

# MAUNA KEA COMPREHENSIVE MANAGEMENT PLAN S T A T U S   U P D A T E



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### *What is the current status of the CMP?*

The Mauna Kea Comprehensive Management Plan (CMP) for the University of Hawai'i leased lands (UH Management Areas) has been completed and is available for community review and comment. The early publication of the document will enable interested members of the community, including the Board of Land and Natural Resources (Land Board), to submit comments for consideration before the CMP is submitted to the Land Board for approval on April 9, 2009.

### *Where can we review the CMP?*

The entire document, including appendices, can be found online at [www.maunakeacmp.com](http://www.maunakeacmp.com). Those who would like to view a printed copy can find one at all public libraries on the island of Hawai'i and the State Library in Honolulu, UH Hilo Library, Hamilton Library at UH Manoa, and the Legislative Reference Bureau Library, as

well as OHA and DLNR. To get a copy on CD, please email [comments@maunakeacmp.com](mailto:comments@maunakeacmp.com) or call (808) 539-3580 and it will be mailed to you.

### *What is the schedule for review and comment?*

The Mauna Kea CMP will be available for comments up until the Land Board meeting in April, although early receipt of the comments will allow inclusion of those comments in the presentation to the Land Board. The Mauna Kea Management Board will hear comments on the CMP at its March 20 meeting in Hilo. The Land Board will receive oral and written comments and hold decision making on the CMP on April 9 in Hilo.

# WHAT ARE THE KEY POINTS OF THE CMP?

## **Cultural Foundation**

Mauna Kea is a culturally significant site. Thus, the CMP starts with the premise that if a person is culturally oriented about the value and vulnerability of the cultural and natural resources on Mauna Kea, they will be better stewards of Mauna Kea. The CMP begins with a “Cultural Anchor” prepared by The Edith Kanaka’ole Foundation to establish the cultural framework of the Mauna Kea CMP. Chapter 1 provides a more in-depth cultural orientation on the traditional historical and contemporary cultural significance of Mauna Kea.

## **Community Involvement**

Besides the cultural orientation, this CMP differs from previous management plans in that the process used to develop it aggressively and extensively engaged the community throughout its production. It was clear from the initial meeting in Hilo that the thoughts and perspectives of the Big Island community would be an important component in the development of the CMP. Those drafting the plan understood they needed to first listen in a thoughtful and respectful manner to those concerned about protecting the mountain.

Chapter 4 describes the extensive community outreach process that involved asking permission, listening, and then developing a plan that was respectful of what we heard. We met with over 150 individuals and groups in small talk story sessions, held two rounds of

public meetings in Kona, Waimea and Hilo, conducted a statewide survey, and established a website ([www.maunakea.cmp.com](http://www.maunakea.cmp.com)) where the community could come for information and to provide comments. The results of our community involvement are included in Appendix A of the CMP.

## **Preserve and Protect Resources by Managing Current and Future Uses**

The CMP is intended to provide a management guide for multiple activities and uses, both existing and future, within the UH Management Areas in order to protect and preserve Mauna Kea’s cultural and natural resources. The CMP encourages those utilizing the proposed management strategies to implement them proactively as a precaution. It would be imprudent to delay further and put the cultural and environmental resources at risk, while waiting for additional data or information to be gathered.

The Hawai’i Supreme Court in its decision in Ka Pa’akai provides government agencies, including the Land Board and the University of Hawai’i, an analytical framework to ensure the protection and preservation of valued cultural, historical and natural resources. The CMP identifies the valued cultural, historical and natural resources, including traditional and customary practices exercised within the UH Management Areas. The CMP also describes the threats or impacts to these valued



resources by uses and activities within the UH Management Areas.

The third step of the Ka Pa’akai analysis is the “feasible actions” or in this case the management actions to be taken by the stewards of the land to reasonably protect these valued resources. Management actions being considered have been grouped into a series of specific actions. The management actions consistently recommend an approach that emphasizes education and orientation as cost-effective tools. Other approaches include information gathering and management measures, as well as regulations and enforcement. Section 7 describes in detail the specific management measures for the multiple uses and activities on Mauna Kea.

