



February 14, 2023

Chair Lieber
Senate Committee on Rules
Oregon State Capitol
Salem, OR 97301

Re: SB 38 - Oppose

Chair Lieber and Members of the Committee,

Climate Solutions is a regional non-profit working to accelerate clean energy solutions to the climate crisis.
We strongly oppose SB 38.

While it appears to be a seemingly simple bill on its face, SB 38 could have serious and wide-reaching implications for permitting and projects across the spectrum.

Currently, when a permit is processed or renewed by a state agency, the agency will apply all current rules and regulations protecting our air, water, climate, etc. Just because a business applied for a permit long ago, that does not mean they shouldn't have to comply with all applicable standards at the time the permit is granted to renewed. One example fresh on our minds is the Perennial wind chaser gas power plant (a 415 MW gas plant proposed near Hermiston). Perennial got its original site certificate back in 2015. The company then stalled from beginning construction for years, largely because they didn't have a buyer. The company tried to restart construction in 2020 before finally withdrawing the permit application altogether in 2022. If SB 38 was in place and the gas plant project had moved forward in 2020 or after, EFSC, DEQ, and other agencies would not have been allowed to apply the most current air, water, and climate laws to the necessary permits. They would have only applied the regulations that had been on the books back in 2015 when the original permit application was received. Oregon's regulatory framework and requirements for safeguarding our air, water and climate had improved between 2015 and 2020-2022. We should not enable a de facto grandfathering in for zombie projects like this one and just accept what would've been good enough in 2015 for a gas plant not yet built in 2022.¹

Additionally, we frankly doubt SB 38 is legal as drafted. Our read of the bill is that it could block DEQ, ODOT and other agencies from applying regulations and rules delegated by federal law and programs, which they are legally obligated to do. Federal programs require states to implement all regulations in effect, but SB 38 could exclude any newer federal regulations or rules in effect from being able to apply to a project's permitting if a permit application as already submitted.

Finally, the premise of this bill is that any new rules or regulations are bad for business. That's just not the case. We have seen plenty of examples where agencies have passed further rules and regulations that are to businesses' advantage (streamlining, lifting thresholds, etc). SB 38 denies businesses that benefit where available. Instead it creates an uneven playing field where every business would have different rules that apply to them depending on when they apply for a permit. We do not think this lack of certainty and clarity benefits businesses or the environment. Having one set of environmental standard to apply to businesses –

¹ Portland Business Journal, "End appears near for proposed natural gas plant in eastern Oregon," (August 3, 2022) <https://www.bizjournals.com/portland/news/2022/08/03/perennial-wind-chaser-plant-termination.html>

namely the most up-to-date rules and regulations when the permit is processed and approved – is how it is done now and what serves all interests best.

Thank you for consideration of these comments and for opposing SB 38.

Sincerely,

A handwritten signature in black ink, appearing to read "Meredith Connolly". The signature is fluid and cursive, with the first name being more prominent.

Meredith Connolly
Oregon Director
Climate Solutions