

RESOLUTION**23-01****To Further Act on Items Relating to Maunakea
Management and Repeal of Regents Resolutions 19-03 and
21-02**

WHEREAS, the Board of Regents (“**Board**”) believes and acknowledges that Maunakea holds a special and important place in the history, culture, and hearts of the peoples of Native Hawaiian ancestry and all of Hawaii;

WHEREAS, Maunakea has become a symbol of Native Hawaiian self-determination;

WHEREAS, the Board, in response to past criticisms, has clarified its roles, duties, and responsibilities beginning with the adoption of the following: (a) *Mauna Kea Science Reserve Master Plan* (2000), updated by *Master Plan for the University of Hawai‘i Maunakea Lands: E Ō I Nā Leo (Listen to the Voices)* (2022); (b) *Mauna Kea Comprehensive Management Plan UH Management Areas* (2009), updated by *Comprehensive Management Plan 2022 Supplement: Management Actions Update* (2022); (c) *A Cultural Resources Management Plan for the University of Hawai‘i Management Areas on Mauna Kea* (2009); (d) *Natural Resources Management Plan for the UH Management Areas on Mauna Kea* (2009); (e) *Public Access Plan for the UH Management areas on Mauna Kea* (2010); and (f) *Decommissioning Plan for the Mauna Kea Observatories* (2010) (collectively, “**Management Plans**”);

WHEREAS, under said Management Plans, the Board was principally responsible to fulfill and to carry out all of the recommendations, obligations, and duties promulgated under said Management Plans;

WHEREAS, Act 255 Session Laws of Hawai‘i 2022 (“**Act 255**”), codified in part under Haw. Rev. Stats chapter 195H, establishes the Mauna Kea stewardship and oversight authority (“**MKSOA**”), with broad powers to oversee stewardship of Maunakea after a five-year transition period beginning July 1, 2023, during which the MKSOA shall jointly manage Maunakea lands with the University;

WHEREAS, Act 255 requires the transfer of real property agreements and permits related to astronomy facilities and support services on Maunakea, granted to the University by the Board of Land and Natural Resources (collectively, “**UH Entitlements**”), to the MKSOA on or before July 1, 2028;

WHEREAS, the Board takes its responsibility seriously and hereby reaffirms its commitment to follow through with the recommendations made in the Management Plans and UH Entitlements to better manage the impacts of the astronomy facilities and operations upon the natural environment, cultural resources, recreational resources, educational resources, and upon the broader community, until July 1, 2028, or earlier time as UH Entitlements are transferred to the MKSOA;

WHEREAS, the Board also realizes that the enactment of Act 255 has thrown into question, during the five-year transition period, the Management Plans, the UH Entitlements, and the authority of the University to pursue or comply with obligations set forth therein, including the pursuit of a new teaching telescope at Hale Pōhaku; and

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WHEREAS, because of the uncertainty created by Act 255, Resolutions 19-03 and 21-02 no longer provide clear guidance, and the University still needs to continue to perform all of its stewardship responsibilities notwithstanding the questions surrounding the MKSOA and how it will “jointly manage” Maunakea lands with the University.

NOW, THEREFORE, BE IT RESOLVED that Regents Resolutions 19-03 and 21-02 are hereby repealed.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the University of Hawai‘i President David Lassner, University of Hawai‘i at Hilo Chancellor Bonnie Irwin, University of Hawai‘i Vice President for Research and Innovation Vassilis Syrmos, Maunakea Support Services, Institute for Astronomy, Center for Maunakea Stewardship (“**CMS**”), and any other necessary, related management or operation entity be directed to cause the following action items to be accomplished in the timeframes as specified herein below:

