

[REDACTED]

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 5:42 PM
To: WLOtestimony
Cc: [REDACTED]
Subject: Testimony for SB50 on 3/20/2009 10:00:00 AM

LATE TESTIMONY

Testimony for WLO/EEP 3/20/2009 10:00:00 AM SB50

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Don Bryan
Organization: Tradewinds Forest Products
Address: [REDACTED]
Phone: [REDACTED]
E-mail: [REDACTED]
Submitted on: 3/19/2009

Comments:

We believe that SB 50 is a good step to transparent government and toward developing healthy practices in the sale of state assets in general and forestry assets in particular. Good government practices such as outlined in SB 50 support the development of a robust forest products industry.

Aloha
Don Bryan
CEO
Tradewinds Forest Products

Testimony for SB50 on 3/20/2009 10:00:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

LATE TESTIMONY

Sent: Thursday, March 19, 2009 8:45 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO/EEP 3/20/2009 10:00:00 AM SB50

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Al Beeman

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 3/19/2009

Comments:

Aloha Chairs Ito and Morita, Vice Chairs Har and Coffman and Members of the WLO and EEP Committees,

My name is Al Beeman of Hilo and I own a farm in Hakalau on the Hamakua Coast on the Big Island.

I wish to testify in favor of SB50.

No one is more in favor of renewable energy, fossil fuel independence, and long term sustainability than I am. But after closely watching the process currently going on on the Hamakua Coast over the use of the Bishop Estate timber amongst Helco, several potential renewable energy producers and the State it is very clear that what is allowed under the current law is heavily flawed and could easily result in:

- Selection of pretty much any "so called" renewable energy producer as a State land lessor or purchaser for any reason whatsoever without public participation and input into the process
- Total disregard of wishes of the community that must live with decisions made
- Degradation of our quality of life whether willful or inadvertent
- No way for the community to set expectations without understanding of project timelines
- No transparent assessment of the financial viability of the participants while the local community would be left with the mess if the project goes bankrupt
- No public review of the business concept, the technical viability or information to determine if the choice is "best of breed" or better than other technologies or even worth doing at all
- No public explanation as to why use of our public land is the best alternative
- No public report on what decision was made with the substantiating rationale

I am also worried that without this legislation it remains possible, without public awareness, for a renewable energy producer to kick a law abiding lessor off their lease when they are currently in compliance with the terms of their lease.

Our migration to energy independence and our ability to reduce global warming has a far greater chance of success if we involve the communities that must bear the burden of the changes we all must make to reach our sustainability goals.

On the other hand nothing will degrade our chances of sustainability success like making opaque decisions that turn out to be wrong or perceived deceptions that result in getting sideways with the communities affected!

In our rush to free ourselves of our fossil fuel dependence and our desire to save our planet there are bound to be decisions made that will turn out to be less than the best or down right wrong. Especially when dealing with new or leading edge technologies, unfortunate decisions are inevitable so it is imperative that the public is well informed, allowed to provide input and has some "skin in the game."

I respectfully urge the Committee to approve this needed measure.

Mahalo for your valuable time.

Me ka pono (Respectfully submitted),

Al Beeman
Hilo

Testimony for SB50 on 3/20/2009 10:00:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 19, 2009 7:14 PM
To: WLOtestimony
Cc: michael.s.yoshinaga@hawaii.gov
Attachments: SB0050SD1_LNR_03-20-09_WTL~1.pdf (139 KB)

LATE TESTIMONY

Testimony for WLO/EEP 3/20/2009 10:00:00 AM SB50

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: michael yoshinaga
Organization: Dept. of Land and Natural Resources
Address:
Phone: 587-0241
E-mail: michael.s.yoshinaga@hawaii.gov
Submitted on: 3/19/2009

Comments:

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
WATER, LAND, AND OCEAN RESOURCES
and
ENERGY AND ENVIRONMENTAL PROTECTION**

**Friday, March 20, 2009
10:00 AM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 50 SENATE DRAFT 1
RELATING TO RENEWABLE ENERGY PRODUCERS**

Senate Bill 50 Senate Draft 1 proposes to amend Section 171-95, Hawaii Revised Statutes (HRS), by requiring that: (1) Public notice be provided to other interested renewable energy producers, and (2) Renewable energy producers provide pertinent information regarding the viability of their projects to the Board of Land and Natural Resources' (Board) for evaluation with assistance from the Department of Business, Economic Development and Tourism. The bill also requires that the Board's decision making process be documented in a report and prohibits the termination of an existing lease of public land in good standing for the purpose of issuing a lease to a renewable energy producer. **The Department of Land and Natural Resources (Department) supports most of the bill but has several concerns.**

The Department supports the inclusion of other interested renewable energy producers in the process for issuing a lease of public land and the required submission of the above information. The Department has pursued and promoted a policy of maximum transparency in its deliberations and the inclusion of all interested parties is an integral aspect of that policy.

