

UNIVERSITY OF HAWAI‘I SYSTEM ANNUAL REPORT



REPORT TO THE 2012 LEGISLATURE

Annual Report on the
Mauna Kea Lands

HRS 304A-1905

November 2011

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Pursuant to HRS §304A-1905 (“Mauna Kea Lands; reporting requirements”), the University of Hawai‘i respectfully submits its report on the status of the Mauna Kea lands activities, current and pending lease agreements and fees, the status of current and pending administrative rules, income and expenditures of the Mauna Kea lands special fund established in section 304A-2170 and any other issues that may impact the activities on Mauna Kea.

Current and pending lease agreements and fees

In 1964 the Hawai‘i State Legislature passed concurrent resolution S. C. R. 16 stating that the ***“State of Hawai‘i and its citizenry are most desirous and willing to co-operate and aid in the promotion of our nation’s space program and research to the benefit of the County of Hawai‘i, the state and the nation.”*** It was resolved that the Governor set aside and establish an appropriate area on the summit of Mauna Kea for the installation and operation of telescope observatory and astronomical activities. In January 1968, the DLNR and UH entered into an agency-to-agency lease granting UH a lease of the Science Reserve on Mauna Kea for a term expiring on December 31, 2033. The lease is gratis, a common practice for leases between government agencies.

In a State of Hawai‘i-UH effort to establish astronomy as a viable research endeavor and making Hawai‘i a center for astronomical research, the University entered into subleases with 11 organizations for the purpose of operating astronomical observatories. All subleases were approved by the BLNR and are co-terminus with the University’s General Lease. Each sub lessee is obligated to provide a guaranteed percentage of viewing time to the UH. Viewing time provides invaluable advantages for advancing Hawaii’s only state funded institute of higher education, UH, as a center for excellence in research, including astronomy, and to be recognized today as one of the nation’s leading research institutions. At little cost and risk to the State, UH’s recognized center of excellence for astronomical research contributes significantly to the State of Hawaii’s efforts to expand its high technology sector. Additional benefits accrue to the State through opportunities in scientific, professional and sub professional employment by the local community.

Current and pending administrative rules

Act 132 (SLH 2009) authorizes the UH to adopt administrative rules pursuant to chapter 91 to regulate public and commercial activities on UH management lands. Prior to developing administrative rules, UH met conditions imposed by the BLNR when it approved the Mauna Kea Comprehensive Management Plan (CMP) on April 9, 2009. One of the conditions requires UH to submit a public access sub plan for BLNR approval. The BLNR required that the public access sub plan, along with three other sub plans - cultural resources management plan, natural resources management plan and a decommissioning plan - be submitted within one year of approval. The purpose of the public access plan is to provide guidance to the University in addressing public access in UH management areas,

and the plan's objective is to provide a set of principles and policies to serve as a guide in developing administrative rules related to the management of public access.

The UH prepared and submitted to the BLNR all four sub plans including the public access plan within the one-year time table. The UH Board of Regents unanimously approved all four sub plans prior to submittal to the BLNR. The BLNR unanimously approved all four sub plans on March 25, 2010. Approval of the sub plans was subject to the condition that UH demonstrate progress in the development of administrative rules for Mauna Kea by April 9, 2011.

UH is in the process of developing administrative rules pursuant to principles and policies in the BLNR approved Public Access Plan. The initial steps that UH are engaged in are coordinating with DLNR in developing rules that are consistent with those that govern state lands adjacent to the UH managed areas (Public Access Plan, Section 5.1, Guiding Principles). Pursuant to Act 132, the development of rules requires coordination with the Office of Hawaiian Affairs (OHA) and DLNR. Coordination with DLNR of the draft rules, however, was suspended when one of the petitioners in the Thirty Meter Telescope (TMT) contested case proceedings (DLNR File No. HA-11-05) objected to any communications with DLNR regarding the draft rules. While UH does not agree that coordination with DLNR staff on the draft rules would constitute a violation of the ex parte communication rule, it was thought more prudent to avoid even the appearance of or potential for such communications between the decision maker, BLNR, in the contested case and the project applicant, UH. Upon completion of the contested case, rule development with DLNR as an integral partner shall resume. The University has consulted with the OHA.

Income and expenditures of the Mauna Kea lands special fund (HRS §304A-2170)

During FY 2011 \$384,754 in fees collected from commercial tour operators were deposited into the Mauna Kea lands special fund. Of that \$283,721 was used to help defray the cost to operate the Mauna Kea ranger program and Visitor Information Station, and to maintain the road and facility infrastructure. An amount of \$76,951 was set aside for payment to OHA. The balance will be applied to the installation of a system to monitor vehicle traffic, to provide more public restrooms and to provide a covered area for people to sit and eat.

Other activities

In 2005 the University accepted the transfer of authority from BLNR the administration of commercial tour permits. The University currently allows a maximum of nine commercial tour permits, the same number allowed by BLNR. Each commercial tour operator is charged a fee of \$6.00/tour passenger which is submitted to the Office of Mauna Kea Management on a monthly basis. All fees are used to cover management activities Mauna Kea. Twenty percent of the fees collected are set aside for eventual payment to the Office of Hawaiian Affairs.