101 SW Main Street, Suite 1100
Portland, Oregon 97204

balljanik.com

t 503.228.2525
f 503.295.1058

April 4, 2017

Damien R. Hall
Also Admitted in California and Washington
503.944.6138
dhall@balljanik.com

House Committee on Agriculture and Natural Resources

Re: Testimony in Opposition to HB 3050

Chair Clem and Members of the Committee:

My firm represents Cypress Creek Renewables, a developer of solar renewable energy generation facilities, including projects in western and central Oregon. We oppose HB 3050 because it is at odds with the State of Oregon's stated renewable energy generation objectives, is unnecessary because of the existing solar rules that protect high value farmland, and is ambiguously drafted.

A. HB 3050 is at Odds with the State's Renewable Portfolio Targets

Increased renewable portfolio targets for Oregon utilities were adopted in the 2016 legislature (SB 1547). These targets call for 8% of PacifiCorp's and PGE's electricity to come from small scale renewable sources (<20 MW) located in Oregon by 2025.

HB 3050 is intended to increase the difficulty and uncertainty around siting solar projects on high value farmland. In particular, the rural portions of PGE territory is comprised primarily of high value farm land. HB 3050 decreases the likelihood that the recently adopted renewable portfolio targets will be achieved.

B. Oregon Recently Adopted Solar Rules that Protect High Value Farmland

The current rules for solar siting strike a carefully considered balance between the state's interest in solar development and in protecting high value farmland. In 2011, the Land Conservation and Development Commission ("LCDC") adopted administrative rules that govern the siting of solar facilities. These rules are found at OAR 660-033-0130(38).

The current rules were arrived at through an open, public process. The LCDC appointed a Solar Rulemaking Advisory Committee comprised of stakeholders on all sides of the issue. This Committee met in public meetings for over a year and weighed the specific issues and arguments about solar projects on farm land that are being made here today.

Ultimately, the Committee proposed and LCDC adopted the current rules which balance the state's policy objectives of providing rules that provide some certainty around siting solar projects but also steering solar development toward non-high value soils. The current rules include the following standards that specifically limit the development and impacts of solar on high value farmland:

- Solar projects on high value farmland are limited to 12 acres, OAR 660-033-0130(38)(f);
- Solar projects on high value farmland must be located on the least productive soils on tract, OAR 660-033-0130(f)(E);
- Solar projects on high value farmland cannot negatively impact the continued farming of the rest of the tract, OAR 660-033-0130(38)(f)(A);
- Solar projects cannot negatively impact farm practices on surrounding properties, ORS 215.296, OAR 660-033-0130(38)(i);
- Clustered solar projects on high value trigger a higher threshold, and collectively cannot "materially alter the stability of the overall land use pattern of the area," OAR 660-033-103(38)(f)(F)(ii).

In contrast to these protections for high value farmland, solar development is allowed on non-high value farmland at a much larger scale, up to 320 acres. OAR 660-033-0130(38)(h).

The current rules significantly restrict solar development on high value farmland and strike a carefully considered balance of the state's interests, arrived at through an open an inclusive process. These rules represent a compromise between stakeholders, including proponents of HB 3050, and should only be changed through a similarly-considered and open process.

C. Hypothetical Impacts

Proponents of HB 3050 state concern with the increased activity in the solar industry in Willamette Valley. However, since LCDC's 2011 adoption of the solar administrative rules, few projects have come online in this area. There are currently approximately 50 acres of built solar projects that required a CUP and approximately 200 acres that have obtained a CUP but have not been built. At the same time, there is nearly 1.8 million acres of high-value farmland.

Thus, even if all of the approved projects were developed (far from certain) we are talking about less than .0014% of high value farmland being impacted. This is hardly a proliferation worthy of immediate legislative intercession.

D. As Drafted, HB 3050 is Overbroad and Ambiguous

Should the Committee consider moving HB 3050 forward, the bill should be significantly amended. The current version calls for an alternatives test without

defining the scope or nature of that test. Further, the current form of the bill would apply to any solar installation that sells excess power to a utility, potentially including placement of panels on the roof of a barn or other smaller installations.

We respectfully request that the Committee not move HB 3050 forward and maintain the current solar rules.

Sincerely,

Damien R. Hall

DRH:crs