

From: [Roslyn Cummings](#)
To: [DLNR.BLNR.Testimony](#)
Cc: shelley@kahea.org; protectmaunakea@gmail.com
Subject: [EXTERNAL] Declaration of Roslyn Cummings Re: Item K-1 Denial of Contested a case request
Date: Thursday, March 23, 2023 7:21:47 AM
Attachments: [preview.png](#)

K. OFFICE OF CONSERVATION AND COASTAL LANDS

1. Denial of Contested Case Request HA 23-1 by Laulani Teale regarding the Approval of the Mauna Kea Comprehensive Management Plan 2022 Supplement: Management Actions Update located at the Mauna Kea Science Reserve, Ka'ohē, Hāmākua, Hawai'i Tax Map Keys: (3) 4-4-015:009, (3) 4-4-015:0012, and (3) 4-4-015:001.

Attention:

Dawn N. S. Chang, Chairperson
Riley Smith, Hawaii island Member
Doreen Napua Canto, Maui Nui Member
Karen Ono, Kauai Member
Aimee Keli'i Barnes, Oahu Member
Vernon Char at Large
Wesley Kaiwi Yoon at Large

Aloha No,

I Roslyn Cummings Inoa: Roslyn Nicole Manawaiakea Malama mare Cummings of sound mind, sound body declare my perpetual rights to establish boundaries upon a Private for profit acting as a governmental service corporation acting and pretending under the color law (State of Hawaii). Question the Superiority and Authority of the above entity.

A reminder to all of Hawaii's Nation to Nation agreement|contract (called a treaty of friendship, commerce, and navigation 1849)

The following attachment found online for public and or private access was made by Ho'okuleana, LLC. This agency creator is Peter T Young a DLNR CHIEF bias report:



APPRG
APPR

2022-07-
23FinalCMPsupplement_Vol1
PDF Document · 8.8 MB

to further insult upon Kanaka Maoli, Kanaka (Person)

Our rights to Aloha Āina, Malama Āina, Kuleana

University of Hawaii has completely failed and proven itself as nothing more than a corporate for profit entity that has no understanding of “land management and or respect (Kuleana) for Āina”

It is known and not limited to Mauna Kea our sacred Piko. Ko Hawaii Pae Āina.

University of Hawaii also, has been known for its inability to report findings from water samples throughout the Pae Āina making it clear that it's poor judgment is detrimental to Āina (Natural Resources)

Do you remember Agent Orange? The United States Army contracted the University of Hawaii agricultural research station agricultural research station on Kauai to dispose of the chemicals. A case that is easily accessible so the understanding that there is no TRUST in the University of Hawaii when it comes to the protection, preservation, and perpetuation as Āina Kuleana Land Stewards. Dioxin is a chemical that remains toxic for decades and the University till today did not fully disclose these locations causing locals to speculate that these chemicals were dumped along hillsides where our natural water resources have been made contaminated along with lepo dirt, earth. To add more insult their own workers who were handling “dispose” of these chemicals died of Cancer.

Recent reports of coolant leak in Mauna Kea its clear that the State Of Hawaii under the direction of Department of Land and Natural resources and its Board does not have the capacity to bind these agencies under LAW. Making me question the superiority and authority the State of Hawaii has over land, property in Hawaii Lawfully.

In a contested case allows determination.

Access is a huge issue. As a kanaka Maoli, wahine Maoli who's claiming my inherent. When I stand in any direction in kuleana it's important for me, as any other kanaka to be alo; present. Hā as an equal to my Kupuna (Āina) to align with the importance of our spiritual relationship (uhane, unihipili, aumakua) 3 pillars combined with the 4th kino

When we are not allowed access to our piko it distances and detached the aha, aka cord. Ike Kupuna, Ike papalua. Causing harm “outrage”.

My Ike comes from Kupuna of past and I pule for all mo'opuna to awaken to their Kupuna, our Kupuna. The truth that is needed for the next 7-21 generations to thrive.

I am claiming my undivided interest.

We, Kanaka Moali, Kanaka are being denied the mechanism for expression of our inherent sovereignty through self-government and self-determination, our lands, and our resources. Act 359, § 1, 1993 Haw. 1009, 1010.

Proof:

The stated purpose of Act 359 is to "facilitate the efforts of native Hawaiians to be governed by an indigenous sovereign nation of their own choosing." Thus, while the legislature has tacitly recognized the illegal overthrow, Act 359 indicates that the State of Hawai'i does not recognize that the Kingdom exists at the present time.

All of Hawaii is held in Trust known
As the Great Mahele with our Kingdom (Hawaiian Kingdom) as its people (God's people)

The Supreme court in Hawaii indicated on June 22, 1977.that "Hawaiian usage" must predate
November 25, 1892.' (58 H. 106, 566 P.2d 725.)

Prior to November 25, 1892, the laws of the Hawaiian Islands included, but not limited to:

The Compiled Laws of the Hawaiian Kingdom (1884)
The Penal Codes of the Hawaiian Kingdom (1869)
The Civil Codes of the Hawaiian Kingdom (1859)
The Statute Laws of the Hawaiian Kingdom (1841)

'The laws are obligatory upon all persons, whether subjects of this kingdom, or citizens or
subjects of any foreign State, while within the limits of this kingdom, except so far as
exception is made by the laws of nations in respect to Ambassadors or others. The property of
all such persons, while such property is within the territorial jurisdiction of this kingdom, is
also subject to the laws. The Civil Codes of the Hawaiian Islands (1859), Chapter II OF THE
EFFECTS OF LAWS, SECTION 6.

'An alien, whether his native country be at war or at peace with this kingdom, owes allegiance
to this kingdom during his residence therein, and during such residence, is capable of
committing treason against this kingdom. [Penal Codes of the Hawaiian Islands (1869),
Article VI. Treason, Section 3.

'All laws now in force in this Kingdom, shall continue and remain in full effect, until altered
or repealed by the Legislature; such parts only excepted as are repugnant to this Constitution.
All laws heretofore enacted or that may hereafter be enacted, which are contrary to this
Constitution, shall be null and void.' ARTICLE 79. Constitution of the Hawaiian Kingdom.
1887.

Who hold superior title?

Who stands on superior rights
Land is common law
Property, equity, and rights

A reminder

NOTICE TO AGENT IS NOTICE TO PRINCIPAL, NOTICE TO PRINCIPAL IS NOTICE
TO AGENT

who individually made a public commitment to the duties, responsibilities and obligations associated with holding public office; Oath of office. Black's Law definition of Public- Pertaining to a state, nation, or whole community; proceeding from, relating to, or affecting the whole body of people or an entire community. PENALTIES FOR PUBLIC OFFICERS U.S. CODE Title 42 Penalties for Government Officers.

The authority for fines (damages) caused by crimes by government officers.

What is OFFICER

The incumbent of an office; one who is lawfully invested with an office. One who is charged by a superior power (and particularly by government) with the power and duty of exercising certain functions.

These Damages were determined by GOVERNMENT itself for the violation listed.

Breach Penalty Authority

Violation of Oath of Office \$ 250,000.

18 USC 3571

Denied Proper Warrant(S) \$ 250,000.

18 USC 3571

Denied Right of Reasonable Defense Arguments
\$ 250,000.

18 USC 3571

Defense Denied Evidence (records) \$ 250,000.

18 USC 3571

Denied Right to Truth In Evidence \$ 250,000.

18 USC 3571

Slavery (Forced Compliance to contracts not held)
\$ 250,000.

18 U.S. CODE 3571

Denied Provisions in the Constitution \$ 250,000.

18 U.S. CODE 3571

Treason (combined above actions) \$ 250,000.

18 U.S. CODE 3571

Genocide \$1,000,000.

18 U.S. CODE 1091

Misprision of Felony \$500.

18 U.S. CODE 4

Conspiracy \$ 10,000.

18 U.S. CODE 241

Extortion \$ 5,000.

18 U.S. CODE 872

Mail Threats \$5,000.

18 U.S. CODE 876

Fraud \$ 10,000.

18 U.S. CODE 1001

Falsification of Documents \$ 10,000.

18 U.S. CODE 1001

Perjury \$ 2,000.
18 U.S. CODE 1621

PENALTIES FOR PUBLIC OFFICERS

Subornation of Perjury \$ 2,000.

18 U.S. CODE 1622

Grand Theft each \$ 250,000.

18 U.S. CODE 2112

To determine multiply no. of counts by damage

18 U.S. CODE 3571

Racketeering (Criminal) \$ 25,000.

Any claim of "immunity" is a fraud because, if valid, it would prevent removal from office for crimes against the people, which removal is authorized and or mandated under U.S. Constitution Article 2, Section IV; as well as 18 U.S. CODE 241, 42 U.S. CODE 1983, 1985, 1986, and other state Constitutions.

Precedents of Law established by COURT cases, which are in violation of law, render violations of law legally unassailable. Such a situation violates several specifically stated intents and purposes of the Constitution set forth in the Preamble; to establish justice, insure domestic tranquility, and secure the-blessings of liberty.

This is for JUDGES, ATTORNEYS, POLICE or anyone affiliated with or in any branch of government.

Ku Nei Kanawai No Laila, the law stands from then until now

Ku Makou Makemake No Ka Āina
True Desire to stand for Āina

Malama Pono,
Manawaiakea
Roslyn Nicole Manawaiakea Malama mare Cummings

Noho ao Kalaheo Ahupua'a, Kona Moku, Kauai Mokuuni

He Āina Hawaii, I am of Hawaii

From: [E. Flores](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony for BLNR Agenda Item K-1 (March 24, 2023)
Date: Wednesday, March 22, 2023 9:36:59 PM
Attachments: [Flores-Case Ohana Testimony for BLNR Agenda Item K-1.pdf](#)

March 23, 2023

FR: E. Kalani Flores, Flores-Case ‘Ohana

RE: Testimony for BLNR Agenda Item K-1 (March 24, 2023) - Denial of Contested Case Request HA 23-1 by Laulani Teale regarding the Approval of the Mauna Kea Comprehensive Management Plan 2022 Supplement: Management Actions Update located at the Mauna Kea Science Reserve, Ka‘ohe, Hāmakua, Hawai‘i Tax Map Keys: (3) 4-4-015:009, (3) 4-4-015:0012, and (3) 4-4-015:001

We, the Flores-Case ‘Ohana, **support** the request (HA 23-1) by Laulani Teale (“Petitioner”) for a contested case hearing regarding the *Mauna Kea Comprehensive Management Plan 2022 Supplement* (CMP Supplement).

Please include the attached testimony for BLNR Agenda Item K-1



***E ala ʻē me ke aloha a me ka ʻōiaʻiʻo.
Awaken with aloha and truth.***

March 23, 2023

FR: E. Kalani Flores, Flores-Case ʻOhana

RE: Testimony for BLNR Agenda Item K-1 (March 24, 2023) - Denial of Contested Case Request HA 23-1 by Laulani Teale regarding the Approval of the Mauna Kea Comprehensive Management Plan 2022 Supplement: Management Actions Update located at the Mauna Kea Science Reserve, Kaʻohe, Hāmakua, Hawaiʻi Tax Map Keys: (3) 4-4-015:009, (3) 4-4-015:0012, and (3) 4-4-015:001

We, the Flores-Case ʻOhana, **support** the request (HA 23-1) by Laulani Teale (“Petitioner”) for a contested case hearing regarding the *Mauna Kea Comprehensive Management Plan 2022 Supplement* (CMP Supplement) for the following reasons:

1. **Violation of due process rights.** On July 22, 2022, the Board of Land and Natural Resources (BLNR) violated the due process rights of Ms. Teale, the Petitioner, by voting to approve the *Mauna Kea Comprehensive Management Plan 2022 Supplement* **prior** to making a determination of the Petitioner’s request for a contested case hearing. In the decision of the Hawaiʻi State Supreme Court, *Kilakila ʻO Haleakala v. Bd. of Land & Nat. Res.* (2013), it clearly articulated this matter of due process.

Thus, in *Kilakila I*¹, this court held “that a contested case hearing should have been held, as required by law and properly requested by KOH on UH's application prior to BLNR's vote on the [CDU permit] application.” 131 Hawaiʻi at 206, 317 P.3d at 40. Then in *Mauna Kea*², a majority of this court also held that approval of a CDU permit before a contested case hearing violated the due process rights of parties with

¹ *Kilakila ʻO Haleakala v. Bd. of Land & Nat. Res.*, 131 Hawaiʻi 193, 317 P.3d 27 (2013)

² *Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Hawaiʻi 387, 363 P.3d 224 (2015)

standing to assert Native Hawaiian traditional and customary rights. *Mauna Kea*, 136 Hawai‘i 387, 363 P.3d 224.

In *Mauna Kea*, in addition to the due process holding, a majority of this court held that a state agency must perform its functions in a manner that fulfills the State's affirmative obligations under the Hawai‘i constitution. 136 Hawai‘i at 414, 363 P.3d at 262 (Pollack, J., concurring).