## **The CMP Does Not Advocate Telescope Construction or Any Development**

The CMP does not advocate or promote new telescope development. Nonetheless, it is not only appropriate but necessary to proactively address issues related to new land uses or activities and their potential impacts on the resources. Future land use is not only confined to telescope development but could include roadway upgrades, improvements to Hale Pohaku, or a cultural facility such as a hale for Hawaiian navigation or astronomy (See section 7.3.4 of the CMP).

The plan’s purpose is to provide management tools to evaluate any and all future development being considered. The role of the CMP in considering future land use is to guide the evaluation of proposed projects from the standpoint of potential impacts to cultural and natural resources and to provide management

recommendations that can be adopted by the Board of Land and Natural Resources as special conditions in any conservation district use permits that it may issue.

## **Administrative Rule-Making Authority Needed**

The State Auditor’s 2005 Report strongly recommended that the University of Hawai’i obtain administrative rule-making authority and develop, implement, and monitor a comprehensive management plan and authorize the Office of Mauna Kea Management to protect cultural and natural resources.

Currently, if a ranger from the Office of Mauna Kea Management sees a visitor engaging in behavior that threatens the cultural or natural resources of Mauna Kea there is nothing he or she can do to require the individual to comply with the type of appropriate and culturally respectful behavior intended to protect and preserve

Mauna Kea’s resources.

Accordingly, legislation has been introduced in the 2009 Hawai’i State Legislative Session to authorize the University of Hawai’i to adopt administrative rules to manage Mauna Kea. Obtaining rule-making authority is consistent with the CMP and in accordance with the Auditor’s recommendation. The legislation would not allow the University of Hawai’i to authorize development of additional astronomy facilities on the summit, and such development would remain subject to the Land Board’s conservation district use permitting requirements.

# LEGISLATIVE BILLS SB NO. 502 & HB NO. 1174

## ***Senate Bill No. 502 and House Bill No. 1174***

These bills would provide the University of Hawai‘i the means to enforce rules and regulations on lands it leases and controls on Mauna Kea and over which it has authority. By granting the University administrative rule-making authority governing activities and uses on the Mauna Kea lands, this legislation will

provide effective protection of cultural and natural resources from certain public activities and help ensure public health and safety. Administrative rules currently in effect for the surrounding forest reserve and natural area reserve lands managed by the Department of Land and Natural Resources do not apply to the Mauna Kea Science Reserve; there are currently no administrative rules unique to the Mauna Kea Science Reserve and protection of resources within the Reserve.

## ***What the Bills Do And Don't Do***

**Does the legislation (SB 502 HB 1174 ) seek to transfer ceded lands out of the public land trust?**

No. The legislative bills only seek to authorize the University of Hawai‘i to adopt administrative rules, pursuant to public input, to manage the Mauna Kea Science Reserve and to establish the Mauna Kea lands management special fund for the University to manage Mauna Kea. The bills also require the University to provide annual reports to the legislature.

**Is the DLNR lease of the University of Hawai‘i Science Reserve contrary to the decision in the case of OHA v. HCDCH and a removal of ceded lands out of the public trust?**

No. The legislative bills do not transfer ceded lands in violation of the Hawai‘i Supreme Court’s decision in OHA v. HCDCH. The

lease of state land is not an alienation of ceded lands out of the public trust. In fact, the leased ceded lands remain in the public trust and subject to any future potential claims by Native Hawaiians or a federally recognized Native Hawaiian sovereign entity.

**Isn't DLNR supposed to make UH pay fair market rent?**

This legislation is not about lease rent between the University of Hawai‘i and the Land Board for Mauna Kea. Nonetheless, pursuant to state law, Hawai‘i Revised Statutes § 171-95, the Land Board is authorized to lease public lands to government agencies without public auction, not in excess of 65 years, at such rental and on such other terms and conditions as the Board may determine.

**By not charging more for rent doesn't this legislation "rob the people of Hawai'i"?**

This legislation is not about lease rent between the University of Hawai‘i and the Land Board. While some may claim that the use of the state public lands for nominal consideration (\$1 a year) by the University of Hawai‘i for astronomical purposes is neither in the public interest nor a public benefit, that determination is within the sound discretion of the Land Board. Although the lease rent between the University and the State is nominal, the University does provide approximately \$2 million in tuition waivers for native Hawaiian students to attend the University of Hawai‘i at Manoa and at Hilo campuses. Furthermore, the observatories pay for the maintenance of the public roadway to Mauna Kea, the upkeep of the Visitors Center and Hale Pohaku.

