

Subject Fw: 3/25/10 BLNR Meeting - Amended Comments on the Proposed Subplans of the CMP, and  
Specifically to the Cultural Resources Management Plan  
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Subject 3/25/10 BLNR Meeting - Amended Comments on the  
Proposed Subplans of the CMP, and Specifically to the  
Cultural Resources Management Plan

BLNR Meeting of March 25, 2010  
Hilo, Hawai'i

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Amended Comments on the proposed Cultural Resource Management Plan

Let me start out with the conclusion that the CMP and the 4 Subplans do not comprehensively make up a plan, but moreso, they are mostly plans to make further plans. They are surely not comprehensive. My comments include references to items that directly violate the practice of my Constitutionally protected cultural and religious rights.

recently been updated on the fact that the writers of the Subplan have included it upon my urging at the public meetings) in the proposed Subplan, nor shown on the accompanying maps.

Incidentally, is it the Ka Ula Trail, or is it the Kaula Trail?

These kinds of discrepancies plainly point out the non-comprehensiveness of a supposed "comprehensive" plan.

On the other hand, there are major conflicts in the plan.

For instance, the CMP that is supposedly "approved" indicates that there is a buffer on both sides of the 4-wheel drive road above Hale Pohaku. On the other hand, the maps in the Cultural Resource Management Plan shows it only on one side of the road.

As both of these "suggestions" cannot be correct - I suppose that one of them is. The plans don't give a sufficient indication of the correct situation. Such sloppy and incomplete work is a direct reflection of the process that BLNR is following in "rushing" the process and not carrying out a thorough and comprehensive analysis and review of its work product.

The following comments more specifically respond to issues contained in the Executive Summary of the proposed CRMP - but generally apply to the remainder of the CRMP text.

Specifically - I feel that the issue of cultural and religious practices should NOT be included under any "Public" issues - as they are treated as separate, specific and special issues under the Hawai'i State Constitution and in the Statutes.

OK - as to the proposed document. My comments are delineated in the "large" type - while the smaller type "statements" are extracted from the text of the proposed CRMP.

"Public and commercial uses are equally varied and include such activities as cultural and religious practices, astronomy, commercial tours and events, filming, and scientific research."

I must object to the ambiguity of this statement. While the adjective "equally" may not intend to "equalize" the listed activities - the suggestion or impression that they do cannot be overlooked.

located?

CR-1 Kahu Kū Mauna shall work with families with lineal and historical connections to Mauna Kea, cultural practitioners, and other Native Hawaiian groups, including the Mauna Kea Management Board's Hawaiian Culture Committee, toward the development of appropriate procedures and protocols regarding cultural issues.

Developing "appropriate" procedures and protocols "regarding" cultural issues is one thing. Developing "appropriate" procedures and protocols "regarding" the practice of culture is something else - something that should be beyond the scope of any plan that BLNR should approve or be concerned with.

The language above - that "Kahu ku Mauna shall work ... toward the development of appropriate procedures and protocols regarding cultural issues" is excessively broad and is an intrusion into Constitutional protections.

My recommendation is that there should be specific language stating my "above" concern. Without such a specific prohibition - the rights of practitioners may be further violated.

ACT-5 Implement policies to reduce impacts of recreational hiking

Cultural hiking, which is part of my cultural practice, is not a close relative of recreational hiking - and should NOT be considered to be similar or the same - and surely NOT included here by association or reference.

As a cultural hiker, I visit a number of cultural and religious sites throughout the mountain. If the difference between "cultural" and "recreational" hiking is not distinguished, by NOT distinguishing one from the other - my right to hike, and the ability to follow all the protocols of my practice, would be violated.

P-1 Comply with all applicable federal, state, and local laws, regulations, and permit conditions related to activities in the UH Management Areas.

Cultural and (Hawaiian) religious practices should NOT ever be subject to permitting (as the above can possibly be interpreted as stating) - as they have their basis as "Rights" - and permitting connotes "having to ask for permission." However, as to the "regulation" of the reasonable practice of those rights - which the law allows - that is a different issue.

major basis for my objection to all parts of the CMP and 4 Subplans.

While I have numerous additional objections to the CMP and Subplans - I will save them for another opportunity for appeal and redress. I thank you.

/s/ Clarence ku Ching