

Dear Chair Sollman, Vice Chair Findley and members of the Senate Committee on Energy and Environment,

I write to you today to ask you to **oppose HB 4090**.

Oregon's EFSC process for renewable energy projects helps give Oregonians peace of mind amidst an ongoing two year battle to gut NEPA at the federal level, in the name of so-called permitting reform<sup>1</sup>. The proponents of this bill cite a "rigorous NEPA process," yet NEPA is not only threatened, but it has already begun to be altered in concerning ways. In June of last year, the Fiscal Responsibility Act (FRA) was passed and included multiple measures that changed the structure of NEPA. Some of these changes are:

- (1) the ability of project developers to conduct their own EIS (environmental impact statements);*
- (2) arbitrary time limits and page numbers*
- (3) increased ability of project developers to sue agencies over arbitrary timelines;*
- (4) lack of clarity on what happens to these imposed time limit restrictions when/if the lead agency reviews a project sponsor's EIS and finds it inadequate;*
- (5) lack of increased agency funding to support agency capacity, staff are already struggling to meet demands without these new arbitrary timelines*

With these NEPA changes and without EFSC, for example, project developers not only will be able to conduct their own Environmental Impact Statements (NEPA), but EFSC will no longer be able to ensure that Oregon standards are evaluated and in compliance, as it does with other energy projects. Currently, EFSC is able to deny a project if an applicant has not met the burden of proof that the application is in compliance with each standard. In other words, the EFSC process helps ensure that Oregon's standards are evaluated in each project.

The palpable uncertainty of NEPA should give legislators in Oregon pause before they consider eliminating the EFSC process for certain projects; it is possible that we may come to find that the EFSC process is the best we have in the face of a crumbling or non-existent NEPA.

Additionally, the context of HB 4090's amendments should be a clear sign that this bill is short-sighted, lacks thorough stakeholder engagement, and is therefore a risky endeavor for Oregonians—particularly Oregonians in Eastern Oregon and other parts of the state with federal public land. In fact, Harney County is roughly 75% federal public land and I am wondering what residents there think of this bill? Particularly the Burns Paiute Tribe. What has consultation with the communities in Harney been over a bill that would have disproportionate impacts to the places they live, work, play and pray? What do they think of the way NEPA and EFSC have

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<sup>1</sup> It's also important to consider that so-called permitting reform's biggest champions in Washington are the fossil fuel and hard rock mining industries. At all levels, we *can* move forward with a swift and equitable energy transition without relying on narratives, talking points, and policy maneuvers that continue to be leveraged by extractive industries. They are the ones who got us into this mess, they are not the ones to get us out. If we are going to alter permitting, frontline community voices should be prioritized.

worked together so far for existing renewable energy projects in Harney County? Have the bill sponsors and bill architects been accountable to this piece?

In terms of community engagement, it is disappointing to see HB 4090's 1-pager refer to the federal permitting processes as "burdensome." While NEPA is generally a procedural law, these are necessary procedures when it comes to managing public land. Two major aspects of NEPA revolve around ecological protection considerations and public engagement—two features that must be fundamental to the energy transition, otherwise we will repeat the same harms that got us here in the first place. *It's also worth considering that many frontline and impacted communities find the NEPA public engagement process lacking as it is, meanwhile industry project developers insist it is rigorous, while simultaneously making concerted efforts to weaken it.*

Renewable energy projects are obvious pieces of the energy transition, but they are not without their impacts or necessary considerations. If Oregon legislators are serious about a just and equitable energy transition, they should support the possibilities that robust permitting can give for ecological considerations and public engagement. Erasing permitting also erases opportunities for addressing and expanding distributive justice, reparative justice, procedural justice, and generational justice.

Ultimately, any coalition putting a bill forward that in the same breath wants Oregonians to solely rely on NEPA for renewable projects on federal lands, but also calls the process (i.e. environmental review and public engagement) burdensome, is cause for concern. I think it would be helpful to the legislature and to constituents, to have an overview of what EFSC is and isn't. This includes updates on the current rule-making process involving EFSC. The apparent necessity of this bill has not been made clear and there has been a lack of thoughtful and robust discourse. I fear thus far this proposal has been accepted by legislators at face value and am asking the Senate to please have more discretion. A short session is not the place for this bill.

Thank you very much for your time and consideration,

Zach Brill, Senate District 22