolish drivers and youth, and the need for the CMP and Administrative Rules to control them.

Tom Peek of Volcano handed out his written testimony reporting that he was one of the earliest tour guides of Mauna Kea, the situation with access, reiterating protection of the cultural and conservation districts and history to bring Mauna Kea back to its original condition. Mr. Peek prefers BLNR handling the CMP and not UH. Building more telescopes is not the answer to more jobs. He referenced and reiterated Hawaiian reverence of the mountain, the conservation district, history of Land Board and UH ignoring protection of Mauna Kea and asked to reject the CMP.

Catherine Robbins was a former National Park Ranger at Hawaii Volcanoes National Park and has hiked Mauna Kea for over 25 years spoke on her written testimony which she distributed to the Board asking not to approve the CMP relating her concerns about the CMP, 2000 Master Plan, the capacity issue, conflict of interest with UH managing Mauna Kea, future development, reiterated DLNR handling not UH, the access and to protect Mauna Kea.

1:50 pm      LUNCH BREAK

2:20 pm RECONVENED

Moanikeala Akaka passed out her written testimony and expressed her concerns loudly to the Land Board referring to the ceded lands issue; that all Hawaiians should be going to college for free; development and the need to conserve; issues with UH; the rent issue and using that money to support the State, students, repairs, and teachers.

Gene Leslie, 2<sup>nd</sup> Vice-President of the Association of Hawaiian Civic Clubs, distributed his written testimony, described his organization, and encouraged the Land Board to support and pass the CMP.

\*Representing the Sierra Club, Nelson Ho briefed the Board on his involvement since the 1995 Mauna Kea Plan expressing his concerns with urbanization of the summit and hoped those improvements will stay in place. Also, reiterated Judge Hara's actions and decision. Mr. Ho mentioned Senator Inouye's support of the Thirty Meter Telescope (TMT) and the history of land mismanagement reporting that UH never brought the 2000 Master Plan before the Land Board believing that approving the CMP will allow for more telescope development. UH's unstable history with Mauna Kea was reiterated that DLNR should have their own consultants create the CMP because subordinate plans are not the way to go and that the BLNR is charged to do so by constitution. Mr. Ho referred to the Wao Kelo O Puna development noting legal issues with CMP and asked that the Sierra Club reserves the right to a contested case hearing pending decision.

David Byrne is a long time resident of Hawaii who handed out his written testimony saying that he supports the CMP because it addresses the issues related to the management of Mauna Kea, adapts to future needs and changing community sentiment, will provide a framework for the community and will achieve the community's goals.

Nimr Tamimi, President of Kanoiehua Industrial Area Association, Inc. presented his written testimony to the Land Board urging to approve the CMP because a plan is needed to preserve Mauna Kea.

Fred Stone is a retired faculty member of UH who distributed his written testimony briefed the Land Board on his background with the 1985 Management Plan where mitigation wasn't followed in 1986 by Keck telescopes stating that he is in favor of management of Mauna Kea, but asked the Land Board to vote "No" on the CMP because it is not comprehensive, does not reflect input expressed by the community during talk story sessions nor recorded which is illegal, and is not adaptive in the sense that the term is generally used by management plans. There is no action timelines, benchmarks for success/failure, no funding, no detailed resource plan, ambiguous natural resource plan, no mention of new developments, decommissioning of telescopes left out and Mr. Stone would prefer starting with an adaptive or best possible plan and then include a process for changing it in response to changing conditions with community input.

Eugene Nishimura, President of the Japanese Chamber of Commerce & Industry of Hawaii, had faxed his written testimony earlier spoke supporting the CMP and UH.

Judi Steinman, Executive Officer of the Hawai'i Island Chamber of Commerce, distributed and presented her written testimony urging approval in support of the CMP recognizing the sacredness of Mauna Kea and importance to respect the Hawaiian religion, culture, historical, and scientific needs of the community, but this can't wait. Ms. Steinman handed out Glenn Santos' written testimony.

Leonard Tanaka handed out his written testimony and read it saying he is a Native Hawaiian from Waipio Valley and President of T&T Electric, Inc. having worked on Mauna Kea which kept his staff employed. Mr. Tanaka also described Mauna Kea's recreational benefits, beauty, which all cultural, spiritual, recreational, and scientific activities can co-exist with policies on administration and enforcement respecting all and the natural resources asked that the Board approve the CMP allowing the Hawaii Island community to oversee the mountain through OMKM and UH Hilo.

Cory Harden, a 30 year resident, agreed that Mauna Kea needs a plan, but not managed by UH because UH will maximize funding, was pleased with community meetings, and reiterated Mr. Stone's concerns, UH history, and that the BLNR develop the plan.

Pete Lindsey testified that he is a field representative for the Hawaii Construction Labor Union, Local 360. On behalf of 500 Big Island members they support the CMP. Mr. Lindsey described his Native Hawaiian background, where he and his family are from - Waimea and Kohala, wanted responsible stewardship for future generations to enjoy Mauna Kea and to allow final input by the Big Island community.

\*Kealoha Pisciotta, President of Mauna Kea Anaina Hou, spoke to oppose any CMP and reserved the right to a contested case hearing before decision making. Ms. Pisciotta described her organization which is dedicated to protecting, preserving, and perpetuating the traditional and customary Native Hawaiian cultural and religious practices on Mauna Kea. She began working on the summit of Mauna Kea in 1987 for the Caltech Submillimeter Observatory and later was hired by the British government and the Royal Observatory of Edinborough and worked for the James Clerk Maxwell Radio Telescope. I was a telescope systems specialist living and working on the summit of Mauna Kea for 12 years. I didn't leave my job because I no longer liked my work or astronomy and supports astronomy as a noble endeavor and always have, but I left my work because I could no longer defend the University's public claims that they were actually protecting the cultural and natural resources and/or the Native Hawaiian religious practice on the summit. I will argue that is still the case today. I am actually a witness and a victim of the University's disregard. Member Johns asked earlier about House Bill 1174, SD3, HD1 which is the current bill regarding how that bill will affect public access issues which I have a copy here and wanted to read one of the lines from that bill on page 3, line 11 - The purpose of this act is to authorize the Board of Regents of the University of Hawaii to 1. charge fees and enter into lease agreements for the Mauna Kea lands. Under subject 304a-c, Mauna Kea land rules - The Board of Regents may adopt rules pursuant to Chapter 91 to regulate public and commercial activities on Mauna Kea lands. That answers the question that the bill would in fact change BLNR's attempts to change the public access issue. Mauna Kea Anaina Hou was a plaintiff in a lawsuit along with

the Royal Order of Kamehameha, Sierra Club, and Clarence Ku Ching. We appealed the last decision the Land Board made relating to Mauna Kea for the Outrigger Telescopes, the Nasa project.

Keo Van Gogh said that people only now want to protect the mountain after the TMT came through eluding to the fact that malama means to develop and wondered whether this CMP was a draft where the Board will question the applicant later about it. Ms. Van Gogh reiterated that by law BLNR is the entity responsible to create the CMP, that UH has a conflict of interest, the \$1 rent per year, tuition waivers for non-Hawaiian students, the wekiu bug, unregulated development, damage by public, the 2000 Master Plan was never approved by the Land Board, issues with public access, that comprehensive mean all inclusive, and felt this CMP is a back door for development.

