CASE STUDY:

MINNESOTA SOLAR SANCTUARIES BILL (HF 3353)

This case study describes Audubon Minnesota's role in creating and passing a bill to set voluntary standards for solar energy sites that are friendly to birds and other pollinators. With an influx of solar development expected in Minnesota in the coming years, the 2016 legislative session was an ideal time for Audubon Minnesota to partner with Fresh Energy, the leading renewable energy nonprofit in the state. This successful effort was the result of a coalition of supporters from the agriculture industry, environmental groups, seed and landscaping companies, and other corporations. The coalition worked with key leaders on both sides of the aisle, and a stand-alone version of the bill passed both the House and Senate with nearly unanimous support before being signed by the governor. Now that the bill is in place, it's essential to cultivate community engagement where new solar sites are planned to ensure that sites are built to this standard. With the strong success of the bill in Minnesota, we hope that other states will adapt a similar standard and bill to make future solar projects across the country friendly to birds and other pollinators using native plants.

2016

NATIONAL AUDUBON SOCIETY

The Idea

This type of legislation provides an opportunity to achieve a tangible outcome in the form of a bipartisan bill that is easy to get involved with and ultimately good for birds and other pollinators. With support and effort from local Audubon and partners, Minnesota's solar sanctuaries bill can be adapted to fit other states.

By creating native plant gardens around and underground-mounted arrays of photovoltaic (PV) solar panels, these sites become part of a collective effort to develop and sustain habitat for birds and other pollinators. (PV solar directly converts sunlight to electricity and is different than concentrated or "power tower" solar, which uses heat.) At the same time, native plants are an economical solution to reduce operations and maintenance costs of the site, reduce the site's carbon footprint, and prevent further wildlife habitat loss.

Photo by Rob Davis, July 2016. Site: Connexus Energy, Ramsey, MN. Planted October 2014.

Many people love pollinators like birds and bees, which helped give this bill the momentum to gain support. Using native plants on large plots of land instead of using gravel or turfgrass has numerous public and private benefits:

- Eliminates costly mowing after the first four years of the project's 20-25 year lifetime
- Improves the strength of topsoil and channels storm water runoff from the site and adjacent agricultural fields down into the aquifer .
- Increased demand helps drive down the cost of native plants and seeds for all buyers
- Reduced application of insecticides.

The 2016 Minnesota legislative session was the ideal timing to advance this bill because in 2013, Minnesota passed a solar standard law that encourages solar development in the coming years.

Fresh Energy, the leading renewable energy nonprofit in Minnesota, not only wants to encourage solar development, but also wants it done in a way that creates the most local benefits and lays the groundwork for even more solar in the following years. The group was familiar with Audubon's credibility in bipartisan solutions that address climate change and benefit birds, and contacted Audubon Climate Vice President Matthew Anderson in late 2015 to discuss a coordinated effort. Fresh Energy proposed the idea of introducing a bill that would make solar sites bird- and pollinator-friendly by growing native plants, such as low-growing and shade-tolerant flowers and grasses. Since the use of native plants and solar fits well with the climate work of the National Audubon Society, they jumped on board.

The Role of Audubon

Ultimately, Audubon was ready to join forces with Fresh Energy because this bill will create more habitat for birds and provide additional food sources by supporting higher insect populations. Both groups share the same goal—to increase the number of birds, pollinators, and increase solar projects that are friendly to wildlife. An upcoming goal for Audubon chapters, centers, and state offices is to have 10 states establish similar standards and pass similar legislation to the Solar Sanctuaries bill within the next two years.

Anderson made the connection between Fresh Energy and Audubon Minnesota—a natural ally for Fresh Energy because Audubon had the time capacity, focus, previous climate testing with their members, and a relatively new team willing to find common ground. It was beneficial for the partnership that Audubon and Fresh Energy are not in competition with each other.