Kilakila ‘O Haleakala v. Bd. of Land & Nat. Res. (2016) (McKenna, J., concurring).

Thus, there is an appearance that the ‘after-the-fact’ and untimely (eight months later) denial of the Petitioner’s request is an attempt by BLNR to ‘cover-up’ this due process violation and avoid its constitutional obligations.

2. **Failure to protect Native Hawaiian rights and practices.** On July 22, 2022, the BLNR failed to protect Native Hawaiian rights and practices by systematically ignoring relevant and substantive testimony and comments pertaining to the CMP Supplement. There is an appearance of BLNR just ‘rubber-stamping’ the approval of this management plan without incorporating any suggested revisions provided by Native Hawaiian cultural practitioners and the public through testimony and other written comments. See attached *Written Comments for BLNR Agenda Item K-2 (July 22, 2022) - Mauna Kea Comprehensive Management Plan Supplement* submitted by the Flores-Case ‘Ohana in 2022. Likewise, DLNR staff failed to provide any analysis and feedback to the Board on submitted testimony and comments. It's very evident that BLNR and/or DLNR staff aren't capable of conducting a comprehensive review and adequately addressing such testimony and comments within the timeframe of scheduled meetings.³ Thus, it is for this very reason that a contested case hearing is required in this matter.

In addition, UH failed to conduct a meaningful community engagement process and lacked adequate and timely consultation with Native Hawaiian stakeholders regarding this CMP Supplement.

Based upon our personal experience of being engaged in the public review process, public hearings appear to be just a formality as the decisions regarding the approval of

³ The existing BLNR meeting schedule should be modified so that Board members and DLNR staff can adequately read and assess written comments on agenda items. Some suggested changes could include the posting of agendas at least two weeks before a scheduled meeting. Then if public comments are submitted a week prior to the meeting instead of the same week, Board members would have adequate time to read these comments and DLNR staff would have sufficient time to include an analysis of these comments in their staff report. Another option is defer action on agenda items with a significant amount of testimony and comments until the staff can provide an appropriate analysis.

permits or plans. Despite community members participating in board meetings and hearings and providing relevant testimony, such comments are systematically dismissed or ignored.

3. **Violation of constitutional laws and rights.** Denial of a contested case hearing in this matter would result in the State not upholding the Hawai‘i State Constitution, such as Article XII, Section 7, that states:

The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

In addition, Article XI, Section 1, states:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

As outlined in *In Re Waiāhole Combined Contested Case Hearing (Waiāhole I)*, 94 Hawai‘i 97,137,9 P.3d 409,449 (2000), the Hawai‘i Supreme Court upheld the exercise of Native Hawaiian and traditional and customary rights as a public trust purpose (which has priority over private commercial uses). Therefore, the Commission on Water Resource Management ("Commission") must "ensure that it does not 'abridge or deny' traditional and customary rights of Native Hawaiians." *Waiāhole I*, 94 Hawai‘i at 153, 9 P.3d at 465 (citing H.R.S. §§ 174C-63, 101(c)).

In *In Re Water Use Permit Applications*, 94 Hawai‘i 97, 9 P.3d 409 (2000) ("*Waiāhole Ditch Case*"), the Hawai‘i Supreme Court recognized that public trust doctrine was "a fundamental principle of constitutional law in Hawai‘i." Haw. Const., Art. XI, section 1, P.133, 9 P.3d at 444.

Furthermore, there is no dispute that Mauna Kea is a “public natural resource” of the class protected under Article XI, section 1 of the Hawai‘i State Constitution. See, *Waiāhole Ditch Case* at 133, 9 P.3d at 444. Mauna Kea is part of the "ceded lands trust," lands ceded by the federal government back to the State of Hawai‘i by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the Hawai‘i State Constitution. These lands are held by the State as "a public trust for native Hawaiians and the general public." Haw. Const., Art. XII, sec. 4.

4. **Violation of the *Ka Pa‘akai* decision.** Denial of a contested case hearing as requested by the Petitioner, a native Hawaiian cultural practitioner with genealogical ties to Mauna Kea, would be in contradiction to the decision of the Hawai‘i State Supreme Court in *Ka Pa‘akai o Ka ‘Aina v. Land Use Comm’n*, 94 Hawai‘i 31, 7 P.3d 1068 (2000) ("*Ka Pa‘akai*"), the Hawai‘i Supreme Court held that to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, an agency must examine, and make specific findings and conclusions as to protecting Native Hawaiian traditional and customary rights.

In the *Ka Pa‘akai* decision, the Hawaii Supreme Court articulated an analytical framework for the State’s obligation to protect Native Hawaiian traditional and customary rights. The court ruled:

- (1) the state and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised rights of Native Hawaiians to the extent feasible;
 - (2) agencies are obligated to make an assessment, independent of the developer or applicant of impacts on customary and traditional practices of Native Hawaiians; and
 - (3) the independent assessment must include the three factors (A, B, and C) listed below,
- otherwise known as the “*Ka Pa‘akai* framework.”

- A) the identity and scope of “valued cultural, historical, or natural resources” in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- B) the extent to which those resources-including traditional and customary native Hawaiian rights-will be affected or impaired by the proposed action; and
- C) the feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

Ka Pa‘akai, 94 Hawai‘i at 47, 7 P.3d at 1084 (footnotes omitted).

When an individual of Native Hawaiian descent asserts that a traditionally exercised cultural, religious, or gathering practice in an undeveloped or not fully developed area would be curtailed by the proposed project, the State or the applicable agency is “obligated to address” this adverse impact in its findings and conclusions pursuant to the *Ka Pa‘akai* framework. *Ka Pa‘akai*, 94 Hawai‘i at 46, 50, 7 P.3d at 1083, 1087. Concurring Opinion *Mauna Kea Anaina Hou et al. v. BLNR et al.* (2015) at 9. Consequently, if customary and traditional Native Hawaiian practices are to be meaningfully safeguarded, “findings on the extent of their exercise, their impairment, and the feasibility of their protection” are paramount. *Ka Pa‘akai*, 94 Hawai‘i at 50, 7 P.3d at 1087. Id. At 9-10.

Furthermore, the recent decision of the Hawai‘i State Supreme Court in *Flores-Case ‘Ohana v. University of Hawai‘i* (2023) affirmed the State’s constitutional obligation to protect Native Hawaiian traditional and customary rights whenever it acts. As the Court stated: “Native Hawaiian traditional and customary rights do not exist at the sufferance of the State and its agencies. These rights must be protected and indeed, the State and its agencies have a constitutional obligation to do so.”

5. **Native Hawaiian rights and practices as property interest.** The statement in the staff report (dated March 24, 2023) submitted by Trevor Fitzpatrick, OCCL Staff Planner, that the Petitioner “does not” have a property interest in Mauna Kea is clearly **inaccurate**. Pursuant to Article XII, Section 7 of the Hawai‘i Constitution, as interpreted by the Hawai‘i State Supreme Court in *Mauna Kea Anaina Hou*, the Petitioner does have a constitutionally cognizable property interest in this case.

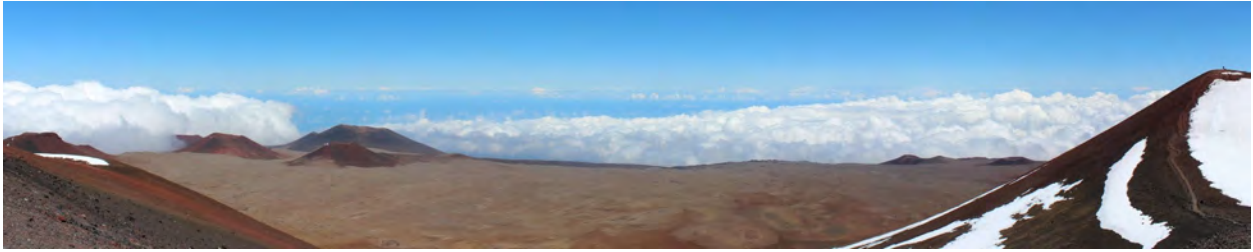
6. **Contest case hearings are required by law to protect Native Hawaiian rights and practices.** The statement in the staff report that a contested case hearing is “not required by law” is also **inaccurate**. A contested case hearing is **required by law** when it is required by: (1) statute; (2) administrative rule; or (3) constitutional due process. *Mauna Kea Anaina Hou*, 136 Hawai‘i at 390, 363 P.3d at 238. The *Mauna Kea Anaina Hou* decision acknowledged that “[t]he right to exercise Native Hawaiian customs and traditions is explicitly protected by article XII, section 7 of the Hawai‘i Constitution.” Based on the foregoing, this court held:

Given the substantial interests of Native Hawaiians in pursuing their cultural practices on Mauna Kea, the risk of an erroneous deprivation absent the protections provided by a contested case hearing, and the lack of undue burden on the government in affording Appellants a contested case hearing, a contested case hearing was “required by law” regardless of whether BLNR had voted to approve one on its own motion at the February 25, 2011 meeting.

The BLNR, Department of Land and Natural Resources (DLNR), and University of Hawai‘i (UH) have the affirmative duty and legal obligations to protect the natural and cultural resources, public land trust, and rights of the public and Kanaka Maoli (aka Native Hawaiians) connected with Mauna a Wākea (also referred to as Mauna Kea).

For all the reasons outlined, the BLNR is required by law to conduct a contested case hearing as requested by the Petitioner, Ms. Laulani Teale.

Attach. Flores-Case ‘Ohana - *Written Comments for BLNR Agenda Item K-2 (July 22, 2022) - Mauna Kea Comprehensive Management Plan Supplement*



E ala ē me ke aloha a me ka ‘oia‘i‘o.
Awaken with aloha and truth.

FR: E. Kalani Flores, Flores-Case ‘Ohana

RE: Written Comments for BLNR Agenda Item K-2 (July 22, 2022) - Mauna Kea Comprehensive Management Plan Supplement

RECOMMENDED BOARD ACTIONS	3
SUMMARY OF COMMENTS	3
SPECIFIC COMMENTS	4
I. CMP Supplement is deficient, incomplete, & missing significant information	4
II. UH failed to adequately and timely consult with Native Hawaiian stakeholders in the review process	6
III. State governing boards have adopted a procedure of not listening during the public review process	8
IV. BLNR/DLNR have failed to ensure that UH is in compliance with its Mauna Kea management plans	9
V. Adverse impacts upon the sacred piko and resources of Mauna a Wākea	17
VI. Adverse impacts upon ancestral akua, kupua, and kupuna	23
VII. Adverse impacts upon cultural resources and historic sites	28
VIII. Adverse impacts upon Kanaka Maoli customary and traditional practices	29
CONCLUDING REMARKS	35
ATTACHMENTS:	
Appendix A - Specific Recommendations	

RECOMMENDED BOARD ACTIONS

We urge the State Board of Land and Natural Resources (BLNR) to take the following actions regarding agenda item K-2 pertaining to the *Mauna Kea Comprehensive Management Plan 2022 Supplement: Management Actions Update* (Supplement):

- 1) **DEFER** action on this proposed Supplement until comments and recommendations from this and other testimonies can be adequately addressed and not just systematically dismissed. Otherwise, approving this deficient plan as presented would be another example of just ‘rubber-stamping’ items without providing due diligence in these matters.
- 2) **INSTRUCT** the UH to recognize that Native Hawaiian stakeholders as stipulated in the CMP to be consulted in a meaningful fashion and the same timely manner as other stakeholders as it pertains to existing and proposed new policies/plans associated with Mauna Kea.
- 3) **INCORPORATE** necessary revisions to this Supplement based upon recommendations shared in this and other testimonies and comments as part of a “comprehensive review” by BLNR members.
- 4) **ESTABLISH** procedures for members of the public to inform BLNR/DLNR when UH is not in compliance with the CMP and other conservation district rules.

SUMMARY OF COMMENTS

The BLNR, Department of Land and Natural Resources (DLNR), and University of Hawai‘i (UH) have the affirmative duty and legal obligations to protect the natural and cultural resources, public land trust, and rights of the public and Kanaka Maoli (aka Native Hawaiians) connected with Mauna a Wākea (also referred to as Mauna Kea).

The goal of the Mauna Kea Comprehensive Management Plan (CMP) was to provide the UH along with the former Office of Mauna Kea Management (OMKM) and now the Center of Maunakea Stewardship (CMS) with management actions to effectively and efficiently manage the uses and activities on Mauna Kea in a way that will preserve and protect its cultural and natural resources. Even with the CMP being approved by BLNR in 2009 along with subsequently approved sub-plans, why has the UH continued to impose substantial, significant, and adverse impacts upon the natural and cultural resources of Mauna Kea? And why has the BLNR/DLNR’s oversight been non-existent and significant aspects of UH’s mismanagement been allowed to continue?