\*From KAHEA, Marti Townsend distributed and read her written testimony and said on behalf of the organization she reserves the right to a contested case hearing. Her concerns were:

1. The public notice for adoption of the 2000 Master Plan as incorporated into the CMP is inadequate. The agenda notice received for all the discussions on the CMP did not mention the Master Plan. Condition 6 of the staff's recommendation directs the Land Board to adopt the condition that requires any future project be consistent with the provisions of the 2000 Mauna Kea Master Plan. Those two things put together means the public wasn't adequately put on notice that they need to review the Master Plan in full. And, to carry on the discussion between the Land Board and the University as far as the differences between a sub-plan and amendments to the plan and all those issues it was clear to Ms. Townsend that to have the 2000 Master Plan referenced 62 times in the CMP is a sub-plan, it's an attachment in which case it should have been in appendix A, but because the answer to that question is unclear that is reason to perhaps re-notice decision making to this issue.

- 2.a. The incorporation of the 2000 Master Plan poses serious concerns to Chapter 343. The Master Plan was only reviewed as an environmental assessment at the time despite the fact that it proposes significant construction that will likely have significant impact on the natural and cultural resources. The Board would be adopting this plan having not done an adequate framework review. Also, Ms Townsend recalled that this past summer when the University first came to the Board in its talk on the CMP advocated doing only an EA as oppose to an EIS the logic was there are no land uses proposed in this CMP therefore an EIS is not required, only an EA. By incorporating the 2000 Master Plan in some ways providing factual approval of it without an EIS would be a violation of Chapter 343.

- 2.b. The Draft Environmental Assessment (DEA) written for the CMP is inadequate to support a finding of no significant impact. There wasn't enough to analyze the impacts because this is a plan to do a plan. A reference to the 103 "management actions" and that the DEA acknowledges it is merely a study and not actual management. Ms. Townsend explained that in Chapter 343 you don't have to do an EIS for a study you would have to commit things like timelines, funds, etc. which influences decision making which is not what the CMP is.

Chair Thielen asked referring to Ms. Townsend's argument that doing studies doesn't trigger anything unless you have a budget and planning activities, does it count what you are planning for or budgeting for are studies. Ms. Townsend said her understanding of 343 is that you need to commit significant funds that actually have an impact on natural and cultural resources. The CMP doesn't even rise to the level of committing to conduct studies. A lot of the terminology considers studying this issue or that issue. There is no timeline for committing to adopting or having those incorporated. KAHEA is familiar with the Papahānaumokuākea Marine Management Plan which is an example of adaptive management where the agency makes a commitment to filling certain needs for resources and then identifies the step downs from that with timelines, a baseline standard for decision making which are tangible things that the public and agencies can hold the management authority accountable to. Here we don't have that. The University could come back every year with reports to the BLNR on how they are studying and studying, but there is no obligation to implement, there is no timeline for implementing. You as the Board will lose the opportunity to hold the University accountable for not implementing the natural resource management plan as an example. Another way to think about it might be what types of land uses would be inconsistent with this CMP as written. You can't identify one. Every land use would be allowed under this management plan because it doesn't give you any standards for saying it's something this large, in this area or has these affects would not be approved – you don't have that so its not a comprehensive management plan, its not even a management plan plus comprehensive. In addition, the concern that there is so much outside the scope which are basic issues that need to be considered in the management plan before it is considered all inclusive.

Ms. Townsend addressed the question regarding the definition of comprehensive. Comprehensive is defined in the Third Circuit's Ruling as all inclusive and that land use includes placement or erection of any solid material on land, subdivision of land, construction, reconstruction, demolition and although the CMP claims to be a plan that all land decisions will be made in the future on Mauna Kea you don't have the elements in order to make that decision. It was noted and repeated that this Board, the Legislature and the public have heard the University characterize this CMP as an imperfect first step towards managing the threats on Mauna Kea, but it cannot be all inclusive if it's just a first step. It cannot have a beginning management plan. It needs to be a one year, five year or 15 year document. For Papahānaumokuākea, with five year intervals and there are commitments like one year the science plan will be done, in two years the monument alliance set-up. You don't have any of those analogous commitments set-up therefore it is not comprehensive and it can't be reviewed under the draft environmental assessment requirements.

There is a lot of confusion over Kapa'akai the one element that is lacking which Ms. Townsend brought to the Board before was that the purpose of this court ruling, the basic element of it is who makes the decision isn't as important as what and how that decision is made. The fact that you have the University as the applicant being the entity that assesses the impacts on ...doing the three-part test on Kapa'akai assessing how Native Hawaiian cultural practices are affected since the University is the applicant making the

decision you are violating Kapa'akai. There has to be the agency upholding the statutory obligations conducting the review. There was a window of opportunity for the BLNR to remedy this in the staff's recommendation, but you don't see an independent analysis that would satisfy Kapa'akai done by the staff review. And that is what she thinks is the violation the BLNR is facing now. Ms. Townsend tried to get the most concise quotes from the court case to help the Board understand that it's allowing the petitioner to make after the fact determinations about customary traditional practices that would lead to arbitrarily self serving actions on the petitioner's part. That is the underlining element of Kapa'akai missing from this process.

The recommendations for improvement are:

1. Outline Basic Management Actions to Provide for the Conservation of the Natural and Cultural Resources of the Summit
  - a. Piecemeal Management
  - b. Adaptive Management
2. Establish an Independent Management Authority to Implement the Management Actions of the Plan
3. Establish a Numeric-Based Carrying Capacity for the Summit
4. Provide for Enforcement by Department Officers
5. Renegotiate Observatory Sublease to Provide for Past and Future Rent and to Satisfy HRS § 171-17 and 18.

Bob Lindsey introduced Kama Hopkins from the Office of Hawaiian Affairs (OHA) and the resource coordinators for East and West Hawaii saying that OHA sent a letter to the Chairperson on April 2, 2009 written by Trustee Colette Machado of Molokai apologizing that she couldn't be here and read the letter that recommends the CMP be approved.

Member Johns asked whether this letter supersedes the letter by Clyde Namu'o which it does per Mr. Lindsey.

Mary Begier, a resident, distributed her written testimony saying she appreciates everything that has been said today. As a business person people will make mistakes and said to pass the plan as is now.

The Associate Director for the Imiloa Astronomy Center of Hawaii at UH-Hilo, Kaiu Kimura greeted in Hawaiian saying that she is born and raised in Waimea (Big Island) and related her family connection to Mauna Kea. There is a need to change the current management paradigm lending a new way on how the mountain is cared for and managed which is reflective of the culture. The CMP is the next step to support efforts done on the Big Island to properly care for the mountain. Although the plan is not perfect, with greater community participation it will build community trust. Ms. Kimura described Imiloa which applies the Hawaiian emphasis to science and the issues in the scientific and Hawaiian community. The Hawaiian perspective has prevailed in establishing what Imiloa has become today, which is committed to serving the Hawaiian and local community. It advocates three main things: 1. Properly care for Mauna Kea's natural



and cultural resources. 2. Significant Hawaiian culture and science benefits to Hawaii Island local population. 3. Serious Hawaiian Island engagement role in decision making and planning. Ms. Kimura noted the support Imiloa gets from the community and interest from outside the island. She reflected on Mauna Kea's familial connection, cultural connection, and those who seek to use Mauna Kea in other endeavors which OMKM, MKMB, and Kahu Ku Mauna are inclusive of the community. The flaw of planning efforts thus far is due to the lack of trust which can't be addressed in the CMP. The implementation of this plan for the care of Mauna Kea as its first priority that greater trust can be developed as exemplified by Imiloa. Ms. Kimura sympathizes with both sides and she believes the CMP is a first step in moving to care for Mauna Kea in the Hawaiian perspective.

