

HB 2863 HD2



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON WATER AND LAND
COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

H.B. 2863, H.D.2, Relating to Renewable Energy

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 18, 2008
2:45 pm

1 **Department's Position:** The Department of Health (DOH) supports renewable energy and a faster and
2 more efficient permit process and offers comments.

3 **Fiscal Implications:** None

4 **Purpose and Justification:** This measure is amended to establish a consolidated process for the
5 approval of state and county permits necessary for the siting, development, construction, and operation
6 of a renewable energy facility. The Director of Department of Business, Economic Development, and
7 Tourism (DBEDT), as the Energy Resources Coordinator, is charged with responsibility of the
8 consolidated permit approval process.

9 The administration had a bill last year which would have coordinated permitting, and this year
10 the Governor's State of the State address included making permitting easier for renewable energy
11 projects, so we are pleased to see acceptance of the concept.

12 We appreciate the bill has been amended to maintain our functions within the department.
13 However, the DOH functions are broader than the stated definition. Therefore, we recommend that on
14 page 2 line 1 the definition of "Delegated environmental permit" be amended to read as: "Delegated

1 environmental permit” means a pollution control permit issued by the department of health under
2 authority delegated or with oversight by the United States Environmental Protection Agency.

3 The DOH gives priority to processing alternative energy permit and has developed general
4 permits to streamline the permitting process. Our effort has shown that these processes has helped. For
5 example, the DOH took two and three days, respectively, to issue Notices of General Permit Coverage
6 for Big Island Pakini Nui Windfarm and Maui Kaheawa Wind Power project, respectively, after receipt
7 of complete Notices of Intent.

8 We do question whether this bill requires more resources and ask that the legislature not replace
9 the priorities in the executive supplemental budget proposal.

10 Thank you for the opportunity to testify on this measure.

Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT,
SENATE COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS
AND
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Tuesday, March 18, 2008
2:45 PM
State Capitol, Conference Room 414

HB 2863 HD2
RELATING TO RENEWABLE ENERGY.

Chairs Menor, Nishihara, and Fukunaga, Vice Chairs Hooser, Mercado Kim, and Espero,
and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) appreciates the over-all concept of this bill as it includes initiatives supportive of our goals and objectives, but we are concerned about cost implications and impacts on Hawaii's regulatory authorities generated by this proposal. HB 2863 HD2 establishes a consolidated permit process for facilities that have the capacity to produce at least two hundred megawatts of electricity from renewable energy. Further, the measure requires the director of the Department of Business, Economic Development and Tourism (DBEDT), as the Energy Resources Coordinator (ERC), to establish the consolidated application, administer the siting process, determine permit terms and conditions, and to approve permits that encompass a number of significant zoning and/or permitting functions of State and county regulatory authorities.

Currently, DBEDT does not perform any permitting functions although certain of its attached agencies may have that responsibility. As a consequence, DBEDT lacks the regulatory expertise necessary to perform the permitting functions described in this measure. We are also

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concerned that HB 2863 HD2 imposes major revisions to Hawaii's regulatory system for the permitting of renewable energy projects.

But we recognize that permitting, for many years and in previous studies, has been identified as one of the key barriers to the development of renewable energy projects. Consequently, DBEDT understands and supports the implementation of a means to help both permitting agencies and project proponents by promoting permitting system efficiencies such as concurrent reviews and agency coordination. Attached to this testimony is draft legislation that proposes a consolidated permitting system that avoids the regulatory concerns of this measure. The draft legislation also provides for developer fees and cost reimbursements to provide agencies with necessary resources. Moreover, it avoids the concerns expressed by testifiers in previous hearings of this measure as follows:

- It does not impose mandates on the counties that have lead to jurisdictional and home rule concerns.
- It does not impose absolute permit approval timelines.
- It does not change permit agencies' rules with regard to contested case or other review processes.

Finally, DBEDT recommends strongly that any effort at improving Hawaii's permitting processes be provided with the appropriate authority and commensurate resources to undertake this difficult task. Thank you for the opportunity to offer these comments.

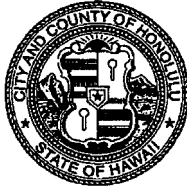
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DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

March 18, 2008

The Honorable Ron Menor, Chair
and Members of the Committee on Energy
and Environment

The Honorable Clayton Hee, Chair
and Members of the Committee on Water
and Land

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Intergovernmental
and Military Affairs

The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Menor, Hee, Inouye and Members:

**Subject: House Bill 2863, HD2
Relating to Renewable Energy**

The Department of Planning and Permitting **opposes** House Bill 2863, HD2, which along with other measures would expedite the issuance of county permits by essentially circumventing established county land use planning and zoning policies and permit procedures, local decision-making, and community input.

The expressed purpose and intent of this bill is to establish an expedited renewable energy facility siting process for both state and county permits is not necessarily needed. Furthermore, the renewable energy facilities that this bill seeks to facilitate will be located in separate counties for the production of energy which will serve first and foremost those individual communities. As such, there is no overriding state-wide imperative which justifies usurping existing local controls over the site selection of a proposed renewable energy facility. The site selections are and should remain local decisions subject to established county planning, land use, engineering and building requirements.

The Honorable Ron Menor, Chair
and Members of the Committee on Energy
and Environment

The Honorable Clayton Hee, Chair
and Members of the Committee on Water
and Land

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Intergovernmental
and Military Affairs

Re: House Bill 2863, HD2

March 18, 2008

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As examples of this process, just within the last year, we approved a new biodiesel fuel production facility at Barbers Point and a new wind machine farm in Kahuku. In both cases, the land use approvals were expeditiously and successfully processed in a matter of a few months. Another example is a photo-voltaic energy farm that is proposed for the Kapolei area. At most, it will require a minor conditional use permit (CUPm). Under the Honolulu county zoning requirements, the CUPm must be processed within 45 days. However, even that permit may not be necessary if the proposed utility installation is found to have little or no potential impacts on surrounding permitted uses.

There does not appear to be any particular permit issuance problems which warrant the extraordinary measures that this bill proposes. However, if this measure is intended to address problems occurring in another county, with respect to land use and permitting for renewable energy facilities, then we respectfully object to any provision which unfairly paints all of the counties with a broad brush. We believe our existing land use and planning requirements can adequately accommodate important new technologies, and appropriately ensure compatibility with local long-range plans and land use policies. The existing regulations also provide for necessary input from affected host communities, and preserve the local decision-making authority.

In the Standing Committee Report No. 272-08, Chairs Ken Ito and Hermina Morita concurred with our objections, stating:

Finally, at the county level, it is unclear whether any overriding state-wide imperative exists to justify superseding existing local control over the site selection of a proposed renewable energy facility. The State has not identified any particular permit issuance problems that warrant the extraordinary measures proposed in this bill. Moreover, your Committees are not convinced that any need exists to justify overriding the community's right to meaningful participation in the public decision-making process or a county's right to set its own land use and planning policies.

The Honorable Ron Menor, Chair
and Members of the Committee on Energy
and Environment

The Honorable Clayton Hee, Chair
and Members of the Committee on Water
and Land

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Intergovernmental
and Military Affairs

Re: House Bill 2863, HD2

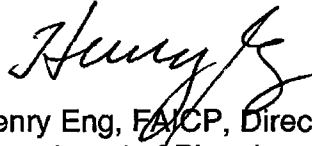
March 18, 2008

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Nevertheless, House Bill 2863, HD2 retains the same objectionable provisions as the original bill. We note that there are numerous alternative bills introduced this legislative session which appear to adequately address renewable energy facilities without trespassing on county prerogatives, and are worthy of further consideration.