It’s very evident that UH’s role to advance astronomy on Mauna Kea, conflicts with its ability to properly manage these environmentally and culturally sensitive resources of a

public lands trust, also considered government lands of the Kingdom of Hawai'i. The existing process has been politically driven to push through astronomical development on Mauna Kea by systematically ignoring community and Kanaka Maoli concerns for several decades and thus resulting in the overdevelopment of this conservation district. As it has been previously noted, there has been a failure to timely implement actions of the CMP.

BLNR/DLNR, representing the State as the Lessor, has the sole legal obligation, duty, and responsibility to appropriately manage and protect these conservation and public lands of Mauna Kea. BLNR/DLNR has improperly delegated those duties and responsibilities resulting in non-compliance with the BLNR and UH Board of Regents (BOR) approved plans for Mauna Kea. The failure of BLNR/DLNR to assume their appropriate role as Lessor has resulted in substantial, adverse, and significant impacts to the natural, cultural, and historic resources on Mauna Kea. This matter has been previously brought to the attention of the BLNR/DLNR for several decades as noted below in the Hawaii State Auditor's Report No. 05-13 (p. 30):

The lack of oversight by the department allows the university and its sublessees unchecked discretion on the use of Mauna Kea and leaves cultural and natural resources at risk for further damage.

BLNR/DLNR is called upon to reverse a long history and pattern of not following their own rules set forth for the management of conservation lands and to enforce UH's compliance with the CMP, sub-plans, and other master plans for Mauna Kea.

SPECIFIC COMMENTS

I. CMP Supplement is deficient, incomplete, & missing significant information

UH has presented the proposed Supplement in a deficient and incomplete manner that is also missing several significant narratives from the 2009 CMP. This Supplement has been done in a very convoluted manner that would make it more difficult to properly implement the CMP in the future. Also, significant narratives have been purged from the CMP. In addition, the Supplement has failed to reference the applicability of the BLNR-approved CMP sub-plans (Cultural Resources Management Plan, Natural Resources Management Plan, Public Access Plan, & Decommissioning Plan) and how the proposed changes would be integrated into these sub-plans when moving forward with the CMP's implementation. Likewise, the Supplement has failed to provide necessary general updates to the CMP and sub-plans. Similarly, the Supplement lacks any discussion of OMKM's document entitled, *Implementing and Evaluating*

the Comprehensive Management Plan for UH Managed Lands on Mauna Kea (Implementation and Evaluation Plan).

Recommendations:

1) The specific proposed changes should be included in the Appendices instead of embedded within the narratives of the Supplement so that for future implementation these specific changes can be easily referenced. For example, the section in 1.2 (UPDATE TO LOCATION AND DESCRIPTION OF UH MANAGEMENT AREAS) of the Supplement should be extracted and included in the Appendices and identified as Section 3.1.1 similar to the 2009 CMP. Then section 1.2 of the Supplement could just include a narrative explaining the reasoning for the change. Likewise, relevant sections and tables of chapters 3-14 of the Supplement should be renumbered and blended with some of the existing narratives in the 2009 CMP and then included in the appendices as Section 7.

2) Certain relevant and significant narratives of the 2009 CMP should be retained in the Supplement instead of purging this information. For example, Chapter 3 (Cultural Landscape) has excluded a consequential amount of information and substantiating narratives. Also, detailed descriptions, background information and additional considerations of management actions were eliminated and should be retained in the updated Supplement. Compare *Section 7.1 Understanding and Protecting Mauna Kea's Cultural and Natural Resources* of the CMP with Chapters 3 and 4 of the Supplement.

3) There is no practical explanation of why the original heading of “Native Hawaiian Cultural Resources” was changed in Chapter 3 to “Cultural Landscape.” This is another attempt by the UH to diminish Native Hawaiian connections to Mauna Kea. If a change is made, it should be changed to “**Cultural Resources**” which is the term used at both the federal and state levels in reference to the protection and management of such resources especially as it pertains to definitions provided by the Advisory Council on Historic Preservation and the Council of Environmental Quality in relation to several federal laws and executive orders. Also, the reference to “Landscape” isn’t as inclusive to all cultural resources such as archaeological collections that UH has implied. In addition, the use of the term “Cultural Landscape” would require a complete overhaul and update to other aspects of the CMP including the sub-plan, Cultural Resources Management Plan.

4) Other specific recommendations to improve this deficient and incomplete Supplement are included in **Appendix A - Specific Recommendations** of this submittal.

II. UH failed to adequately and timely consult with Native Hawaiian stakeholders in the review process

UH failed to conduct a meaningful community engagement process and lacked adequate and timely consultation with Native Hawaiian stakeholders. The CMP clearly outlined a community engagement and consultation process that also identified stakeholders who have cultural, legal, or political affiliation with Mauna Kea. See *4. Community Engagement Process (2009 CMP, pp. 4-1 - 4-7)* However, UH has continued a pattern of excluding the following CMP-identified Native Hawaiian stakeholders from the initial engagement, consultation, and review process.

- **Families** with lineal or historic relationship to Mauna Kea either through their genealogy, burials, or children's piko.
- **Hawaiian Cultural Practitioners** include those who access the UH Management Areas for religious and spiritual purposes and/or cultural ceremonies for the observance of events.
- **Hunters and Resource Gatherers** are individuals, families, and organizations that access the UH Management Areas to hunt and gather materials for cultural and subsistence purposes.

On the other hand, others such as those of the UH System, astronomy organizations, government agencies, commercial tour operators, etc. were initially engaged and given the opportunity to review and comment on the *Draft Outcome Analysis Report (OAR)* as noted below and in *Table B-1: Stakeholder Outreach for Draft OAR*. (emphasis underlined)

In accordance with the provisions of the CMP, CMS, which has replaced the Office of Mauna Kea Management (OMKM) as the entity responsible for overseeing the UH Maunakea Lands, prepared a Draft Outcome Analysis Report (Center for Maunakea Stewardship, April 2021) describing the progress that UH had made in implementing the management actions contained in the CMP and outlining the adaptations, adjustments, and changes that it believed should be made to those measures in the coming years. It circulated the draft OAR to agencies and advisors participating in the review process at the end of April 2021, and followed up over the following weeks with video-conference meetings with those agencies and advisors. It then used the written and oral feedback that it received to revise and finalize the OAR. (1.4.3 THE CMP MANAGEMENT ACTIONS UPDATE/SUPPLEMENT PROCESS, CMP Supplement, p. 1-6)

It's very apparent that Native Hawaiian stakeholders were excluded from this review process. Failing to engage Native Hawaiian stakeholders in this process contradicts the CMP guidelines and management actions as noted below. (emphasis underlined)

It is recommended that OMKM continue to consult with Native Hawaiian organizations and individuals on existing policies and proposed new policies. (CRMP, pp. 5-9 to 5-10)

Likewise, when it came to the review process of this Supplement as well as other UH plans such as the new *Master Plan for the University of Hawai'i Maunakea Lands*. Native Hawaiian stakeholders were **not** engaged early in this consultation process even though others were provided an opportunity to review and comment on a pre-draft over a year in advance. Instead, Native Hawaiian stakeholders, including ourselves, were only contacted by email on October 14, 2021 when comments were due on October 26th. This extremely late attempt at contact is perceived more as an afterthought or as a formality to state that consultation was attempted. There are no excuses why we and other cultural practitioners were **not** contacted earlier when the UH System, governmental agencies, elected officials, astronomy organizations, commercial tour operators, etc. were given the opportunity to review earlier pre-draft versions of this plan.¹ In addition, even when relevant and significant comments were submitted, they were systematically ignored. Firstly, the voice of the Mauna Kea observatories was clearly the overriding voice throughout this draft plan. Whereas, the voices of Native Hawaiian cultural practitioners were excluded during the initial process of drafting this plan as well as with the final version. Nearly 1,500 individuals submitted comments to the CMS by October 26, 2021. Likewise, the Flores-Case 'Ohana engaged in this process and provided written comments via email and also provided comments during a video conferencing meeting. However, the revisions made to the draft master plan were primarily "*minor copyediting changes*" without any substantial changes when the final version was presented to the BOR for their approval. Conclusively, the communication between the UH and Native Hawaiian stakeholders and community members was not timely and quite pathetic. Case in point, when this matter was brought forth for a special BOR meeting on December 16, 2021, CMS only sent us an email regarding this meeting the day before on December 15th.

Why does the UH ask the public for input and comments/feedback, but is not going to apply any constructive critique and relevant recommendations to their policies/plans? This matter of the UH not implementing a meaningful community engagement process and lacking adequate and timely consultation with Native Hawaiian stakeholders has been

¹ See: Appendix A - Summary of Outreach and Consultation

brought to the attention of UH for decades. These are examples of the systematic pattern of the UH not listening to Native Hawaiian stakeholders and community members regarding the proper management of the natural and cultural resources of Mauna Kea.

This issue was noted in the CMP as well as in the recent *Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan (Independent Evaluation)* prepared for DLNR in 2020 as follows (emphasis underlined):

Second, members of the Native Hawaiian community, both those who oppose and support UH’s management of Mauna Kea, were not consulted on matters related to cultural and resources issues. The CMP specifically identifies the Native Hawaiian stakeholders to include families with cultural and lineal connections to Mauna Kea, Kūpuna, cultural practitioners, the Office of Hawaiian Affairs and other Native Hawaiian groups. Representatives from these stakeholder groups have consistently commented that they were not consulted by OMKM on cultural issues, including removal of family shrines, stacking of Pōhaku, and identification of cultural sites.

Third, OMKM did not effectively engage with the community, in particular, members of the Native Hawaiian community, on education and outreach efforts, including decision-making process related to the management of Mauna Kea. Many Native Hawaiians on Hawaii Island feel disengaged and disrespected by OMKM. In particular, there is an absence of genuine consultation with the Native Hawaiian community that has resulted in greater mistrust of UH. Even with the Native Hawaiian constituency who strongly support OMKM and telescope development, OMKM has not taken the opportunity to involve them in their community outreach efforts. (*Independent Evaluation*, p. iii)

III. State governing boards have adopted a procedure of not listening during the public review process

Based upon our personal experience of being engaged in the public review process, public hearings appear to be just a formality as the decisions regarding the approval of permits or plans. Despite community members participating in board meetings and hearings and providing relevant testimony, such comments are systematically dismissed or ignored.

How can the appearance of impropriety be removed from this public review process?

Firstly, BLNR members should actually listen to public comments and read testimonies in their entirety and incorporate appropriate actions into decision making instead of just ‘rubber-stamping’ approvals.

IV. BLNR/DLNR have failed to ensure that UH is in compliance with its Mauna Kea management plans

Before BLNR approves permits or any other actions within the Mauna Kea Science Reserve (MKSr), the UH must be in compliance with the BLNR approved management plans and conditions of the Conservation District rules. Furthermore, BLNR/DLNR have the statutory obligation to ensure that UH is in compliance with these plans. Likewise, the BLNR is required to complete a “comprehensive review” prior to approving permits and associated management plans under HAR § 13-5-30.

Highlighted below are examples of the UH’s non-compliance with the Mauna Kea CMP, associated sub-plans, and master plans.

1. Firstly, UH’s non-compliance with the CMP management actions that are identified as “*CMP Monitoring, Evaluating and Updating*” is very evident as noted below:

MEU-1: UH has failed to inform the public of “results of management activities in a timely manner.”

MEU-2: UH has failed to regularly review and update the CMP and sub-plans that were required in order to be in compliance with the rules of the Conservation District. The CMP was submitted to and approved by the BLNR on April 9, 2009. In addition, it’s been over a decade and UH failed to complete the five-year major review of this plan in a timely manner that was due April 2014 as stipulated in the CMP. Section 7.4.2 of the CMP outlines the requirements and process for monitoring, evaluating, and updating this plan as noted below. (emphasis underlined)

Regular monitoring and evaluation of the CMP is needed to determine if management actions are effective over time and are meeting management needs, and to ensure that the best possible protection is afforded Mauna Kea’s resources.

Monitoring and evaluation of the effectiveness of the CMP should occur annually, and an annual progress report should be prepared. A major review and revision of the CMP should occur every five years, using information contained in the annual reports. Five-year evaluation and revision should include consultation with federal and state agencies and the local community, to inform stakeholders on program progress, and to gather input on changes or additions to management activities. The CMP must also be updated to comply with any requirements or conditions imposed by the BLNR on the CMP upon acceptance of the plan. (CMP at 7-64)

The requirement for UH to conduct a “major review every five years” is further reiterated in the *CMP Implementation and Evaluation Plan* as outlined below:

4.2.2 Five-Year Management Outcome Analysis and CMP Revision The OMKM program should be subjected to a major review every five years, and the CMP should be revised, as necessary. This process should involve input from State and Federal agencies and the public. (CMP IP at 17).