Paul Neves, Ali'i Aimoku of the Royal Order of Kamehameha I, asked for a contested case hearing and to inform Marti Townsend of KAHEA or Kealoha Pisciotta of Mauna Kea Anaina Hou to do what is necessary if he is not here. Mr. Neves introduced his son saying that his son needs to start training now that when he reaches his dad's age he will come before the Board to ask this not to pass. Mr. Neves said that the UH teachers need to teach how not to desecrate. The CMP is for development that the Land Board is not doing their job, but should do their job by saying "no" to the CMP. Mr. Neves expressed his concern saying how his son will have to deal with the clean up of the mercury spill and sewage seeping down the mountain. He believes the State and the developer is one and the same. Mr. Neves reiterated Judge Hara's decision that it is clear it should be done by separation. That during the contested case, Pua Kanahale said she was not a practitioner on Mauna Kea and the reference to the IKF implies she is for the CMP, but is contradictory to what she said in the contested case. Some of the stories and mo'olelo were used in the CMP without Ms. Kanahale's permission. Mr. Neves expressed his opinion and sarcasm about the \$1 rent. That Judge Hara's decision was not narrow reiterating the need for a comprehensive plan offering himself as a resource to work with OMKM. Mr. Neves gave the analogy of the fox in the hen house. Because the University gave the impression to the Hilo community that it was the final word all these years, but it wasn't. The University should be held in contempt by the people of Hilo. Trying to fix the CMP as you go along won't work citing the Superferry issue wasting tax payers' money. Issues with the burial plan citing an issue on Kauai. Who is held with the trust of the public trust?! University or DLNR? Jobs could be created by taking the telescopes off to enhance the beauty of their island. Mauna Kea belongs to Akua and no one else that people should come to pray. The mis-trust comes from the decisions the BLNR makes and that Mr. Neves does not trust the University at all.

Mr. Neves read written testimony from the Kanaka Maoli scholars against the desecration of Mauna Kea declaring their opposition to SB 992/HB 1174 and SB 502/HB 1370 or any legislation that would transfer Mauna Kea to the University of Hawaii. There was reference to HRS 711-1107 regarding desecrating a place of worship or burial that if the two bills pass state legislators would be violating their own state law. It also refers to on-going litigation on the current regulations governing Mauna Kea. There was reiteration of the negative environmental effects referencing the 2005 EIS. The land

claims of the Hawaiian nation would be violated if passed by the state legislators. And, named a list of scholars attached to this written testimony.

5:18 pm RECESS

5:31 pm RECONVENED

Chair Thielen asked a lot of what people wanted to say have been said and if you could not repeat it, but say you agree with prior testimony and to summarize your testimony. Other people who are waiting would really appreciate it because they would like the opportunity to make a brief statement. She encouraged on being brief so everyone who is here today can testify.

Representing the Hawaii Island Chamber of Commerce, Barbara Hastings spoke to the Board on her written testimony urging their support for the CMP noting the volunteer time and efforts of the Board members and those in the community who are working on the protection of Mauna Kea.

Sharon Scheele, a rental manager, said she was on the Hawaii Island Economic Development Board – Science and Tech Committee about 11 years ago when the problems on the mountain started where there was a lack of regard and since then things have improved citing the previous plans. The CMP is a beginning of rules and a blueprint by which to step forward to implement. If we don't step forward there will be a continuation of the past problems and Ms. Scheele supports the CMP

\*Deborah Ward, representing Sierra Club, has farmland in upper Puna and was a retired senior faculty member of the University of Hawaii Department of Natural Resources and Environmental Management. Ms. Ward's written testimony was distributed which she presented to the Land Board mentioning that Mr. Lemmo omitted from his presentation the MKSRCDP directed by DLNR and approved by the BLNR in 1985 as well as the 1995 plan had a Board approved permit. Ms. Ward related the damage done in 1996 destroying wekiu bug habitat and that violated conditions in the 1985 Mauna Kea Management Plan. She participated in the 1998 and 2005 audits and has been an active member of the OMKM Environmental Committee since 2000 who drafted the Environmental Committee white paper that led to the decision to hire a natural resources planning firm to construct a natural resources management plan for OMKM. Ms. Ward is part of a hui, including Sierra Club who overturned the DLNR permit for the Keck Outrigger telescope intervening in the BLNR's management of Mauna Kea because the Board abdicated its fiduciary responsibility under the law to preserve and protect the summit. The number of telescopes, history and cultural issues were reiterated. It was noted that the OMKM Environmental Committee was taken aback when the University selected the public relations firm, Kuiuwalu to craft a management document. Ms. Chang has stated that in the CMP draft that Ms. Ward consulted on the CMP which Ms. Ward never did. Ms. Ward was not willing to participate due to the constraints put on public testimony that did not allow open discussion of concerns. Ms. Ward did take notes saying that there was disparity between what the speakers said and what Ms. Chang

reported and that her statements must be challenged. Kuiwalu represents the client's interest, not the people of Hawaii. Ms. Ward reiterated the problems with the CMP with missing data gaps and environmental, positions are questionable, no objectives, vague, no energy audit, climate change, industrial development, inconsistencies, etc. are not addressed. Last year there was a total of 1,000 gallons in sewage spills. She asked for a contested case hearing.

Dwight Vicente objected based on the Queen's statement of protest dated January 17, 1893 against U.S. Minister Stevens. The Queen was misled and that is why it hasn't gone to the Supreme Court. The protest still continues and that there is no transfer of title. The ceded lands are crown and government lands. The Republic of Hawaii consists of enemy aliens. Chair Thielen asked Mr. Vicente to direct his comments to the CMP and that the Land Board can only address the matters on the agenda per Sunshine Law. Mr. Vicente said that you have criminal liability against you. That the Kingdom of Hawaii doesn't have a Sunshine Law and that the State of Hawaii has to show title. Chair Thielen asked again whether Mr. Vicente would speak on the CMP that his complaint about the lack of title and that this body has no authority has been registered. Mr. Vicente continued speaking where Chair Thielen thanked him.

Andrea Rosanoff testified saying that the focus of the CMP should be Hawaiian spirituality and that Akua (God) comes first which is a cultural anchor to the Hawaiian foundation. The CMP addresses the cultural only. The rules governing the land use are referred to in the bible saying there are three locations: 11,000 feet is Lana where everyone goes to give offerings. 12,000 feet is where the priest and their attendants make offerings. At the 13,000 foot level only the high priest and kings are allowed. No matter what culture you are this summit commands respect because this is Akua's law which is holy land and no one should be there. Ms. Rosanoff expressed her grief that Hawaii will lose more because western culture does not respect the spiritual that spiritual is first, then people, and then everything else. The mess at the top is desecrating holy land and must be removed agreeing with others that the University's goal is education and shouldn't be in charge of the CMP because they don't believe how spiritual Mauna Kea is. This plan should not be accepted as is, to put the spiritual in, and start respecting the practitioners by bringing them in who know Mauna Kea which affects the entire world and anything we do will affect everything.

