



Oregon

Tina Kotek, Governor

Department of Land Conservation and Development
Director's Office

635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

March 30, 2023

www.oregon.gov/LCD

TO: The Honorable Ken Helm, Chair
The Honorable Annessa Hartman, Vice-Chair
The Honorable Mark Owens, Vice-Chair
House Committee on Agriculture, Land Use,
Natural Resources and Water

FROM: Alexis Biddle, Legislative and Policy Coordinator
Jon Jinings, Community Services Specialist



RE: Energy Siting Bills

Dear Chair Helm, Vice Chairs Hartman and Owens, and members of the Committee:

The Department of Land Conservation and Development (DLCD) is constantly engaged in discussions on the siting of renewable energy facilities. We write today to comment on energy siting bills before your Committee, but take no position on these bills. We understand the need for near-term and longer-term strategies for energy, and specifically solar, siting in Oregon – our comments center on ensuring that proposed legislation minimizes unintended consequences, adds clarity and certainty in the near term, and protects resource land.

Data On Solar Siting

Our agency tracks the development of solar projects as they are sited on Exclusive Farm Use land throughout the state. As you can see in the table below, in the last decade (2011-2021), Oregon has seen a total of 167 solar projects on over 25,000 acres of land. These projects are just the number of approved projects – many others are under review or in development. You will notice that the greatest number of projects occur on high value farmland, but the greatest acreage occurs on arable and non-arable farmland.

Solar Projects Permitted on EFU (Including Exceptions), 2011-2021			
Review Authority	Farmland Type	Number of Projects	Use Area (acres)
county	high value farmland	89	1,433

county	arable farmland	17	281
county	nonarable farmland	37	6,622
	TOTAL LOCAL	143	8,336
county exception	high value farmland	3	243
county exception	arable farmland	8	621
county exception	nonarable farmland	2	754
	TOTAL LOCAL EXCEPTIONS	13	1,618
EFSC exception	high value farmland	4	3,530
EFSC exception	arable farmland	5	7,601
EFSC exception	nonarable farmland	2	4,191
	TOTAL EFSC EXCEPTIONS	11	15,322
Total	Total high value farmland	96	5,206
Total	Total arable farmland	30	8,503
Total	Total nonarable farmland	41	11,567
TOTAL EFSC & Local EFU Approvals		167	25,276
<p><i>*Projects permitted 01/01/2011 through 12/31/2021. County permits as reported to DLCD through the Farm & Forest Decision Reporting Database pursuant to ORS 197.065 and through the Post Acknowledgement Plan Amendment Reporting Database. Farmland type based on record findings. High-value Farmland as defined in ORS 195.300.</i></p>			
<p><i>Note: Seven (7) approvals for solar projects on EFU were issued by counties prior to 2011 with a use footprint of 427 acres. Farmland classification information for these projects is not available.</i></p>			

Longer-term “lower conflict” approach

DLCD sees definite value in defining a longer term “lower conflict” siting approach by which areas with lower resource value are prioritized over lands with higher resource value through streamlined siting processes. This approach must contemplate complex tradeoffs among a wide array of resources including water availability, soil quality, crop productivity, wildlife habitat, cultural resources, and community needs. So far, the group working on finding common ground in these areas has made significant progress, but we see substantial disagreement that will leave some stakeholders concerns unaddressed. Allowing more time to facilitate this conversation could lead to an optimal policy outcome that accelerates the approval process for energy siting, while maintaining focus on strategic outcomes that support the widest array of interests possible. We believe this group of stakeholders, all participating in good faith discussions, will get there.

Shorter-term “relief valve” approach

We recognize that a shorter-term legislative solution could complement the longer-term process. Modest adjustments made this session could help create the space that is needed to find consensus on more complex issues. In our view, increasing the cap for county level (as opposed to EFSC level) siting along with aligning Goal 3 exceptions with a focus on clarity and certainty for developers could provide significant value in realizing this “relief valve” for demand for solar development without risking as many unintended consequences.

Our agency would welcome the task of reforming Goal 3 exceptions through rulemaking for the purpose of siting solar and possibly other energy development on a short-term (i.e. 6-12 months) basis while a longer term process is established. The legislature could serve to expedite this rulemaking process by continuing the good work done to limit the scope of the impact of energy siting by focusing the Goal 3 reform based on the four “buckets” in HB 3180:

- Distance from transmission
- Water challenged lands
- Economically challenged lands
- Additional community benefits and agricultural mitigation

As written, HB 3180 could lead to unintended consequences. For instance, it could inadvertently limit agricultural systems, including livestock grazing and crop production, by limiting lands available to farmers and ranchers. It could also lead to increased costs based on land speculation and associated increases in property values. Wildlife populations could also be impacted due to reduction in habitat, habitat value, or constraining migratory corridors – all of which are not contemplated in the bill. Finally, the proposed streamlined process could accidentally disrupt local community identities, as well as social and economic fabric by converting working resource lands to other uses that do not have a job creation component

Opening up 5% of land zoned for EFU in Eastern Oregon of land for an expedited photovoltaic solar siting arrangement prior to having a Statewide Energy Strategy in place could lead to conversion of more resource land than necessary. Answering key policy questions regarding how much energy is needed and where it should come from, could lead to an improved land use policy for energy siting. With a better sense of the acreage we need in mind, the state could more surgically decide on lands that are eligible for an expedited siting process.

In summary, we recommend taking a shorter term approach that includes an increase in the project size eligible for county jurisdiction as well as a rulemaking that adds clarity and certainty for developers on Goal 3 exceptions. In the longer term, we recommend a rulemaking that carries forward the discussions to identify lands of “least conflict” to set our energy siting process on an efficient and sustainable path.

Sincerely,

Jon Jinings
Community Services Specialist
Department of Land Conservation and Development

Alexis Biddle
Legislative and Policy Coordinator
Department of Land Conservation and Development