CMP MONITORING, EVALUATION AND UPDATES		
Management		
MEU-1	Establish a reporting system to ensure that the MKMB, DLNR, and the public are informed of results of management activities in a timely manner.	OMKM
MEU-2	Conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate new information about resources.	OMKM
MEU-3	Revise and update planning documents, including the master plan, leases, and subleases, so that they will clearly assign roles and responsibilities for managing Mauna Kea and reflect stewardship matters resolved with DLNR.	OMKM

CMP MONITORING, EVALUATION AND UPDATES		
Management		
MEU-1	Establish a reporting system to ensure that the MKMB, DLNR, and the public are informed of results of management activities in a timely manner.	Immediate
MEU-2	Conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate new information about resources.	Short-term / As needed
MEU-3	Revise and update planning documents, including the master plan, leases, and subleases, so that they will clearly assign roles and responsibilities for managing Mauna Kea and reflect stewardship matters resolved with DLNR.	As needed

2010 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP (pp. B-12, C-12)

CMP MONITORING, EVALUATION AND UPDATES			
Management			
MEU-1	Establish a reporting system to ensure that the MKMB, DLNR, and the public are informed of results of management activities in a timely manner.	Ongoing	Reports are provided at the publicly held Mauna Kea Management Board Meeting. DLNR is represented on the Mauna Kea Management Board. NRMP 4.1.3.3 PAP 6.4, 6.6, 7
MEU-2	Conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate new information about the resources.	Short-Term	Five-year CMP revision interval is 2014. Revision process initiated by OMKM for eventual submission to BLNR. NRMP 5.2 CRMP 5.5 PAP 7
MEU-3	Revise and update planning documents, including the master plan, leases, and subleases, so that they will clearly assign roles and responsibilities for managing Mauna Kea and reflect stewardship matters resolved with DLNR.	In Progress	Updates to the Master lease have been initiated. PAP 7

2015 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP

MONITORING, EVALUATION AND UPDATES			
MEU-1	Establish a reporting system to ensure that the MKMB, DLNR, and the public are informed of results of management activities in a timely manner.	Ongoing	Reports are provided at the publicly held MKMB Meetings.
MEU-2	Conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate new information about the resources.	Ongoing	Five-year CMP revision interval was initiated in 2014. EnVision Maunakea and administrative rules will play a role in the updating the CMP.
MEU-3	Revise and update planning documents, including the master plan, leases, and subleases, so that they will clearly assign roles and responsibilities for managing Mauna Kea and reflect stewardship matters resolved with DLNR.	Ongoing	UH is preparing an EIS for a new land authorization for UH's lands on Maunakea. A Prep Notice was prepared and published in February 2018. UH is reviewing comments and is considering them in the development of the draft. The 2000 Master Plan is being replaced by a new version, with preparation ongoing. The 2009 CMP is being updated, with preparation of progress report and DLNR review ongoing.

2020 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP

Furthermore, BLNR/DLNR have failed to enforce UH's compliance with these significant management actions of the CMP even though these actions were identified in UH/OMKM's Annual Plans that have been submitted to BLNR since 2010.

2. UH has failed to implement and complete several significant components of these management action plans that required immediate implementation. The CMP identified specific management actions in order to protect the natural and cultural resources on Mauna Kea.

OMKM was tasked with directly overseeing and implementing the management actions identified in the CMP Implementation and Evaluation Plan. However, there were several significant management actions that were originally listed in the 2009 timeframe as *Immediate (1-3 years)* and *Short-term (4-6 years)* that have not yet been implemented and accomplished.

Subsequently, UH changed their reporting methods assigned to the progress status definitions. This resulted in having the existing CMP status reports being submitted annually to BLNR for review without any definitive dates listed for the implementation of these management actions that in many cases are considered crucial in the protection of Mauna Kea’s natural and cultural resources. In addition, the information included in the CMP status reports have been inaccurate or incomplete at times.

Furthermore, a thorough review and analysis of these CMP status reports by BLNR/DLNR has basically not occurred to ensure a timely and appropriate implementation of the CMP management actions. Records will clearly demonstrate that DLNR staff never completed any follow-up reports to the BLNR for those CMP status reports submitted between 2010-2017. It wasn’t until January 2018, after the second TMT contested case hearing, that DLNR-OCCL staff actually did a briefing with the Board regarding Mauna Kea. DLNR-OCCL did generate a staff report with general Mauna Kea background information to accompany the CMP status reports for 2018 and 2019. However, these two staff reports failed to articulate any type of review or analysis of these CMP status reports.² It’s uncertain what was generated by DLNR-OCCL staff for 2020 and 2021.

One such example of these incomplete management actions is *FLU-2* in which UH was required to develop “land use zones” in the Astronomy Precinct based on updated cultural and natural resource information that would “*delineate areas where future land use will not be allowed and areas where future land use will be allowed*”. The following description outlines the significance and goal of completing management action **FLU-2 Land use zones**:

Any potential future observatories will be located inside the Astronomy Precinct.
The goal of this process is to refine telescope siting areas defined in the 2000

² See [OCCL - Maunakea Management](#)

Master Plan based on updated cultural and natural resource information (see Section 7.1.1 and Section 7.1.2). Land use zones will be developed that will delineate areas where future land use will not be allowed and areas where future land use will be allowed, but where compliance with prerequisite studies or analyses prior to approval of a CDUP, will be required. When assessing proposed infrastructure expansion, additional consideration will be given to the location of current infrastructure and previously disturbed areas (see Section 7.3.1). New land uses should be located close to existing infrastructure or previously disturbed areas, to reduce impacts on undisturbed areas and to minimize unnecessary damage to geological features. As stated in the 2000 Master Plan, all major undeveloped cinder cones and their intervening areas will be protected from future development by astronomical or other interests.

These include the following pu‘u: Ala, Hoaka, Kūkahau‘ula, Līlīnoe, Māhoe, Mākanaka, Poepoe, Poli‘ahu, and Ula. (CMP at 7-57 to 7-58)

This is a prime example of a management action that was initially identified for “**Immediate**” implementation, but was later changed to “**Ongoing**.” Later in the BLNR 2015 Annual Report submitted by the OMKM, *FLU-2* was still not implemented as required. As noted, “*This was originally listed for Immediate implementation. However, this task will require additional data gathered from baseline surveys of the resources.*” Then in the BLNR 2020 Annual Report, it clearly exhibits that this management action still wasn’t completed. Instead, there’s only a convoluted comment implying that UH doesn’t intend on completing this significant aspect of the CMP.

CONSIDERATION OF FUTURE LAND USE							
Facility Planning Guidelines							
FLU-1	Follow design guidelines presented in the 2000 Master Plan.	As needed					
FLU-2	Develop a map with land-use zones in the Astronomy Precinct based on updated inventories of cultural and natural resources, to delineate areas where future land use will not be allowed and areas where future land use will be allowed but will require compliance with prerequisite studies or analysis prior to approval of Conservation District Use Permit.	Immediate					

2010 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP

COMPONENT PLAN: MANAGING THE BUILT ENVIRONMENT				
		Implementation Schedule	Comments	Sub Plans
CONSIDERATION OF FUTURE LAND USE				
Facility Planning Guidelines				
FLU-1	Follow design guidelines presented in the 2000 Master Plan.	Ongoing	The Design Review Process, which incorporated the 2000 Master Plan's design guidelines, are being used in the review of the Thirty Meter Telescope project	NRMP 5.1.1
FLU-2	Develop a map with land-use zones in the Astronomy Precinct based on updated inventories of cultural and natural resources, to delineate areas where future land use will not be allowed and areas where future land use will be allowed but will require compliance with prerequisite studies or analysis prior to approval of Conservation District Use Permit.	Short-Term	This was originally listed for immediate implementation. However, this task will require additional data gathered from baseline surveys of the resources.	NRMP 4.3.3.1

2015 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP

COMPONENT PLAN: MANAGING THE BUILT ENVIRONMENT				
		Implementation Status	Comments	
CONSIDERING FUTURE LAND USE				
Facility Planning Guidelines				
FLU-1	Follow design guidelines presented in the 2000 Master Plan.	Ongoing	The Design Review Process, which incorporated the 2000 Master Plan's design guidelines, were used in the review of the Thirty Meter Telescope project	
FLU-2	Develop a map with land-use zones in the Astronomy Precinct based on updated inventories of cultural and natural resources, to delineate areas where future land use will not be allowed and areas where future land use will be allowed but will require compliance with prerequisite studies or analysis prior to approval of Conservation District Use Permit.	Ongoing	Areas previously mapped as off-limits for future land use through plans such as the Master Plan or CMP are used to limit any proposed activity. UH President Lassner confirmed that TMT was the last telescope to be built on undisturbed land. Resource data must be part of any proposal for major land use requests. HAR 13-5 allows for different types of land uses with each having its own requirements for preparing a land use application. Thus a single pre-prepared map cannot possibly address all potential scenarios.	

2020 Annual Plan to the BLNR, Status of the Implementation of the Mauna Kea CMP

In order to protect the natural and cultural resources on Mauna Kea, UH should be mandated to implement these incomplete requirements and other significant management actions dating back to 2009 prior to approval of any new CDUPs within this Conservation District. Correspondingly, BLNR/DLNR should assume their prime responsibility to require UH's compliance with these management actions in a timely manner.

3. UH has failed to implement and complete the significant CMP/CRMP management action that required regular consultation and engagement with Native Hawaiians to protect their rights and practices associated with Mauna Kea.

UH has drastically failed to engage and consult with Native Hawaiian stakeholders and the broader Hawaiian community beyond Kahu Kū Mauna and the Hawaiian Culture Committee (which is either inactive or has been terminated). Guidance into this matter is outlined in the CMP and CRMP (p. 5-9 to 5-10) as such (emphasis underlined):

5.3 ON-GOING CONSULTATION WITH THE KAHU KU MAUNA COUNCIL AND THE HAWAIIAN CULTURE COMMITTEE

Preservation planning recognizes the need to continue the process of consulting with the major stakeholders. A mechanism for accomplishing this goal with the

astronomy community already exists in the form of regular meetings with OMKM. Periodic reviews of the CRMP would involve all of the stakeholders. In view of all of the unresolved issues pertaining to cultural practices, it is the Native Hawaiian community that needs to be consulted on a frequent basis. Some of this is presently occurring with the Kahu Kū Mauna Council and the Hawaiian Culture Committee, but it will be broadened to include more of the Hawaiian community.

Management Actions

It is recommended that OMKM continue to consult with Native Hawaiian organizations and individuals on existing policies and proposed new policies. Two specific recommendations are presented in Table 5-3.

Table 5.3. Management Actions for On-Going Consultation with Native Hawaiians.

- Develop a mechanism to assure that Kahu Kū Mauna is consulted on individual development projects.
- Provide a list of individuals, families, or organizations who should be consulted when individual development projects are proposed or when other issues arise that may be a concern.

One benefit of compiling a list of organizations and persons that should be consulted is that such a list could accommodate those who are concerned about a particular place or area but do not wish to disclose its location or the nature of its significance. They could appear on the roster as wanting to be consulted about any planned activity or issue occurring in the general vicinity and then decide if they wish to act on any concerns they have.

According to the second TMT contested case hearing testimony of the OMKM Director, a list of Native Hawaiian individuals, families, organizations and cultural practitioners to be consulted still hadn't been finalized as of December 2016 despite this action item being identified with the CMP priority of High to Medium. What's most troubling is that this management action of compiling a list doesn't take over seven years to finalize. Without such a list, the UH was incapable of consulting and engaging with Native Hawaiian stakeholders and the broader Hawaiian community. It's uncertain if the newly formed CMS has since compiled a consultation list. If so, UH has still failed to engage and consult with Native Hawaiian stakeholders on a timely and frequent basis.

4. UH’s ineffective management and unlawful actions of its own employees and individuals under their jurisdiction have resulted in adverse impacts upon Mauna Kea’s natural and cultural resources. UH personnel and OMKM staff have failed to follow the existing rules and protocols as outlined by the CMP.

Case-in-point, UH personnel (i.e. OMKM, MKSS, etc.) have been directly involved in the destruction and desecration of cultural resources on Mauna a Wākea. In 2013, the archaeological monitor for the geotechnical boring at the proposed TMT site identified cultural items consisting of “*the erection of two small upright boulders and placement of a ti leaf bracelet.*” It was also reported that these “*two upright stones were later dislodged by OMKM staff.*”³ During the second contested hearing for CDUP HA-3568, a OMKM staff member testified under cross examination that he was the individual identified in this monitoring report who was involved with this incident. He testified further that he had intentionally knocked down an upright stone associated with Native Hawaiian cultural practices that was near the northern boundary of the proposed TMT site on the northern plateau and that he did not consult with Kahu Kū Mauna prior to taking this action. At that time, he was the cultural monitor working on behalf of OMKM at the site. In addition, he disclosed that Mauna Kea Rangers remove *ho’okupu* and items left on *ahu* even though they do not have the authority to do so. Also, he verified that he was not very familiar with the rules and policies pertaining to the protection of Native Hawaiian cultural practices and resources even though he was initially hired as the cultural advisor to OMKM in 2012.⁴



Figure 13. Newly placed upright boulders and ti leaf bracelet at the northern boundary of the TMT area.