**Does the University's use of the land desecrate and destroy Mauna Kea?**

While there may be dispute as to whether the telescope activities have desecrated and destroyed Mauna Kea, the primary goal of the CMP is to preserve and protect the cultural and natural resources of Mauna Kea. The CMP is designed to manage existing and potential future multiple activities and uses on Mauna Kea.

It's important to remember that bills will allow the Rangers from the Office of Mauna Kea Management to enforce the rules that protect the environmental and cultural resources of Mauna Kea. Currently, they

cannot even require visitors to pick up trash and refrain from other behavior that is disrespectful, damaging and inappropriate.

**Does this legislation allow the University to limit public access?**

On the contrary, the CMP proposes to preserve and protect valued cultural, historical and natural resources, including traditional and customary practices as required under the Hawai‘i State Constitution. There is nothing in the CMP that seeks to restrict public access, but rather the plan identifies a need to manage access and educate visitors on inappropriate behavior and activities that are culturally and environmentally detrimental. The CMP does not include a provision to charge fees to access Mauna Kea.

The CMP does not “dictate whether and how Hawaiians worship on the summit.” In fact, the CMP recognizes the rights of native Hawaiians to continue to access Mauna Kea to worship and engage in their constitutionally protected rights.

**Does the CMP on which these bills are based advocate future telescope development?**

The CMP does not promote or advocate future telescope development but it recognizes “it is not only appropriate but necessary to proactively address issues related to new land uses or activities and their potential impacts on the resources.”

**What is the status of the appeal of Judge Hara's decision?**

Since the filing of the appeal, the University of Hawai‘i has withdrawn its appeal of Judge Hara’s decision because it has decided to prepare the CMP. On the other hand, the Plaintiffs are continuing to appeal the denial of Judge Hara’s decision to grant them attorneys fees.

### **What Can You Do?**

If you want to state your views on the issues discussed here, as they relate to the CMP, please visit the Mauna Kea CMP website: [www.maunakeacmp.com](http://www.maunakeacmp.com) and click on the blue button on the left side of the home page that says, “Tell Us What You Think.”

## Summary of CMP Management Actions

### Native Hawaiian Cultural Resources

<b>General Management</b>
Kahu Kū Mauna shall work with families with lineal and historical connections to Mauna Kea, cultural practitioners, and other Native Hawaiian groups, including the Mauna Kea Management Board's Hawaiian Culture Committee, toward the development of appropriate procedures and protocols regarding cultural issues.
Support application for designation of the summit region of Mauna Kea as a Traditional Cultural Property, per the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq. in consultation with the larger community.
Conduct educational efforts to generate public awareness about the importance of preserving the cultural landscape.
<b>Cultural Practices</b>
Establish a process for ongoing collection of information on traditional, contemporary, and customary cultural practices.
Develop and adopt guidelines for the culturally appropriate placement and removal of offerings
Develop and adopt guidelines for the visitation and use of ancient shrines.
Kahu Kū Mauna shall take the lead in determining the appropriateness of constructing new Hawaiian cultural features.
Develop and adopt a management policy for the UH Management Areas on the scattering of cremated human remains.
A management policy for the cultural appropriateness of building ahu or "stacking of rocks" will need to be developed by Kahu Kū Mauna who may consider similar policies adopted by Hawai'i Volcanoes National Park.
<b>Historic Properties</b>
Develop and implement a historic property monitoring program to systematically monitor the condition of the historic district and all historic properties, including cultural sites and burials.
Complete an archaeological survey of the portions of the Summit Access Road corridor that are under UH management.
Consult with Kahu Kū Mauna about establishing buffers (preservation zones) around known historic sites in the Astronomy Precinct, to protect them from potential future development.
Develop and implement a burial treatment plan for the UH Management Areas in consultation with Kahu Kū Mauna Council, MKMB's Hawaiian Culture Committee, the Hawai'i Island Burial Council, recognized lineal or cultural descendants, and SHPD.
Immediately report any disturbance of a shrine or burial site to the rangers, DOCARE, Kahu Kū Mauna Council, and SHPD.

