



To:

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran, Vice-Chair
Committee on Ways and Means

From: Maunakea Observatories

Subject: HB2024 HD1 SD1 Relating to Mauna Kea – Comments

April 5, 2022; 10:30 a.m.; Via Videoconference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means,

The undersigned Maunakea Observatories (MKO) directors would like to offer comments on HB2024 HD1 SD1, which establishes a Maunakea stewardship authority.

We strongly believe there is a vibrant and sustainable future for astronomy on Maunakea - a future based on a community model of astronomy in which relationships and partnerships between the community and astronomy thrive, upheld by the values of respect, collaboration, and inclusion.

The observatories are permitted by the state to conduct activities on Maunakea lands - public lands that are important to multiple stakeholders and of great cultural importance to the Hawaiian community. We are grateful for our privilege of observing the Universe from Maunakea. We recognize the state decides how Maunakea lands should be used and managed and we want to convey what is most important to MKO no matter which model of governance and management of Maunakea is decided upon.

We appreciate the efforts of the Senate Committee on Higher Education's responsiveness to our prior testimony. We would like to take this opportunity for further clarification and refinement of Senate Draft 1 by requesting the following amendments.

MKO's most essential need is a clear path to obtaining new land authorizations beyond 2033.

Most of the existing observatories seek to continue their scientific missions on Maunakea beyond the ending of the current leases in 2033, subject to astronomy limitations imposed by the state.

The MKOs are a collaboration of nonprofit, independent institutions supported by national and international partners and research institutions. Having a clear path to new land authorizations beyond 2033 gives our partners and funders confidence in a viable future for astronomy on Maunakea and allows them to plan for long-term funding of our efforts. These funders have injected billions of dollars into the Hawai'i economy over the 50+ year history of astronomy on Maunakea. Today, astronomy in

Hawai‘i has a total economic impact to the state of approximately \$220M annually and generates approximately 1,300 jobs statewide. In addition to economic benefits, the observatories provide significant STEM education and workforce development opportunities, and we are integral, contributing members of our local communities.

Facility upgrades, investments in new instrumentation to keep our technology at the forefront of research, and long-term planning for our operations all critically depend on knowing we have a clear path to new land authorizations.

We cannot emphasize enough how essential it is to MKO that during the transition period the authority prioritizes establishing a feasible process and timeline for granting new land authorizations to existing observatories that fit within the authority’s imposed limitations in a timely fashion, without triggering time-limit-driven decommissioning requirements under the existing subleases.

We ask that section –4 Transition; management plan, be amended as follows:

- Section -4(b): strengthen the requirements for the management plan:

“The management plan ~~may~~ **shall**:”

- Section -4(c): clearly state the responsibility of the authority for determining a reasonable process and timeline for obtaining new observatory land authorizations beyond 2033, with respect to the authority’s limits on astronomy development:

“The authority shall **establish a feasible plan with a clearly-defined process and timeline for establishing new land authorizations for astronomical observatories beyond the current lease ending in 2033, subject to section -5.**”

We seek assurance that MKO’s share of stewardship costs will be equitable and financially sustainable.

The establishment of a new entity must include comprehensive analysis and planning for determining costs and funding for the new stewardship authority. We commit to joining other stakeholders in the collective financial support of the new stewardship authority as long as it is equitable, feasible, and financially sustainable.

We ask that section –3 Powers and responsibilities, be amended as follows:

- Section -3(b)(3): add responsibility to the authority to assure lease terms and monetary consideration are equitable, feasible, and financially sustainable:

“(3) Establish a process that establishes transparency, analysis, and justification for lease terms **and monetary consideration that is equitable, feasible, and financially sustainable**”

We agree the University of Hawai‘i should receive viewing time; however, we do not think the amount should be specified in the bill.