The Department also supports the requirement for the applicant's production of pertinent information in this bill as it is currently the Board's practice to obtain such information prior to acting on any lease disposition. The information provided by the renewable energy producers would assist the Board in making an informed decision regarding the disposition of limited state land resources in circumstances where multiple renewable energy producers are competing for the same public lands.

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

The Department recommends amendments to two portions of the bill:

1. Public Meetings. The bill adds the requirement of conducting two public hearings in the county where the public land to be leased for a renewable energy project is located (Page 6, lines 14-21). The Department supports a public meeting for the purpose of informing the public about renewable energy projects being proposed in their communities. However, two public meetings would add considerable time to the process and place an excessive financial burden on the State that it cannot afford under current budgetary conditions. Accordingly, the Department recommends amending the bill to require only one public meeting to be held and publicized as proscribed in the bill.
2. Subsequent Reports. The bill requires the Board to produce a report of its deliberations, stating the reasons for its decision. The Department opposes this requirement as it is deemed redundant and imposing an unnecessary burden on the Board. The Board's decision making processes are already subject to the stringent open meeting requirements of Chapter 92F, HRS. Under those guidelines, the Board's decision-making process is already documented in the form of published minutes that are readily available to the general public. The Department recommends deleting the paragraph (Page 6, lines 6-9) in the proposed subsection (d) that states: "Upon completion of the board's evaluation and determination to award or not award a lease to a renewable energy producer, the board shall prepare a report outlining the reasons for the decision."

Testimony for SB50 on 3/20/2009 10:00:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Friday, March 20, 2009 7:07 AM
To: WLOtestimony
Cc: [REDACTED]
Attachments: sb50sd1 - First Wind-090320.pdf (53 KB)

LATE TESTIMONY

Testimony for WLO/EEP 3/20/2009 10:00:00 AM SB50

Conference room: 325
Testifier position: comments only
Testifier will be present: Yes
Submitted by: D. Noelani Kalipi
Organization:
Address: [REDACTED]
Phone: [REDACTED]
E-mail: [REDACTED]@firstwind.com
Submitted on: 3/20/2009

Comments:

We support the intent of this measure and request consideration of exempting renewable energy projects on conservation lands given the extensive public notice requirements associated with the CDUP process and EIS process required for projects on conservation land.



D. NOELANI KALIPI
DIRECTOR, GOVERNMENT & COMMUNITY RELATIONS
FIRST WIND ENERGY, LLC

TESTIMONY ON S.B. 50 S.D. 1
BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WATER, LAND, & OCEAN RESOURCES
AND
COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 20, 2009
Room 325
10:00 a.m.

Aloha Chairman Morita, Chairman Ito, Vice Chair Coffman, and Vice Chair Har, and other esteemed Members of the Committees on Water, Land, & Ocean Resources and Energy and Environmental Protection.

My name is D. Noelani Kalipi and I am the Director of Government & Community Relations for First Wind. First Wind supports the intent of this legislation, and supports transparency in the leasing of public lands for renewable energy projects. However, we have concerns about the unintended impact that this bill could have on our projects located on State Conservation lands and we respectfully request that you consider the suggested amendments that we have included with our testimony.

First Wind, through its affiliates Hawaii Wind (formerly known as UPC Hawaii Wind) and Hawaii Holdings, has been working in Hawaii since 2004 with a Maui-based firm, Makani Nui Associates. Together, we developed, constructed, and operate Kaheawa Wind Power, a 30MW facility located in the West Maui Mountains. Kaheawa is located on State conservation lands, a fact that we are very proud of, given the rigorous permitting requirements associated with doing any type of activity on conservation lands. These permitting requirements provide for numerous opportunities for public input and comment as well as review by the Board of Land and Natural Resources (BLNR) in public meetings.

We are proud of our demonstrated environmental record in Hawaii, which includes the precedent of, we believe, being the first operating wind farm in the United States to establish a Habitat Conservation Plan (HCP), which required joint jurisdiction between the State of Hawaii's Division of Forestry and Wildlife and the U.S. Fish and Wildlife Service. The HCP is designed to minimize the incidental injury or death of four State and federally listed threatened and endangered species that may occur when these species fly in the vicinity of the project. In



addition, the HCP provides substantial mitigation measures to offset impacts that may occur while also providing a net ecological benefit on behalf of these four covered species in alignment with state and federal recovery goals. At KWP, we have a full-time senior level Wildlife Biologist and two full-time Wildlife Technicians, whose focus is the successful implementation and execution of the HCP.