1. Provide progress updates to the Board every six months regarding progress made toward the accomplishment of action items set forth in this Board Resolution.
2. Two (2) observatory sites known as the Caltech Submillimeter Observatory (“**CSO**”) and Hōku Ke‘a Observatory (“**HKO**”) shall be decommissioned, assuming no permitting, weather, and access issues the target date for CSO and HKO decommissioning is no later than August 31, 2024. For purposes of this resolution, the term “decommissioning” shall mean the complete removal of all man-made structures at each respective site bringing each site as close as feasible to its natural state prior to construction.
3. To ensure the prompt availability of a teaching telescope for the University of Hawai‘i at Hilo Physics and Astronomy Program, a new educational telescope facility shall be established on already developed land at Hale Pōhaku, in coordination with MKSOA and the Department of Land and Natural Resources (“**DLNR**”) as contemplated in this resolution. The Board shall support the funding of the planning, design, and construction of the new educational facility.
4. In collaboration with CMS, the ‘Imiloa Astronomy Center shall continue to develop and implement educational programs regarding Maunakea, including but not limited to Native Hawaiian culture, history, environmental, and biological considerations designed for tour guides and drivers, employees, contractors, recreational users, scientists and observatory workers, and visitors, as required by the Management Plans, in coordination with MKSOA and DLNR as contemplated in this resolution.
5. In coordination with MKSOA, the Maunakea Observatories, and DLNR, on or by December 30, 2025, a determination will be made on the decommissioning of up to three (3) additional observatory sites based upon compliance with existing or future permits or governmental approvals. If decommissioning is still required, the three (3) observatory sites will be identified and reported to the Board by January 2026.
6. In implementing its obligations under the Management Plans and UH Entitlements to the extent still allowable under Act 255, the University will seek the MKSOA’s input; provided that, the University will make final decisions on such matters until such time as the UH Entitlements are transferred and assigned to the MKSOA on or before July 1, 2028, whichever occurs sooner.

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7. Enter into an agreement with MKSOA, such as a memorandum of understanding, which outlines how the University and MKSOA will jointly manage during the transition by agreeing to general parameters that set forth clear expectations for the University and MKSOA. The agreement should address, among other things (a) when and how the University should seek MKSOA’s input as it relates to the University’s obligations to implement and enforce Haw. Admin. Rules chapter 20-26, (b) how the University and MKSOA will cooperatively implement the terms and conditions of the UH Entitlements, and (c) operationalize the terms “jointly manage” and “day-to-day operations” as those terms are used in Act 255. Failure to enter into such agreement shall not prevent the University from meeting its obligations, for example, under UH Entitlements or other existing legal obligations.

Adopted by the Board of Regents
University of Hawai‘i
July __, 2023

DRAFT

University of Hawai‘i Board of Regents
R E S O L U T I O N

19-03

To Act on Items Relating to Maunakea Management

WHEREAS, the Board of Regents believes and acknowledges that Maunakea holds a special and important place in the history, culture, and hearts of the peoples of Native Hawaiian ancestry and all of Hawaii; and

WHEREAS, Maunakea has become a symbol of Native Hawaiian self-determination; and

WHEREAS, the Board of Regents recognizes that the University of Hawai‘i (“University”) has been criticized for past and present management of Maunakea; and

WHEREAS, the Board of Regents realizes that any mismanagement of Maunakea is hurtful and disrespectful to the sanctity and inviolability of this place to Native Hawaiians and others; and

WHEREAS, the Board of Regents in response to past criticisms, has clarified its roles, duties, and responsibilities beginning with the adoption of the Mauna Kea Science Reserve Master Plan (2000), Mauna Kea Comprehensive Management Plan UH Management Areas (2009), A Cultural Resources Management Plan for the University of Hawai‘i Management Areas on Mauna Kea (2009), Natural Resources Management Plan for the UH Management Areas on Mauna Kea (2009), Public Access Plan for the UH Management areas on Mauna Kea (2010), and Decommissioning Plan for the Mauna Kea Observatories (2010) (collectively hereinafter referred to as “Management Plans”); and

WHEREAS, under said Management Plans, the Board of Regents was principally responsible to fulfill and to carry out all of the recommendations, obligations, and duties promulgated under said Management Plans; and

WHEREAS, the Board of Regents takes its responsibility seriously and hereby affirms its commitment to follow through with the recommendations made in the Management Plans to better manage the impacts of the astronomy facilities and operations upon the natural environment, cultural resources, recreational resources, educational resources, and upon the broader community; and

WHEREAS, the Board of Regents has determined that there remain unmet responsibilities and ongoing compliance issues that have delayed completion of certain recommendations and requirements under the Management Plans; and

WHEREAS, THE Board of Regents therefore desires to remove any delays in compliance and to complete ongoing responsibilities in an accelerated and expeditious manner.