³ *Archaeological Monitoring Report: Geotechnical Boring for the Proposed Thirty Meter Telescope (TMT) in the Astronomy Precinct of Mauna Kea*, October 2013. Prepared by: Genevieve L. Glennon B.A. and Robert B. Rechtman, Ph.D. (p. 12)

⁴ Wally Ishibashi Testimony. 11/16/16, Vol. 9 at 135-175.

In 2015, a Mauna Kea Support Services (MKSS) employee, without any authorization or consultation with the Kahu Kū Mauna cultural advisory group, initially bulldozed an *ahu* (altar) named Ka Uakoko associated with Native Hawaiian cultural practices. As it was reported by [Hawai'i News Now](#), *“They dismantled our altar without the right protocol, without even having a cultural person there to walk them through it the right way -- they just grabbed the bulldozer and tossed it off to the side. So yeah, it's very hurtful,”* stated JoJo Henderson. *“There's cultural protocols that need to be put into effect. There's administrative protocols and they're not following those either. Everytime the chancellor or the president of the university goes out into the community and say that Hawaiian culture 'means something. It is very important. It is significant'. It obviously is not,”* said Tiffnie Kakalia, the Kahu Kū Mauna Vice Chair. Kakalia says this incident is just the latest in a string of failures by the OMKM and UH to consult with Kahu Kū Mauna. *“The fact of the matter is the Hawaiian community is not being heard and not being valued, although it is being said that we are,”* said Kakalia.



Ka Uakoko *ahu* before it was bulldozed off the side of the embankment.

These incidents are only two recent examples that have been documented in detail. It is known that other incidents involving the destruction, desecration, or dismantling of cultural resources associated with Native Hawaiian practices have occurred through the actions of UH personnel.

UH should adopt, implement, and enforce rules and procedures for the conduct of their staff and personnel as well as astronomy personnel operating within the Mauna Kea lands and resources under their management.

5. BLNR/DLNR failed to ensure that UH was in compliance with State laws with the BOR’s adoption of the 2022 *Master Plan for the University of Hawai‘i Maunakea Lands*. UH failed to prepare an Environmental Impact Statement (EIS) for this new Master Plan in accordance with Hawai‘i Revised Statutes, Chapter 343.

Notwithstanding four state audits and community members and organizations, including Kanaka Maoli, expressing concern and providing testimony dating back to the 1970’s about the adverse impacts and threats to Mauna Kea, the State and the UH have continuously neglected their legal duties resulting in over [50 years of mismanaging](#) this revered and sacred mountain. Instead, they have prioritized astronomical development at the expense of properly caring for Mauna Kea’s natural and cultural resources. In addition, they have taken adversary positions and actions against Native Hawaiian cultural practitioners which have resulted in detrimental impacts upon Kanaka Maoli and their cultural practices and traditions.

Thorough examination of the UH’s own documents disclose that,

From a cumulative perspective, the impact of past and present actions on cultural, archaeological, and historic resources is substantial, significant, and adverse; the impacts would continue to be substantial, significant, and adverse with the consideration of the Project and other reasonably foreseeable future actions. (TMT FEIS, p. S-8)

BLNR/DLNR should assume their prime responsibility to require UH’s compliance with all their plans associated with the lands of Mauna Kea.

V. Adverse impacts upon the sacred *piko* and resources of Mauna a Wākea

The actions of the BLNR/DLNR and UH to permit and advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon the sacred *piko* as well as the natural and cultural resources of Mauna a Wākea.

Mauna a Wākea is the inoa (name) reverberated by the ancestral guardians connected to this sacred mountain. In English, it literally means, "Mountain of Wākea". It’s within this name that unfolds the understanding of the significance of this mountain. Wākea (Sky Father) is personified in the atmosphere and heavenly realm that envelops Papahānaumoku (Mother Earth). As such, this mountain, unlike any other in the Pacific, pierces above the clouds into the realm of Wākea. It is the tallest mountain in the world over 33,000 feet when measured from the ocean floor to its summit. This mountain is also referred to as “Mauna a Kea”, “Mauna Kea”, or just “Mauna”.

According to *'ike kupuna*, indigenous knowledge and ancestral insight, the top of Mauna a Wākea is one of the three most sacred and significant places on Hawai'i Island. It is indeed a sacred *piko*. It is difficult to explain to those who have forgotten or lack an understanding of why such a place as Mauna a Wākea is sacred. The insight and knowledge of Mauna a Wākea as being *kapu* (sacred) was known from the remote past of the ancient ones. It is for this reason that amongst the countless ancestors of Kanaka Maoli and numerous *ali'i* (chiefly) dynasties that lived in these islands, they never built any large *heiau* (temples) on the summit in this realm that is considered *kapu*. This is the reason that none of the Mauna Kea archaeological surveys have ever located a traditional man-made structure on the summit. In the times of our ancestors, prior to structures being constructed, one would consult with individuals such as *kahuna kuhikuhi pu'uone* who specialized in protocols associated with the selection of such sites. In addition, consultation and direct communication between intermediaries and those of the ancestral realm associated with those places was an essential and integral part of the process so as not to create a physical and/or spiritual disturbance, disconnection, or imbalance between man and his *akua*, and between man and his environment. We charge that this process of consultation with those recognized as the ancestral *akua*, *kupua*, and *kupuna* of Mauna a Wākea was not done by the BLNR/DLNR, UH, or any astronomy projects built on the mountain.

There are several references in reports such as the Mauna Kea CMP and 2000 Master Plan acknowledging the sacred attributes of the landscape of Mauna a Wākea. A sampling of references from these reports that substantiate the sacredness of this mountain are copied below:

The physical prominence of Mauna Kea as well as its stationing nearest to the heavens holds a spiritual significance for the Hawaiian people, a significance that can be expressed in likening the mountain to a sacred altar. (CMP, p 1-3)

For some Hawaiians, Mauna Kea is so revered that there is no desire to ascend it, no desire to trespass on what is considered sacred space. Simply viewing the tower, the mountain, from afar, both affirms its presence, and reaffirms the sense of connection with both place and personage. For this reason, many Hawaiians feel that activities on Mauna Kea that lead to visible alterations of the landscape not only have a significant effect on the mountain itself, but also have a damaging effect on everything and everyone that is physically, genealogically, spiritually, and culturally tied to Mauna Kea. (CMP, p 1-4)

The ancient saying "*Mauna Kea kuahiwi ku ha'o i ka mālie*" (Mauna Kea is the astonishing mountain that stands in the calm) (Pukui 1983: No. 2147), expresses the universal feeling experienced by all who come in contact with this special place. Standing tall over the Island of Hawai'i, Mauna Kea is home to vast physical, natural and cultural resources (Figure I-1). From early adze makers to modern day astronomers, Mauna Kea has long been a special place for work, worship, and reflection. For native Hawaiians, both ancient and modern, the feelings for Mauna Kea go beyond wonder and

astonishment, to the recognition of the mountain as a sacred domain. These profound feelings of reverence are expressed in the saying: “*O Mauna Kea ko kākou kuahiwi la ‘a*” (Mauna Kea, our sacred mountain). As with other ethnic cultures throughout the world, early Polynesians believed their highest points of land were the most sacred; and Mauna Kea having the highest mountain top in all of Pacific Polynesia, was considered the most sacred place of all. Standing tall over the island of Hawai‘i, Mauna Kea was host to early Hawai‘ian traditions which included religious practices, study of the heavens, and tool making in the Keanakāko‘i adze quarry. (2000 Master Plan, p I-1)

In an effort to erase the well-known and previously documented sacredness of Mauna Kea, UH purged all references to the sacred nature of this *piko* that’s been referenced in various accounts. In fact, the 2000 Master Plan included at least 25 references to this mountain’s sacredness. Whereas, the 2022 Master Plan reduced it to only one flawed reference as such, “*for some the mauna is sacred.*”

The greatest obstacle in the protection of sacred places is a lack of understanding of why these places are significant and so special. It has been forgotten when humans interacted with the natural forces and energies of this Earth. Those who have forgotten are products of their social, educational, and/or religious systems. From the modern mindset, most people can recognize the significance of a church building, appreciate the majestic and sacred architecture of a cathedral or synagogue, or be in awe of ancient pyramids and temple structures. However, it seems more difficult for modern minds to recognize that places in nature which bear no special markings or buildings are also considered sacred.

There are countless mountains around the world considered sacred by cultures past and present. These holy mountains are also keystones to indigenous religions that regarded these areas as the abodes of certain gods, goddesses, deities, divine beings, natural forces, and spirits. In addition, pilgrimages to sacred mountains have been taking place for thousands of years. Whether it is Mauna a Wākea, Mount Fuji in Japan, or Mount Shasta in California, their sacredness has resonated from centuries past.



Mauna a Wākea, Hawai‘i

<https://www.usgs.gov/volcanoes/mauna-kea/mauna-kea-will-erupt-again>



Mount Fuji, Japan

(http://images.pictureshunt.com/pics/m/mount_fuji_scenery-12120.jpg)



Mount Shasta, California

(<http://www.vibrakeys.com/wordpress/wp-content/uploads/2010/06/MountShasta-HolyMountain.jpg>)

Sacred mountains such as Mauna a Wākea, due to their geological composition and extreme height, are a *piko* (portal) that allows for the transference of energy from one source to another. This understanding is reflected in the traditional Hawaiian concept of the "triple *piko*" of a person. In essence, the *piko* on the summit of the mountain is comparable to the *piko* located on the tops of one's head at the fontanel. This perspective is also described in the Cultural Anchor of the CMP. [an abbreviated description is recopied below]

Mauna Kea is "*ka piko o ka moku,*" which means "Mauna Kea is the navel of the island." Understanding the word *piko* may give a deeper understanding of why Mauna Kea is the *piko*, or navel, of the island.

In terms of traditional Hawaiian anatomy, three *piko* can be found. The fontanel is the *piko* through which the spirit enters into the body. During infancy, this *piko* is sometimes "fed" to ensure that the *piko* becomes firm against spiritual vulnerability. For this reason, the head is a very sacred part of the anatomy of the Hawai'i native

The second *piko* is the navel. This *piko* is the physical reminder that we descend from a very long line of women. The care of this *piko* ensured two things: the healthy function of the child and the certification that the child is a product of a particular land base.

The final *piko* is the genitalia. The genitalia are the physical instruments that enable human life to continue. The health of all *piko* ensures that the life of the native person will rest on an axis of spirituality, genealogy and progeny.

When we understand the three *piko* of the human anatomy, we may begin to understand how they manifest in Mauna Kea. Mauna Kea as the fontanel requires a pristine environment free of any spiritual obstructions.

It is this *piko* on top of the summit where energies and life forces flow from the Creator and higher dimensions, through the realm of Wākea, and then into the Earth. Likewise, the *piko* on top of one's head where life force energies from the Creator and higher dimensions flows into one's body. On 4 March 2011, a photograph was taken from Waimea by Kehaulani Marshall showing a portal opening above the *piko* of Mauna a Wākea when such an event was occurring.

However, when the *piko* of the summit is obstructed with the physical excavation of the landscape, asphalt and cement pavement, metal posts implanted in ground, buildings, and construction, it curtails, restricts, or prevents this pure flow of energy. Thus, the development on the summit is causing adverse impacts and significant obstructions to the life force energies that flow into these islands through this *piko*.



Portal opening above the *piko* of Mauna a Wākea - Photo by Kehaulani Marshall

In addition, Mauna a Wākea anchors a very complex multi-dimensional over-fold, and does so through its very conscious geometric grid, complex frequencies, and unique electromagnetic field. The summit is also an area where vortexes of energy occur.

Vortexes are swirling eddies of electrical and magnetic energies. They are a function of the gravity and electromagnetic grids. Based upon the natural energy pattern due to the earth's

polarity, vortexes generally spin counterclockwise above the equator and clockwise below it. Vortexes distribute energy outward in what is termed electrical vortexes, and inward in what is termed magnetic vortexes. Some function as both. Mauna a Wākea is an example of an inward and outward vortex-portal complex.

However, the man-made electrical substation, power lines, and high voltage current that runs to the top of the summit for the existing telescopes is interfering and disturbing the electromagnetic fields and vortexes that naturally occur on the mountain..

Also, Mauna a Wākea resonates in harmonic oscillation with Mount Shasta in California, Mount Fuji in Japan, and other specific mountains around the world. As a result of this energetic connection between these mountains, these other areas are also impacted by what occurs on Mauna a Wākea.

VI. Adverse impacts upon ancestral *akua*, *kupua*, and *kupuna*

The actions of the BLNR/DLNR and UH to permit and advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon those *akua*, *kupua*, and *kupuna* of Mauna a Wākea.

