

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL
RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committees on
AGRICULTURE
and
WATER, LAND, AND OCEAN RESOURCES**

**Friday, February 13, 2009
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 245
RELATING TO RENEWABLE ENERGY FACILITIES**

House Bill 245 seeks to allow renewable energy facilities within the conservation and agricultural districts by deeming the siting, development, construction and operation of a renewable energy facility a compatible use with the purpose, standards, and permissible uses of land within the state conservation and agricultural lands. The Department of Land and Natural Resources (Department) opposes the current draft of the bill.

The Department acknowledges the intent of this measure, which is to promote the development of renewable energy facilities. Renewable energy facilities will reduce our dependence on fossil fuels, reduce greenhouse gas emissions, and promote sustainability. It is of critical importance to allow for suitable renewable energy facilities within certain conservation lands. However, the Department has concerns about the language in this bill, which appears to preempt the authority of the Board of Land and Natural Resources (Board) by overriding many of the stated goals and criteria of the conservation district.

The objectives of the conservation district as outlined in Hawai'i Administrative Rules (HAR) 13-5 include protecting such areas as restricted watersheds; marine, plant, and wildlife sanctuaries; and historic, archaeological, geological, and volcanological features. It limits uses in high hazard areas, and allows for the development, with proper management, of recreational and park areas. Conservation lands also protect open space and view planes where urban use would be premature.

Renewable energy facilities are already an identified use in the conservation district under the public purpose uses category. However, permits are discretionary; the Board balances the public

LATE TESTIMONY

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT

ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

benefits of such uses against their probable environmental and cultural impact by applying the standards and criteria as outlined in Chapter 183C, Hawaii Revised Statutes and Title 13-5, HAR. The Board considers the impacts of such facilities on specific sites, considers the merits of each project, as well as public input. The final decision whether to allow a facility would be dependent on compatibility of the facility with the particular site and the degree to which all impacts can be mitigated, if at all.

The bill, as written, seems to make all renewable energy projects a ministerial action in the conservation district, rather than a discretionary action. This could lead to unacceptable impacts to our island's fragile ecological and cultural resources – e.g., the siting of a facility in the middle of a Natural Area Reserve, an important watershed, sacred Pu'u, wetland, surfing site, coral reef, or other important conservation land.

The Department believes that there is a need to develop renewable energy facility siting and design policies and guidelines for projects in the conservation district so that renewable energy purveyors and those reviewing and authorizing such projects can safely and expeditiously locate facilities at appropriate sites, whether on land or at sea.



SIERRA CLUB HAWAII CHAPTER

P.O. Box 2577, Honolulu, HI 96803
808.538.6616 / hawaii.chapter@sierraclub.org

LATE TESTIMONY

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES HOUSE COMMITTEE ON AGRICULTURE

February 13, 2000, 9:00 A.M.

TESTIMONY IN OPPOSITION TO HB 245

Chair Ito, Chair Tsuji, and members of the Committees:

The Sierra Club, Hawaii Chapter, with over 5000 dues paying members statewide, is *opposed* to HB 245, authorizing the development of renewable energy facilities as a matter of right within conservation and agricultural districts. While we greatly appreciate the intent behind the measure – ostensibly to expedite the development of renewable energy sources in Hawaii – we fear that the solution offered in this measure may be misguided.

First, it has been our experience in tracking clean energy developments in Hawaii that the environmental disclosure and permitting hurdles are lower on the list than obstacles such as financing, land acquisition, and interconnection agreements with the electric utility. In fact, interconnection agreements seem to be the biggest roadblock. For example, consider the recent Maui windfarm at Kaheawa Pastures. At the public hearing on the conservation district use permit – the main environmental approval that was needed – 33 individuals and organizations testified and all were in support. The interconnection agreement with Maui Electric, however, took years to negotiate, with much frustration on the part of the wind developer.

Second, our existing permitting process protects the environment and the public's right to provide input in the decision making. This usually makes for better siting and development decisions. Given that many of our indigenous energy resources will be harnessed in remote or ecologically sensitive areas, proper permitting and analysis are crucial. Again in the Kaheawa Pastures case, through the existing permitting process an agreement was reached to protect the Nene and other species. But expediting permitting of new renewable energy facilities – particularly those that are located in wild areas – may cause important resource protection measures to be disregarded.

Third, some of the “renewable energy facilities” as defined in SB 1395 may be truly fossil fuel facilities in disguise. A recent proposal to produce biofuel by Kauai Ethanol LLC sought a covered source air permit to burn coal at the facility to convert molasses to ethanol. Are coal facilities the types of projects that we want to give streamlined processing and automatic site approvals to, as allowed in HB 245?

Again, we appreciate the intent behind HB 245, but the measure may create unintended consequences while not addressing the underlying problems of financing, land acquisition and utility interconnection agreements. The Sierra Club would support the establishment of some sort of clean energy siting council to examine the pros and cons of various locations for renewable energy generation statewide. Additionally, we would have no objection to providing “priority handling” for true renewable energy permits and allow such permits to go to the “front of the line” for decision making. We would be happy to work with the Committee and appropriate stakeholders to draft such legislation.

Please hold HB 245. Thank you for the opportunity to testify.