



2011 Asia Pacific Clean Energy Summit & Expo
**CLEAN ENERGY DEVELOPMENT ON
PUBLIC LANDS**

Morris M. Atta

Special Projects Coordinator

Department of Land and Natural Resources

September 13, 2011

DISCLAIMER: Any views or opinions expressed herein are solely of the author of the materials and not of the Department of Land and Natural Resources or the State of Hawaii



INTRODUCTION

Governor Abercrombie's A New Day Initiatives:

- Renewable energy development is one of our most important economic enterprises. Moreover, as part of the State's move towards smart growth, the new Public Lands Development Corporation (Act 55) was created to provide tremendous opportunities for private and public sectors to improve public lands, conserve natural resources, build workforce housing, restore recreational areas, and provide opportunities for clean energy development.

BACKGROUND INFORMATION

**State of Hawaii Total Land area
(fast lands only):** 4,110,586 acres

**Total State Lands
(fast & submerged; main
Hawaiian Islands only):** 2,434,479 acres

- Fast lands: 1,382,511 acres
- Submerged lands
(up to 3-mile limit): 1,051,968 acres



“Public Lands”:

"Public lands" means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter with specific exceptions.

Public Lands Acreage (fast lands only):

<u>Hawaii</u>	<u>Kauai</u>	<u>Maui</u>	<u>Oahu</u>	<u>Total</u>
928,119	32,766	178,366	78,825	1,318,076
70.4%	10.1%	13.5%	6.0%	100%

Non-Public Lands Acreage:

<u>Hawaii</u>	<u>Kauai</u>	<u>Maui</u>	<u>Oahu</u>	<u>Total</u>
48,350	4,559	5,290	6,236	64,435
75.0%	7.1%	8.2%	9.7%	100%



GENERAL POLICY CONSIDERATIONS & OBJECTIVES

Hawaii needs renewable energy to reduce
the cost of energy

REGULATORY & PERMITTING ISSUES

A Catalog of Potential Sites for Renewable Energy in Hawaii

WIND

SOLAR THERMAL

PHOTOVOLTAIC

BIOMASS

BIOFUELS

BIOGAS

GEOTHERMAL

HYDROELECTRICITY

OCEAN WAVE

OCEAN THERMAL ENERGY CONVERSION





DISPOSITIONS REQUIRED BY DLNR FOR
USE OF STATE LANDS



LAND-BASED TECHNOLOGIES

- Leases (HRS §171-35, 36, 58, 59, 95, 95.3)
- Revocable Permits (HRS §171-55, 36, 59)

- Easements (HRS §171-13)
- Rights-of-Entries (HRS §171-55)



OCEAN-BASED TECHNOLOGIES

- Ocean or Submerged Lands Leases (HRS §190D-21;
HRS §171-53(b))

- Submerged Lands Easements (HRS §171-53(c))
- Rights-of-Entries (HRS §171-55)



Special Dispositions for Renewable Energy Producers

[§171-95.3] Renewable energy producers; lease of public lands without public auction.

(a) The board may lease or renew a lease of public lands to renewable energy producers, as defined in section 171-95, without public auction only pursuant to a public process that includes public notice under section 1-28.5 providing other interested renewable energy producers opportunity to participate in the process; provided that nothing in this section shall be construed to prevent the board from conducting direct negotiations; provided further that the renewable energy producer shall be required to submit as part of the proposal for the board's evaluation, as assisted by the department of business, economic development, and tourism, the following:

- (1) A timeline for completion of the project;
- (2) A description of a financial plan for project financing;
- (3) A description of the conceptual design of the project;
- (4) A description of the business concept for the project; and
- (5) A description of landscape and acreage requirements including public and private lands.

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.



Special Dispositions for Renewable Energy Producers

[§171-95.3] Renewable energy producers; lease of public lands without public auction.

(b) A lease to a renewable energy producer under this section shall not result in the involuntary termination of a lease of public land held by an existing lessee who is currently in compliance with the terms of the lease.



Special Dispositions for Renewable Energy Producers

[§171-95.3] Renewable energy producers; lease of public lands without public auction.

(c) To inform the public prior to the lease of public land or the renewal of a lease of public land for a proposed renewable energy project under this section, the department of land and natural resources shall conduct not less than two public hearings on the island where the public land to be leased for the proposed renewable energy project is located; provided that the notice of the hearing shall be published as provided in section I-28.5. The board shall prepare and distribute an outline of the proposals for the renewable energy project and receive testimony from interested parties and the general public at each public hearing.



Special Dispositions for Renewable Energy Producers

[§171-95.3] Renewable energy producers; lease of public lands without public auction.

(d) Any action taken by the board upon a proposal subject to this section shall take place on the island where the public land to be leased for the proposed renewable energy project is located.



Special Dispositions for Renewable Energy Producers

[§171-95.3] Renewable energy producers; lease of public lands without public auction.

(e) For any lease issued pursuant to this section, the renewable energy producer shall have the right of first refusal upon renewal of the lease.



POLICY FOR COMMERCIAL ACTIVITIES ON STATE OWNED AND MANAGED LANDS AND WATERS

Department of Land and Natural Resources

(Approved on 1/30/98)

The Department, when considering commercial activity proposals or management actions on state owned lands and waters, will use the following hierarchy of priorities:

- a. The Natural or Cultural Resource – The highest priority should go to the conservation of the resource. Only if an activity can be done in a way that does not unduly damage the resource, should it be allowed.
- b. The General Public – If use or activity by the public can be done without undue damage to the resource, it should be the next priority.
- c. Commercial Activities – Commercial activities should be considered only if their impacts do not impinge on the resource, #a above, or use by the general public, #b, above.



DLNR ENVIRONMENTAL, CULTURAL AND HISTORICAL CONSIDERATIONS

- Division of Forestry & Wildlife
 - Endangered Species
 - Forest Management
- Division of Aquatic Resources
 - Protected Marine Life (including corals)
 - Stream Biota
- Office of Conservation & Coastal Lands
 - Conservation District Use Permits
- State Historic Preservation Division
 - Cultural & Historic Sites
 - Burials
- Commission on Water Resource Management
 - Water Resources Protection & Management