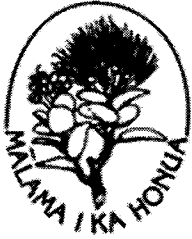
Please file House Bill 2863, HD2.

Very truly yours,



Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
hb2863hd2-jh.doc



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS**
March 18th, 2008, 2:45 P.M.

(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO HB 2863 HD2

Chairs Menor, Hee, and Inouye, and members of the committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, respectfully opposes HB 2863 HD2, establishing an expedited process for certain renewable energy projects. While we greatly appreciate the intent behind the measure—ostensibly to expedite the development of renewable energy sources in Hawai'i—we fear that faulty decision making may result if agencies and commissions are forced to expedite energy permits at the expense of reduced public input and deliberation. The State or our environment may be liable if a critical environmental issue—say a habitat conservation plan for an endangered bird—delays a project.

First, it has been our experience in tracking clean energy developments in Hawai'i 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 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 overlooked.

Third, some of the “renewable energy facilities” contemplated in HB 2863 HD2 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 imported coal at the facility to convert molasses to ethanol.

Again, we greatly appreciate—and fully support—the intent behind HB 2863 HD2, but the measure may create unintended consequences while not fully addressing the underlying problems of financing, land acquisition and utility interconnection agreements. We would fully support a measure to provide a renewable energy facilities coordinator at DBEDT (an ombudsman of sorts) to help shepherd projects, priority processing of renewable energy permits, and any other measures to cut bureaucracy—as long as the existing public input and environmental protection processes remain intact.

Thank you for the opportunity to testify.



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Testimony by Castle & Cooke Hawaii

**Before the Committees on Energy and Environment, Water and Land, and
Intergovernmental and Military Affairs**

March 18, 2008

2:45 pm

Room 414

HB 2863, HD2 Relating to Renewable Energy

Chairs Menor, Hee and Inouye, Vice Chairs Hooser, Kokubun and Tsutsui and members of the committees:

I am Tim Hill, Executive Vice President, Castle & Cooke Lanai Renewable Energy Programs; here to express our strong support for HB 2863, HD2, that establishes an inter-island renewable energy facility siting process.

Castle & Cooke is committed to bringing renewable energy to Hawaii. Today, I want to tell you what Castle & Cooke is doing, our record of delivering on our commitments, and why we believe that HB 2863, HD2, is essential to our efforts and to the success of the State's renewable energy mandate.

First and foremost, we want to clarify that HB 2863, HD2 requires a public hearing and time for public comment. Castle & Cooke is not interested in circumventing the opportunity for environmental, cultural and public input.

As mentioned by our President Harry Saunders, in the Honolulu Advertiser commentary this past Sunday, these bills "don't circumvent important protections for our precious environment. What these bills do is provide clear guidelines and efficient permitting to encourage private investment in renewable energy. These bills bring us one step closer to energy independence."

To clarify the importance of a public hearing, we suggest the following amendment, at page 12, section 8, line 20, insert a period after county agency and delete the remainder of the sub-section, currently page 12, lines 21-22 and page 13, lines 1-3. The new sub-section 8(a) should be amended to read as follows:

(a) If a federal, state or county law requires a state or county agency to hold a public hearing on a state or county permit application before making a decision on the permit, the coordinator shall hold the public hearing in place of the state or county agency.

As a matter of history, in prior House hearings, only two state agencies (the Department of Health and the Public Utilities Commission) raised concerns about this bill and we suggested the following which were adopted into the HD2 before you:

Concern 1: The authority delegated to the Department of Health by the Environmental Protection Agency for air and water permits cannot be waived without significant statutory change.

Amendment 1: Insert language indicating that the coordinator does not have the authority to issue permits that are governed by federal EPA regulations.

Concern 2: The time constraints on the Public Utilities Commission (PUC) are unreasonable.

Amendment 2: Insert language allowing the PUC to take additional time to make their decision, should requests for additional information arise.

We also note that the Department of Business, Economic, Development and Tourism (DBEDT), the agency that would be responsible for HB 2863's implementation supported the bill.

Castle & Cooke's Renewable Energy Programs

Castle & Cooke is committed to supporting Hawaii's energy independence by developing alternative energy resources on the island of Lanai while preserving unique environmental, cultural and historic resources found on the island.

In her State of the State address, Governor Lingle challenged all of us to move Hawaii away from oil dependence and to do so "more rapidly than some would like and others believe possible." We share this view that the time for action is now.

At Castle & Cooke, we have already initiated projects to reduce reliance on fossil fuels and to transform Lanai into a showcase for renewable and green energy.

Our projects include:

- Solar: Awaiting permit approval to create largest solar farm in Hawaii
 - Converts 10 acres of “grade D” ag land to 1.5 MW solar farm
 - Can supply up to 10% of Lanai’s annual electricity needs
- Wind: Examining economic, cultural and environmental feasibility
 - Goal is 300-400 MW wind farm from towers spaced across 10,000 acres in northern Lanai
 - Could supply up to 15% of Oahu’s peak power needs
- Bio-Fuels: Exploring feasibility of growing crops for fuel
 - Test crops of jatropha
 - Working with UH College of Tropical Agriculture and HARC (with Dole Food Company)

The investments we are prepared to make reflect our commitment to Hawaii:

- Close to \$1 billion for solar and wind energy projects
- The State is pursuing an important agenda for energy independence and other needs while struggling with a potential budget shortfall of \$350 million. Castle & Cooke is committed to renewable energy, and we’re ready to make it happen in Hawaii.
- Our goal is to make Lanai powered by 100% renewable energy

In opening remarks, House Speaker Calvin Say noted that, “If we could just produce half of Hawaii’s energy, we could add at least \$2 billion to the state’s economy. And the money stays here.” Castle & Cooke’s renewable energy projects are a big step toward that vision.

We foresee additional benefits for the people of Lanai and Hawaii. We believe our projects will help stabilize energy costs and thus stabilize the cost of living in our state. We also believe that they will provide new job opportunities for residents. And we know that they will help us utilize our bountiful natural resources. All of which means, these projects are instrumental in building a truly sustainable Hawaii.

Senate President Colleen Hanabusa said that when it comes to sustainability, we all play for the same team. Castle & Cooke is a committed part of that team.

Castle & Cooke: Part of Hawaii's Past, Part of Hawaii's Future

Castle & Cooke has been a business leader in Hawaii for 150 years, and we plan to be here for the next 150 years. We like to say that we are "Investing in Hawaii...Creating communities...Delivering dreams."

You may know Castle & Cooke as a leading agriculture and land development company. We're also a diversified firm with the commitment and resources to deliver solutions. Look at our track record:

- Mililani: We promised a diverse, master-planned community for Hawaii families, and we delivered:
 - Home to over 50,000 people in more than 16,000 homes.
 - Mililani is the only Hawaii community to be designated an All-America City.
 - In 2005, *Money* magazine called Mililani one of the best places to live in the United States.
 - Started in 1968, we will complete Mililani on the first quarter of 2008; a 40 year commitment of providing homes for Hawaii Families
- Our total investment is in the order of \$3.85 billion in infrastructure and vertical construction; an average of \$96 million each year for the past 40 years.