This project is fairly simple and ready to replicate elsewhere. To be successful and influence what solar looks like in a state, the effort must start with conversations and some initiative.

The Standard and the Legislation

We wanted to be careful to ensure that specific seed mixes and ecological practices—such as use of neonicotinoid pesticides—were not discussed by legislators. If our bill became a proxy battle for use of neonicotinoids (which harm pollinators, but are widely used in agriculture), then our bill would die. The details of the vegetation standards needed to be maintained by ecologists at a state agency.

Publishing a standard was straightforward—a conversation with the right person responsible for water, soil, and pollinator habitat led to him creating a simple, one-page scorecard. A score of 70 points or more on the worksheet determines if this department would call the site "pollinator friendly." Use of pesticides (any kind, including neonicotinoids) on the solar site would result in negative 30 points, making it practically impossible to achieve a "pollinator-friendly" designation. The scorecard refers to all kinds of insecticides/pesticides and does not call out the neonicotinoid class specifically.

With the scorecard published on the agency's website, we were able to advance a bill that referred to the standard. Throughout committee hearings, no legislators had questions about what went into the scorecard.

The Legislation: Framing, Language, & Committee Path

"Voluntary" was an intentional choice for the very first word in the title of the legislation, and "solar" was avoided. Our goal for the bill itself was to make it dull.

"Pertaining to agriculture" was intentionally used in the opening of the bill in order to direct the bill to the agriculture committees—a frequent destination for noncontroversial legislation.

One of the early drafts of the bill included language that could be interpreted to mean that local units of government might have control over energy projects normally permitted at the state level. This provision caught the eye of a large solar company, Enel Green Power, which is developing a 16-site solar project that will use approximately 1,000 acres and include pollinator-friendly vegetation. The provision was dropped and Enel Green Power signed on as a supporter of the bill. In hindsight, it expended some political capital to get this provision removed and may have been preferable to introduce the bill without it.

Critically, the bill references the pollinator toolkit maintained by the Minnesota Board of Water and Soil Resources (BWSR). The pollinator toolkit contains the Solar Site Pollinator Habitat Assessment Form. The power of the bill is in the words "only if"—solar sites may be promoted as beneficial to pollinators, song birds, and game birds *only if* they meet or exceed the standard. This phrase turns the bill into something similar to "truth in advertising," which appealed to some policy leaders.

The bill also requires that the participating companies make their planting plans available to the public. This creates accountability on their habitat claims and adds an additional environmental benefit to solar fields that they can promote. Importantly, the bill did not assign new responsibilities to any state agency and thus avoided a fiscal note and the extra time of having to go through an additional set of committee hearings.

Working on pollinator issues can be extremely difficult—the trade groups and corporate opposition are well funded and often have close working relationships with state agricultural leaders and agriculture department staff. Fresh Energy and Audubon agreed that partnering with trade groups and corporations was both the only way to get a Solar Sanctuaries bill passed and would build support within their organizations for large-scale solar.

The Challenges

One of the biggest issues that can come up in any conversation about pollinator health is neonicotinoids. Neonicotinoids are a common type of pesticide used in the agricultural industry that are harmful to bees and birds. In Minnesota, one or two environmental legislators privately said they wanted to amend the Solar Sanctuaries bill to include language specifically against neonicotinoid use.

To address this issue, Fresh Energy, Audubon Minnesota lobbyist Kim Scott, and other lobbyists convinced those talking about a neonicotinoid amendment to hold off because the bill needed bipartisan and agriculture industry support to pass. Fresh Energy and Audubon were able to show environmental groups that the standard maintained by the state agency addressed the issue of neonicotinoid use, and that adding a specific reference to neonics in the legislation would have positioned it as partisan/controversial and killed the bill.

