



# GREEN ENERGY INSTITUTE

AT LEWIS & CLARK LAW SCHOOL

FEBRUARY 2021

## Well, that was something.

Remember 2020?

Almost a year ago today, Oregon's Senate Republicans refused to attend a floor session to vote on legislation proposing to cap the state's greenhouse gas emissions. Then, Republicans in both houses boycotted the Oregon Capitol, thereby denying a quorum to the Democratic supermajority.

In response, Oregon Governor Kate Brown issued her Executive Order on climate change (EO 20-04, or the Oregon Climate Action Plan), directing sixteen agencies and commissions to exercise existing legal authority to take various actions on climate change.

About a week later, Oregon enacted its first set of coronavirus "lockdown" measures designed to prevent uncontrollable spread of the pandemic.

While the COVID-19 measures had the short-term effect of reducing greenhouse gas emissions in the state and slowing down implementation of some aspects of EO 20-04, the pandemic also seemed to serve as a cautionary tale for many policymakers engaged in climate policy—that is, it illustrated how mismanagement and insufficient mitigation of risks could result in profound social and economic disruption when the risks become realities.

And if the months of pandemic-necessitated "social distancing" did not serve as sufficient warning of the risks we face from climate change, the historic wildfires in September and ice storms a week or so ago certainly did.

There is no question that over the past year, climate and energy policy in Oregon have undergone profound disruption that could open the door to much greater policy ambition and reform. Throughout it all the Green Energy Institute continued to shape Oregon's climate future—promoting a smart, swift, and equitable transition to a clean and renewable energy system. We submitted comments and testimony on a wide variety of state and local policy proposals, served on multiple rulemaking advisory councils and planning committees, helped inform and guide important regulatory decisions, kept five law clerks busy over the summer, and hired a new staff attorney to help us with our efforts.

Here's a brief summary of what we worked on in 2020, and what our future holds with new federal leadership reviving our optimism for achieving our decarbonization goal.

Sincerely,  
Melissa

Melissa Powers  
Jeffrey Bain Faculty Scholar & Professor of Law  
Faculty Director, Green Energy Institute  
Lewis & Clark Law School

### GEI is Helping to Shape Oregon's Climate Action Tools

Out of all of Oregon's regulatory agencies, the Department of Environmental Quality (DEQ) and the Environmental Quality Commission (EQC) have the most substantial climate-focused actions to accomplish by 2022. Under EO 20-04, DEQ and the EQC must develop a program to cap and reduce greenhouse gas emissions from industrial and fossil fuel sources in the state, adopt rules to reduce methane emissions from landfills, and strengthen Oregon's clean fuels program.

The Green Energy Institute has been closely participating in these and other policymaking efforts at the state level.



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#### DEQ's Climate Protection Program (Cap and Reduce)

Throughout August and September 2020, DEQ hosted a series of workshops to solicit stakeholder feedback on how best to design a program to cap and reduce greenhouse gas emissions from large stationary sources, transportation fuels, and other fossil fuels, including natural gas. GEI submitted extensive comments to inform these technical discussions and proposed a variety of strategies to strengthen the regulatory program. We invite you to read our comments on DEQ's [illustrative scenarios](#) and on many of the technical [workshops](#), including program scope, alternative compliance options, impacted communities, and cost containment.

Staff attorney Amelia (Amy) Schlusser has been appointed to DEQ's Climate Protection Program Rulemaking Advisory Committee (RAC), the "inner table" of stakeholders to help inform the development of Oregon's greenhouse gas regulations. The public is invited to attend RAC meetings; find out more [here](#).

#### DEQ's Landfill Gas Emissions Rulemaking

EO 20-04 charged DEQ and the EQC to take actions to reduce methane gas emissions from landfills. Amy has also been appointed to the Methane Rules Advisory Committee to assist the agency in adopting regulations that are at least as stringent as those in our neighboring states. Follow the rulemaking [here](#).

#### Oregon Public Utility Commission's Implementation of EO 20-04

Like DEQ, Oregon's Public Utility Commission was required to submit an initial report regarding its plans for implementing EO 20-04. GEI submitted comments on the draft implementation plans and intends to participate in PUC proceedings throughout this year. Of the many implementing dockets, one of the most notable will be an investigation into the future of natural gas, offering the opportunity to critically analyze how decarbonization efforts will impact gas ratepayers. Read GEI's comments on the PUC's draft work plans [here](#).

