

March 5, 2019

House Committee on Energy and Environment  
Oregon State Legislature  
900 Court Street NE  
Salem, OR 97301

*Regarding Concerns with respect to [HB 2329](#) EFSC Jurisdiction on Energy Facilities*

Dear Representatives Ken Helm (Chair), E. Werner Reschke, Sheri Schouten (Vice Chairs) and members of the committee:

I write on behalf of The Nature Conservancy to express appreciation for the attention of the committee in advancing renewable energy development in Oregon and to register our concerns regarding HB 2329.

The Nature Conservancy (TNC) is a global, science-based, non-partisan conservation organization operating in all 50 states in the United States and over 70 countries globally. Our mission is to protect the lands and waters on which all life depends. Since 1961, we have led one of the largest conservation efforts in Oregon. We are proud of our conservation track record in Oregon, which includes helping to protect over 511,000 acres of land, 425 miles of rivers and streams, and marine protected areas and reserves covering 9.7% of territorial sea statewide. We have been able to do so with the help of a dynamic board of trustees representing many businesses and communities, and over 70,000 supporters and members in every county in Oregon.

The Nature Conservancy supports responsible low-impact renewable energy development. Our key interests in commenting on HB 2329 is grounded in our expertise and experience in many states across North America which can be captured under the following three-fold priorities:

- *Mapping and geospatial decision support:* In partnership with government agencies, utilities and energy developers, our interest lies in identifying already disturbed sites that have high renewable energy potential and other areas that should be off-limits to development to protect biodiversity, ecosystem services and social values.
- *Early landscape scale planning:* We urge governments, energy developers, grid managers and utilities to use systemic approaches to planning and management, which allow them to choose the best alternative to meet multiple objectives across a full region, ecosystem or watershed.
- *Regulatory tools and incentives:* We are interested and invested in working with government agencies and energy trade groups to adopt zoning, permitting, licensing and compensation plans that support low-impact renewable energy development.

Oregon's Energy Facility Siting Council (EFSC) serves a necessary and critical role in the appropriate regulation and permitting of energy facilities. EFSC permitting is an important standardized means of placing checks and balances on energy facilities, thereby ensuring due care regarding the impacts of energy development on sensitive biodiversity and ecological processes. EFSC also serves an essential role in guiding an efficient and forward-looking system of energy developments and associated infrastructure across the state. HB 2329 modifies ORS 469.300 by removing most types of renewable energy projects from Energy Facility Siting Council (EFSC) jurisdiction, while allowing

developers to opt in voluntarily. These changes have significant consequences for conservation in Oregon which has prompted The Nature Conservancy to comment on this bill. The following are areas of grave concern for us:

- (a) *HB 2329 weakens established statewide policy and practices for responsible low-impact energy development.* This bill forces EFSC to abdicate its responsibility without an examination of how to make the EFSC permitting and review process more nimble, effective and time-sensitive. By requiring counties with no financial or standardized technical expertise to review large infrastructure and energy development projects, this bill exposes energy projects of all sizes, regardless of complexity, to inconsistent local county land use processes. This prevents a systematic approach to energy build-out, and ironically, threatens to create an unsustainable future for renewable energy in Oregon.
- (b) *HB 2329 contradicts Oregon's commitment to compensatory mitigation.* When important resources are compromised, offsets are necessary to ensure losses do not exceed sustainable thresholds. For example, stabilizing and increasing populations of the Greater Sage-grouse across its range are priorities for The Nature Conservancy. Collaborative conservation and the Oregon Sage-Grouse Action Plan, including affording regulatory certainty and requiring compensatory mitigation, were the bedrock of what kept the Greater Sage-grouse off the federal Endangered Species Act (ESA) list, allowing the State of Oregon to continue managing the species without federal regulatory intervention. At this time the federal government is creating uncertainty by revising guidance and policy related to compensatory mitigation and permitting uses on public lands (proposed changes to U.S. Department of the Interior 2015 Greater Sage-Grouse Approved Resource Management Plan Amendment) and because of this, the State of Oregon needs more regulatory certainty, and not less.
- (c) *HB 2329 would place undue burdens on Oregon Department of Fish & Wildlife (ODFW) and other reviewing state agencies.* ODFW is responsible for advancing the Oregon Conservation Strategy and the Oregon Sage-Grouse Action Plan. This bill does not guarantee any coordination with ODFW or adherence to their mitigation programs. The EFSC process allows reviewing agencies to recover their costs. If HB 2329 were to pass, ODFW would experience a fiscal impact, since time spent reviewing renewable energy projects would no longer be cost-recoverable.

The Nature Conservancy recognizes that HB 2329 attempts to enable more responsible energy development in Oregon. However, its unintentional consequences are many and grave, requiring this issue to be carefully considered. We ask that the committee convene a stakeholder consultation process to improve this legislation, build in the necessary safeguards for conservation, and ensure that no energy development permitting process is altered without a thorough examination of EFSC's needs. The Nature Conservancy stands ready to engage and support such an endeavor.

Respectfully submitted,



Garth Fuller  
Eastern Oregon Conservation Director