Another challenge was getting the bill back into the Agriculture Committee during the drafting stage. The Energy Committee wanted to keep it. However, supporters didn't want the bill sitting next to other controversial energy subjects, so they pushed to get it back to the Agriculture Committee where it was not controversial. A key moment was a meeting when we brought the government relations directors for both the Minnesota Farmers Union and the Minnesota Corn Growers Association to meet with the

chairman of the Agriculture Policy committee. Fresh Energy's staff and lobbyist explained the bill and made the pitch to the chairman, a Republican representing a rural district. He politely listened, then turned to the Corn Growers Association rep and said, "And what do you think of all this?" The Corn Growers support showed the chairman that this bill was not controversial and should come back to his committee for inclusion in the Agriculture Policy Omnibus bill.

Fresh Energy and Audubon avoided media attention throughout the legislative phase of this work in order to avoid partisan grandstanding and controversy that would have killed the bill. Again, the goal was to be dull and noncontroversial. It is best to involve the media and start getting state coverage after the bill has passed, when the focus has moved to community engagement with this bill.

The Timeline

Late 2015
Fresh Energy secured support from Andersen Corporation, the world's largest manufacturer of windows and doors, to work on the solar plus pollinators issue. Andersen's early support gave Fresh Energy and Audubon increased confidence in their chances of success.

January 2016
Will Nissen and Rob Davis of Fresh Energy met with Matthew Anderson and decided to go forward with a solar sanctuaries bill for the short upcoming March-May legislative session. At this meeting they identified Rep. Sondra Erickson (R-15A) as a possible author. Davis started to line up key testifiers including Albert Lee Seed Company and Prairie Restorations, and looked for representatives in the testifiers' districts for additional authors. (These were Rep. Peggy Bennett, R-27A, representing Albert Lee Seed Company's district, and Erickson representing Prairie Restorations' district.)

February 2016
Fresh Energy secured campaign support from Prairie Restorations. Jobs and local economic activity by local landscapers were highlighted as the main reason local legislators should support the bill.

Ashley Peters, Communications Manager at Audubon Minnesota, spoke to lobbyist Kim Scott in early February. She asked if this bill would be something that Rep. Rod Hamilton (R-22B), Chair of the Agriculture Finance Committee in the Republican-led House of Representatives, and Sen. Dan Sparks (DFL-27), Chair of the Agriculture Policy Committee in the Democratic-led Senate, might support. Sparks also represents Albert Lee Seed Company's district, and Scott had existing good relationships with both legislators. The strategy of this bill was bipartisan from the start, and having these two authors facilitated that emphasis.

On February 7, Fresh Energy met with Sen. John Marty (DFL-54) and Rep. Melissa Hortman (DFL-36B)—long-time allies of the organization—to hear feedback and request that the bill be drafted.

By February 17, the Senate Counsel, the Reviser's Office, and House Research Department had written a first draft of the bill, with the first lines steering it toward the Agriculture Committee.

Photo by David Butler, July 2016.

March 2016
The bill was introduced in the Senate on March 14 and immediately referred to the Agriculture Policy committee. On March 17 the bill was introduced in the House's "Job Growth and Energy Affordability Policy and Finance" committee and then held over for possible inclusion in an energy omnibus bill.

April 2016
The House version of the bill was referred from Job Growth/Energy to the Agriculture Policy committee.

May 2016
The solar sanctuaries bill was amended to the Agriculture Policy Omnibus, first in the Republican-controlled House and then in the Senate. The Agriculture Policy Omnibus bill passed with unanimous support in both bodies.

In the final days of the session, the House GOP members picked this bill as something noncontroversial that they would pull for a floor vote. It was beneficial that it passed on its own so that it could have recognition on its own merits. After the House passed it on a vote of 126-0, the Senate decided they would also give the bill a stand-alone vote (passing 62-2). This stand-alone vote on the bill provided GOP legislators with credit for being pro-pollinators. Fresh Energy and Audubon were not expecting the bill to be brought to the floor its own outside of the omnibus bill. Strangely, the Solar Sanctuaries bill passed twice—once in the omnibus, and once by itself.