We also have a successful native plant reintroduction program at Kaheawa. There is a dryland native plant forest near the higher elevation turbines. Prior to and since construction, we collected seeds from native plants (none of which are endangered native plants) that commonly occur in the area and propagated those seeds at a nursery in Haiku. Following construction we began replanting these native plants in areas that had been disturbed by construction. We also use Kaheawa Wind Power as an educational tool for students. There is much to learn about Kaheawa – from the mo`olelo of the site and the cultural significance of wind to Hawaii's indigenous peoples to the science and engineering that drives wind energy. We pride ourselves in working closely with the Maui community as we continue to discuss the positive impacts of clean, renewable energy to Maui's sustainable future.

All aspects of developing the wind farm are driven by its location. For that reason, it is necessary to identify the location of the wind farm at the beginning of the process, and to secure the rights to utilize the selected land. Only then is it reasonable to begin the costly and time-consuming process of securing all of the necessary studies, permissions, permits, public reviews and other entitlements that are needed to complete the approval process. A significant amount of capital is required early in the development of wind projects. Annual average wind speed, available land with proximity to transmission lines, site access, community acceptance, and environmental considerations are all critical elements to the development of a wind energy project. In short it is cost prohibitive and extremely unlikely that any company will begin development and permitting of a project area without assurances that the land identified for the development of the project will be available.

For that reason, First Wind, in September 2006, applied for and received a "directed lease" from the Department of Land and Natural Resources to begin development efforts to construct Kaheawa Wind Power II, directly adjacent to the existing site. The "directed lease" authorizes the Land Division in DLNR to engage in negotiation of lease provisions but states that execution of the final lease cannot occur until First Wind, at a minimum, has complied with the CH 343 process, and has been granted its Conservation District Use Permit by the Board of Land and Natural Resources.

Since that time we have been engaged in a number of studies to determine the feasibility of building the project including archaeological studies, botanical studies, wind resources studies, engineering studies, noise studies, and a variety of avian and fauna studies. We also purchased 14 wind turbine generators. We were delayed in the development of the project due to prolonged negotiations with the utility resulting in our wind turbine generators being delivered to Maui



close to a year prior to our proposed construction date. The equipment is currently being stored on Maui.

We are heavily engaged in the permitting process. Our Draft Environmental Impact Statement (EIS) is in its 45 day comment period and have submitted a new Habitat Conservation Plan for Kaheawa II to the DLNR's Division of Forestry & Wildlife and the U.S. Fish and Wildlife Service. We also anticipate filing a Conservation District Use Application (CDUA) in the near future. The EIS and CDUA have public processes that allow for public comment and input and all three permits require action by the BLNR, thus requiring public notice when the Board's consideration of each permit is placed on the Board's agenda.

S.B. 50 S.D.1, as drafted, would require First Wind, after it has spent millions of dollars on requisite studies, permitting, and the purchase of wind turbines, and several public processes, to engage in an additional process "that provides [notice to] other interested renewable energy providers to participate in the process" in order to secure its lease. The reason we sought the directed lease was to be able to assert site control for the purposes of permitting, and to have the reasonable assurance that we would be granted a lease following the approval of all of the requisite permits and negotiation of the lease terms. We are concerned by the level of risk added to our project if, after negotiating a lease, executing the required studies, and applying for and receiving the requisite permits required to build a project on the state conservation lands, another developer is allowed to "participate in the process" of the lease being executed by the BLNR.

If the intent of the legislation is to provide notice, this requirement is already met under the current process for renewable energy projects on state conservation lands through the public hearing that is required as a part of the Conservation District Use Permit and the Chapter 343 processes. These public processes allow for notice to all affected individuals, including other renewable energy producers, of the details of the proposed project.

Given the stringent requirements of developing a renewable energy project on State Conservation lands with the number of permits required and the numerous opportunities for public input and consultation associated with each of the requisite permits, First Wind respectfully requests that a provision be inserted into S.B. 50 S.D. 1 which would exempt leases of conservation lands to renewable energy developers from the processes outlined in proposed legislation.

Alternatively, First Wind respectfully requests that the Committees allow the DLNR to count the public hearing required by the Conservation District Use Permit process as one of the two public hearings required by the provisions of S.B. 50 S.D. 1.

Again, we understand and support the need for transparency as renewable energy projects are developed in Hawaii. We continuously try to provide for as much transparency as possible in the way our projects are developed. We respectfully request that the committees consider our



request for amended language. We welcome any opportunity to discuss this further with the Members and Staff of these committees



Proposed amendment #1

Page 7, Line 5, following the words, “upon renewal of the lease.” Add: “This section shall not apply to leases of public lands classified as a conservation district by the state land use commission under chapter 205.”

Proposed amendment #2:

Page 6, Line 21, following the words, “provided in section 1-28.5.” Add: “A public hearing held by the Department of Land and Natural Resources on the island of the proposed project as part of its consideration of a Conservation District Use Application shall be considered as one of the two hearings required under this provision.”