



COMMUNITY DEVELOPMENT

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Senate Committee on Energy and Environment
Senator Sollman, Chair
Senator Smith, Vice-Chair

Re: Senate Bill 1034

Dear Chair Sollman, Vice-Chair Smith, and Members of the Committee,

On behalf of the Umatilla County Community Development Department, I would like to express our appreciation for the opportunity to submit written testimony regarding **Senate Bill 1034**, and to share our county's experience in navigating the energy facility siting processes and the importance of maintaining local land use authority in this process.

Background

The siting of large energy projects in Oregon is a process that involves several stakeholders, including the Energy Facility Siting Council (EFSC), county governments, and sometimes the federal government. EFSC has authority over large energy projects, particularly those that exceed certain size thresholds or meet criteria established by the Legislature. Before an energy project can be constructed, the developer must obtain a site certificate from EFSC, and occasionally, developers seek amendments to this certificate.

Counties play a vital role in this process. As designated Special Advisory Groups (SAG), counties have the responsibility to provide input on behalf of their communities, ensuring that proposed projects comply with local comprehensive plans, zoning ordinances, and land use regulations. The SAG's input is crucial to ensuring that projects are aligned with the local values and priorities of the affected communities.

Role of Counties in the EFSC Process

In Umatilla County, we have been involved in energy facility siting, specifically wind generation facilities, for almost three decades. Due to our favorable weather conditions and proximity to transmission lines, Umatilla County was one of the first counties in the state to develop commercial wind generation projects, with some of the earliest projects dating back to 1997. In the absence of any locally adopted standards at that time, our community worked to develop and implement a development code with specific provisions for wind energy projects, ensuring that they aligned with the needs and concerns of our local community. A key component of this was a two-mile setback requirement, which was specifically designed to protect agricultural activities and surrounding rural residential land uses from potential conflicts with wind energy infrastructure.

Since adopting these standards, Umatilla County has successfully permitted or amended four additional wind projects that have all adhered to our local regulations. This success is a testament to the value of local control in land use planning. However, our experience with the Nolin Hills Wind Power Project has highlighted the challenges that arise when local authority is undermined by decisions at the state level.

The Nolin Hills Wind Power Project: A Case in Point

Beginning in 2017, Umatilla County became involved in the EFSC process for the Nolin Hills Wind Power Project, which was proposed in unincorporated Umatilla County. As a Special Advisory Group, we fulfilled our role by providing EFSC and the project developer with relevant local criteria from our state-acknowledged Comprehensive Plan and Development Code. These included our two-mile setback requirement, which had been adopted specifically to safeguard the interests of local landowners, farmers, and ranchers.

However, despite our clear and substantive input, EFSC's final decision to approve the project effectively nullified the County's two-mile setback requirement. EFSC ruled that our setback was not a "substantive local criterion" because there was no statewide planning goal requiring a similar setback. Instead, EFSC relied on statewide planning goals to determine that the project did not violate any of those goals. This ruling circumvented our local authority and undermined our ability to protect the interests of the community.

This decision sets a dangerous precedent for future projects in rural areas. Local communities, particularly those in rural counties like Umatilla, rely on zoning laws and development codes to protect their agricultural land, preserve their way of life, and ensure that development occurs in a manner that is compatible with local values. When EFSC bypasses local standards in favor of statewide goals, it strips away the ability of communities to make decisions about their land and resources.

Why SB 1034 is Critical for Local Control

This situation with the Nolin Hills Wind Power Project has raised serious concerns about the role of counties in the energy facility siting process. If EFSC can simply disregard locally adopted standards, then what incentive do counties have to invest the time and resources into participating in the siting process? Why should Umatilla County, or any other county, take the time to provide local criteria if EFSC is going to override our decisions?

SB 1034 is critically important because it reaffirms the principle that when a county identifies applicable land use standards in its comprehensive plan and development code, EFSC shall apply them. Local governments, particularly in rural counties, must retain their authority to regulate land use in a way that aligns with the needs, priorities, and concerns of the local community. EFSC does not have supersiting authority. It is not the role of the state to impose its will on local communities in a way that undermines local control.

By passing SB 1034, the Legislature can restore confidence in the siting process and ensure that counties remain partners in the decision-making process. It will help safeguard the integrity of local land use laws and preserve the ability of communities to guide development in a way that respects their unique circumstances.



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Conclusion

In conclusion, Umatilla County has a long history of successfully permitting and regulating energy projects, and we have worked hard to ensure that these projects are developed in a way that respects our agricultural heritage and local values. However, the decision by EFSC in the Nolin Hills case has created uncertainty and undermined our ability to protect our community's interests.

SB 1034 is a necessary step to ensure that local governments retain the authority to apply their own land use standards in the siting process. I strongly urge this Committee to support SB 1034 and uphold the rights of counties and local communities in energy facility siting decisions. Thank you for your consideration of our perspective on this important matter.

Respectfully,

Robert T Waldher

Robert Waldher
Director of Community Development