We see renewable energy as essential for Hawaii's future, and our commitment to that future comes directly from our owner, Mr. David Murdock, who has committed resources to make it happen. We believe renewable energy projects make the best use of our Lanai lands, and can provide positive results for the future of Hawaii.

Renewable energy is essential to that future. We are prepared to invest close to \$1 billion of our resources in renewable energy. That's our commitment. We will deliver.

Castle & Cooke supports HB 2863, HD2, because the legislation establishes a facility siting process that will foster the type of large scale renewable energy projects this state needs to meet both the State's 20 percent by 2020 mandate, as well as the new Clean Energy Initiative goal of 70 percent renewable energy by 2030.

Castle & Cooke is uniquely situated to build an unprecedented renewable energy project on Lanai. A 400 mega watt wind farm, as currently planned by Castle & Cooke:

- 1) has the potential to supply more than one million mega watt hours of electricity a year – about 15% of Oahu’s annual power needs;
- 2) could offset emissions equivalent to 220,000 cars per year; and
- 3) reduce oil imports to Hawaii by 3 million barrels per year.

Obviously, the advantages to the State of Hawaii are tremendous. Moreover, the potential of this project is magnified because Castle & Cooke owns 98 percent of the island, and has a very motivated owner, who is not asking for any state financial assistance. The combination of these factors is unique and opportune, but we must expedite the process while being good stewards of our resources, environment and culture.

So far, the process of establishing large scale renewable projects in Hawaii has averaged ten years, many of which were bogged down in redundant and time consuming permitting processes. This type of unpredictable and drawn out permitting process is injurious to further investment by private industry into the large scale renewable energy projects Hawaii needs to secure its energy future and meets its renewable goals.

Castle & Cooke is committed to investing over close to \$1 billion to create a wind farm on Lanai that could produce 15 percent of Oahu’s electricity needs, and reduce our State’s dependency on imported oil. As a long standing Hawaii company committed to Hawaii’s future, what Castle & Cooke is looking to the Legislature for is some predictability with respect to the government permitting process. **Ten years is too long to be mired in redundant permitting process, which currently does not have explicit timetables.** HB 2863, HD2, provides a renewable energy siting process that facilitates, coordinates, and expedites review and action on permits that are critical to any large renewable energy project. The intent is NOT to circumvent environmental and cultural issues and the public input process, but rather to get to the outcome sooner. This outcome is mutually shared by all sides of the debate, the reduction of our reliance on oil. We must not delay, the future of our great State is at stake.

On behalf of Castle & Cooke, I ask for your support for HB 2863, HD2. Mahalo and thank you for your consideration of our testimony.



COLLEGE OF SOCIAL SCIENCES

HAWAII ENERGY POLICY FORUM

UNIVERSITY OF HAWAII AT MĀNOA

Hawai'i Energy Policy Forum

Mr. Robbie Alm, HECO
Ms. Amy Asselbaye, Ofc of US Rep.
Neil Abercrombie
Ms. Madeleine Austin, World Business
Academy
Ms. Catherine Awakuni, Div. of
Consumer Advocacy
Mr. Warren Bollmeier
Hi Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Mr. Kyle Datta, U.S. Biofuels
Sen. Kalani English, Hi State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman
Haiku Design and Analysis
Mr. Mark Glick, OHA
Mr. Steve Golden, The Gas Company
Dr. Michael Hamnett, RCUH
Ms. Paula Helfrich, EDAH
Mr. William Kaneko, HI Institute for
Public Affairs
Mr. Darren Kimura, Energy Industries
Holdings
Mr. Mike Kitamura, Ofc of US Sen.
Daniel K. Akaka
Mr. Kal Kobayashi, Maui County
Mr. Laurence Lau, DOH
Ms. Yvonne Lau, Ofc of US Rep.
Mazie Hirono
Mr. Allyn Lee, C&C of HNL
Mr. Aaron Leong, Ofc of US Senator
Daniel K. Inouye
Dr. Stephen Meder, AIA-Honolulu
Sen. Ron Menor, Hi State Senate
Mr. Jeff Mikulina, Sierra Club
Dr. Bruce Miller, UH Ofc of
Sustainability
Dr. Sharon Miyashiro, Social
Sciences Public Policy Ctr.
Rep. Hermina Morita, Hi State
House of Representatives
Mr. Tim O'Connell, USDA/Rural
Development
Mr. Richard Paglinawan
Pa Ku'i A Lua
Ms. Melissa Pavlicek, Western States
Petroleum Assn
Mr. Randy Perreira, HI State AFL-CIO
Mr. Rick Reed, Inter-Island
Solar Supply
Dr. Rick Rocheleau, UH HNEI
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KJUC
Mr. Riley Saito, PowerLight Corp.
Mr. Glenn Sato, Kauai County OED
Mr. Bill Short, BIA of Hawaii
Ms. Carilyn Shon, DBEDT
Mr. Ray Starling, HI Energy Grp
Mr. Lance Tanaka, Tesoro HI Corp
Dr. Don Thomas, UH Center for the
Study of Active Volcanoes
Mr. Murray Towill, Hawai'i
Hotel Assn
Ms. Joan White, Hon Community
Action Program

Testimony of

Carl Freedman

Chair – Regulatory Reform Working Group
Hawai'i Energy Policy Forum

Senate Committee on Energy & Environment

Senate Committee on Water & Land

Senate Committee on Intergovernmental & Military Affairs

Tuesday, March 18, 2008

2:45 p.m.

Conference Room 414

IN OPPOSITION TO HB 2863 HD2 – Renewable Energy Facility Siting Process

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum ("Forum"). The Forum is comprised of 46 representatives from the electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive "10 Point Action Plan," which serves as a framework and guide for meeting our preferred energy vision and goals. The Forum opposes HB 2863 because it would hinder, rather than promote, the achievement of several points of the Forum's Action Plan, including points 1, 3, 4, 5, and 6.

The intended purpose of HB 2863 is to streamline the permitting of large renewable energy facilities. Amongst many provisions, the HD2 version of this bill:

- Gives DBEDT absolute discretion with full and final authority regarding all county and state permits with the exception of building and grading permits (County) and Power Purchase Agreements (PUC)
- Exempts DBEDT and all agencies (including the PUC) from all contested case due process provisions by changing the definition of a contested case in the Hawaii Administrative Procedures Act
- Requires DBEDT to accept and approve all applications for large renewable energy facilities subject to conditions to be determined at DBEDT's sole discretion
- Exempts DBEDT and all county and state agencies (except the PUC) from all existing laws, rules, standards and procedures regarding permitting requirements
- Includes no requirements for DBEDT to adopt rules and provides no standards by which DBEDT must execute its new authorities

HB 2863 would not, however, achieve its intended purposes. The Forum opposes this bill for the following reasons:

- Giving DBEDT absolute authority over county and state agency regulatory responsibilities puts DBEDT at odds with many agencies with which it really needs to maintain a cooperative and facilitating relationship.
- Giving DBEDT new regulatory duties will require substantial increased budget and staff resources.
- Removing all of the due process provisions embodied in the Hawaii Administrative Procedures Act in conjunction with wholesale abridgment of the permitting processes and authority of many county and state agencies will result in expensive and time consuming litigation on procedural and Constitutional issues.

