

UNIVERSITY OF HAWAI‘I SYSTEM ANNUAL REPORT



REPORT TO THE 2017 LEGISLATURE

Annual Report on the
Mauna Kea Lands

HRS 304A-1905

November 2016

Exhibit B.77

REPORT TO THE HAWAI‘I STATE LEGISLATURE

HRS 304A-1905

Annual Report on the Mauna Kea Lands

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 Hawaii 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 Hawaii, 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 fulfillment of this resolution the Mauna Kea Science Reserve (Science Reserve) was established in 1968 and the DLNR and UH entered into an agency-to-agency lease granting UH a lease of the Science Reserve for a term expiring on December 31, 2033. The lease is gratis, a common practice for leases between government agencies and one that supports the goal of benefiting the County of Hawaii, the state and the nation.

In a State-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. UH today is recognized as one of the nation’s leading astronomical research institutions. At little cost and risk to the State, UH’s recognized center of excellence for astronomical research contributes significantly to the state’s efforts to expand its high technology sector. The economic impact of astronomy in the state in 2012 was \$168 million, with the largest impacts found on Hawai‘i Island and Honolulu, \$91 and \$68 million, respectively. Additional benefits accrue to the State and local communities through opportunities in scientific, professional, technical and administrative employment within 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. 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.

UH is in the process of developing administrative rules pursuant to principles and policies in the BLNR approved Public Access Plan and consistent with DLNR rules applicable to lands that are adjacent to the UH managed areas (Public Access Plan, Section 5.1, Guiding Principles). Pursuant to Act 132, the development of rules requires consultation 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 then-on-going Thirty Meter Telescope (TMT) contested case proceedings (DLNR File No. HA-11-05) objected to communications with DLNR regarding the draft rules. While UH did 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. The contested case finally concluded in April 2013, over two years after the contested case started. The development of rules resumed and UH has completed pre-drafting consultation and has draft proposed rules for public hearing. At the request of the Governor, UH has temporarily deferred moving forward to the Board of Regents and Governor with a request to proceed to public hearing at this time.

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

During FY 2016, \$354,084 in fees were collected from commercial tour operators, \$301,050 in rent from the Thirty Meter Telescope, and \$326,580 carry over from FY 2015 for a total of \$981,714. The funds collected were deposited into the Mauna Kea lands special fund. A total of \$562,915 was used to help defray the cost to operate the Mauna Kea ranger program, Visitor Information Station, snow and ice removal, road, facility and infrastructure maintenance and enforcement expenses. During FY 2016, \$16,217.60 from revenues collected during the fourth quarter of FY 2015, was designated for payment to OHA. Payments to OHA of \$113,434.40 were similarly designated for the first three quarters of FY 2016. An amount of \$17,592.40 for FY 2016 fourth quarter has been set aside for payment in the beginning of FY 2017.

Other activities

In 2005 the University accepted the transfer of authority from BLNR for the administration of commercial tour permits. The University currently allows a maximum of eight commercial tour permits, one less than the 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 on Mauna Kea. Twenty percent of the fees collected are set aside for payment to the OHA.