NOW, THEREFORE, BE IT RESOLVED that University of Hawai‘i President David Lassner, University of Hawai‘i at Hilo Chancellor Bonnie Irwin, University of Hawai‘i Vice President for Research and Innovation Vassilis Syrmos, Maunakea Support Services (MKSS), Institute for Astronomy (IfA), Office of Maunakea Management (OMKM), and any other necessary, related management or operation entity be directed to cause the following action items to be accomplished in the timeframes as specified herein below:

1. Two (2) observatory sites known as the Caltech Submillimeter Observatory and Hokukea site shall be decommissioned no later than December 31, 2021. For purposes of this resolution, the

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term “decommissioning” shall mean the complete removal of all man-made structures at each respective site bringing each site to as close as feasible to its natural state prior to construction. These will be the first two of five observatories to be decommissioned.

2. A schedule of decommissioning of these two sites will be laid out on a Gantt chart or other similar visual schedule for each of the above sites indicating function and timeframe for each major step in the decommissioning process to achieve completion on or by December 31, 2021. The schedule for decommissioning shall be presented to the Board of Regents on or before its February 2020 meeting.
3. A new educational telescope facility for the University of Hawai‘i at Hilo shall be established on already developed land at Hale Pohaku or elsewhere, as soon as can be permitted, with a target date no later than December 31, 2021, to ensure the prompt availability of a teaching telescope. The Board of Regents shall support the funding of the planning, design, and construction of the new educational facility.
4. On or by December 30, 2025, a determination will be made on the decommissioning of three (3) additional observatory sites based upon compliance with existing or future permits or governmental approvals. If decommissioning is required, the three (3) observatory sites will be identified and reported to the Board of Regents by January 2026.
5. In collaboration with OMKM and MKSS, the ‘Imiloa Astronomy Center shall develop a suite of educational programs regarding Maunakea including but not limited to Native Hawaiian culture, history, environmental, and biological considerations designed for tour guides and drivers, employees, contractors, recreational users, scientists and observatory workers, and visitors, as required by the Management Plans, by August 31, 2020. OMKM shall report to the Board of Regents on its plans and progress to implement said educational programs at its February 2020 meeting. Administration shall make a budget request during the 2020 legislative session to fund this action item.
6. Administration shall make a CIP request during the 2020 legislative session for monies to plan, design, and construct an educational center at Hale Pohaku and/or another appropriate site on Maunakea that will educate visitors on cultural, environmental, and astronomy related topics relating to Maunakea.
7. The Maunakea Master Plan update will accommodate uses by Native Hawaiian cultural practitioners.
8. Following consultation with the Maunakea Management Board, Kahu Kū Mauna, ‘Imiloa Astronomy Center, existing Maunakea Observatories, and other community stakeholders, a reorganization and restructuring plan shall be presented to the Board of Regents as to all advisory, operating, and funding bodies involved in the management of Maunakea by April 2020. The purpose of the plan is to improve operations and management and make it more efficient, effective, and transparent. The analysis will include consultation with the Maunakea Management Board, Kahu Kū Mauna, and appropriate members of the Hawaii Island community. The reorganization and restructuring plan shall be embodied into a governance document that is approved by the Board of Regents.

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9. As part of the reorganization and restructuring plan, an in-depth analysis will be done to determine whether the management of the Maunakea Science Reserve would be better served if transferred to a governmental authority or other third party entity, or through alternate management mechanisms (e.g., conservation easement agreement, etc.). The analysis will include consultation with the Maunakea Management Board, Kahu Kū Mauna, and appropriate members of the Hawaii Island community. The results of this analysis, including input from the Maunakea Management Board, Kahu Kū Mauna, ‘Imiloa Astronomy Center, existing Maunakea Observatories, and other community stakeholders, will be presented to the Board of Regents by April 2020.
10. The University will cooperate with the Department of Hawaiian Home Lands (DHHL) to resolve any outstanding issues relating to the roadway infrastructure on Maunakea and will seek opportunities to assist DHHL in its efforts to fulfill its trust duties and responsibilities on the use of its Maunakea lands.
11. As permitted by law, the University should pursue a partnership with an appropriate agency or organization whose primary beneficiary is the Native Hawaiian community, to operate commercial shuttles and tours on Maunakea.