The general approach of streamlining permitting requirements for energy production facilities by centralizing permitting authority should be implemented only after careful consideration. If implemented, any such process should be developed to maintain important environmental, cultural and economic protections and the ongoing cooperative relationships between Hawai'i's regulatory agencies and their federal agency counterparts. Development of any streamlined permitting process that shifts regulatory authorities to a central entity should be accomplished by a collegial and inclusive process that, at a minimum, includes consultation with the affected county and state agencies. HB 2863 clearly does not take this approach.

Rather than streamlining the permitting process for large renewable energy facilities, HB 2863 bill create conflict amongst state and county agencies, would result in lengthy and expensive litigation, would tax DBEDT's effectiveness to implement its other important programs and would hinder rather than promote the effective implementation of renewable and energy efficiency resources in Hawaii.

Based on the foregoing the Forum respectfully requests that HB 2863 be held.

Thank you for this opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organization

HAWAII RENEWABLE ENERGY ALLIANCE

46-040 Konane Place #3816, Kaneohe, HI 96744 – Telephone/FAX: 247-7753 – Email: wsb@lava.net

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WSB-Hawaii

Cully Judd
Inter Island Solar Supply

John Crouch
Sunpower

Herbert M. (Monty) Richards
Kahua Ranch Ltd.

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII
RENEWABLE ENERGY ALLIANCE BEFORE THE
SENATE COMMITTEES ON ENERGY AND ENVIRONMENT,
WATER AND LAND, AND INTERGOVERNMENTAL AND MILITARY AFFAIRS
HB 2863 HD2, RELATING TO RENEWABLE ENERGY

March 18, 2008

Chairs Menor, Hee and Inouye, Vice-Chairs Hooser, Kokubun and Tsutsui and members of the Committees I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of HB 2863 HD2 is to establish a renewable energy facility siting process to expedite the review and action upon state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility. HREA **supports the intent** of this bill, but cannot support the bill as currently drafted for the following reasons:

1. Noble but Challenging Endeavor with Legal Issues. It may be possible to realign our government agencies involved in land use, health and energy issues as proposed. However, **DBEDT would likely end up as litigative target** for developers disgruntled with permitting decisions rendered or not rendered by DBEDT in the permitting process envisioned by the bill; and we suggest
2. A More Realistic Approach. Rather than the prescriptive approach as proposed, HREA supports a role for **DBEDT** to work with other agencies to **coordinate** the permitting process, and to assist developers. Specifically HREA recommends that the bill be amended to direct DBEDT to: (i) establish a task force with all the appropriate federal, state and county agencies and (ii) consider the following approach to permitting large renewable projects:
 - a. identify and prepare a **master list** of all permits that could be required for renewable energy projects by agency;
 - b. pare down the master list to **sub-lists** by technology (wind, solar, biomass, etc.);
 - c. for each sub-list, identify how to **streamline** the processes, e.g., which permits could be done in parallel rather than in sequence, providing priority processing of permits, etc.;
 - d. conduct a "**high level review**" for new project proposals, providing developers recommendations on the potential viability of their projects, identifying permits that would be required, and assessing potential permitting timelines and hurdles; and
 - e. **work closely with developers** as their projects proceed through the permitting processes.

Thank you for this opportunity to testify.



D. NOELANI KALIPI
DIRECTOR, GOVERNMENT & COMMUNITY RELATIONS
UPC WIND MANAGEMENT, LLC

TESTIMONY ON H.B. 2863, HD2
BEFORE THE
HAWAII SENATE
COMMITTEES ON
ENERGY AND ENVIRONMENT
AND
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING
ON
TUESDAY, March 18, 2008
2:45 P.M. CONFERENCE ROOM 414

My name is D. Noelani Kalipi and I am the Director of Government & Community Relations for UPC Wind Management, LLC. UPC Wind Management, LLC is a wholly-owned subsidiary of UPC Wind Partners, LLC and provides administrative services to UPC Hawaii Wind, a partnership between UPC Wind Partners and Makani Nui Associates. An affiliate of UPC Hawaii Wind developed, constructed and owns and operates Hawaii's largest utility-scale wind farm, Kaheawa Wind Power, a 30MW facility located on the island of Maui. UPC Hawaii Wind is actively working to decrease Hawaii's reliance on fossil fuels for its electricity needs and has been working to develop additional wind generation facilities on the islands of Oahu, Kauai, Maui, and Molokai. **UPC Hawaii Wind supports the concept of a renewable siting council but has concerns about HB 2863, HD2 as drafted.**

The principals of UPC Hawaii Wind constructed Hawaii's largest wind farm, Kaheawa Wind Power (30 MW), on state conservation lands. We are well-aware of how time-consuming and complicated it can be to permit a wind farm in Hawaii. At one time during the construction and development of our project, we were working with close to 30 different government agencies to obtain the necessary permits and approvals that were required to construct the wind farm.

There is no question that there needs to be vast improvements made in the permitting for renewable energy projects to eliminate unnecessary duplication, repetition and redundancy in the permitting process. A renewable siting council is one way to address

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this process. Such a process requires that appropriate resources are provided so that there is adequate staffing with the requisite skill sets, expertise, and experience to ensure that the process is objective and that the interests of all of the parties – public, government, and developers - are considered fairly.

UPC Hawaii Wind is proud of its demonstrated record, which includes the precedent of being the first operating wind farm in the United States to establish a Habitat Conservation Plan, which required joint jurisdiction between the State of Hawaii's Division of Forestry and Wildlife and the U.S. Department of Fish and Wildlife. Our wind farms are intended to be a part of Hawaii for many years to come. We believe community, public, and government review is critical to the success of any wind project in Hawaii. There must be transparency as well as an opportunity for public input in the process.

We stand at the brink of change in Hawaii, where, after many years of ideas and dreams, we finally have reliable technology to harness our natural resources in a manner that can truly provide us with a measure of sustainability. We must be careful as we move forward that we do so in a culturally and environmentally appropriate manner. An ideal permitting process needs to provide transparency, eliminate unnecessary duplication, mandate concurrent permitting and review where appropriate, and be appropriately staffed with individuals who have the requisite knowledge, expertise, and experience. While the concept of a renewable siting council may fulfill this ideal solution, HB 2863, HD2 as drafted fails to meet these requirements.

Testimony in opposition to HB2863

Committee on Energy and Environment Sen. Ron Menor; Chair

Committee on Water and Land
Sen. Clayton Hee, Chair

Committee on Intergovernmental and Military Affairs
Sen. Lorraine Inouye, Chair

Tuesday, March 18th, 2008
2:45 PM
Room 414

Honorable Senators,

We would like to testify in strong opposition of HB 2863 as it would remove important city, county, and state agencies from the decision making process on large energy generating projects. We do support the intent of the bill to increase the amount of renewable energy available in the state. Renewable energy projects very much deserve the support of the legislature, unfortunately this bill in its current form will set a dangerous precedent for projects to come. Undertakings of this size will always have effects on the communities in which they are built as well as the rest of the state. Agencies which represent these communities and the people of Hawaii as a whole should be included in the permitting and review processes. We also want to ensure that significant safeguards are in place to assess the potential environmental impacts of such projects and to act on this information accordingly. DBEDT alone is not equipped to provide adequate oversight for such large projects, nor should the entire burden be placed on them. We recommend that DBEDT create a programmatic EIS which would ease the workload for an entity which is applying for an EIS for a project such as this.