Luana Jones explained how she got involved speaking to kupuna and reiterating that Mauna Kea is sacred, the disrespect, a need to ho'oponopono or reconciliation, Judge Hara's decision, that DLNR are the appropriate managers, the need to decommission telescopes, it is a religious site, questioned the feasibility of the CMP, practicing Hawaiian culture, Imiloa, to put a moratorium on telescope development, affects to sustainable resources, public access, referred to plans by the Royal Order of Kamehameha, the wekiu bug, and that the plan is incomplete.

Reynolds Na Hoku Alaka'i Tawaitapu O Tairangi Kamakawiwaole spoke saying he is a Native Hawaiian cultural practitioner and lives at the ahupua'a of Mauna Kea which is his responsibility. He is 61 years old having seen the naturalness of Mauna Kea which is

80% spirituality and 20% everything else and it has nothing to do with astronomy – it has everything to do with how people come together. Mr. Kamakawiwaole said that no one has done the forgiveness of the Subaru Telescope referring to when the three people were injured. No one here can talk about the light on the mountain in regards to spirituality. The CMP needs the right decision because Mauna Kea is a living place, it is not just to look at. Mr. Kamakawiwaole asked the Board whether they had seen God and Christ saying that he has reiterating Ms. Rosanoff's testimony the need for more spirituality in the CMP because people must know that desecration cannot continue on. For the Board to consider this CMP for seven generations and to never allow the Hawaiians to come back and say do it again. The CMP should be right the first time. It was very hard to forgive the Subaru Telescope people describing a light that came down. Mr. Kamakawiwaole's work is the highest above anyone's job. His name means the leader of the stars who takes care of the living waters of the heavens reiterating Ms. Rosanoff that what we do to Mauna Kea affects the entire world! He agreed that astronomy has a place, but they must recognize the spirituality noting that the Subaru Telescope charges \$5.00 per second which is a slap in the face. Asked the Board to look at the CMP, involve the community more, and Kahu Ku Mauna. The problem is greed and the need to change this now or it comes back again and the people will suffer. Take care of the Hawaiian people first because of the stress caused them. The Hawaiian people must be involved in the CMP to clear everything. There were concerns expressed about the TMT and PennStar project. The Board was asked to make the right decision.

6:41 pm        DINNER BREAK

7:58 pm        RECONVENED

Chair Thielen said that some folks will not be coming back Friday and to respect those who haven't testified, yet.

Rich Warshauer reiterated staff's recommendation to delegate to the University the CMP and almost all the decision making asking the Land Board not to do this because it is a bad idea. Mr. Warshauer reiterated previous testimony regarding that this is a land and power grab, environmental issues, stone glaciers, control of natural resources, a cash cow for UH, scientists don't get anything, the BLNR has to control and prepare the CMP. Mr. Warshauer suggested increasing the NARS around the entire mountain to contain development.

Calvin Hokulani Kaleiwahea spoke saying he is a concerned indigenous of the aina and asked whether the Land Board is legal and how created. Chair Thielen said the Land Board is under state law and state statute a public body that sets the policy for the Department of Land and Natural Resources and that they are here to listen to testimony on the University's management plan and that this is his opportunity to state his opinion. Mr. Kaleiwahea expressed with emotion about whether people born and raised here need to understand the frustration of people playing with the lands thinking that the Land Board doesn't understand what is pono or aloha that they are like UH with no respect for his home and the big pilikia based on the Land Board decision and it hurts his pu'uwai

(heart). Kanaka's are the only ones who understand citing the birthrate as an example. Mr. Kaleiwahea expressed and reiterated the need for respect by asking first then do what you need to do, \$1 rent issue, and consideration for the future generations. He mentioned problems with the military and that people shouldn't have to beg like this.

Paul Coleman came up to say that he is an Hawaiian and an astro-physicist and both sides are worried about what he will say and relayed his background and his relation to Mauna Kea describing the changes there that the CMP is not perfect, but is a good effort and that no one will be able to make a perfect plan because there will always be some group who won't want some part of the management plan. The question is whether you trust the people who will do the work and there are folks who don't, but people are there to make sure the management is done correctly and urged the Land Board to accept the CMP, it is a fluid document.

Professor Mohala Haunani reported that she came here today because her ohana and kupuna came to her and told her she should come to give input. Ms. Haunani related the insincerity of Ms. Nagata not being able to supply Ms. Haunani with the edits and instead said to go to the website. Ms. Haunani petitioned with emotion that the Land Board must listen that their (Hawaiians) hurt is relevant noting that educators can't meet their own deadlines reiterating the hazardous waste issue that UH used grants toward the military star wars program and that the money should go to education. The CMP should be considered good enough to marry into. Ms. Haunani decried that the Land Board shut out Mr. Vicente's testimony on the Queen expressing that the CMP has opened up this wound of the Hawaiian people and should be allowed to speak what they want. There is no place in the plan to pray.

William Kuamo'o, head administrator of the family of Kamehameha the Third, distributed written testimony from Albert Kahiwaokalani Haa, Jr. (head of their membership) and read it serving a Notice to the Board of Land and Natural Resources that the land of Mauna Kea is part of Kamehameha the Third's personal property referring to the Supreme Court's decision on the ceded lands and that the BLNR has no right to lease land that doesn't belong to you. Mr. Kuamo'o referred to an 1848 supplemental report of an immoral act.

President of the Hawaii Council of Hawaiian Civic Clubs, Ruby McDonald said she is here to correct for the record a statement presented earlier by Paul Neves that he was not allowed to speak at the Association of Hawaiian Civic Clubs which she refuted because she attended his workshop.

There were no more testifiers.

Mr. Warshauer asked the Land Board that to avoid any contested cases would they be able to give a positive indication on where they stand on the CMP before they close the public hearing. Chair Thielen said they will talk about the process tomorrow, but under the Sunshine Law the Board members are not allowed to talk with each other outside of a public meeting and that the Chair didn't know and that she didn't think her fellow Board

members know about each other either. It is not possible to give an indication on where they stand. They will continue taking public testimony tomorrow and if there is time the Land Board will go into deliberations.

8:49 pm        ADJOURNED

**THURSDAY, APRIL 9, 2009**

9:11 am        RECONVENED

Chairperson Thielen asked how many people wanted to testify who did not testify yesterday and how many did not hear yesterday's orientation by staff which was about a third of the room. Yesterday, we had a presentation by DLNR staff about the submittal which is before the Land Board which they reviewed and evaluated then the University of Hawaii made a presentation, and then they opened for public testimony which ended about 9:00pm last night. They will continue public testimony today. After everyone has testified they will close public testimony and the Chair noted that the Land Board is governed by Sunshine Law that they are not allowed to speak to each other about anything having to do with decision making which must be done in a publicly noticed meeting and that they cannot talk in private. After closing public testimony today the Land Board will enter into deliberations where each of the Board members talk about and find out what each other are thinking, how they thought about staff's recommendation and the public testimony in front of us and that they may call up staff and the applicant to ask questions of them, but it does not re-open the public testimony. After deliberations one of the Board members may put a motion forward and may vote and only if the majority of the vote Board members support the motion will they then take action.

Chair Thielen also said that Board Member Sam Gon was here yesterday for the presentation, but had to go to a previous commitment as a practitioner last night that he couldn't miss then came back this morning and he wasn't here for the public testimony yesterday, but we have given him all the copies of the written testimony received yesterday and staff has gone over with him this morning on the general information provided in the public testimony and the Board will talk to him more during the deliberations today.