### Natural Resources

<b>Threat Prevention and Control</b>
Limit threats to natural resources through management of permitted activities and uses.
Limit damage caused by invasive species through creation of an invasive species prevention and control program.
Maintain native plant and animal populations and biological diversity.
Minimize barriers to species migration, to help maintain populations and protect ecosystem processes and development.
Manage ecosystems to allow for response to climate change.
Reduce threats to natural resources by educating stakeholders and the public about Mauna Kea's unique natural resources.
<b>Ecosystem Protection, Enhancement, and Restoration</b>
Delineate areas of high native diversity, unique communities, or unique geological features within the Astronomy Precinct and at Hale Pōhaku and consider protection from development.
Consider fencing areas of high native biodiversity or populations of endangered species to keep out feral ungulates (applies to areas below 12,800 ft elevation).
Increase native plant density and diversity through an outplanting program.
Incorporate mitigation plans into project planning and conduct mitigation following new development.
Conduct habitat rehabilitation projects following unplanned disturbances.

Create restoration plans and conduct habitat restoration activities, as needed.
<b>Program Management</b>
Increase communication, networking, and collaborative opportunities, to support management and protection of natural resources.
Use the principles of adaptive management when developing programs and methodologies. Review programs annually and revise any component plans every five years, based on the results of the program review.
<b>Inventory, Monitoring and Research</b>
Conduct baseline inventories of high-priority resources, as outlined in an inventory, monitoring, and research plan.
Conduct regular long-term monitoring, as outlined in an inventory, monitoring, and research plan.
Conduct research to fill knowledge gaps that cannot be addressed through inventory and monitoring.
Develop geo-spatial database of all known natural resources and their locations in the UH Management Areas that can serve as baseline documentation against change and provide information essential for decision-making.

### Education and Outreach

Develop and implement education and outreach program.
Require orientation of users, with periodic updates and a certificate of completion, including but not limited to visitors, employees, observatory staff, contractors, and commercial and recreational users.
Continue to develop, update, and distribute materials explaining important aspects of Mauna Kea.
Develop and implement a signage plan to improve signage throughout the UH Management Areas (interpretive, safety, rules and regulations).
Develop interpretive features such as self-guided cultural walks and volunteer-maintained native plant gardens.
Engage in outreach and partnerships with schools, by collaborating with local experts, teachers, and university researchers, and by working with the 'Imiloa Astronomy Center of Hawai'i.
Continue and increase opportunities for community members to provide input to cultural and natural resources management activities on Mauna Kea, to ensure systematic input regarding planning, management, and operational decisions that affect natural resources, sacred materials or places, or other ethnographic resources with which they are associated.
Provide opportunities for community members to participate in stewardship activities.

### Protection of Astronomical Resources

Operate the UH Management Areas to prohibit activities resulting in negative impacts to astronomical resources.
Prevent light pollution, radio frequency interference (RFI) and dust.

### Activities and Uses

<b>General Management</b>
Continue and update managed access policy of 1995 Management Plan.
Develop parking and visitor traffic plan.
Maintain a presence of interpretive and enforcement personnel on the mountain at all times to educate users, deter violations, and encourage adherence to restrictions.
Develop and enforce a policy that maintains current prohibitions on off-road vehicle use in the UH Management Areas and that strengthens measures to prevent or deter vehicles from leaving established roads and designated parking areas.
<b>Recreational</b>
Implement policies to reduce impacts of recreational hiking
Define and maintain areas where snow-related activities can occur and confine activities to slopes that have a protective layer of snow.
Confine University or other sponsored tours and star-gazing activities to previously disturbed ground surfaces and established parking areas.
Coordinate with DLNR in the development of a policy regarding hunting in the UH Management Areas.
<b>Commercial</b>
Maintain commercial tour permitting process; evaluate and issue permits annually.
Ensure OMKM input on permits for filming activities

Seek statutory authority for the University to regulate commercial activities in the UH Management Areas.
<b>Scientific Research</b>
Ensure input by OMKM, MKMB, and Kahu Kū Mauna on all scientific research permits and establish system of reporting results of research to OMKM.

## Permitting and Enforcement

<b>Laws and Regulations</b>
Comply with all applicable federal, state, and local laws, regulations, and permit conditions related to activities in the UH Management Areas.
Strengthen CMP implementation by recommending to the BLNR that the CMP conditions be included in any Conservation District Use Permit or other permit.
Obtain statutory rule-making authority from the legislature, authorizing the University of Hawai'i to adopt administrative rules pursuant to Chapter 91 to implement and enforce the management actions.
Educate management staff and users of the mountain about all applicable rules and permit requirements.
<b>Enforcement</b>
Continue coordinating with other agencies on enforcement needs.
Obtain legal authority for establishing, and then establish, a law enforcement presence on the mountain that can enforce rules for the UH Management Areas on Mauna Kea.
Develop and implement protocol for oversight and compliance with Conservation District Use Permits.
Enforce conditions contained in commercial and Special Use permits.