Thank You For the Opportunity to Testify,

Bob King, President, Pacific Biodiesel Inc.

Kelly King, Vice President, Pacific Biodiesel Inc.



**Committee on Energy and Environment
Committee on Water and Land
Committee on Intergovernmental and Military Affairs
Hawaii State Senate
March 18, 2008
House Bill 2863 HD2 (in support)**

Chair Menor, Chair Hee, Chair Inouye and members of the Committees, my name is David Leonard and I am the Chief Operating Officer of Imperium Renewables Hawaii. We are part of the nation's leading producer of environmentally-friendly biodiesel fuel. We are currently running a R&D facility in Seattle focused on next-generation feedstocks such as algae, and have the nation's largest biodiesel processing facility in Grays Harbor, Washington that is currently running on canola oil feedstock.

Imperium Hawaii has been making exciting progress in permitting and designing a major biodiesel production facility at Kalaeloa Barbers Point Harbor. This sister facility to Grays Harbor will make a significant contribution to Hawaii's renewable, sustainable and independent energy future. We would like to thank the City and County of Honolulu, the Department of Transportation-Harbors Division, the Board of Land and Natural Resources, DBEDT and the Hawaii Department of Health for their assistance in the permitting and leasing process for our Hawaii facility.

We have been continuously working on obtaining the necessary permits for our Hawaii facility since late in 2006. Despite our relative success in Hawaii with our permitting process, we strongly believe that House Bill 2863 HD2 would have been of great benefit to us. We went through a similar permitting process in Washington State under a similar program as provided in House Bill 2863 HD2 and the Washington program made a big difference. Imperium Hawaii strongly supports this bill as it will help Hawaii achieve its goals of being more energy independent as soon as possible for all forms of alternative energy, including biodiesel.

Biodiesel is a clean-burning alternative fuel made from oils derived from agricultural crops and can be used in any conventional diesel engine. It can be used in pure form (100% biodiesel) or in a "blended" form, in which it replaces a percentage of petroleum diesel. A U.S. Department of Energy study determined that biodiesel reduces carbon dioxide emissions by more than 50%, compared to petroleum diesel. Imperium's high quality fuel meets or exceeds ASTM D-6751 specifications.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "David Leonard", written in a cursive style.

LIFE OF THE LAND

Ua Mau Ke Ea O Ka 'Aina I Ka Pono

76 North King Street, Suite 203, Honolulu, Hawai'i 96817
Phone: (808) 533-3454 * E-Mail: henry.lifeoftheland@gmail.com

Committee on Energy and Environment

Chair: Senator Ron Menor

Vice Chair: Senator Gary L. Hooser

Committee on Water and Land

Chair: Senator Clayton Hee

Vice Chair: Senator Russell S. Kokubun

Committee on Intergovernmental and Military Affairs

Chair: Senator Lorraine R. Inouye

Vice Chair: Senator Shan S. Tsutsui

Committee on Commerce, Consumer Protection, and Affordable Housing

Chair: Russell S. Kokubun

Vice Chair: Senator David Y. Ige

Tuesday, March 18, 2008

HB 2862 HD2 (3:00 pm)

HB 2863 HD2 (2:45 pm)

Room: 414

PLEASE HOLD

PLEASE HOLD

Aloha Chairs Menor, Hee, Inouye, Kokubun and Members of the Committees

HB 2862 and HB 2863 are very similar in many ways. They both seek to blame government rather than the fossil fuel industry for delaying the move towards renewables. They both seek to streamline the permitting process. And they were both concocted by Billionaire David Murdoch.

The idea of building 300-400 MW wind farm on Molokai (UPC Wind), Lanai (Castle & Cooke), or a combination system on Maui, Lanai and Molokai (United Power) and shipping the energy to O`ahu makes some sense. The 3 projects listed above might be worthwhile.

It certainly isn't because O`ahu lacks renewable energy resources. The Electric Power Research Institute (EPRI), the trade organization and research arm of U.S. Independently Owned Utilities (IOUs), including HECO, ascertained in 2004 that O`ahu could get all of its electricity from wave energy. Wave energy can be fairly accurately predicted 72 hours in advance, and the systems could get net power out of swells of just 8 inches.

Alternatively, all of O`ahu's energy could come from Ocean Thermal Energy Conversion (OTEC) on offshore barges.

Wind and solar can and should be part of the mix. In some parts of the country it takes under a year to approve the Power Purchase Agreement between the Independent Power Producer (IPP) and the utility. In Hawai'i it can take 5-10 years. This is done before the permitting stage.

Both bills streamline the process. HB 2862 appears to not trample on other state and county agencies, and the right of the public to be informed and to participate. HB 2863 eliminates all pretences that people matter. It promotes rubber stamping large well funded projects that have at least a green veneer.

Both bills carry hidden possibilities.

HB 2862 is for wind and supporting facilities. Ancillary facilities can include devices meant to smooth the variability. These devices include HECO's electric shock absorber, flywheels, hydro pumped storage, or gas turbines.

Alternately, a Big Island wind farm could be connected to O`ahu, with the idea that once it is built, a subsequent geothermal power plant could also use the transmission line. Puna Geothermal Ventures is owned by an foreign entity with HEI's former CEO on its Board of Directors.

HB 2862 HD2 transfers a lot of functions to DBEDT, an agency that is friendly to business and far less friendly to non-business interests.

"The department of business, economic development, and tourism shall be charged with the responsibility over the permitting process." (page 3)

"The department shall serve as the lead agency for the project permit application and review process established pursuant to section" (page 8)

"The project permit application, review, and approval process shall not affect or invalidate the jurisdiction or authority of any agency under existing law" (page 11)

"Where the contested case provisions under chapter 91 apply to anyone or more of the permits to be issued by the department or any agency for the purposes of the project, the department or agency, if there is a contested case involving any of the permits, may be required to conduct only one contested case hearing on the permit or permits within its jurisdiction." (page 12)

"To the fullest extent possible, this cooperation shall include among other things joint environmental impact statements with concurrent public review and processing at both levels of government." (page 13)

"Streamlining activities. In administering the project permit application, review, and approval process, the department shall: ... (2) Adopt and implement needed streamlining measures

identified by the interagency group, in consultation with members of the public” (page 14)

“ Incorporate, where possible, rebuttable presumptions based upon requirements met for permits issued previously under the consolidated permit application, review, and approval process.” (page 15)

“all procedures for public information and review under chapter 91 shall be preserved” (page 16)

“Applicable permits to be included in the project permit application process. (a) The project permit application process shall include but not be limited to the following permits: (1) From the land use commission: Any district boundary amendment involving land areas greater than fifteen acres (section 205-4);

From the department of health: (A) Water quality certification for discharge into navigable waters (part III of chapter 3420); and (B) Storm water discharge permit (part III of chapter 3420);

(4) From the department of land and natural resources: (A) Conservation district use permit (section 183C-6) ; (B) Ocean dredging, filling, or construction permit (section 183C-6); (C) Ocean lease, right-of-entry, or revocable permit for activity on state-owned lands, including submerged lands and sub-surface marine waters (section 1900-21); (d) Incidental taking of a threatened or endangered species license (section 1950-4); (E) Stream channel alteration permit (section 174C-71) ; (F) Well construction and pump installation permit (section 174C-84); (G) Historic property, aviation artifact, or burial site review (section 6E-42); H) Burial sites and human remains discovery (section 6E-43.6); (I) Historic site review (section 6E-8);

(5) From the public utilities commission: (A) Power purchase agreement (section 269-27.2); and (B) High voltage transmission line development (chapter 269);

(6) From the county of Maui: (A) Community plan and zoning requirements) ; (B) Special use permit) ; (C) Special management area use permit (D) Shoreline setback variance ((E) Planned development approval (F) Subdivision, grubbing, grading, and building

(7) From the city and county of Honolulu: (A) Development plan and zoning requirements” (pages 16-18)

“Nothing in this section shall be construed to relieve an applicant from the laws, ordinances, and rules of any agency whose functions are not transferred by this section to the department for the purposes of the project.” (pages 18-19)

But what about the laws, ordinances, and rules of any agency whose functions ARE transferred by this section. This section is less than clear on the rights of the public for the vast bulk of permits which are transferred.

