



## OREGON SHORES CONSERVATION COALITION

February 24, 2021

House Energy and Environment  
State Capitol  
900 Court Street NE, Room 453  
Salem, OR 97301

*Submitted via Oregonlegislature.gov:*  
<https://olis.oregonlegislature.gov/liz/2021R1/Testimony/HEE>

**Re: Testimony on HB 2603, Relating to undersea fiber optic cables**

Chair Marsh and Members of the Committee:

Thank you for the opportunity to provide testimony on HB 2603, a bill addressing undersea fiber optic telecommunication cable development on the Oregon Coast. Oregon Shores is a non-profit organization dedicated to protecting the Oregon coast's natural communities, ecosystems, and landscapes while preserving the public's access to these priceless natural treasures in an ecologically sustainable manner. Our mission includes assisting people in land use, policy, and other regulatory processes affecting coastal communities, as well as engaging Oregonians and visitors alike in a wide range of advocacy efforts and stewardship activities that serve to protect our state's celebrated public coastal heritage. We have been involved with and defenders of the Oregon coastal region for half a century.

In recent years, the State of Oregon has encouraged telecommunications companies to apply for use of the public's shoreline as a landing site for trans-Pacific undersea cables and related on-shore operations.<sup>1</sup> This encouragement has made Oregon a top west coast landing

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<sup>1</sup> For a discussion of fiber optic cables in Oregon, including the state's current approach to issuing permits for these developments: See Kale Williams, *Facebook abandons broken drilling equipment under Oregon coast seafloor*, Oregon Live (Aug. 13, 2020), <https://www.oregonlive.com/environment/2020/08/facebook-abandons-broken-drilling-equipment-under-oregon-coast-seafloor.html>; See also Nigel Jaquiss, *Mark Zuckerberg Is Despoiling a Tiny Coastal Village and Oregon's Natural Treasures. The State Invited Him*, Willamette Week (Aug. 20, 2020),

location for undersea cables, which support communications such as telephone, internet, and high-speed data. At least seven trans-Pacific cables come ashore in Oregon, four of which are docked on a site owned by Tillamook County in Pacific City.<sup>2</sup> If sited and regulated appropriately, the installation and operation of undersea fiber optic cables can generally be performed safely and in a fashion that reduces conflicts with the public's interest in the beach and minimizes impacts on vulnerable coastal habitats. However, given increasing demands on ocean resources, gaps in long-term planning, as well as lack of explicit environmental and public interest protections in governing frameworks, we are extremely concerned about the impacts these industrial undersea cable projects will have and are currently having on Oregon's nearshore waters, ocean shore, and seafloor areas as well as on public safety.

Facebook's botched attempt last spring to connect a trans-Pacific telecommunications cable to the Oregon coast just west of and transiting the beach within the unincorporated community of Tierra Del Mar, and the ongoing problems arising from that disaster,<sup>3</sup> show that there is reason for concern.<sup>4</sup> Unlike the landings just to the south in Pacific City, which are located on government-owned property far from residential areas, Facebook's landing was to happen on a residential lot in the midst of Tierra Del Mar.<sup>5</sup> Despite obvious public safety and environmental risks, no meaningful alternative sites analysis, and over substantial community opposition, Facebook received the necessary permits between late 2018 and spring 2019.<sup>6</sup> On April 28, 2020, Facebook's drill bit broke, and it abandoned 1,100 feet of steel drill pipes, a carbide drill tip, two tools for drill steering and tracking, and between 6,500 to 6,700 gallons of potentially toxic drilling lubricant under the seafloor as well as some portion of the beach. According to DSL, Facebook did not notify the state of the abandoned materials until June 17, 2020, almost two months later. Both OPRD and DSL have indicated that the delay in notification eliminated any potential options for recovery of the equipment. Today, it is still far from clear what authority the state had to demand immediate cleanup following notification, as well as which agency will effectively coordinate the long-term planning response required to ensure that future accidents and problems along the cable route are managed in a just fashion.

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<https://www.wweek.com/news/2020/08/19/mark-zuckerberg-is-despoiling-a-tiny-coastal-village-and-oregons-natural-treasures-the-state-invited-him/>.

<sup>2</sup> See Steven Duin, *Facebook's new Oregon Coast venture angers neighbors left in the dark*, Article, OregonLive, (June 7, 2019), <https://www.oregonlive.com/environment/2019/06/facebooks-new-oregon-coast-venture-angers-neighbors-left-in-the-dark-steve-duin.html>.

<sup>3</sup> For examples of recent issues arising from the Edge Cable accident, See Nigel Jaquiss, *Facebook Contractor Experiences Another Drilling Mishap on Coastal Telecom Cable Project*, Willamette Week (Jan. 27, 2021), <https://www.wweek.com/news/2021/01/17/proposed-legislation-would-impose-stricter-requirements-on-undersea-cables-after-facebook-fiasco/>; See also Edmund Ruttledge, *More Mud-Slinging in Tierra Del Mar: Facebook Pulls a "Two-Face" – Last Minute Notice of Weekend Work*, Tillamook County Pioneer, (Feb. 6, 2021) <https://www.tillamookcountypioneer.net/more-mud-slinging-in-tierra-del-mar-facebook-pulls-a-two-face-last-minute-notice-of-weekend-work/>.