## Infrastructure and Maintenance

<b>Routine Maintenance</b>
Develop and implement an OMMP.
Reduce impacts from operations and maintenance activities by educating personnel about Mauna Kea's unique resources.
Conduct historic preservation review for maintenance activities that will have an adverse effect on historic properties.
Evaluate need for and feasibility of a vehicle wash station near Hale Pōhaku, and requiring that vehicles be cleaned.
Develop and implement a Debris Removal, Monitoring and Prevention Plan.
Develop and implement an erosion inventory and assessment plan.
Prepare a plan, in collaboration with the Department of Defense, to remove military wreckage from a remote area of the UH Management Areas, while ensuring protection of natural and cultural resources.
<b>Infrastructure</b>
Assess feasibility of paving the Summit Access Road.
Evaluate need for additional parking lots and vehicle pullouts and install if necessary.
Evaluate need for additional public restroom facilities in the summit region and at Hale Pōhaku, and install close-contained zero waste systems if necessary.
<b>Sustainable Technologies</b>
Encourage existing facilities and new development to incorporate sustainable technologies, energy efficient technologies, and LEED standards, whenever possible, into facility design and operations.
Conduct energy audits to identify energy use and system inefficiencies, and develop solutions to reduce energy usage.
Conduct feasibility assessment, in consultation with Hawaii Electric Light Company, on developing locally-based alternative energy sources.
Encourage observatories to investigate options to reduce the use of hazardous materials in telescope operations.

## Construction Guidelines

<b>General Requirements</b>
Require an independent construction monitor who has oversight and authority to insure that all aspects of ground based work comply with protocols and permit requirements.
<b>Best Management Practices</b>
Require use of Best Management Practices Plan for Construction Practices.
Develop, prior to construction, a rock movement plan.

Require contractors to provide information from construction activities to OMKM for input into OMKM information databases.
Require on-site monitors (e.g., archaeologist, cultural resources specialist, entomologist) during construction, as determined by the appropriate agency.
Conduct required archaeological monitoring during construction projects per SHPD approved plan.
Education regarding historical and cultural significance
Education regarding environment, ecology and natural resources
Inspection of construction materials

### Site Recycling, Decommissioning, Demolition and Restoration

Require observatories to develop plans to recycle or demolish facilities once their useful life has ended, in accordance with their sublease requirements, identifying all proposed actions.
Require observatories to develop a restoration plan in association with decommissioning, to include an environmental cost-benefit analysis and a cultural assessment.
Require any future observatories to consider site restoration during project planning and include provisions in subleases for funding of full restoration.

### Consideration of Future Land Use

<b>Facility Planning Guidelines</b>
Follow design guidelines presented in the 2000 Master Plan.
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.
Require cataloguing of initial site conditions for use when conducting site restoration.
Require project specific visual rendering of both pre- and post-project settings to facilitate analysis of potential impacts to view planes.
Require an airflow analysis on the design of proposed structures to assess potential impacts to aeolian ecosystems.
Incorporate habitat mitigation plans into project planning process.
Require use of close-contained zero-discharge waste systems for any future development in the summit region, from portable toilets to observatory restrooms, if feasible.

### Operation and Implementation of the CMP

Maintain OMKM, MKMB, and Kahu Kū Mauna in current roles, with OMKM providing local management of the UH Management Areas, and MKSS providing operational and maintenance services.
Develop training plan for staff and volunteers.
Maintain and expand regular interaction and dialogue with stakeholders, community members, surrounding landowners, and overseeing agencies to provide a coordinated approach to resource management.
Establish grievance procedures for OMKM, to address issues as they arise.
Update and implement emergency response plan.

### CMP Monitoring, Evaluation and Updates

Establish a reporting system to ensure that the MKMB, DLNR, and the public are informed of results of management activities in a timely manner.
Conduct regular updates of the CMP that reflect outcomes of the evaluation process, and that incorporate new information about resources.
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.