HB 2863 was written so that Castle & Cooke can ram through the largest, most complex energy

project in state history (300-400MW interisland energy project). DBEDT could approve the project, overriding all state and county agencies, and they could do this before any public comments are received. The state approval process could be exempt from sunshine, public hearings and contested case hearings.

The bill stated: (1) "DBEDT's energy resources] coordinator, on behalf of the relevant state agencies, shall approve the permits" (2) "Nothing in this chapter or chapter 343 shall prohibit the review and processing by the coordinator of applications for permits for a renewable energy facility concurrently with the preparation and processing by the applicant of an environmental impact statement for the facility. To accomplish the concurrent review, the coordinator may consent to the receipt and review of portions of a draft of an environmental impact statement before its completion."

"§ -16 Superiority of chapter over conflicting state or county law. The provisions of this chapter shall supersede any conflicting state or county law."

To prevent another Superferry debacle, where one company legislation is passed, the bill was amended to cover all renewable energy projects.

HECO's biofuel proponents see this as an opportunity to avoid having to have a public discussion on their proposals, so they are backing the bill.

Projects should be judged on their merit, not their backers ability to bend the rules.

Sustainability can not be and must not be achieved through silencing all those with divergent viewpoints.

Henry Curtis
Executive Director

COMMITTEE ON ENERGY AND ENIRONMENT

Senator Ron Menor, Chair; Senator Gary L. Hooser, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair; Senator Russell S. Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Lorraine R. Inouye, Chair; Senator Shan S. Tsutsui, Vice Chair

I strongly support all efforts in our state to reduce reliance on imported fossil fuels. I encourage both government and private organizations to develop, produce and deliver clean, renewable energy to ALL residents in our islands.

HOWEVER, I OPPOSE HB 2863 HD2 for the following reasons:

- **It is very evident that this bill is designed to assist an organization which desires to develop several renewable energy facilities. It is written to remove as many permits as possible, to combine state, county and special permits. It is essential that as many of the regular permits be kept in place. We do not want to see another example of ignoring rules, laws and permits to benefit a company with the main goal is to increase economic benefits for the company, no matter what other negative effects it may create.**
- **Please note that the process of having community hearing is not even considered.**
- **With the opportunities for the “STAFF and CONTRACTOR to streamline all the decisions without community input, county planning and zoning procedures is unwise, in fact it may be a disaster.**
- **The number of state-wide hunters continue to enjoy hunting on Lanai. At no point is there any protection for this valuable opportunity to continue, without community input. It would not allow an opportunity to voice concerns for; hunting, environment, or cultural practices.**
- **Even though Castle & Cooke has testified that their goal is to make Lanai powered by 100% renewable energy, the facility as it is**

designed will unlikely provide Lanai residents the benefits of the energy developed. It is unclear if this effort will lower power rates or provide energy reliability on Lanai.

Thank you for this opportunity to testify to your Committees.

**Ron McOmber
P. O. Box 640646
Lanai City, HI 96763**

<testimony@capitol.hawaii.gov>

testimony

From: Barbara Polk [ednbarb8@earthlink.net]
Sent: Sunday, March 16, 2008 6:37 PM
To: testimony
Subject: HB 2863 HD2 hearing March 18, 2:45 pm

TO: Chairs Ron Menor, Clayton Hee and Lorraine Inouye;
Vice-Chairs Gary Hooser, Russell Kokubun, and Shan Tsutsui
Members of the Senate Committees on
Energy and Environment,
Water and Land
Intergovernmental and Military Affairs

FROM: Barbara Polk, Legislative Chair
Americans for Democratic Action, Hawaii

SUBJECT: OPPOSITION TO HB 2863 HD 2

Americans for Democratic Action, Hawaii Chapter strongly opposes HB 2863 HD 2. This bill would establish a new site approval process for a renewable energy facility that would eliminate all public hearings and public input (except when required by federal law) and supersede all state and county laws.

While the desire to move quickly on renewable energy for the State is admirable, this procedure is completely unacceptable. It undermines county home rule, overrides environmental concerns, and eliminates public input that could reduce the likelihood of major unintended consequences of the project.

We strongly urge your defeat of HB 2863 HD 2.

testimony

From: Casey McCarty [caseymccarty@yahoo.com]
Sent: Friday, March 14, 2008 10:07 AM
To: testimony
Subject: HB 2863, HD2

To The Powers That Be:

When is the power structure of Hawaii going to learn that Super Ferry side-steps just don't have long run feasibility nor are they to the service of the people? How much did we spend getting the special legislation to accommodate the side-stepping of sound environmental research and reporting? And here we go again.

Casey McCarty

testimony

From: nunyabus [inunyabus@gmail.com]
Sent: Friday, March 14, 2008 1:23 PM
To: testimony
Subject: HB2863

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair
Senator Gary L. Hooser, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Lorraine R. Inouye, Chair
Senator Shan S. Tsutsui, Vice Chair

RE: HB 2863, HD2 Establishes a renewable energy facility siting process to expedite the review and action upon state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility.

Aloha,

I have grave concern regarding our established process which is constantly under attack and is increasingly heading in the direction of a **silenced taxpaying public**.

Please ensure us, the public taxpayer, that you will keep the process intact...the right for public oversight must not be damaged or diminished.

As to the particulars of the project, it would appear there is little opportunity to delve into it for research.

We are seeing more and more call for expedited processes or *fast tracking*.

These proposals all want our money but with a sense of entitlement to those monies for unfettered access.

Please stop the direction these permitting processes are taking; I ask with suspicion why something must be rushed and why, without public oversight.

All existing laws and procedures were enacted specifically because of the problems and injustices that were created when doing the very thing that is being 'demanded' now...we seem to be headed backwards.

You are lawmakers, presumably of the mindset to uphold the laws that are in place for the protection of all and for unforeseen dangers.

Sincerely,
Elaine Dunbar

testimony

From: Marjorie Erway [merway@hawaii.rr.com]
Sent: Friday, March 14, 2008 10:17 PM
To: testimony
Subject: OPPOSE HB 2863, HD2 - Committees on Energy & Env., Water & Land, On Intergovernmental & Military Affairs - Mar. 18 @ 2:45p - Conf. Rm. 414

Aloha Chairs Menor, Hee, and Inouye, and all Committees members!

This bill is worse than any SuperFerry bill! Please kill it off fast. While the concept may be worthwhile, it is totally unacceptable to allow such a project to be done without public hearings, and only the DBEDT reviewing the EIS. Regular protocol needs to be followed; we must insist on that.