Adopted by the Board of Regents
University of Hawai‘i
November 6, 2019

University of Hawai'i Board of Regents
R E S O L U T I O N

21-02

To Further Act on Items Relating to Maunakea Management and Amend Board of Regents Resolution 19-03

WHEREAS, at a special meeting on November 6, 2019, the Board of Regents (“Board”) adopted Resolution 19-03, *To Act on Items Relating to Maunakea Management*, which directed University Administration to accomplish certain actions with specified timeframes, including the decommissioning of five (5) observatories; engaging in community outreach; developing historical, environmental, and cultural education programs; incorporating uses by Native Hawaiian cultural practitioners within the Maunakea Master Plan update; working with the Department of Hawaiian Home Lands to improve infrastructure and access to Maunakea; and improving the University of Hawaii’s (“University”) management function, structure, and operations;

WHEREAS, the Board appointed a permitted interaction group to review and investigate proposed changes to the Maunakea Master Plan and Comprehensive Management Plan (collectively, “Plans”), to follow up on the requested actions in Board Resolution 19-03 and identify any other critical issues pertaining to the Plans, and make related findings and recommendations to the Board;

WHEREAS, the Board concurs with the findings and recommendations of the permitted interaction group, and formally expresses and reiterates the University’s commitment to accelerated efforts to strengthen its cultural stewardship of Maunakea, to astronomy as a cornerstone of excellence for the University and a significant contributor to the island and state economies and workforce, to maintaining high quality environmental stewardship of Maunakea, and to advocate for a management structure that is inclusive, efficient, and protective of all resources on Maunakea; and

WHEREAS, the Board recognizes that the University’s proper stewardship of Maunakea is a long-term, complex, and challenging process, having its own timeframe, due in part, to anticipated and unanticipated factors outside of the University’s control; and

WHEREAS, the Board remains firmly committed to accomplish the completion of all outstanding actions set forth in Board Resolution 19-03 at the earliest possible date.

NOW, THEREFORE, BE IT RESOLVED that Administration be directed to take the following actions:

1. Provide progress updates to the Board every six months regarding:
 - a. Progress made towards accomplishment of action items set forth in Board Resolution 19-03
 - b. The restructuring plan adopted by the Board in August 2020
2. At a future 2021 Board meeting, provide a comprehensive presentation on astronomy in the State as well as on Maunakea, and related academic programs, to be followed by a Board discussion on the role of the University in astronomy in Hawaii and the world.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the timelines for action specified in Board Resolution 19-03 are amended as follows:

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1. Two (2) observatory sites known as the Caltech Submillimeter Observatory (CSO) and Hōku Ke‘a Observatory (HKO) shall be decommissioned; assuming no permitting, weather, and access issues the target date for CSO decommissioning is no later than April 30, 2023, and HKO no later than August 31, 2024. For purposes of this resolution, the term “decommissioning” shall mean the complete removal of all man-made structures at each respective site bringing each site to as close as feasible to its natural state prior to construction.
2. To ensure the prompt availability of a teaching telescope for the University of Hawai‘i at Hilo Physics and Astronomy Program, a new educational telescope facility shall be established on already developed land at Hale Pōhaku or elsewhere with a target date for permitting, assuming no legal issues, no later than May 30, 2024, and the project being awarded for construction, subject to funding, no later than November 30, 2024. The Board of Regents shall support the funding of the planning, design, and construction of the new educational facility.
3. In collaboration with the Center for Maunakea Stewardship, the ‘Imiloa Astronomy Center shall develop and implement a suite of educational programs regarding Maunakea including but not limited to Native Hawaiian culture, history, environmental, and biological considerations designed for tour guides and drivers, employees, contractors, recreational users, scientists and observatory workers, and visitors, as required by the Management Plans, by September 30, 2021, with implementation targeted to commence no later than December 31, 2021.

Adopted by the Board of Regents
University of Hawai‘i
May 20, 2021