<sup>4</sup> Nigel Jaquiss, *Proposed Legislation Would Impose Stricter Requirements on Undersea Cables After Facebook Fiasco*, Willamette Week (Jan. 17, 2021), <https://www.wweek.com/news/2021/01/17/proposed-legislation-would-impose-stricter-requirements-on-undersea-cables-after-facebook-fiasco/>.

<sup>5</sup> Per the best of Oregon Shores' knowledge, the Edge Cable project was the first of its kind authorized on privately owned land that is residentially zoned in the entire State of Oregon.

<sup>6</sup> Permitting authorities for the project include: The Oregon Department of State Lands ("DSL"), the Oregon Department of Land Conservation and Development ("DLCD"), the Oregon Parks and Recreation Department ("OPRD"), and Tillamook County.

Oregon Shores recognizes that at times it is necessary to site and construct fiber optic cables that cross coastal areas and the Territorial Sea. However, this need must be balanced against the equally important need to protect our vital and vulnerable coastal environments, public safety, and the public's interest in the beach. It is crucial that the choices about where to site and construct these projects are made in an ecologically sustainable fashion and with the highest consideration of community concerns. Fiber optic cables should be subject to stronger siting standards that prohibit them in residential areas. Geologic reports must be required to obtain permits to construct a pipeline, cable, or conduit on or under the beach or seafloor, and state agencies should obtain an independent review of such a report at an applicant's expense. The state must consider the cumulative, long-term impacts of these activities to the whole coastal ecosystem prior to approving permits. Projects should be subject to financial guarantees that will provide the state with adequate funds to undertake recovery of equipment abandoned in the ocean and cover the costs of removal upon termination of use or expiration of easement. Permittees must be required to timely notify all authorizing agencies and decisionmakers of drill breaks and other accidents. They must be held accountable for failure to properly notify authorities of accidents, failure to adequately mitigate environmental impacts arising from accidents, and for abandoning trash in the ocean. Finally, the state must ensure that anything crossing the shore or nearshore ocean—any type of pipeline—is subject to a comprehensive permitting process that coordinates the work of all relevant agencies and local governments.

When the State of Oregon was faced with a similar dilemma in planning wave energy for our Territorial Sea, the State worked with potentially impacted stakeholders and the public to develop strong policy around abandonment and derelict equipment. Oregon Shores strongly believes companies proposing to bore holes in beachfront neighborhoods, under the ocean shore, and through the seafloor must be subject to the same rigorous standards as ocean renewable energy, and that Oregon's coastal ecosystems, communities, and ocean users must be protected from the accidents, abandonment, and user conflicts associated with undersea cable projects. At the very minimum, fiber optic telecommunication cable projects should provide financial guarantees, removal and accident response plans, and be subject to stronger siting standards. Through the 1967 Beach Bill,<sup>7</sup> Oregon law makes paramount the public's long-term interest in the use of and access to the ocean shore and takes a conservationist approach to management of shoreline resources. The Beach Bill recognizes that our coast and its ecosystems are fragile and irreplaceable. Oregon's current fiber optic cable laws do not set forth financial guarantees, assign liability for costs associated with removal or accidents, or a robust, coordinated permitting process, and thus are insufficient to protect Oregon's coast as well as inconsistent with the paramount policy of the Beach Bill.

HB 2603 is the first step to bridging these gaps. Specifically, HB 2603 is intended to:

- Require the owners or operators of undersea fiber optic telecommunication cables to submit and keep up-to-date plans for cable removal and accident response;

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<sup>7</sup> ORS 390.605 to 390.770.

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Written Testimony to the House Committee on Energy and Environment on HB 2603

- Require the owners or operators of undersea fiber optic telecommunication cables to have financial guarantees in place to ensure proper removal of cables and drilling equipment as well as accident management associated with fiber optic cable developments; and
- Direct DSL and DLCD to study unified and streamlined permitting processes for the siting and development of undersea fiber optic cables within the territorial sea, under the ocean shore, and on associated landing sites.

Please consider the following relating to HB 2603:

- HB 2603 would ensure cable removal and accident response plans are in place prior to project installation, thereby effectively avoiding some of the problems brought to light by the Facebook drilling disaster.
- HB 2603 would ensure the state has adequate funds to clean up after a fiber optic cable accident or conduct cable removal, and would place financial responsibility for cleanup and removal on project developers, owners, and operators rather than putting that burden on ocean users and community members.
- HB 2603 will work to ensure that undersea fiber optic cables are subject to the same minimum standards that Oregon applies to other kinds of cables.

For these reasons, Oregon Shores supports HB 2603 as an important first step to addressing the above challenges. HB 2603 will protect Oregon's coastal communities and ocean users from abandonment and user conflicts, while continuing to provide for undersea cable development opportunities consistent with Oregon's celebrated tradition of coastal stewardship. Thank you for your consideration of these issues.

Sincerely,



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