Learn from history -- this must be stopped fast!!

Mahalo,
Marjorie Erway
PO Box 2807
Kailua-Kona, HI 96745
808-324-4624

testimony

From: Jose Bulatao, Jr. [mrb@hawaiiink.net]
Sent: Saturday, March 15, 2008 9:02 AM
To: testimony
Cc: Sen. Gary Hooser; Sen. Clayton Hee; Sen. Russell Kokubun; Sen. Ron Menor
Subject: Fw: Worst Bill of the Session

Jose/Mr B

----- Original Message -----

From: kenneth Taylor

To: Ken Taylor

Sent: Saturday, March 15, 2008 8:40 AM

Subject: Fw: Worst Bill of the Session

PASS IT ON...

----- Forwarded message -----

From: **Henry Curtis** <henry.lifeoftheland@gmail.com>

Aloha,

Imagine exempting large (200+MW) biofuel, pumped storage, and wind projects and interisland electric transmission lines from public review. The state House passed the bill, and it is now before a triple committee hearing in the Senate.

Billionaire David Murdoch is proposing the state's third largest energy project (after HECO's Kahe and Waiiau power plants) and wants to ram his proposed project down the throats of Hawai'i's residents. Murdoch would build a 300-400MW wind farm on Lana'i and ship the energy to O'ahu via an undersea cable.

DBEDT would (a) review the Draft Environmental Impact Statement; (b) hold no hearings; (c) grant no contested case hearings; (d) adopt no rules; (e) have no criteria; and (f) decide all state and county permits (except for a county grading permit and, if necessary, a PUC Power Purchase Agreement). Is this for real? That an inter-island transmission line shall be exempt from a public hearing or contested case hearing?

While continued discussion on this measure might prove (to be) beneficial, the process to exclude the public from presenting testimony is questionable, to say the least.

Might this not cause a great degree of alarm and suspicion on the part of the constituency? I would appreciate an explanation on this matter.

Sincerely,

Jose Bulatao, Jr.
4614 Kokee Road
Kekaha, HI
e-mail: mrb@hawaiiink.net

3/15/2008

The inter-island transmission line shall be exempt from a public hearing or contested case hearing. The House Committee on Energy & Environmental Protection split on the bill. Rep Saiki raised serious objections, but the Chair prevailed. The Committee Report states: "There are problems with this bill at all three levels of government. ... the time constraints placed on PUC may be unrealistic ... it is unclear whether any overriding state-wide imperative exists to justify superseding existing local control over the site selection of a proposed renewable energy facility. ... Nevertheless, upon further consideration, your Committees find that continued discussion on this measure might prove beneficial."

testimony@capitol.hawaii.gov

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair

Senator Gary L. Hooser, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Lorraine R. Inouye, Chair

Senator Shan S. Tsutsui, Vice Chair

DATE: Tuesday, March 18, 2008

TIME: 2:45 p.m.

PLACE: Conference Room 414

HB 2863, HD2 Establishes a renewable energy facility siting process to expedite the review and action upon state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility. (HB2863 HD2)

--

Henry Curtis, Executive Director, Life of the Land, 76 N. King Street, Suite 203, Honolulu, HI 96817.
phone: 808-533-3454. cell: 808-927-0709. Web Site: <http://www.lifeofthelandhawaii.org/>
email: henry.lifeoftheland@gmail.com

testimony

From: patricia blair [cris6369@yahoo.com]
Sent: Friday, March 14, 2008 7:24 PM
To: testimony
Subject: HB2863, HD2

Committee on Intergovernmental and Military Affairs: Chair, Sen Lorraine Inouye, V-Chair, Sen SHan Tsutsui. Committee on Water and Land; Chair, Sen. Clayton Hee and V-Chair, Sen. Russell Kokibun. Committee on Energy and Environment; Sen. Ron Menor, Chair and Sen. Gary Hooser, V-Chair. I am writing to oppose HB 2863, HD2 which is a bad bill and will not benefit the people of Hawaii. Let it die a natural death. Thank you very much. Pat Blair, Kailua, 261-8499.

testimony

From: gse [gse@hawaii.rr.com]
Sent: Friday, March 14, 2008 8:26 PM
To: testimony
Subject: HB 2863, HD2

Please do not deprive county government of local control over their projects. Oahu should not be imposing its will on the "neighbor islands.

Vote down this terrible bill.

Gary & Pam Elster

145 N. Kihei Rd

Kihei, Maui

96753

testimony

From: Karen Chun [karen@karenchun.com]
Sent: Friday, March 14, 2008 8:23 PM
To: testimony
Subject: Testimony Against HB 2863

To:
COMMITTEE ON ENERGY AND ENVIRONMENT
Senator Ron Menor, Chair
Senator Gary L. Hooser, Vice Chair

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS
Senator Lorraine R. Inouye, Chair
Senator Shan S. Tsutsui, Vice Chair

DATE: Tuesday, March 18, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414

From: Karen Chun
87 Lae St., Paia HI 96779
283-3049

This is a terrible bill which usurps the County zoning and permitting process. It gives the County "45 days to approve" the project and then goes on to say that denying it, putting conditions on it etc. is failing to approve it so it goes forward anyway.

If this bill weren't so sneaky it would just straight out say, "The County shall have no say over these projects at all."

You folks know I am an advocate of sustainable energy, however, there are projects masquerading as "renewable" which are, in fact, detrimental, fake-renewable with a net negative impact on the environment. These include the huge biodiesel plants such as Blue Earth and Imperium which import their feedstock (As an example, Imperium put up a major fight against setting any locally grown feedstock goals). These plants will generate millions of gallons of waste glycerin per year. The Counties should be able to put conditions on these plants preventing them from dumping their waste into the land fill.

If HB 2863 passes the Senate, they won't be able to do this.

The counties should be able to specify waste water disposal and verify that there is adequate water for these projects.

HB 2863 takes this right away from them.

There are some whose position is that the Maui Waena land on which MECO wants to build the BlueEarth plant was conditioned to be sustainable energy generation - which BlueEarth is not.

HB 2863 takes away the County's right to say they want a wind farm or solar array on that land instead of an expensive and detrimental Biodiesel plant.

I can envision many more exploitative projects that can be rammed through, with the County powerless to stop or place conditions. As I said, not all "renewable" energy projects are sustainable or beneficial to the environment. Some are simply an excuse to stick it to the ratepayers while cloaking themselves in the latest political correctness.

Please, do not pass this bill. There is no reason for it. Good projects such as solar and wind won't see any serious opposition so there is no need to usurp the counties' ability to regulate their land use.

Thank you

Karen Chun

testimony

From: Janice Palma-Glennie [palmtree7@hawaiiantel.net]
Sent: Sunday, March 16, 2008 4:59 PM
To: testimony
Subject: Say "NO" to allowing Murdoch's group to skirt public review of energy facilities

HEARING DATE: Tuesday, March 18, 2008

TIME: 2:45 p.m.

PLACE: Conference Room 414

Please distribute my testimony to Committee Chairman Senator Menor and the Committee on Energy and Environment. Mahalo.

Aloha, Senators:

I'm writing to implore you to reject HB 2863, which would take the "public" out of the democratic process (and oxymoron).

No matter how good or bad an energy facility might be, going through the "hoops" of public review is intended to insure that any kinks are worked out, mistakes minimized, expert voices brought to light.

