



Oregon

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MEMORANDUM

To: Chair Sollman and Members of the Senate Committee on Energy and the Environment

From: Todd Cornett, Assistant Director for Siting

Date: April 26, 2023

Re: ODOE Comments on HB 3179A

The Oregon Department of Energy has no position on HB 3179A. However, the Department wanted to share background information that may be helpful to legislators and staff as the bill would make a significant shift in solar energy siting from the state to individual counties.

HB 3179A

HB 3179A proposes a major change the jurisdiction of solar projects, away from the process and standards of the Energy Facility Siting Council and instead to a county-by-county approach that will create a patchwork of varied processes and protections for Oregon’s resources. [You can find more information about the differences between the EFSC process and county processes here.](#) You can also read more information about the Energy Facility Siting Council below.

During the 2019 legislative session, HB 2329 marginally increased county jurisdiction over wind and geothermal projects and substantially increased county jurisdiction over solar facilities. HB 3179A proposes to increase that size again. These thresholds are outlined in the following table.

	Pre HB 2329 County Thresholds and Current Conditional Use Permit (CUP) Process Only	Current County Thresholds and Current CUP and HB 2329 Process	HB 3179A Proposed County Thresholds (CUP and HB 2329 Process)
Solar on High Value Farmland	<=100 Acres	>100 acres to <=160 Acres	>100 acres to <=240 Acres
Solar on predominantly cultivated land	<=100 Acres	>100 Acres to <=1,280 Acres (2 square miles)	>100 Acres to <=2,560 Acres (4 square miles)
Solar on other land	<=320 Acres	>320 Acres to <=1,920 Acres (3 square miles)	>320 Acres to <=3,840 Acres (6 square miles)

Since HB 2329 has gone into effect, ODOE has been notified of eight projects going through the county process. Three were approved and have either been constructed or are eligible to begin construction. Two were appealed with no outcome yet. One was denied by the county. One elected not to move forward and withdrew its application. The last one has not yet received a final county decision. [The](#)

[Department has submitted a fact sheet to the record on this bill that provides more details on the eight projects that have gone through HB 2329 review.](#)

ODOE is unaware of any analysis of the efficacy of the change in county jurisdictional thresholds from HB 2329 in 2019. During testimony on HB 2329, the stated purpose of changing the thresholds was to expedite renewable energy generation development. Prior to considering the proposed increase in those thresholds again, an analysis could be conducted to determine if the change in jurisdictional thresholds did in fact result in expedited renewable energy generation development and what, if any, were the impacts to counties and other groups interested in the siting process or large-scale solar projects.

The Siting Table and Siting Process Updates

Starting late last summer, a large group of diverse stakeholders with an interest in energy siting in Oregon began to meet to discuss changes to how energy projects are sited in Oregon. This group spent hours learning and thinking together before arriving at one piece of legislation that had near consensus: HB 3181A, which is now in Ways and Means. That bill would establish a process for identifying areas where renewable energy development could take place with the least conflict. HB 3179A did not come from the Siting Table, nor was this concept on a list of policy options that the group arrived at together and then worked to develop into legislation.

ODOE is committed to ensuring that our state's energy siting regulations continue to balance the needs for clean, renewable energy with state policies and values around farm and forestland and habitat protection. As part of that commitment, ODOE and the Energy Facility Siting Council will soon receive a report from an outside consultant who has conducted an in-depth program review. Staff and Council will then consider how to implement recommendations from that report. Staff and Council are also conducting a review of the application process, making changes to rule and perhaps eventually recommending statutory changes.

Also, through the Biennial Energy Report, ODOE has recommended that the state develop an energy strategy to, among other things, align policy regulation, and financial incentives to support achievement of our energy and climate goals. This strategy would be developed through a public process that thoroughly explores tradeoffs associated with specific technology pathways, such as solar development. A bill that would direct such a state energy strategy, HB 2534, is currently in Ways and Means. The state has also applied for some federal funds that could contribute to such a strategy.

The Legislature should consider making changes to Oregon's siting regulations with the benefit of a robust stakeholder process and the types of data and analysis that will result from the efforts described above.

About the Energy Facility Siting Council

The State of Oregon's energy facility siting process is a consolidated review that incorporates most state and local government statutes, rules, standards, ordinances, permits, and other approvals into the authority of the seven-member, Governor-appointed and Senate-confirmed Energy Facility Siting Council (EFSC or Council). This consolidated review eliminates the need to seek multiple approvals through multiple processes that may have incompatible or contradictory approvals, conditions, review timelines, or appeal timelines.

The Oregon Department of Energy, staff to EFSC, works with all participants in the siting process, including but not limited to: applicants, certificate holders, state agencies, local governments, tribal governments, members of the public, and diverse interest groups. ODOE works to ensure the review process is as timely, efficient, transparent, and inclusive as possible while remaining consistent with

statutory policy to protect public health and safety, and remaining in compliance with energy policy as well as air, water, solid waste, land use, and other environmental protection policies of this state.

EFSC currently has 7.4 GW of active renewable energy projects that are either operational, in construction, approved but not yet constructed, or under review. [You can see a full list here.](#) If that number is combined with all known county jurisdictional renewable energy projects that are operational, in construction or approved, it is equal to 10.2 GW. These numbers equate to 108 percent of the forecasted onshore state wind needs and 46 percent of the forecasted state solar needs by 2050, as identified by the [Oregon Clean Energy Pathways study](#),¹ one of the many scenarios examined by the Department of Energy in the [“Charting a Course” Policy Brief](#) in the *2022 Biennial Energy Report*. The solar projects already approved cumulatively would occupy 57,816 acres, or approximately 90 square miles, mostly in Exclusive Farm Use zoned lands.

[You can find more information about how EFSC’s current process relates to the state’s clean energy goals here.](#)

For Further Information

Further information on EFSC and Oregon’s statewide siting process can be found on ODOE’s [Energy Facility Siting website](#). If you have questions or would like to discuss this information further, please contact todd.cornett@energy.oregon.gov or christy.splitt@energy.oregon.gov.

¹ Evolved Energy Research. (2021). Oregon Clean Energy Pathways—Final Report (p. 39). [https://uploadssl.webflow.com/5d8aa5c4ff027473b00c1516/6328d0cb1553b714a2f95f11_Oregon%20Clean%20Energy%20Pathways%20Analysis%20Final%20Report%20\(2021-06-15\).pdf](https://uploadssl.webflow.com/5d8aa5c4ff027473b00c1516/6328d0cb1553b714a2f95f11_Oregon%20Clean%20Energy%20Pathways%20Analysis%20Final%20Report%20(2021-06-15).pdf)