The term “*akua*” is being used in this document in a broad cultural context to be inclusive of gods, goddesses, deities, devas, nature spirits, divine beings, and natural forces. The ancestral *akua* that were recognized by our kupuna are those primarily embodied in the natural forces of nature. Likewise, they could take multiple forms (*kinolau*) such as animals, plants, and natural elements. Some were identified with names and some were not. The use of *akua* as a common noun is distinct and different when used as “Akua” or “Ke Akua” in the proper name form which typically refers to the Creator or God. The term “*kupua*” is used in this document in reference to other entities or supernatural beings who also have the ability to assume different forms.

Individuals with a western mindset and a lack of understanding might choose to dismiss the existence of *akua* and *kupua* completely as mythological folklore. While others might choose to dismiss their existence due to personal religious persuasions and/or social upbringings. The Earth, Universe, and Cosmos is teeming with life in many variant forms, forms vastly different from our own. Yet the consciousness inside is of the same Creator, same creative divinity as our own. It is narrow minded to believe that the human physical form is the only form of life.

There are several ancestral *akua* connected to Mauna a Wākea that have been recounted by our *kupuna* in their oral traditions and subsequently articulated in literature. Some of these accounts are referenced in the document, *Mauna Kea - Ka Piko Kaulana O Ka 'Āina* (2005), prepared by Kepā and Onaona Maly of Kumu Pono Associates, LLC for the OMKM. Also, in several documents, there are various references regarding the ancestral *akua* along with their connections to the sacred landscape on the summit of this mountain as noted below:

As a result of his exhaustive studies, Kepā Maly identified many traditional cultural properties on Mauna Kea. He documented ongoing traditional cultural practices associated with several of these. It is a sacred landscape that provides a connection, genealogically, physically, and spiritually to ancestral realms. The mythical creation of Mauna Kea is part of a Hawaiian cosmology that establishes a relationship between all things animate and inanimate. (CMP, p 1-2)

Native Hawaiian traditions state that ancestral *akua* (gods, goddesses, deities) reside within the mountain summit area. These personages are embodied within the Mauna Kea landscape – they are believed to be physically manifested in earthly form as various *pu‘u* and as the waters of Waiau. Because these *akua* are connected to the Mauna Kea landscape in Hawaiian genealogies, and because elders and *akua* are revered and looked to for spiritual guidance in Hawaiian culture, Mauna Kea is considered a sacred place. (CMP p 5-3)

The origins of Maunakea and its central place in Hawaiian genealogy and cultural geography are told in *mele* (poems, chants) and *mo‘olelo* (stories, traditions). Native Hawaiian traditions state that ancestral *akua* (gods, goddesses, deities) reside within the mountain summit area. Several natural features in the summit region are named for, or associated with, Hawaiian *akua*; these associations indicate the importance of Maunakea as a sacred landscape. Each part of the mountain contributes to the integrity of the overall cultural, historical, and spiritual setting (TMT FEIS, p 3-11).

Members of the Flores-Case ‘Ohana have connected with some of the *akua*, *kupua*, and *kupuna* of Mauna a Wākea through genealogical ties as well as through customary and traditional practices. Through *‘ike kupuna*, indigenous knowledge and ancestral insight, the following information and understanding were provided about those affiliated with this sacred mountain.

(Guardian - name not disclosed at this time), a guardian force of nature from the depths of Mauna a Wākea came forth to provide the following insight. [Note: It was felt as though it was a male presence and so his gender is referenced as such. Such beings, in truth are often not of either gender, but rather espouse certain frequencial attributes that humans define as male or female.] In a ceremony conducted on the summit on 8 May 2011, the presence of this guardian was personally witnessed. He came from the very depths of the mountain, way below the crust of the ocean floor, one who carries the ancient knowledge. He stated, “I come from the depths, the ancient *pōhaku*.” He is the guardian of the bottom, deep below in the earth. He was filled

with joy that we were there to listen. However, he was also filled with sadness because the observatories on her (the mountain's) shoulders and breasts were causing such desecration. He was aware of her feelings because they are all connected. Other guardians on the mountain have been awakened and are on alert regarding proposed (TMT) development. They are all in full communication with the Creator who can see all things through Wākea.

He declared that those who are planning to cause further desecration on Mauna a Wākea are "ignorant and lost." In addition, he explicitly stated a message to them, "You are responsible for what you do not know and you will be held responsible." He also mentioned that everyone is accountable for their own actions. Furthermore, he emphasized that, "You don't know what is coming when you do this, you have been warned." He is the one who has the power to shake the earth. Such a decision is not his, but would come from the Creator if needed to restore balance on the mountain.

(Guardian – rough English translation of name, “The one who sees far into the heavens”), an ancestral guardian connected to a *pōhaku* and previously unidentified site within the vicinity of the proposed TMT site. This guardian explained the significance of many of the sites on the northern plateau as they are interconnected like a large star map. Individuals from certain family lines were guided to come up to the mountain during certain times of the year to reestablish, construct, align, activate, and/or maintain these sites. The TMT construction activities of excavating, grading, and rock-crushing in the area have already caused a great disturbance amongst these sites and guardians. This ancestral guardian also reiterated some of the significant impacts that would result from the building of this telescope and the consequences of attempting to pursue this project on this sacred landscape.

Poliahu, “*ka wahine i ke kapa hau*” (the woman in the mantle of snow), is at times referred to as an *akua wahine*. She is a part of Mauna a Wākea and creates the rain, snow, hail, and sleet on this mountain. She serves as caretaker and guardian for the mountain and grants permission to certain spirits coming to the mountain. Poliahu has two attendants assisting her, Lilinoe and Lihau. She is a part of the landscape features with a highly evolved consciousness. Both oral and written Hawaiian traditional accounts have documented her connection to Mauna a Wākea. We have been present at times when she has shared her concerns about the existing and proposed further desecration on the mountain. She has explicitly remarked that she does not want the existing and any new observatories on this sacred mountain. They are blocking the *piko* on the summit. If she is dislocated due to the new telescope, it might create new problems and affect the weather patterns on the mountain as well as other areas on the island.



Poliahu by Herb Kawainui Kane

Mo‘oinanea, *mo‘o wahine* and guardian of Lake Waiau, is at times referred to as a *kupua*. She is described in several traditional accounts and has genealogical ties to the Mauna a Wākea. Firstly, it is difficult to explain or define who Mo‘oinanea is for those who may lack an understanding. The existence of her as a *mo‘o wahine* goes beyond anyone’s personal belief, cultural attributes, or religious persuasion. We contend that just because other individuals are not able grasp this understanding, do not easily dismiss Mo‘oinanea’s existence on Mauna a Wākea. Mo‘oinanea is a revered and significant figure in both oral and written Hawaiian traditional accounts that have documented her connection to Mauna a Wākea. She is able to communicate with individuals who have the cultural sensitivity and ‘gift’ to see, hear, and interact with her.

There are numerous traditional and family accounts describing the episodes, sightings, and interactions with *mo‘o* in these islands of Hawai‘i. They are often known to reside in freshwater tributaries, ponds, coastal areas, forests, and mountain zones. Their presence is not only documented in Hawai‘i, but their existence has been documented throughout the ages and by cultures around the world. These benevolent and fully conscious beings exist, and are as much a part of our Earth as humanity. They possess supreme divine intelligence and are extremely advanced. They are protectors of humanity and of the planet and are often closely aligned to the earth’s electromagnetic and crystalline energies and fresh waters. These *mo‘o* have been on the Earth since the beginning. They are indeed physical. They exist primarily in a higher parallel dimension, but do also bodily exist in our physical world. They do reproduce, and the ones on

our planet in the present, were all spawned and birthed on the earth. Likewise, they do have physical life spans and also have their own hierarchy and distinct genealogies.



Mo'oinanea by Diana LaRose

We have been present at times when Mo'oinanea has shared her personal accounts about herself and her family as well as described the type of cultural traditions our *kupuna* of old practiced on the Mauna a Wākea including pilgrimages to the top of the mountain. In addition, she has expressed her concerns about the existing observatories and proposed further desecration on the mountain. She has shared that the existing observatories have created obstructions and hazards for those who reside on Mauna a Wākea. Likewise, the proposed new observatory will adversely impact Mo'oinanea and others who dwell on the summit. When these guardians and caretakers of the natural elements on Mauna a Wākea are negatively impacted by human's actions, it will also impact the natural elements that are integrally connected to them. Consequently, these actions will also impact us as humans as the natural elements and

environment start to shift and change. There is an imbalance and disharmony that has been created on this sacred *piko*.

Kupuna, ancestors, including *ali'i* of the past, are also on Mauna a Wākea serving in different capacities or having come to this mountain under different circumstances. Some serve as guardians of various sites and places on the mountain. Others had ventured up to this sacred mountain during various different periods of time. Members of the Flores-Case 'Ohana have encountered and engaged with these *kupuna* on several occasions through our cultural practices, ceremonies, and visits on the mountain. One such group that we had encountered had fled up towards the top of their sacred mountain at the time after western contact (circa mid-1800's) when foreign diseases and epidemics swept through the villages along the Kona coast. Many of them were being persecuted by foreigners, particularly missionaries, during this time when many were dying by the hundreds. So for those who could, they fled up to the mountain to die in the realm closer to Wākea. One *kupuna* recounted this account as she was the last one alive amongst her family and others in her group. She sang to them as they each had passed away until she was the very last one to pass. There were literally hundreds of them who had passed during these times and their remains are scattered around the mountain depending upon where they ended up.

VII. Adverse impacts upon cultural resources and historic sites

The actions of the BLNR/DLNR and UH to permit and advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon those cultural resources and historic sites connected to Kanaka Maoli and their practices.

The BLNR/DLNR and UH have failed to follow the CMP and Cultural Resources Management Plan (CRMP), a sub-plan of the CMP, which provided OMKM with the tools it needs to meet its cultural resource management responsibilities. It begins by identifying key management objectives and goals that can be used in making budget decisions, assessing staffing needs, and setting up contracts for specialized services.

Likewise, BLNR/DLNR and UH have failed to follow the major objectives of the 2000 Master Plan including, but not limited to those noted below:

- promoting a greater understanding of the rich cultural heritage of Mauna Kea;
- preserving and managing cultural resources in a sustainable manner so that future generations will be able share in and contribute to a better understanding of the historic

properties that exist in the summit region, which is of major cultural significance to Hawaiians;

- maintaining opportunities for Native Hawaiians to engage in cultural and religious practices; and
- preserving the cultural landscape for the benefit of cultural practitioners, researchers, recreationalists, and other users.

Archaeologists contracted by the UH and astronomy projects to conduct archaeological inventory surveys and reports on Mauna a Wākea have failed to consult directly with cultural practitioners. As a result, these surveys have often misidentified historic sites, misinterpreted cultural practices, distorted Kanaka Maoli knowledge, and excluded traditional cultural properties. Furthermore, these surveys and reports tend to regurgitate information in past reports that were at times incomplete or inaccurate.

In addition, the State Historic Preservation Division has historically failed to protect the cultural resources and historic sites on Mauna a Wākea and have failed to consult with cultural practitioners during their reviews of these inventory surveys and reports.

In 1997, SHPD instituted a process of recording locations termed “find spots,” which are cultural resources that are either obviously modern features or features that cannot be classified with any level of confidence as historic sites because of their uncertain age and function. This action has put the status and protection of many actual historic and cultural sites in limbo.

Also, the BLNR/DLNR has failed to complete the CMP management action **CR-2** to finalize the application of designating Mauna Kea as a Traditional Cultural Property (TCP) under the National and State Historic Registers of Historic Places. The entire mountain region of Mauna Kea from approximately the 6,000 foot elevation to the summit, including the Mauna Kea Science Reserve, was identified in the Cultural Impact Assessment [CIA] Study (1999) as a potential TCP.

VIII. Adverse impacts upon Kanaka Maoli customary and traditional practices

The actions of the BLNR/DLNR and UH to permit and advance the overdevelopment of astronomical facilities within an environmentally and culturally sensitive landscape has caused adverse impacts and irreparable harm upon those cultural sites and our traditional and customary Kanaka Maoli cultural, spiritual, and religious practices.