Chair Thielen noted that yesterday they did not put a time limit on public testimony because this is an important issue to the people on the Big Island and we know you don't get much opportunity to come and speak directly to the Land Board because we usually meet in Honolulu and we didn't feel it was appropriate to give a time limit, but she reminded that there are people in the room who want an opportunity to testify and for you to keep that in mind and respect their desire to speak to us as well everyone would appreciate that. There is a sign-in list to testify and if you wish to speak go outside the front door to sign in and they will call at the end anyone who didn't sign-in who want to say something and hasn't had a chance yet. If you signed in yesterday, please sign-in again because we're starting with a fresh list. They did call all the names last night, but it

was late and the Chair reminded people to respect folks who have been waiting and some folks may not be able to stay all day and to please try not to repeat yourself or others.

Roberta Chu, incoming Chair of the Economic Development Board from Hilo, distributed her written testimony and read it supporting and urging the BLNR's approval of the CMP describing that it will provide guidelines and management strategies.

Al Lardizabal, Director of Government Relations with the Labor Union, summarized that they are in strong support of the CMP because it will do the right thing pointing out a document on the accomplishments of astronomy that Hawaiians were doing astronomy before Galileo was born and these are the kinds of sensitivities that the CMP will address.

Executive Director of the Hawaii Island Economic Development Board and representing the Hawaii Leeward Planning Conference, Jacqui Hoover distributed her written testimony to the Land Board reporting that combined they have 50 years of advocating for sound planning decisions to promote long term benefits for Hawaii Island while ensuring that our cultural, spiritual and environmental aspects of our host culture are respected. The CMP is not perfect, but it is a start and she wants future generations to connect with traditional and modern science and the Land Board's favorable recommendation of the CMP.

Art Taniguchi, resident of the Big Island, handed out his written testimony describing his visits to Mauna Kea and the acts of disregard of general conduct and courtesies. The management should remain on the Big Island and he strongly urged the Board to support the CMP for Mauna Kea.

Ed Stevens, a member of the Kahu Ku Mauna Council – a cultural advisory group to the OMKM, the MKMB, and the University of Hawaii at Hilo, distributed his written testimony and read it saying that this CMP is urgently needed and for the Land Board to approve it. This is the first hurdle and the second is the rule making authority and the third is acquiring the funds. Omissions will be attended to over time because of the review periods. Mr. Stevens assured the people that Kahu Ku Mauna represents the people and that they are diligent in doing their job and will not fail you to see that this plan is handled correctly and will be there if it is not which is their responsibility.

Jim Albertini, a taro farmer is President of a non-profit peace farm Malu Aina in Kurtistown, handed out his written testimony which he read in opposition of this CMP that it is a development plan in disguise. Mr. Albertini felt that UH and supporters have a hidden agenda for money. Described his visit to Mauna Kea and the bulldozers there and suggested to create a genuine CMP by putting the Kanaka Maoli practitioners and Sierra Club in charge and guaranteed you'll get one.

Clyde Hayashi testified saying he is the Director of Hawaii LECET – which is a partnership between the Hawaii Laborers' Union, Local 368 and our unionized contractors who are in strong support of the Mauna Kea CMP. Mr. Hayashi had distributed written testimony which he read.

Charles Brooks, Sovereign Hereditary Elder of the Kanaka Maoli Kupuna Council of the Kingdom of Hawaii, informed the Land Board that they felt they have been left out of the process and that it will take more than bringing them into a meeting to have them testify and that is why this disagreement with Kanaka Maoli. The Kanaka Maoli need to be part of that management policy who are not for the plan because as a sovereign elder they have never given up any of their lands or guardianship and for you to go to someone else without seeing the elders is a slap in the face. They disapprove of this CMP.

Mauna Kea Management Board member, Ron Terry distributed his written testimony which he read describing his background having worked on Mauna Kea, heard about the Master Plan, the concerns, restarting the Environmental Committee to develop a Natural Resources Management Plan (NRMP), and lobby for funding. Over the past two years they have been developing a plan along with the Cultural Resources Management Plan (CRMP) that provides for almost all of the factual information and many of the management recommendations in the CMP. He thanked Aunty Pua and Uncle Ed Kanahele, Uncle Ed Stevens and Uncle Art Hoke for drilling him that the natural and cultural are not separated – they are part of the righteous whole. The astronomical observatories are a huge benefit worldwide, but they also impose a presence that is discordant and unwelcome which is natural for conflicts to occur, but it shouldn't stop us from taking care of the resources. Regardless of who manages, we require a sound plan. The CMP can serve as an overarching document providing the larger goals and perspective that are useful for the public, while the CRMP and the NRMP will provide detailed guidance that we at OMKM and MKMB will need to properly manage Mauna Kea. The key is additional funding for staff, consultant contracts, infrastructure and equipment, and other expenses. The summit of Mauna Kea is on par with a National Park, and resource management here requires and deserves more than two or three staff and a modest budget. To be truly effective, we also need enforcement authority, which are in the plans. Mr. Terry supports adoption of the CMP looking forward to working on programs alluded to in the CMP and fleshed out in the NRMP urging the Land Board to adopt the plan and allow our ever-improving management of Mauna Kea for the benefit of not just the observatories but also the culture and biology and the people of the Big Island.

Hanalei Fergustrom representing the Temple of Lono who practices the ancient religion of Hawaii suggested that the Hawaiian religion should come before the culture having grew up on Mauna Kea doing religious work. Mr. Fergustrom reiterated the issue that UH is not the right agency because it is self serving, skirts BLNR's fiduciary responsibilities, a need for management, referred to OMKM's bad audit, that public lands to a private entity is illegal, there is a public right but Hawaiians have a right for generations, failure of the BLNR, rent issue, the telescopes, UH is all business and so are the advisory boards, issue with public access noting incidences, reiterated Ms. Rosanoff's testimony regarding sacredness and spirituality, Outrigger/Keck issue, desecration to host culture, Kealoha Piscioti court case, and he had a problem with UH overriding the Hawaiian's rights. Mr. Fergustrom distributed and read the same letter Paul Neves read the day before from the scholars against desecration.



\*Patrick Kahawailoa'a representing the Keaukaha Community Association spoke giving his family's background and that he had distributed his written testimony yesterday appreciating the Chairperson's ground rules related to Sunshine Law and to not take anything personally from the Hawaiian people and read his written testimony saying they are against any new development, supports the concept of the DLNR completing its own independent assessment of the impacts and asked to reserve their rights to a contested case.

Randy Hirokawa was born and raised on Kauai, married a Hilo girl and reside there giving more of his background and is the Dean of College Arts and Sciences at the University of Hawaii at Hilo who learned about the controversy over Mauna Kea and explained the two main objectives of the CMP.

1. The CMP is a vehicle needed to properly manage Mauna Kea.
2. Incomplete CMP which lacks sufficient detail.

Mr. Hirokawa noted that the U.S. Constitution is an incomplete document requiring amendments. The longer we wait the longer it will take to protect the mountain giving the analogy of a child growing up. He agreed the CMP is not totally flushed out, but the spirit is there and the details will come. Also, Mr. Hirokawa asked don't condemn UH-Hilo for UH-Manoa's sins that he and UH-Hilo are committed to working to address problems of the past. The CMP may be incomplete, but it is a document with the proper foundation and with further development it will be a solid document, guideline and framework to properly take care of Mauna Kea.