On May 31, Governor Mark Dayton signed the bill into law. Throughout the process it was important that Fresh Energy communicated its involvement with and support for the bill to Governor Dayton's administration. Since the governor's office and Fresh Energy have a long-standing positive relationship, this helped ensure that the bill would not be vetoed.

The Vital Partnerships

An important aspect of this bill was its coalition of supporters and the relationships that this legislative effort strengthened. The relationships built between Audubon, Fresh Energy, and other organizations have created a long-term coalition that open to conversations about bipartisan renewable energy policy solutions. Going forward, these positive relationships formed with agriculture groups, landscape and ecological services professionals, environment groups, energy groups, corporations, etc. will be helpful. Coalition building is incredibly important early in the process, as well as ensuring that you have willing testifiers from all industries. The coalition put together for this bill with a variety of groups from different areas allowed the message to remain cooperative and non-partisan.

Fresh Energy was the driving force of the bill, and for similar efforts it is essential to involve the top renewable energy nonprofit in the state. The group brought together many of the key relationships and the push for the bill. Fresh Energy and Audubon both brought many of their longstanding allies to join. The bill had additional support from pollinator advocates, but Audubon and Fresh Energy retained control over the message and political strategy.

Natural allies on this bill came in the form of local seed and landscaping businesses. However, to have these partnerships be most effective, one or more of the region's large and midsize landscape and native seed companies need to be engaged and interested in building the market. The founders/CEOs of these environmental businesses were key testifiers that helped push the movement forward. These types of companies will directly benefit from this type of legislation, because if more solar sites are seeking to plant native plant seeds, demand and sales will increase.

Albert Lee Seed Company and Prairie Restoration were essential to the success of this bill. Both groups spoke to people only about the economic functional utility of the bill—the fact that pollinators benefit crops and that native plants help with water and soil management. These arguments emphasized the benefits to jobs and investment from this bill. Seed and landscaping businesses most likely do not have an existing policy position regarding solar, but they have both a public- and self-interest in sharing credit for helping pollinators and supporting local businesses. Not all parts of the state are able to grow the same types of seed, so acquiring multiple seed and landscaping companies around the state will provide expertise and encourage legislators from their districts to get on board due to the potential for job growth.

Agriculture nonprofits and major corporations are often actively seeking noncontroversial solutions to the pollinator crisis (e.g. more habitat). Fresh Energy reached out to Great Plains Institute, who warmly introduced the bill to the Minnesota Corn Growers Association. The MN Corn Growers Association's support played a large role in the success of this bill in Minnesota. They lobbied with Fresh Energy and signed on to the sign-on letter. This gave the bill credibility with Republicans from additional agricultural districts. Fresh Energy also encouraged Prairie Restorations to make a charitable contribution to the Corn Growers Association after it was on board to help pass the legislation. Securing a new member helped the Minnesota Corn Growers Association take the bill more seriously and helped justify spending staff time on it.

Solar companies are motivated by strategies and tactics that can assist community relations, securing storm water permits, and/or give them access to additional land. Having *one* solar developer be supportive and other companies be neutral was all that was necessary. There are many different business models in solar development—some will be more receptive to pollinator-friendly vegetation

than others. However, if the bill had been introduced as a statewide mandate, solar companies would have united in opposition with Republican legislative leaders and killed the bill. It is essential to gain active support from at least one local developer to show legislators that the solar industry participated in the process of this bill.

Outside of seed and landscaping companies, other companies in corporate America are likely partners as well. Dozens of major corporations are supportive of campaigns to save the bees. Andersen Corporation, a sustainability leader in their industry, were brought on board during the drafting stage, testified in support of the bill, and, at just the right time, published a supportive op-ed in the local paper signed by their CEO. Separately, in 2015, Andersen Corporation signed a pledge to promote pollinator habitat in the St. Croix River Valley region. Additionally, Andersen was on board with the bill because they made a commitment to subscribe to up to 19 megawatts of community solar.

