



May 6, 2021

Senate Committee on Energy and Environment  
900 Court St. NE  
Salem, OR 97301

**RE: Friends of the Columbia Gorge's concerns about HB 2064**

Dear Chair Beyer and members of the committee:

Thank you for the opportunity to provide testimony on HB 2064. Friends of the Columbia Gorge ("Friends") is a 40-year old organization with approximately 6,000 members dedicated to protection, preservation, and stewardship of the Columbia River Gorge. **Friends asks the Committee to amend HB 2064 to remove an ambiguity.**

While HB 2064 was working its way through the House, Friends identified an ambiguity in the HB 2064 that was not fixed before it came over to the Senate. The bill would set the quorum for the Energy Facility Siting Council as "[a] majority of the members of the council. . . ." By specifying a quorum, the bill would circumvent ORS 174.130. The case law and AG opinions rely on ORS 174.130 as a backstop when no quorum is set. However, if a quorum is set in law then ORS 174.130 is inoperable for that body. Since empty seats have been filled slowly on EFSC there have often been vacancies, this sets up the possibility that, if there are fewer than six members of EFSC at a given time, certain decisions could be made with fewer than four council members present.

**The fix is very simple. A change to the number of the quorum in the current ORS 469.460(1) to four (i.e. where it says "Five members constitute a quorum" substitute the "five" with "four") would get rid of the ambiguity and satisfy ODOE's need. ODOE has pledged to be neutral on such an amendment.**

Friends does not oppose the substance of the bill, but does believe that, as written, it introduces an unnecessary ambiguity. Thank you for considering these comments.

Sincerely,

*/s/ Steve McCoy*

Steven D. McCoy  
Staff Attorney