Please do not let the ultra-rich and super-corporations decide unilaterally (and in secret) what happens to our islands, our islands' energy futures, and our islands' people.

Mahalo for your consideration of my views.

Best regards,
Janice Palma-glennie
PO Box 4849
Kailua-Kona, HI 96745

testimony

From: Stuart Scott [stuart.scott@yahoo.com]
Sent: Sunday, March 16, 2008 6:56 PM
To: testimony
Subject: Testimony in Opposition to HB 2863

Dear Senator Menor and members of the Committee on Energy & Environment:

HB 2863 is a terrible idea! It has every earmarking of an attempt to allow wolves to be hidden in sheep's clothing. It says that since a project is 'renewable energy' in nature, there is no oversight needed. We already experienced the boondoggle of allowing the SuperFerry to be exempted from the review process and be 'fast tracked'. Let's not make this mistake twice.

This is the kind of legislation that makes one think that only corruption in government, behind the scenes dealings, power-brokering, etc. are the way of life in Hawaii's state government. The public review process is there for a reason. Do not even THINK about short-circuiting it!

I am a college teacher, long-time environmentalist, and having been trained by Al Gore, have now given his climate crisis presentation live in the islands over 80 times this past year. So I am well aware of the need to move expeditiously toward renewable energy. But that does not mean that we should ram things through allowing irreversible mistakes to be made in the name of expediency.

A concerned resident of Honolulu,
Stuart Scott

testimony

From: Sally Kaye [skaye@runbox.com]
Sent: Monday, March 17, 2008 9:34 AM
To: testimony
Subject: RE: HB 2863 HD2 to Committees on energy/environment, water and land, and intergovernmental/military affairs; hearing on 3/18/08 at 2:45

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair; Senator Gary L. Hooser, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair; Senator Russell S. Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Lorraine R. Inouye, Chair; Senator Shan S. Tsutsui, Vice Chair

All efforts by government and private entities to reduce reliance on imported fossil fuels and encourage the expeditious development, production and delivery of renewable energy to all residents in our islands should be supported.

However, I **OPPOSE HB 2863 HD2** for the following reasons:

- The bill as written would have a negative impact on existing, well-established local, county, and state regulatory authority. Providing a seemingly absolute license to not only create permit forms, set permit terms and conditions and then to provide permit approval authority to a single “coordinator” in one agency is unwarranted. The expeditious permitting of facilities that produce and deliver renewable energy to Hawaii residents is a laudable goal but should not be accomplished by usurping county planning and zoning procedures, while all but eliminating agency-led formal community hearings and oversight by heretofore statutorily responsible agencies. I support HB 2505 HD 2 as a more reasoned approach to streamlining the permitting process.
- Language in previous iterations of this Bill that would have restricted the rate-setting authority of the Public Utilities Commission (PUC) (triggered by missing a thirty-day deadline to approve, modify, or reject a power purchase agreement) has been removed; however, inserted language requiring the PUC to “set a deadline” of indeterminable length for approval of a purchase agreement is vague and unenforceable.
- Section -4 of this bill requires the coordinator to “set the fee [from an applicant] at an amount sufficient to cover the costs and expenses of the coordinator, coordinator’s staff **and contractor[.]**” To permit a “coordinator” to hire staff, set salaries, and then charge the “applicant” a fee to cover all costs is untenable. Assuming the intent of this bill is not to benefit a single applicant, how will these costs be apportioned? Over what period of time?
- There is a significant difference between §-5, “**Approval of state permits**”, and §-6, “**Recommendation for approval of county permits.**” It appears that the coordinator “shall approve” state permits on behalf of “relevant agencies”, but may “recommend” the county (s) to approve; followed by an opportunity for the county(s) to suggest “amended terms and conditions.” The provision then permits the coordinator to “reject all or some of the amended terms and conditions,” and approve the county permit “exclud[ing] the rejected amendments.” This is a hollow process, inviting future litigation.

- HB 2863 HD 2 purports to provide a siting process for any/all renewable energy facilities, so long as providing in excess of 200 megawatts of power. However, facilities providing renewable energy from sources such as wind, solar, wave, and bio-diesel, would each have vastly different footprints, effects on the environment, and most importantly, significantly different impacts on the communities in which placed. This bill all but eliminates community input from the permitting process, and eliminates the contested case process from “the review, processing, or approval of state or county permits for any renewable energy facility”. At the same time it is silent on requiring an applicant to provide any community benefits package, either by way of addressing local energy needs first, or by profit sharing with the communities hosting renewable energy facilities.

Thank you for this opportunity to testify to your Committees.

Sally Kaye
P.O. Box 631313
Lanai City, HI 96763

testimony

From: Judie Hilke Lundborg [judie@aloha.net]
Sent: Monday, March 17, 2008 7:45 PM
To: testimony
Cc: Judie Hilke Lundborg
Subject: HB 2863, HD2

Aloha Chairs Menor, Hee and Inouye and Vice Chairs Hooser, Kokubun and Tsutsui,

I am writing to strongly oppose passage of HB 2863, HD2 which would expedite the permitting process on renewable energy projects. To allow projects to go through without public input and an environmental assessment and/or EIS would be a serious mistake. In spite of being a strong and active supporter of alternative renewable energy, I feel strongly that we cannot leave the public in dark and without a voice, not to mention the consequences of bypassing our environmental laws.

A classic example of the folly of STRONG political influence and tailoring legislation for corporate convenience couldn't be more glaring than Hawaii Superferry. The cost to taxpayers in legal fees, not to mention the division is has caused in our state is definitely NOT worth it.

I urge you to oppose HB 2863, HD 2

Aloha,
Judie Hilke Lundborg
Lihue, Hawaii
639-0212

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS

Senator Ron Menor, Chair

Senator Gary Hooser, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell Kokubun, Vice Chair

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Lorraine Inouye, Chair

Senator Shan Tsusui, Vice Chair

Tuesday, March 18, 2008

2:45 pm

Conference Room 414

Copies to members

Bill: HB 2863, HD2 RELATING TO RENEWABLE ENERGY **OPPOSE**

Aloha Chairs Menor, Hee, Inouye, and Committee Members:

I find this bill surprisingly complex. It appears to be designed to exempt one or more specific projects from some rules, public scrutiny in hearings, contested case challenges, and other procedures which exist for good reasons. This state has seen what happened when the Superferry was allowed to go forward without going through proper procedures and public open scrutiny. Please don't pass laws just to enable one or a few projects to move ahead quickly.

I am a known proponent of renewable energy but I have major reservations about this bill. I hope you will seriously consider the precedent and legal consequences that might result from the passage of HB 2863.

Thank you.

Sarah Preble

3347 Anoi Place

Honolulu, HI 96822

phone 988-7500

preble@hawaii.rr.com

testimony

From: phil barnes [greenhi@interpac.net]
Sent: Monday, March 17, 2008 11:28 AM
To: testimony
Subject: HB 2863

Dear Legislators:

I am a big time supporter of renewable energy. However this bill is an attempt to do an end run around the process that has been put in place to protect our state's environment. Hopefully everyone still remembers the Superferry. This should be all of the reminder that anyone needs as to what happens when environmental statutes are ignored. This sounds like a great project. The investors can take the time to do it right .

Sincerely,

Dr Phil Barnes

Kehena Beach, HI 96778