Kini Burke of Hilo gave his family and professional background having studied architectural and electrical engineering and worked for the Division of Forestry and Wildlife, DLNR for 20 years describing having to eradicate the sheep on Mauna Kea because they were eating the mamane and sandalwood trees – food for the palila bird. Mr. Burke knows the mountain and said that UH has been a poor manager and is against the CMP reiterating the environmental, telescope, and public access issues.

Abel Simeona from Ka'u testified saying he speaks for all his ohana that Mauna Kea is the Hawaiian people's responsibility that it is not everyone's kuleana and BLNR has no authority to run the mountain. The State is not recognized and the lands are not for sale reiterating public access issues noting concerns with trespassing, to take everything off the mountain, that Mauna Kea doesn't belong to anyone but God's people, and that this is only for money. Mr. Simeona expressed his hurt about the killing of animals and military killing pigs, not being allowed to talk to his tutu on Mauna Kea after his wife died, that the mountain is for all the people, but no one is taking care of the people who take care of the mountain. Everything is taken away.

10:51 am RECESS

11:09 am RECONVENED

Jim Kennedy distributed his written testimony which he read introducing himself saying he is a retired astronomer having worked in Hilo for the past 22 years, a past President of

the Hawai'i Island Chamber of Commerce, and is a former member of the MKMB. Mr. Kennedy related that the two issues were: the absence of the CMP, and UH administrative rule-making authority for the Mauna Kea leasehold where he repeated the history described earlier by OMKM, UH, Kahu Ku Mauna and others that this needs to move forward. In reference to the opposition, blocking effective management of Mauna Kea is not in its best interest that a stalemate results in no protection at all. The issues today are not proposals for future development and in the meantime OMKM must carry on the day-to-day management. Mr. Kennedy asked the Board to approve the CMP and history will decide.

Kale Gumapac, Alaka'i for Kanaka Council, Moku 'O Keawe (Big Island), started his testimony with an oli (chant) reminding the Land Board that they had come before the Land Board a few weeks ago to give testimony asking for clarification under what Chapter this meeting is held, 91? Deputy Attorney General, Julie China said this is Chapter 92 under Sunshine Law. Mr. Gumapac asked whether they can ask for a contested case where Member Johns said they can reiterating that this is not Chapter 91. Mr. Gumapac described meetings with Dawn Chang reiterating concerns with protection of resources, issues with no money, majority being stakeholders were very few Kanaka Maoli, DLNR's kuleana (responsibility); the CMP is lopsided with no steps to protect, and the need for Kanaka Maoli to address.

Madeline Reed reported that she was a telescope operator and asked to approve the CMP reiterating the incompleteness of the CMP, decommissioning, rent and not everyone will be happy.

\*Clarence "Ku" Ching, a resident, briefed the Land Board on his background reiterating issues that the Hawaiian kingdom owns the lands, BLNR are trustees and the seriousness of this responsibility, public access, referred to legislative bills, UH's credibility, Keck/Outrigger noting that all his suggestions were ignored and Judge Hara accepted them, CMP doesn't replace 2000 Master Plan, that the CMP is not comprehensive citing parallel plans, land use was left out of plan, had issues having Kahu Ku Mauna that kupuna need to do this, intangible elements of Hawaiian culture, problems with harassment, suggested including the law of splinter paddle, that this is an imperfect, inadequate, non-comprehensive plan offering to work on the CMP for free, and asked for a contested case hearing.

Harry Kekaulike Kalua of Keaukaha is a member of the OMKM Advisory Board spoke saying that the CMP is important for future generations describing activities, thanking the Land Board, UH and everyone for participating and asked to approve.

Malcolm Kahili, from the Big Island, reiterated access problems, audit, underserved Hawaiians, activities on Mauna Kea, incidences, that nothing is perfect and the CMP could be better, not to use UH and opposed the CMP.

Shelly Nakoa related what Mauna Kea is to her and her family reiterating ceded lands issue, letter to Mayor regarding County process, Kupuna of Mauna Kea are not addressed

or assessed, no development, suggested cultural officers, issues with access rights and recommended putting the telescopes in Chile.

Malia Kepapa, born & raised at Keaukaha works at Hakalau, testified saying she cares for Mauna Kea, has not read the CMP but attended the scoping meeting reiterating the plan is not clear, not perfect and Ms. Kipapa doesn't agree with an imperfect plan citing concerns with erosion, impacts to the land and asked to consider all comments. She was neither for nor against the CMP.

John Ota, a retiree, born and raised on the Big Island, submitted his written testimony after the public testimony period had closed which reiterated the incompleteness of the CMP, Mauna Kea's sacredness, mentioned concerns with lack of drinking water, to consider future generations, and suggested any money gains by the University should go to Hawaiians in need.

12:24 pm No more public testimony. Public testimony is closed.

12:30 pm LUNCH BREAK

1:50 pm RECONVENED

Chair Thielen spoke saying she was approached by a Mr. John Ota asking to testify, but the public testimony period is closed and the Land Board will go into deliberations which may take some time noting that the representatives from the University, MKMB and other staff may not be able to meet at another time. The Land Board will accept Mr. Ota's written testimony which has been distributed and will be included in the record. The Chair restated that the Land Board may ask people questions during deliberations, but it does not re-open public testimony.

Member Edlao asked about the trash situation brought up in the public testimony. Ms. Nagata said that it was an issue during construction when the summit was first developed and that there is continued maintenance where the rangers assist with volunteers. There was discussion over Mr. Fergerstrom's testimony regarding observatory staff not stopping to help people in distress. Member Edlao said he finds this unacceptable where Ms. Nagata agreed and what OMKM would do is to inform all the observatory directors.

Member Johns asked the issues that didn't come up in the draft of the CMP which are major issues dealing with granting a carrying capacity, decommissioning, or future development footprint of the science reserve area that Ms. Chang's response yesterday that it is outside the scope of the plan which he guessed will be left for other times or other decision points, how does she see those questions being answered as they move forward in the management plan. Ms. Chang said they tried to address the scopes that were beyond management issues first being the state lease which is currently to 2033 and that there were concerns of extensions. That question will come before the BLNR when a new development comes forward if they request to extend the lease, but it is not in the management plan. Member Johns clarified the existing lease requires BLNR approval

for a sub-lease which Ms. Chang confirmed. Member Johns asked whether the current leases for the observatories are sub-leases or how are the arrangements and when the appropriate time would be to discuss the rent issue, issues of carrying capacity, decommissioning, issues that were raised that could be part of a comprehensive plan that were not addressed in this plan and your consultant said that it will be addressed a different time or it will not be addressed. How do you think those issues will be addressed including the rent. President McClain said that they do have leases with all telescopes that are already up there which were negotiated in the past. With regard to the rent as specified in the leases now, UH has the option to go to each of the telescopes asking to re-open negotiations on those leases and the telescopes are in no obligation necessarily to re-open negotiations. President McClain reiterated his testimony yesterday that he sought to do more in scholarships for Native Hawaiians by way of acknowledging an obligation of the University to make some compensation for the use of the island which they have done in an indirect way. UH has not begun negotiations with the telescopes, but are willing to begin doing that because they agree with the notion that there is value here which needs to be reflected in UH's relationship with their sub-lessees. With regard to decommissioning, Kahu Ku Mauna is looking at one telescope's pads to have them moved and is looking on what to do with that. There are two or three telescopes: one is a UH telescope; another is the large array and the Keck telescopes and in all those cases UH has begun to look at the cost of taking those down at the end of its useful life where President McClain noted letters before the Board from all the telescope operators saying they understand that it is their obligation to do that on their lease.