The Political Relationships

Fresh Energy and Audubon targeted the well-respected and well-liked chairs of the agriculture committees in the House and Senate to be authors by emphasizing pollinators' benefits to agriculture. Kim Scott, who has many positive relationships on both sides of the aisle at the statehouse, helped recommend authors for the bill. Their agreement to author the bill greatly facilitated getting committee hearings. At the multiple hearings, it was key to gather the right testifiers and experts. These included the CEO of Albert Lee Seed Company, which primarily sells farm seed throughout Minnesota and Iowa. The CEO happened to be a hobby beekeeper and was well versed with the pollinator crisis. From there, the lead authors and co-authors also were vital in helping show that the bill was noncontroversial and safe to attach to the Agriculture Policy omnibus.

The committee chairs and bill authors, Hamilton and Sparks, were also more willing to support this bill because there was no fiscal impact to the budget.

Fresh Energy wanted to expand and deepen their relationships with the agricultural community, and this bill assisted with that. This built a coalition of different legislators that Fresh Energy hadn't regularly worked with and allowed groups that normally are not on the same side of issues to team up.

Minnesota agricultural leaders recognize the rights of farmers who choose to use some of their land for ground-mounted solar, but some people who aren't benefiting from the lease payments of a solar farm may oppose what they see as an industrial development. Pollinator-friendly solar is intended to show that there can be agricultural benefits to farms that are near solar arrays

The Outcome

In 2016 alone, more than 2,000 acres of pollinator-friendly solar sites are expected to be built on farmland in Minnesota. This acreage is equivalent to more than 1.2 million homes with 6' x 12' native plant gardens.

Camp Ripley in Minnesota is adding 65 acres of solar. This will be the nation's largest solar array on a U.S. Army Reserve base, and it will all be planted with a pollinator-friendly seed mix. Camp Ripley is also an Audubon Important Bird Area, which makes this project even more important and beneficial to birds.

There are currently more than 140 solar companies operating in Minnesota. In the next 5 years, Minnesota is expected to install more than 1,164 megawatts of solar (6,000-8,000 acres).

Local Organizing for Solar Sanctuaries

The 12 to 24 months after the bill has passed are a critical time to ensure that the standards have an impact. Take the next step of encouraging local governments (watershed councils, county boards, township boards, city councils, etc.) to adopt the pollinator-friendly solar standard as a requirement. To do this, engage community organizers with Audubon and Fresh Energy to talk to local governments where solar sites are already planned. Carver County, MN is already making "beneficial to pollinators" a condition on building permits for solar projects, which requires projects to meet the standard. This is the best time to involve the media and get PR, rather than while the bill is under consideration in the state legislature.

Besides creating solar sites that benefit the environment, agriculture, and business, this bill created coalitions for the long-term with new industries and legislators.

The Future

The Solar Energy Industries Association reports that more than 13,000 megawatts (104,000 acres) of large-scale solar is in operation in the United States and more than 21,500 megawatts (172,000 acres) has been announced. Several of the fastest growing markets for solar are in states with abundant arable farmland (New York, Maryland, Georgia, North Carolina, etc.).

State Qualifications

Ideal circumstances for a Solar Sanctuaries bill to be viable in a state:

- Relationships with natural allies in the seed and landscaping industry, with representatives willing to prioritize the campaign
- Corporations that are sustainability leaders willing to support campaign and leverage their buying power
- A top renewable energy nonprofit and local/state Audubon present and on board to lead
- At least one solar developer already committed to developing pollinator-friendly sites in the state
- Allies have deep positive relationships with both state Republicans and Democrats
- Political strategy will depend on the makeup of individual state legislatures, seeking out prominent moderate members for authorship
- Seek out industries that are prominent in the state to align with (e.g. beekeepers, fruit and vegetable growers, honey producers)