

Groups seek to ax biomass 'loophole'

Carbon neutral designation takes away from cleaner energy sources, they argue

By George Plaven
EO Media Group

Environmentalists are calling on Oregon Sens. Ron Wyden and Jeff Merkley to remove provisions in legislation that would classify woody biomass as carbon neutral.

More than 20 organizations from around the state have raised concerns about what the designation will mean for the climate, local forests and public health. Specifically, they say labeling biomass as carbon neutral could exacerbate global warming and encourage clear-cutting to feed more wood-fueled power plants.

In a letter sent Oct. 12 to Democrats Wyden and Merkley, the groups argue that not all forms of biomass can be labeled carbon neutral. They want to see the Environmental Protection Agency continue with a multi-year study to determine the carbon footprints of different sources of material.

"Accounting for the carbon emitted during the combustion of biomass is an inherently complicated process and thus demands a careful scientific analysis conducted by the EPA," they wrote. "However, this scientifically-informed accounting scheme would be challenged by any blanket determination of carbon neutrality."

Alex Harris, conservation organizer with the Sierra Club, said Wyden plays an especially important role, sitting on the conference committee for the energy bill.

"I want to make sure he's following the science and doing what's best for Oregon and our forests," Harris said.

Wyden released a statement Wednesday saying he is working with stakeholders on all sides to come up with a biomass plan that "is rooted in science, is bipartisan and moves Oregon and the entire country to a smarter carbon policy."

The issue comes at a time when

Portland General Electric is weighing the possibility of converting its 550-megawatt Boardman Coal Plant to run on biomass. PGE will conduct a full-day test later this year, using 8,000 tons of small-diameter and beetle-killed trees.

The utility is working with Oregon Torrefaction, a benefit corporation that includes Ochoco Lumber, to source the debris for fuel. PGE spokesman Steve Corson said the utility supports the carbon neutrality amendment for biomass, in order to provide greater clarity moving forward.

"We do believe that there are a variety of potential biomass fuels that can be used for power generation in a sustainable, carbon neutral cycle," Corson said.

But opponents claim that, since woody biomass is less efficient than coal, it would require burning more material to generate the same amount

of power, thus increasing overall emissions. Plus, it would take decades for new trees to grow and re-sequester that carbon.

Dominick DellaSala, chief scientist for the Geos Institute in Ashland — one of the groups calling for Congress to strip the carbon neutrality amendment — equated forests to "green coal," saying the best way to combat runaway climate change is to leave trees in the woods.

"You want to keep coal in the ground. Similarly, you want to keep carbon in the forests," he said.

The worry, however, is carbon neutrality would spur enormous growth in the biomass industry, which would increasingly turn to public forests for raw materials. The Energy Information Administration has come up with models showing that, with carbon neutrality, the biomass industry would increase 87

percent, requiring a fuel equivalent to clear-cutting 6-8 million acres of forests.

On top of that, the EIA suggests all that biomass would not actually displace coal use in the U.S., instead taking a 21 percent bite out of solar energy.

"It's displacing other renewables," said Mary Booth, director of Partnership for Policy Integrity, an environmental think tank. "There's no question it increases stack emissions."

If the Boardman Coal Plant converts to biomass, Harris said it would become the largest power plant of its kind in the U.S. and fourth-largest in the world. While there are climate benefits associated with producing biomass energy, he said carbon neutrality will have dangerous consequences.

"It's not coal, that's for sure," Harris said. "But it's also not wind and solar. That's also for sure."

Supreme Court turns down Hage lawsuit appeal

By Mateusz Perkowski
EO Media Group

The U.S. Supreme Court won't review a court decision that stripped deceased Nevada rancher Wayne Hage of a legal victory against the federal government.

In 2013, the estate of Hage — an icon of the "Sagebrush Rebellion" against federal land policies — prevailed in a lawsuit filed by federal agencies that alleged his cattle trespassed on public land.

U.S. District Judge Robert Jones ruled that Hage's cattle could legally cross federal property to access a stream in which he owned water rights. The judge also found that federal officials had engaged in a "literal, intentional conspiracy" against him.

The 9th U.S. Circuit Court of Appeals reversed that decision earlier this year, ruling that water right ownership doesn't give ranchers the right to run cattle across federal land.

Mark Pollot, attorney for Hage's estate, claimed the 9th Circuit misinterpreted the law and undermined water rights across the West.

He asked the Supreme Court to review the case, but that request has now been denied.

The federal government initially didn't react to the Supreme Court challenge, but the nation's highest court ordered it to file a response.

For that reason, Pollot was optimistic that the justices were interested in the case, so their denial comes as a surprise, he said.

"It's directly contrary to prior decisions by the Supreme Court and to state laws," Pollot said.



EO Media Group file photo

Cows graze in southwest Washington.

It's possible the eight justices were evenly split on whether to take the case and realized that it would likely result in a stalemate, which would effectively uphold the 9th Circuit decision, he said.

Though the Hage case wasn't granted Supreme Court review, Pollot said the litigation is likely to continue.

For one, Hage's son and

namesake is still liable for trespass, which he plans to challenge, he said.

Secondly, there's a possibility for future problems if federal agencies don't permit Hage's estate to divert water from the stream in which it holds water rights, Pollot said.

"We still have some options I'm not ready to discuss," he said.

Lawyers who challenged PERS reforms awarded \$900,000 in fees

By Claire Withycombe
Capital Bureau

The Oregon Supreme Court has awarded nearly \$1 million to attorneys representing public employees in the court case that challenged certain legislative reforms to the state's public employee retirement system.

In an opinion released Thursday, the court awarded \$902,665.32 in fees and costs to Bennett, Hartman, Morris & Kaplan, LLP, a Portland law firm representing several of the plaintiffs in the lawsuit, known as Moro v. Oregon.

In Moro, the Oregon Supreme Court reversed many of the Legislature's reforms in 2015, finding that it could not make changes retroactively to the benefits accrued by public employees.

The award comes as PERS faces \$22 billion in unfunded liability — essentially, money it owes retirees that it cannot pay.

Lawmakers are again at-

tempting to pass reforms in the upcoming legislative session.

A bipartisan work group led by Sen. Betsy Johnson, D-Scappoose, and Sen. Tim Knopp, R-Bend, is convening to consider the options.

In August, legislative counsel released an analysis

of ten options for changes to PERS, finding seven of them were likely to fall within the requirements of the state's constitution.

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