Member Edlao asked what the typical sub-lease is, how long and what is the average now. President McClain apologized that he didn't have that data, but typically the lease is to 2033 and that he could get that information to the Land Board.

Member Edlao said he didn't want to get into how much money they make on the telescopes now. President McClain clarified that UH doesn't make any money at all on any of the telescopes. The value of time on the telescopes is important to a scholarly perspective and typically as part of negotiating these leases the University of Hawaii would require time on the telescopes which they have never monetized but clearly that has some value. It has value to the University and their scholarly pursuits and how they can convert that into something monetary perhaps would require some discussion with the telescope operators and maybe have some trade off. Maybe less time and some money, then go to the next phase on how that money is distributed. The University is and has been for several years made in kind donations to OHA for their operations that occur on ceded lands.

Member Johns reported he received a copy of the sub-lease for one of the telescopes and confirmed the term is to 2033 and the rent is \$1.00. He thanked Mr. Lemmo for wrestling with this very challenging issue and asked that people seem to be under the impression that staff's recommendation that the Land Board somehow gives up their authority or transfers jurisdiction of authority over certain things that happen on the mountain and wondered whether that is staff's recommendation that Member Johns doesn't read it that way necessarily and wanted to know whether that was the intent or

whether in fact the Land Board will continue to retain their authority over land uses and how that process might work with TMT. How would it work with the CMP in place? Mr. Lemmo said no, that was not the intent of the recommendation and he admitted he had specifically thought about that and included a condition in his original recommendation which explicitly stated that by taking action on this matter that the Land Board was giving up no authority, not delegating any authority in existence to the University which is hard for Mr. Lemmo to listen to people say that this gives up authority, but that was not his intent. Member Johns asked Mr. Lemmo to describe how that authority would be exercised in a particular situation like a potential new telescope. Mr. Lemmo said any new telescope would be treated like any new proposals that have been treated requiring them to file a conservation use district application, an environmental document and a management plan at his office at OCCL. Member Johns asked another management plan on top of the CMP. Mr. Lemmo said he didn't know about that and emphasized a management plan. Staff would process it like all applications, collect community input, schedule a public hearing in Hilo, accept public testimony on the matter, analyze all the issues and make a recommendation to the Land Board who decides whether or not another telescope would be allowed or not.

Member Johns asked consistency with the CMP that will be one of the factors Mr. Lemmo would be bringing before the Land Board at that point. If the Land Board approves the CMP today does that mean they are approving more observatories or telescopes going forward? Mr. Lemmo said absolutely not.

Member Johns asked how would the issue of development controls a number of telescopes or carrying capacity or decommissioning how those issues would be addressed in the process you just described. Mr. Lemmo said if it was a single operator staff would like to see that information included in the environmental document. Throw into the mix the CMP aspect do we look at not only this proposal but other potential situations on the mountain. That is an issue staff is struggling with today and Mr. Lemmo didn't have an answer at this point. If it was a new telescope operator they would have to give staff a full disclosure - evaluation, communication of the effects of the telescope on the mountain which includes the decommissioning plans, site restoration plan, after the term of the lease is over, etc. Should the Land Board approve the CMP the disclosure would have to be consistent with the CMP.

Member Johns asked staff's incorporation of the BOR's 2000 Master Plan or the mention of it in the conditions, do you see that as a way that somehow endorses or has the Land Board endorse or has the Land Board incorporate the number of telescopes over expansion of telescope development on the mountain by virtue of the incorporation into the CMP. Mr. Lemmo said no saying that he read the CMP a couple times while it does refer to the 2000 Master Plan he feels it does not incorporate ...it suggests that some of the design review guidelines be used for future telescope development it does incorporate an element or suggests to incorporate an element of the 2000 Master Plan. It does not incorporate or adopt the plan in its totality and should not be interpreted that way.

Member Johns asked before a new land use is proposed describe that process, the 343 compliance, EIS, conservation use permit, and at that point to comply with Judge Hara's order would need to have a CMP in place before that land use was acted upon by the Land Board which Mr. Lemmo confirmed saying that is what the order says.

Member Edlao asked but Judge Hara's ruling did not say DLNR is to develop the CMP, because a lot of people are under the impression why DLNR did not and Mr. Lemmo confirmed that saying that generally its been a practice to have applicants propose plans and environmental documents and the Land Board reserves the right to reject it, modify it, approve it - the Land Board is the ultimate discretion to accept these things or not.

There was discussion over land use where Mr. Lemmo said no one is proposing a use in the process.

Member Gon asked referring to Member Johns question about any new development plan, the Land Board would have to assess their plans in their consideration that the answer is "yes" that they will have to write something for the Land Board to consider to assess what the proposal was. Mr. Lemmo said that for the site they would have to have some overall management plan to be consistent with the recommendation and the question he raised was what about the rest of the mountain.

Member Johns said he was never comfortable with the carrying capacity and how that would be addressed in the future and asked is it in one of the plans that are in place. Are there limitations to the revised 1995 management plan approved by the Board or are we not using the developmental limitations that were in the BOR 2000 plan? When or how will we address the cumulative impacts, carrying capacity, size of development, decommissioning - when will that be addressed in the process? Mr. Lemmo said that question has never been addressed by the Department or the Land Board. Member Johns asked whether it would be in the next EIS based on the current state of the laws as laid down by the Supreme Court recently. Mr. Lemmo said he thinks the EIS process would have to do with the cumulative impacts and that is not the same thing as saying you have to establish a carrying capacity for a particular resource. He doesn't know of any law on the books that says you must establish a carrying capacity as a precedent to any future actions. Member Johns asked whether the CMP provides the framework for management of the natural and cultural resources to go forward. There may not be a law that says you need to evaluate carrying capacity, but at some point in order to evaluate the cumulative impacts on the resources he would think you would to know where you are going. Mr. Lemmo said he didn't think it was a number, but a restriction of options. You can't put a telescope on this pu'u, there are burials here, and archaeological sites there, etc. all these restrictions will create the criteria. Recycling and restoration is through the natural and cultural resource assessment process where you come to a conclusion whether you can do another one or can't. The CMP provides some framework in order to consider these issues. Member Johns asked the management plans (NRMP & CRMP) developed by OMKM would need additional steps in identifying resources that need to be protected and how...Mr. Lemmo said he hasn't seen them, but he can't imagine anything but these

resource cultural assessments that will help them decide what and if anything else could occur up there and how to deal with a number of conflicts and issues.

There was some discussion about the 2000 Master Plan which Mr. Lemmo said he is not interested in looking at in its totality at this point. There might be resources useful to staff, the University, and the public suggesting a future sub-plan use for some of the elements of the 2000 Master Plan, but that plan is outdated and in need of revisions and would be a mistake to suggest docking that at this time. Member Gon referred to condition #6 saying it seems to him that we could even strike that clause and make it consistent with the provisions of the 2000 Master Plan inasmuch as the ideas stated in the CMP its specific management actions, conditions, policies, recommendations even they cite the 2000 Master Plan a number of times also citing other sources and singling out that one is not necessary. Member Johns suggested elevating the 2000 Master Plan information above all other pieces of information that has be incorporated into the CMP where Mr. Lemmo said if that is your desire.