We acknowledge and support the importance of maintaining a strong astronomy program in Hawai‘i through the University of Hawai‘i, our state’s public university, and do agree that the University of Hawai‘i should receive viewing time from the Maunakea Observatories. However, we feel it is going too far to specify the percentage of viewing time in this bill. Rather, the authority, the University, and MKO should have the flexibility to come to agreement on the amount of viewing time in the lease negotiation process in which other factors may be considered as part of a comprehensive agreement that includes viewing time, lease rent, use fees, shared infrastructure funds, community benefits, and other factors.

We ask that section –9 Access and use; restrictions; orientation; entryway, be amended as follows:

- Section 9(e): remove the specification of percentage of viewing time to UH:

“...the authority shall authorize the University of Hawaii ~~not less than seven per cent, but up to fifteen per cent, of~~ viewing time at the telescopes.”

Determining when telescopes should be removed and the summit returned to its natural state requires a thorough discussion including Astronomy experts and stewards of Maunakea.

MKO agrees with the basic principle that once ground-based observatories “lose their academic or research value,” they should be removed from Maunakea. Requiring a “plan to return the Mauna Kea lands ... to their natural state,” should be preceded by developing a set of principles and high-level criteria first. Once those principles and high-level criteria are developed, then future plans can be made by the authority and the observatories.

We ask that section –5 Astronomy development; framework, be amended as follows:

Section -5: charge the authority with developing a set of principles rather than a plan.

“...the authority may establish a ~~plan to return set of principles for returning~~ the Mauna Kea lands above the nine thousand two hundred feet elevation line to their natural state at such time that ground-based observatories lose their academic or research value.”

We believe Astronomy’s participation is important to strong collaboration in the stewardship of Maunakea.

MKO strongly supports Native Hawaiian and local community involvement in governance and management to ensure the mutual interests of the community, astronomy, and the state of Hawai‘i are met.

We believe that deep knowledge of Hawai‘i astronomy is essential to inform the authority's board-level strategic decisions, and the MKOs seek to be a collaborative partner in informing those decisions. We support the amendment for adding Maunakea Observatories representation on the board in Senate Draft 1.

We also support the formation of an astronomy advisory group and request the formation of it be required.

In addition, during the transition period, we feel the Mauna Kea Management Board by its current charter and composition does not serve to represent astronomy, and suggest that during the transition period, the MKO Directors serve this purpose.

We ask that section -7 Advisory groups; Native Hawaiian culture, be amended as follows:

- Section -7(a): strengthen the requirement to form an astronomy advisory group:

"The authority ~~may~~ **shall** establish advisory groups to advise the authority..."

- Section -7(a): utilize the MKO Directors to advise on astronomy matters during the transition period:

"...for the transitional period pursuant to section -4, the authority ~~may maintain the Maunakea Management Board~~ **shall** **utilize the Directors of the Maunakea Observatories** and Kahu Kū Mauna to serve this purpose."

We support protection of constitutionally-protected Native Hawaiian traditional and customary practices.

We ask that section -9 Access and use; restrictions; orientation; entryway, be amended as follows:

- Section -9: Clarify that Hawaiian traditional and customary practices will not be restricted, by adding the following subsection 9(f):

The authority shall take no action that unreasonably interferes with traditional and customary native Hawaiian rights, as set forth in the Hawaii State Constitution.

We believe the governing board should have a strong connection to Maunakea and the Hawai‘i Island community.

We ask that section -2 Mauna Kea stewardship and oversight authority; established, be amended as follows:

- Section 2(b): Increase the requirement for governing members to be Hawai'i county residents:

"...provided further that ~~three~~ **six** of the eleven members of the authority shall be residents of the county of Hawaii."

Thank you for your consideration of our comments and requested amendments. We welcome the opportunity to work with you on this important issue.

Mahalo,



Director Hilton Lewis, W. M. Keck Observatory (Keck I and Keck II)



Interim Director Andy Sheinis, Canada-France-Hawaii Telescope



Director Paul Ho, James Clerk Maxwell Telescope (East Asian Observatory)



Interim Director Satoshi Miyazaki, Subaru Telescope