#### GEI's Work Informs Oregon's Climate Equity Blueprint

The Department of Land Conservation and Development, the Oregon Health Authority and the Oregon Department of Forestry were tasked to create a Climate Equity Blueprint for Oregon, a charge that required the agencies to provide guidance about how to center equity in climate adaptation decisionmaking. The agencies, relying on GEI's "[Countdown to 2050: Sharpening Oregon's Climate Action Tools](#)" to prepare their [draft](#), issued their [final report](#) in December.

### Our Deconstructing Diesel policy recommendations are propelling change

GEI's [Deconstructing Diesel](#) initiative and our comprehensive [Law & Policy Roadmap](#) identified a variety of legal and regulatory strategies to address the diesel pollution crisis in the Portland metro area and the state as a whole. One particularly promising regulatory strategy we identified was the adoption of effective indirect source rules, which would enable state or local governments to impose limits on the aggregate emissions from all mobile sources associated with certain locations or facilities. Toxic diesel particulate matter emissions from these "indirect sources," such as freight terminals, construction sites, rail yards, warehouses, and industrial facilities, currently present a very serious threat to public health in Oregon, particularly to communities near these locations. The black carbon emitted from diesel engines is also an extremely potent climate forcer that contributes to global climate change.



In partnership with the [Northwest Environmental Defense Center](#) (NEDC) and [Neighbors for Clean Air](#), we petitioned the EQC to adopt indirect source rules for Oregon. Though the EQC rejected our petition in March of 2020, our work continues to influence state diesel policy efforts.

In January of 2021, Amy was invited to participate in a special diesel panel discussion in front of the EQC, where she described some of the unique jurisdictional hurdles and opportunities for regulating diesel emissions. Other panelists included Dennis McLerran, former EPA Region 10 administrator, and David Breen of the Port of Portland. Following the panel discussion and several presentations by DEQ staff on the agency's existing and proposed diesel programs, the EQC commissioners all voiced support for pursuing more stringent regulatory actions to address diesel pollution in Oregon. Watch the panel (beginning at 47:00) [here](#).

Our indirect source rules proposal has also gained traction at the legislative level. The Oregon legislature is currently considering House Bill 2814 (HB2814), which would direct the EQC to establish and implement an indirect source review program for Oregon. We are providing input on the scope and structure of this proposal and supporting Neighbors for Clean Air in its efforts to push the bill forward this session.



### GEI Events!

#### March 2, 2021, 4 to 5:30 pm PT

Join Neighbors for Clean Air in a free webinar about **Promising Changes for Diesel Pollution**. Learn about the legislation and research that can prompt action to solve our diesel and environmental. **Amy Schlusser**, PSU Professor Dr. Linda George, and environmental consultant Kevin Downing will discuss the three pending bills (including HB2814) and research results.

REGISTER [HERE!](#)

#### March 18, 2021, 12:00-1:15 pm PT

GEI, the [Center for Climate Integrity](#), and the Oregon State Bar invite you to **Accountability for Climate Change: The Pacific Northwest: the Scientific, Policy and Legal Perspectives**.

After opening remarks from Oregon Attorney General Ellen Rosenblum, **Professor Melissa Powers** will moderate a discussion among the following panelists about the local climate impacts and associated costs now facing Pacific Northwest communities and taxpayers, as well as the scientific and legal grounds for holding the fossil fuel industry accountable for these harms.

Hear from:

- Deborah Kafoury, Multnomah County Commissioner
- Karen Shell, Associate Professor and Climate Science Program Head of the College of Earth, Ocean, and Atmospheric Sciences, Oregon State University
- Daniel Mensher, attorney at Keller Rohrback

Attendance is free. REGISTER [HERE!](#)

#### March 25, 2021, 8:30 am - 3:00 pm PT

GEI, Lewis & Clark's Environmental Law Program, and the Environmental Law Education Center present a full-day conference on **Air Quality & Climate Change**.

In a roundtable format, **Amy Schlusser**, **Professor Melissa Powers**, and other experts will tackle the following subject areas:

- Priorities for the Biden Administration
- Sources of Air Contaminants and Their Impact on Public Health
- Air Contaminants: Diesel, Woodsmoke, Wildfires, and Indirect Sources of Air Contamination
- Climate Change: Laws, Regulations, Legislation and New Ideas
- Climate Change Policies & Strategies: Where Do We Go From Here?

Learn more and REGISTER [HERE](#).

Thank you for your continued support,

Melissa Powers, Amelia (Amy) Schlusser, and Carra Sahler

The Green Energy Institute Team



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