Member Agor asked what will happen if the working groups don't agree which is possible per Ms. Chang that they will leave it up to the Hawaiian people through Kahu Ku Mauna to decide in the meantime these are what appropriate measures are recommended.

Member Johns referred to condition #5 stating that DLNR will keep its authority and will not delegate it in regards to public access unless the legislature changes it. According to the recommendation the BLNR has the final say that all other rights, PASH rights, Native Hawaiian rights are protected that the BLNR cannot give up that right. Mr. Lemmo agreed as he stated in the condition the lessee has rights, but there are certain rights pursuant to the BLNR that includes public access and cannot be transferred through this plan.

It was discussed if there was no agreement it would come back to the Land Board which Mr. Lemmo wasn't sure about because UH can choose to work with who they please, but BLNR are the gatekeepers to makes the final decision on that.

Chairperson Thielen asked whether the master lease that the Department and BLNR entered into with UH for the 11,000 plus acres and road was entered in 1968 which is a very small lease and doesn't have all the details like we do today for leases. Was Chapter 343 in effect in 1968? Mr. Lemmo said Chapter 343 was adopted in 1972. Chair Thielen said this lease that goes to December 31, 2033 was written before any of the environmental laws were written in Hawaii, before a lot of the Supreme Court cases. We don't have the ability to unilaterally order the University to renegotiate this lease and if they don't want to they have the right to stay up on the mountain. Mr. Lemmo said as long as they follow the conditions of the lease.

Referring to two provisions on the lease in regards to access: 1. for government purposes to inspect and 2. for all hunting and recreational rights to be implemented by the BLNR rules shall be coordinated with the activities of the Lessee on the lands

provided further that such hunting and recreational activities be limited to day light hours only. Is there another provision of this lease where the BLNR when they wrote it in 1968 required the University to keep the area open for public access? Mr. Lemmo said he is not qualified to talk about the whole legal issue of PASH. To just take the general public and hunting which he doesn't know of any other statute other than the 1985 and 1995 management plans that addressed access. The Chair asked whether there is anything in the lease that this Board could turn to the University and say under our lease agreement you are required to keep areas opened at certain times. Mr. Lemmo mentioned on the CMP that the University put before us that the Land Board has the authority to impose conditions upon that which Mr. Lemmo acknowledged where the Chair continued saying where access is mentioned in the CMP this Board has the authority to condition approval of that plan to guarantee certain access above and beyond what is in this lease. Mr. Lemmo said the language limits to recreational hunting and limitation to access during the day or if your ruling has to be consistent with that language or deviate from that language. Chair Thielen clarified that she is asking it's your understanding that it's the Land Board's authority to impose conditions on an approval of a CMP saying that approval is condition upon certain types of public access. There was more discussion on where, when and how the BLNR could approve it which is up to the BLNR.

Chair Thielen noted on the lease, in regards to decommissioning, on how the property has to be returned to the BLNR and the Department at the end of the lease term with the improvements removed and returned in good repair. Is there anything in this lease that she didn't catch where the BLNR can say to the University before the end of the lease term we want to see a decommissioning plan to ensure us that at the end of that lease plan that property is going to be returned in good condition or if an operator were to abandon a facility that the University be assured for future leases that they have some type of bond or ability ensuring the property is cleaned up. Mr. Lemmo said he doesn't remember seeing a re-negotiation clause, but there is a termination clause on both parties with a right to terminate if there is non-compliance. Chair Thielen asked whether Mr. Lemmo thought the CMP mentions that a decommissioning plan be addressed does this Board have the authority to condition approval of the CMP and then given some direction or guidance to subsequent strategies and actions and how to prioritize them addressing that decommissioning within a certain time period. Mr. Lemmo response was certainly if the Lessee is offering, why not.

There was some discussion about Ron Terry's testimony regarding re-starting the environmental committee and he knew OMKM is working on the cultural resource plan that some things in that resource plan will be incorporated into the CMP. Question on whether there is anything under the lease requiring cultural or resource restoration referring to areas outside astronomy precinct where there isn't anything. This Board has the authority to condition approval of the CMP the restoration work being done.

There were questions on the University's commitment where President McClain came up and described monetary amounts committed which he will execute.



There was some discussion about clean-up of a site that UH be tasked to do it which UH is committed to do and the suggestion of putting in construction bonds. More discussion related to public access and rulemaking. There were discussions related to the rent.

Member Johns moved to go into executive session to consult with the Land Board's attorney on the Land Board's rights, duties, privileges, immunities and liabilities> Member Agor seconded it.

3:18 PM EXECUTIVE SESSION

3:36 PM RECONVENED

Member Johns moved to approve the following conditions and Member Gon seconded it.

Chairperson Thielen said that people who want to make a request for a contested case hearing to do it verbally today and to file a written request with staff within 10 days. The Chair summarized that the Land Board approved the CMP subject to the following conditions to provide four specific plans for public access, natural resources, cultural resources and decommissioning of telescopes, to bring it before the Land Board by one year or prior to the submission of the next CDUP. Thanked staff and appreciation to the public and UH for their testimony.

**The Board of Land and Natural Resources (BLNR) approved the University of Hawaii's Mauna Kea Comprehensive Management Plan (CMP), subject to the following conditions:**

- 1) **That the University of Hawaii Board of Regents (BOR) is the entity responsible for the implementation of the CMP, subject to the oversight of the BLNR. The BOR may delegate its responsibility with the accompanying authorities to another entity within the University system, subject to the approval of the BLNR;**
- 2) **That within one year of the BLNR approval of the CMP, the BOR or its authorized designee shall provide the BLNR in writing and in person with the following information:**
  - **Status of the development of each sub plan;**
  - **Status of the development of each management action;**
- 3) **That the BOR or its authorized designee shall continue to submit annual reports to the BLNR (in writing and in person), which shall include the items listed in condition No. 2;**
- 4) **That within one year of the BLNR approval of the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the University shall submit for review and approval the following sub plans:**
  - **A cultural resources management plan;**
  - **A natural resources management plan;**
  - **A decommissioning plan, including a financial plan; and**
  - **A public access plan;**

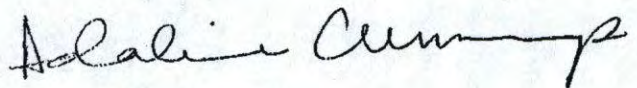
- 5) That amendments to the CMP shall be reviewed and approved first by the BOR, and second by the BLNR;
- 6) That the BOR recognizes that by approving the CMP, the BLNR has not delegated any authority (not already in existence) to the University with respect to land use approvals, leasing, or public access at Mauna Kea;
- 7) That within one year of the BLNR approval the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the BOR or its authorized designee shall provide the BLNR (for review and approval) with a management and implementation framework, that has been authorized by the BOR, for project developments within UH Management Areas that is consistent with the specific management actions, conditions and policies of the CMP;
- 8) That failure to comply with these conditions may subject the University to the imposition of additional conditions to ensure compliance with the CMP and any penalties allowed under the law.

Unanimously approved as amended (Johns, Agor)

Adjourned (Agor, Edlao)

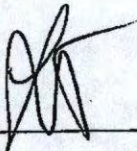
There being no further business, Chairperson Thielen adjourned the meeting at 3:43 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings  
Land Board Secretary

Approved for submittal:



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Laura Thielen  
Chairperson  
Department of Land and Natural Resources