These practices are directly connected to the cultural sites and landscape of Mauna a Wākea which is further affirmed in the 2000 Master Plan:

All aspects of Hawaiian life were steeped in ritual. For the Hawaiian people, spiritual beliefs, cultural practices and all facets of daily life were intricately bound to the natural landscape of the islands. (p. V-2)

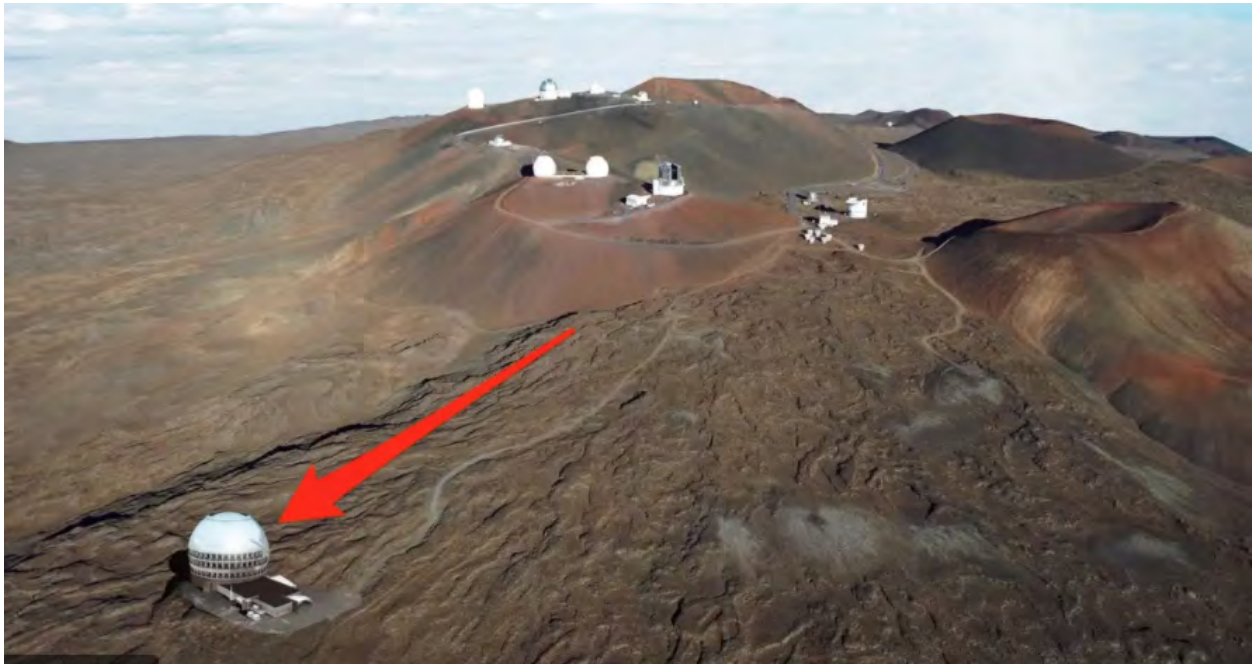
Thus, the destruction and desecration of cultural sites and the landscape, directly diminishes or extinguishes the associated practices. Cultural practitioners have been literally pushed off the summit (13,290 ft./4,050 m. elevation) of Mauna a Wākea due to the existing astronomy development. The once open space and view corridors on Kūkahau‘ula have been visually impaired by the existing telescopes and observatories. A cultural practitioner’s view planes and vantage points are blocked by several of these imposing structures. In addition, the constant noise and buzzing sounds from the electrical components of these observatories have impaired the once serene and peaceful environment.



Likewise, the proposed TMT project would forcefully push cultural practitioners even further below the 11,000 ft. elevation level on the northern plateau to find an unobstructed view and undisturbed area on this side of Mauna a Wākea as shown in the rendering below.

Furthermore, the TMT project proposes to be built in an undeveloped area amongst the hundreds of the documented and undocumented ahu (shrines) and cultural sites. The concentration and placement of these sites on this northern plateau was not randomly done by our *kupuna*. They were erected and established with specific intentions. Many of these ahu are interconnected similar to a star map. Embedded within these *ahu* and stones is *'ike kupuna* and ancestral knowledge along with ancestral guardians. As such, construction of the TMT observatory in this vicinity would sever our past, present, and future generational connections to the *'ike kupuna* and ancestral knowledge implanted at these sites. With the understanding that

many of these sites serve as depositories of ancient wisdom as well as multi-dimensional portals, the massive extent of destruction proposed in this culturally sensitive landscape would also adversely impact our Native Hawaiian customary and traditional practices that are still connected to these sites. Once this landscape is excavated by the proposed TMT construction, it can never be repaired and restored. Many of these sites are interconnected and the detrimental impact on those in the vicinity of the proposed TMT site would also negatively impact the other sites and ancestral guardians connected to them.



A rendering of TMT in its proposed location.

<https://www.businessinsider.com/thirty-meter-telescope-hawaii-protests-2015-10>

On the northern plateau, many of the sites have both visual and energetic alignments with each other as well as with other noted natural features such as the surrounding *pu‘u*. Due to the massive height and size of the TMT observatory, if built it would cause significant visual, physical, and energetic obstructions amongst these sites as well as adversely impact Kanaka Maoli in a similar way.

Other detriments to Kanaka Maoli practices on Mauna a Wākea was the extent and manner in which policies were developed by the UH to further curtail, extinguish, and criminalize such practices. These policies were developed without adequate consultation with cultural practitioners and adopted with a ‘rubber-stamped’ process for approval. Specific aspects of these policies are unjustified and are considered a grievous attack against Kanaka Maoli practices. Examples of these policies are listed below:

Policy for CR-5

The Placement and Removal of Offerings

1. Offerings shall not be placed on existing historic properties, roadways, pathways or existing structures or areas used for operations.
2. Offerings including food will be removed.
3. Any offerings that present health, safety or environmental concerns issue shall be removed.
4. All applicable Hawaii state laws and regulations shall apply.

Comments re *Policy for CR-5*: This policy that prevents the placement of offerings on “*existing historic properties*” as well as excluding food offerings contradicts fundamental customary and traditional practices of Native Hawaiians. HAR §13-276-2 defines a “**historic property**” as “*any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.*” As such, this policy prevents the placement of an offering on or at Kūkahau‘ula which is actually a historic property and also identified as a Traditional Cultural Property (SIHP No. 50-10-23- 21438) occupying an area of approximately 463 acres. The irony to this policy is that the existing telescopes were allowed to be placed on the environmentally and culturally sensitive Kūkahau‘ula, yet a cultural practitioner would be prevented from placing a *ho‘okupu* (offering) on this same Kūkahau‘ula due to this policy. Likewise, a cultural practitioner would be prevented from placing a *ho‘okupu* (offering) on any of the existing *ahu* (shrines) if they’ve been individually identified as a historic property. Moreover, the entire Mauna Kea Science Reserve is within the Mauna Kea Summit Region Historic District (SIHP No.50-10-23-26869) which was determined eligible for listing on the National Register of Historic Places. Since this historic district is also considered a “historic property”, this policy prevents the placement of an offering anywhere in the MKSR. [see Figures 2-4 and 2-6 of the Cultural Resources Management Plan, a sub-plan of the CMP]

Policy for CR-6

Visitation and use of ancient shrines for Hawaiian Cultural observances is allowed on Maunakea lands managed, on a case by case basis, by the University of Hawaii provided the use does not violate Chapter §6E of the Hawaii Revised Statutes. The Office of Maunakea Management shall be notified a week prior to any such visit. Notification can be in writing or via email. See Office of Maunakea Management website for contact information. If there is a group of more than 10 people who wish to visit an ancient

shrine they must also submit a Special Request form found on the Mauna Kea Visitor's Center website at <http://www.ifa.hawaii.edu/info/vis/visiting-maunakea/research-group-visits-and-military/group-visits.html> in addition to the notification of the Office of Mauna Kea Management.

Comments re *Policy for CR-5*: This policy unnecessarily and unjustly singles-out Native Hawaiian cultural practitioners in having to notify and justify their practices to the OMKM. What guidelines will be applied and who is qualified in the OMKM to determine “*on a case-by-case basis*” if a visitation to a cultural shrine is appropriate or not? Policy for CR-5 already prevents the placement of offerings at these shrines, this policy further curtails access to these cultural sites. Also, there isn't any justification for cultural practitioners being required to submit a Special Request form for a group of more than 10 people visiting a cultural site. In comparison, a Special Request form isn't required for a similar sized group visiting any *heiau* or other cultural shrines within the State Parks.

Policy for CR-7

Policy for erecting and maintaining new cultural features such as, for example, shrines, alters or ahu:

1. Any Native Hawaiian who would like to construct a new cultural feature shall, prior to any construction or preparation for construction, register the proposed site of the new cultural feature with the OMKM. OMKM will keep a record of the location and contact information of the responsible party. Responsible party means the person who registers the proposed site.
2. New cultural features shall be placed out of plain sight, or a minimum of 100 yards from existing roads and in designated areas to discourage copycat behavior. Plain sight includes areas close to or adjacent to roads, parking areas, driveways or within 100 yards of buildings.
3. New cultural features shall not be placed in any areas used for operations.
4. Any and all new cultural features shall not be placed in any area that would create a risk to public health, safety or the environment.
5. New cultural features shall be placed at least 200 feet from existing historic sites.

6. New cultural features shall be made of natural materials from the surrounding area, but shall not be removed from existing historical sites. Removal, disturbance or damage to historic sites is a violation of state law, HRS §6E-11.
7. New cultural features are to be maintained by the responsible party .
8. Upon observation that the structure has been disturbed or damaged, OMKM shall contact the responsible party.
9. If the new cultural feature is constructed from or includes in its composition materials that are not from the surrounding area it will be removed and the incongruous materials disposed of.
10. New cultural features that have not been registered with the OMKM prior to construction may be subject to removal.
11. All applicable Hawaii State laws and regulations shall apply.

Comments re *Policy for CR-7*: This policy basically eliminates the established customary and traditional practice of Native Hawaiians erecting an *ahu* (shrine) on Mauna a Wākea that is evidenced by the hundreds of other shrines erected on this sacred mountain by our *kupuna*. Part 2 of this policy stipulates that these “*cultural features shall be placed out of plain sight, or a minimum of 100 yards from existing roads*” and further states, “*Plain sight includes areas close to or adjacent to roads, parking areas, driveways or within 100 yards of buildings.*” The irony to this policy is that the existing telescopes were allowed to be visible from all parts of the summit (including from the other parts of the island), yet a cultural practitioner would be prevented from erecting an *ahu* anywhere visible from “*plain sight*” or “*a minimum of 100 yards from existing roads*”. Based upon these guidelines, practically the entire summit and all along the roadways would be restricted. In addition, Part 5 prevents *ahu* from being “*placed at least 200 feet from existing historic sites.*” It is very apparent that these policy stipulations were developed without consultation with cultural practitioners associated with the cultural practice of building and consecrating *ahu*. In a similar manner as done by our *kupuna*, the placement and site selection for an *ahu* is not just randomly done. They are erected and established with specific intentions and might be interconnected with existing sites regardless if they are historic or are in plain sight.

In the development of these policies, UH has misconstrued Hawaii State Constitution, Article XII, Section 7 which states: “*The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands*”

prior to 1778, subject to the right of the State to regulate such rights. [Add Const Con 1978 and election Nov 7, 1978]”

In respect to XII, Section 7, UH erroneously implied, *“While traditional and cultural rights are recognized as an important aspect of our political heritage the Hawaii State Constitution also tasks the state with the regulation of these rights.”*

Comments re this statement: Firstly, these rights are an important aspect of our **cultural heritage** vs *“our political heritage.”* The State is actually **tasked with protecting these rights** vs. *“the regulation of these rights.”*

The UH’s process for developing and approving these policies lacked any adequate consultation with Native Hawaiian stakeholders, Kanaka Maoli community, Hawaiian organizations, and cultural practitioners. Furthermore, when comments were provided at meetings, they were systematically ignored. Consequently, the manner in which these policies were developed are reflective of the adversary actions the OMKM has enacted against cultural practitioners and the failure to protect the practices and rights of Native Hawaiians.

CONCLUDING REMARKS

Members of the Flores-Case ‘Ohana have participated at all levels of the public review process pertaining to Mauna a Wākea such as attending board meetings and hearings, submitting testimony, entering into contested case hearings, and filing legal appeals. Based upon our personal experience, it’s very evident that the State (inclusive of the Governor, Attorney General Office, BLNR, DLNR, UH, BOR, OMKM, CMS, their contracted law firms, hearing officers, other agencies and individuals) have taken very adversary positions and actions against Native Hawaiian stakeholders which have resulted in detrimental impacts upon our cultural practices and traditions associated with Mauna a Wākea. Likewise, the State has systematically ignored community and Native Hawaiian concerns dating back to the 1970’s regarding the overdevelopment of the environmentally and culturally sensitive landscape of this sacred mountain.

The comments presented in this document highlight significant deficiencies and lack of accountability in this review process of the proposed Supplement. Comments put forth are specific to the items presented and were not intended as an assessment of all aspects of the proposed CMP Supplement, 2009 CMP and associated sub-plans as there was insufficient time and resources to do so.

The true aspect of stewardship entrusted to the BLNR/DLNR as well as the UH for our precious public lands in conservation districts is to ensure that these significant areas are acknowledged, preserved for present and future generations, and not systematically destroyed. In essence, the astronomy development on the summit of Mauna a Wākea has been conducted as a commercial enterprise under the guise of science, educational, and economic opportunities that has resulted in the cumulative impacts upon the natural and cultural resources as being substantial, significant, and adverse due to over 50 years of mismanagement.

