



**June 10<sup>th</sup> 2019**

Co Chair Sen Taylor, Co-Chair Rep Reardon and Members of Joint Committee on Ways and Means on Natural Resources

**Re: Commnets to HB 2329A**

Dear Senator Taylor and Representative Reardon

The undersigned groups represent a diverse cross-section of interests, but together we share concerns about HB 2329A and the future of renewable energy facility siting in Oregon, particularly in the context of land use and wildlife conservation.

Our organizations have been closely tracking and engaging in state-level work on renewable energy facility siting in Oregon. Collectively, we have participated in the recent Department of Land Conservation and Development's (DLCD) Solar Energy rulemaking advisory committee (RAC) as well as the Department of Energy (ODOE) RAC that is on-going and addresses facility-siting issues. Some of us also participated in the HB 2322 workgroup, which focused on updating Statewide Goal 13 to reflect the state's energy and climate policies in the context of land use planning. We are concerned that, as it stands with the -3 and -5 amendments, HB 2329A will be inconsistent with the efforts around wildlife corridor protection and could undermine other efforts to move Oregon towards a sustainable, wildlife-friendly clean energy economy.

We were encouraged to see the -2 and -3 amendments to HB 2329 on the House side, which we understand was drafted by ODOE with inputs from other state agencies. While -5 amendment to HB 2329A also reflects a step in the right direction, we still have some strong concerns on the impact of HB 2329A with -5 amendment on wildlife habitat and connectivity in Oregon. As you know, large-scale solar energy facilities must be fenced, meaning they create an immediate and long-term impediment to wildlife migration. Without meaningful criteria requiring avoidance, minimization and mitigation of these impacts, development of these larger facilities will displace wildlife and interrupt existing migration patters for species that are recognized and protected in Oregon Conservation Strategy and by other state laws. Displacing wildlife can also have unintended effects on working farms and ranches.

For HB 2329A to be effective in its intent and be respectful of wildlife conservation measures in Oregon, we want to make the following suggestions:

1. HB 2329A, with the -5s, would still allow large renewable energy projects to potentially avoid the EFSC permitting process. We recommend that HB 2329A should have a threshold no larger than 640 acres. Currently, “Energy facility” definition includes 1280 acres on cultivated or soil classes I to IV and 1920 acres located on any other land. In terms of the acreage such massive projects will cover critical wildlife habitat. New habitat mitigation requirements mentioned in the bill are only on facilities between 100-160 acres on high-value farmland, 100-1280 acres on cultivated or soil classes I to IV, and 320 – 1920 acres on any other land.
2. Perhaps our biggest concern is how HB 2329A will allow for projects to avoid Energy Facility Siting Council (EFSC) process and habitat mitigation standards. For projects between the sizes described in the -5s, the local government *or* the developer can opt for the EFSC process. If HB 2329 goes forward with only these two choices, we believe this should be an option for the local government only. However, we do want to express concern that neither seems like an effective solution. If the local government keeps the application, it gets to determine which, if any, EFSC standards it wants to apply (p. 3, lines 26-28 of -5) and counties will be under tremendous pressure to process the applications at the county level and forgo the EFSC process.
3. The bill should require a wildlife avoidance and mitigation standard at least as stringent as the current EFSC standard (ORS 469.501 (1) (d)(e) and (f)) for all lands and should require consultation with the relevant state agencies. Currently, HB2329A inserts excerpts of ODFW’s Mitigation Policy (OAR 635-415) rather than using the entire policy. This leaves many terms undefined and could cause inconsistent application and interpretation in the future. It also does not capture any reference to Greater Sage Grouse mitigation rules. Also, the county, not ODFW, will have the final say over whether applicant has adequately avoided and mitigated wildlife impacts. As the technical experts and managers of wildlife and wildlife habitat, ODFW should be better empowered to have a voice in the final decision

In closing, we appreciate the opportunity to review and comment on the HB 2329A amendments and are supportive of the agencies’ work in crafting them in a manner that is reflective of the many issues inherent in shifting jurisdiction for large scale energy projects from the state to the

local level. We hope the conversation around this bill will continue to be a transparent process and will result in a bill that finds a balance between Oregon's energy goals and its commitment to protecting working lands and wildlife.

Thanking you

Sincerely

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