Everyone is responsible and accountable for their intentions and their actions in the *wao akua*, this sacred space known to our *kupuna* as Mauna a Wākea. On this *mauna*, one must interact in a manner that is **pono**, upright in the presence of the ancestral connection that binds us through space and time to teachings, traditions and lifeways that have continued because of the *kuleana* that has been passed down from one generation to the next.

It is important to remember that many peoples, including Kanaka Maoli, have a reverential relationship with the living Earth as our 'Mother' or 'Grandmother'. The cultural perspective of *mālama ʻāina* and *aloha ʻāina*, to care for the land and nature with sincere love and respect, is at the heart of Kanaka Maoli cultural traditions. For those who are listening, what is our *ʻāina* trying to tell us during these times of change?

Kanaka Maoli and their allies throughout Hawaiʻi and the world have risen like a mighty wave and are committed to protecting their beloved Mauna a Wākea from further desecration and destruction. May the following links to documented experiences from the Ala Hulu Kupuna to the summit assist all in understanding the Kanaka Maoli's deep connection to their sacred mountain.

[*Like a Mighty Wave; Maunakea: Sacred Mountain, Sacred Conduct; We Are Mauna Kea; Sacred Mountain: Mauna Kea; Standing Above the Clouds; Mauna Kea – Temple Under Siege*](#)



Kū Kia‘i Mauna

APPENDIX A - SPECIFIC RECOMMENDATIONS

- 1) The proposed changes should be included in the Appendices instead of embedded within the narratives of the Supplement. For example, the section in 1.2 (UPDATE TO LOCATION AND DESCRIPTION OF UH MANAGEMENT AREAS) of the Supplement should be extracted and included in the Appendices as Section 3.1.1. Likewise, relevant sections and tables of chapters 3-14 of the Supplement should be renumbered and blended with some of the existing narratives in the 2009 CMP and then included in the appendices as Section 7.
- 2) Certain relevant and significant narratives of the 2009 CMP should be retained in the Supplement instead of purging this information.
- 3) CHAPTER 3 CULTURAL LANDSCAPE - this heading and all other references should be changed to **Cultural Resources**.
- 4) 3.4.1 CR-1: ENGAGE WITH CULTURAL COMMUNITY AND DEVELOP AND MAINTAIN APPROPRIATE GUIDANCE REGARDING CULTURAL ISSUES
[As previously discussed, UH has drastically failed to engage and consult with Native Hawaiian stakeholders and the broader Hawaiian community as noted in the *Independent Evaluation* prepared for DLNR in 2020. How will BLNR/DLNR ensure that this will not continue in the future?]

The following should be revised/added as underlined:

To achieve this, UH will continue to work cooperatively with KKM, families with lineal/cultural/historic connections to Mauna Kea, Native Hawaiian cultural practitioners, hunters and resource gatherers, the Office of Hawaiian Affairs (OHA), and other Native Hawaiian groups and individuals. In carrying out this work:

Maintaining a CR-1 mailing list (with a preference for email communication) that includes individuals and families that self-identify as Native Hawaiian, including those that self-identify as having lineal/cultural/historic connections to Mauna Kea and/or as cultural practitioners, hunters and resource gatherers, OHA, and other Native Hawaiian groups and individuals. The CR-1 mailing list will be updated regularly.

Conducting meaningful community engagement and timely consultation with those on the CR-1 mailing list when other stakeholders associated with Mauna Kea are engaged in the review process of existing or new policies/plans.

5) 3.4.2 CR-2: SUPPORT APPLICATION FOR DESIGNATION OF SUMMIT AS TCP
[Members of the public aren't able to comment on this section because the copy of the Supplement posted by DLNR is missing *Figure 3.1: Potential Traditional Cultural Properties in the UH Management Areas.*]

6) 3.4.5 CR-10: IMPLEMENT THE HISTORIC PROPERTY MONITORING PLAN
[UH should consult with and include input from those on the CR-1 mailing list regarding the "still-to-be-acted-upon" recommendations from the archaeological monitoring reports for the identified SIHP sites listed.]

7) CHAPTER 9 INFRASTRUCTURE AND MAINTENANCE
[IM-10 - All UH and astronomy facilities should be required to immediately start the process for removing existing cesspools and converting to zero-discharge wastewater systems instead of waiting until 2033.]

From: [Bianca Isaki](#)
To: [Ferreira, Darlene S](#)
Cc: [DLNR.BLNR.Testimony](#); [Laulani Teale](#); [Ryan Hurley](#); [Christina Lizzi](#); [Lance D. Collins, Ph.D](#)
Subject: [EXTERNAL] 03.24.2023 BLNR Agenda K1
Date: Thursday, March 23, 2023 8:39:22 AM

Aloha Darlene Ferreira,

Please convey to the Board the following in regard to Item K1:

1. Teale's practices include accessing areas of Mauna Kea and the operation and existence of Mauna Kea as a whole traditional and cultural property (TCP) in addition to practices noted in the submittal. Teale's practices are regulated, infringed upon, and prohibited under the Comprehensive Management Plan Supplement (2022 CMP).
2. The 2022 CMP and 2009 CMP can no longer claim to be merely "a tool for agency planning and management" (submittal at 2). Mauna Kea administrative rules (Hawai'i Administrative Rules (HAR) chapter 20-26) confer authority on the CMP, now including the 2022 CMP, to implement actions protective of Kānaka Maoli rights and practices, including for access to University of Hawai'i-managed lands on Mauna Kea HAR §§ 20-26-2, -3, -5, -28. The 2022 CMP has the force of law and the application of those laws impacts Teale's property rights.
3. "A contested case at this juncture would interfere with UH's ability to complete its subplans, carry on with existing management actions, and fulfill reporting requirements." Submittal at 2. The point of a contested case would be to interfere with especially the "Cultural Resource" subplans – which rollback promises of TCP nomination support – and "existing management actions", which include infringing on Kānaka Maoli practitioner access to the Mauna. Interfering with UH's business as usual, in order to improve its operations, is the point of a contested case.

Thank you.

Bianca

From: [Hula Sk&r](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Item K-1 Denial of Contested Case Request HA 23-1
Date: Thursday, March 23, 2023 4:21:24 AM

To: State of Hawai'i Board of Land and Natural Resources

Re: Agenda Item #1 of Office of Conservation and Coastal Lands

I want to say mahalo to the Board for allowing me to submit my testimony. I am troubled by the way this agenda item is presented. Why is it not stated as a "Request for Contested Case Hearing" rather than already stating a denial of the request. This rhetoric slants against the petitioner Laulani Teale.

As for the issue of the CMP Supplement I and II, such a voluminous document which was presented in such a way for the public to not only know it was presented but with only days to respond is ludicrous.

UH has repeatedly shown that they are not worthy of any management on Mauna Kea so it baffles me that they are still given access to the Mauna. The CMP is another document and proposal to deny Kanaka Maoli their religious and indigenous rights to Mauna Kea, they are the ones who should be managing Mauna Kea.

It is clear that the CMP is just another attempt to push through the Thirty Meter Telescope which goes against all uses of the conservation land the Mauna rests on.

The main point I wish to present is that Laulani Teale's request for a "Contested Case Hearing" has to be granted if the State is following its own laws.

Mahalo again for reading my testimony, I am a registered and active voter in Hawai'i.

Sincerely,

MeleLani Llanes
Makakilo, O'ahu
healthyouandplanet@gmail.com

From: [Malia Marquez](#)
To: [DLNR.BLNR.Testimony](#)
Cc: protectmaunakea@gmail.com; shelley@kahea.org
Subject: [EXTERNAL] ITEM K-1 Denial of Contested Case Request HA 23-1
Date: Wednesday, March 22, 2023 10:05:19 PM

To the BLNR,

My name is Malia Marquez and I am from Maunaloa, O'ahu. I'm emailing you because of the recently released updated "Comprehensive Management Plan" which consists of 743 pages. How can this be a fair process to the public? Who has time to read through 743 pages?

This document is VERY dangerous. It affects our cultural access rights. We oppose measures like gates, ranger patrols (especially when they have not been respectful to our cultural practices), cameras, access restrictions and forced orientation sessions that are not only insulting but harmful to kanaka 'ōiwi cultural practice.

DLNR Chair, Dawn Chang, is the primary author of the original CMP that was written in 2009 to support and facilitate TMT. There is a major conflict of interest even if she recuses herself from the decision on this item.

This document is part of UH's preparation for a new lease application. NO NEW LEASE TO UH, PERIOD.

The Staff submittal justifies the denial, in part, by saying that Kanaka have NO PROPERTY INTEREST IN KINGDOM LANDS. They are trying to extinguish our most fundamental claims which is unfair and unjust.

A Contested Case is a way to inform the Board of Land and Natural Resources of issues they may not have considered before accepting the document. Why would they not want to hear this, Placing the item on the agenda as a denial is obnoxious. The Board should hear the case for the Contested Case, and make their own decision based on that.

I feel the overall problem is that DLNR has a refined process for eroding kanaka existence while blowing off kanaka who challenge them. Please do not let this "updated" CMP slide on by (like so many things in the past).

Kanaka 'ōiwi are the beneficiaries of this 'āina. Let our voices be heard.

Mahalo for your time on this very serious matter.

Me ka ha'aha'a,

Malia Marquez

From: [Leonard Nakoa](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Mauna Kea Comprehensive Management plan
Date: Thursday, March 23, 2023 6:46:19 AM

I am in support of Laulani Teales request for a contested case for this plan.

From: [Joey](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Item K-1, Denial of Contested Case for Mauna Kea CMP Supplement.
Date: Wednesday, March 22, 2023 7:55:10 AM

To whom it may concern,

Cultural practitioners have a vital need and a right to uninterrupted access to their sacred sites. The changes proposed by CMP are very problematic including gating off areas, limiting access by private vehicle, no cultural exemption for access requirements including limiting hours of access, and justifying dismantling of ahu among others.

We Oppose denial of contested case for Mauna Kea CMP Supplement and demand that this case be given a full and fair hearing and that the considerations for cultural practitioners be honored and respected as is our right.

Mahalo nui loa,
Joseph Marquis Kekoa Silva
Charlene Kiana Rowley
Sway Kailewahonuikamalie Celeste Silva
Aisis Kahokukeaokawaiola Silva

From: [Melissa Tomlinson](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Agenda Item K.1
Date: Thursday, March 23, 2023 6:38:41 AM

Good morning,

I am writing in support of Anake Laulani Teale's request for a contested case. I realize this may have been required to be in by yesterday for today's meeting, but I just found out minutes ago.

I previously called in to attempt to give testimony about the management plan in 2022. I live in CA and the first time joining online I was unaware there was about a three minute delay in the feed. When it came to be announced public comment would close if there was no more testimony when I called the phone line was already unavailable. The second time I joined Tara Rojas live feed she was recording, which confirmed the delay, to ensure I could call in at the right time. I cannot tie up multiple devices. This was the time I called and was completely ignored, but because I was on the live with Tara she knew and it was caught "red handed" so to speak. On the same feed was a Kānaka who emailed to testify and their call was also being ignored. I was enraged with good reason and only wish I could have communicated that rage more effectively. I have a lot to say regarding the BLNR's decision to approve the 2022 Mauna Kea Management Plan and how Laulani's contested case should have been supported then. Please support her now, it is necessary to create a path where the voices of Kānaka Maoli are being not just heard and considered, but respected. She is doing what is necessary to protect Mauna Kea and her resistance and guidance should be enough to give support. The BLNR insistence on uplifting the University is misguided and violent. 38 kūpuna wrongfully arrested in front of the world should be enraging to the DLNR and BLNR, it definitely is embarrassing and disturbing the involvement of your department on the matter.

Unless you want a repeat or worse and even uglier violence from police a top Mauna Kea, support Laulani Teale's contested case. TMT will not be built, period. There are too many people willing to die rather than see another telescope built on the Mauna and 2019 should have shown all of you that. Again please support Anake Laulani Teale's request for contested case for the Mauna Kea Comprehensive Management Plan 2022 Supplement.

Sincerely,

Melissa Tomlinson
3160 Old Tunnel Rd. #B
Lafayette, CA 94549
(925) 917-1472
mel_tomlinson@ymail.com

From: [Krista Vessell](#)
To: [DLNR.BLNR.Testimony](#)
Cc: shelley@kahea.org; protectmaunakea@gmail.com
Subject: [EXTERNAL] Testimony in opposition to UH Management Area control
Date: Wednesday, March 22, 2023 7:05:59 AM

My name is Krista Vessell, and as a resident of Oahu, I am submitting testimony in opposition to the proposed "control measures" to UH management area of Mauna Kea because, as proposed, they illegally limit cultural practitioner's access to this sacred site. Hawaiian practitioners are protected by law to have free accessibility to their cultural sites. Don't forget this.

Krista Vessell