

Statement of Jamie Connell
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U.S. Department of the Interior
Before the
House Natural Resources Committee
Subcommittee on Energy and Mineral Resources
United States House of Representatives
On
H.R.1964, the National Petroleum Reserve Alaska Access Act
H.R. 1965, the Federal Lands Jobs and Energy Security Act
H.R. 1394, Planning for American Energy Act of 2013
H.R. 555, BLM Live Internet Auctions Act
May 22, 2013

Thank you for the opportunity to present the views of the Department of the Interior (Department) on four bills pertaining to the development of renewable and conventional energy and other mineral resources on our Nation's onshore public lands: H.R.1964, the National Petroleum Reserve Alaska Access Act; H.R. 1965, the Federal Lands Jobs and Energy Security Act; H.R. 1394, the Planning for American Energy Act of 2013; and H.R. 555, the BLM Live Internet Auctions Act.

Background

Since the beginning of the Obama Administration, the Department of the Interior ("Department") has made it a priority to permit scientifically-based, environmentally-sound development of renewable and conventional energy and mineral resources on the Nation's public lands. Through the Secretary's New Energy Frontier initiative, the Department has been at the forefront of the Administration's efforts, outlined in the *Blueprint for a Secure Energy Future* to create jobs, to reduce the Nation's dependence on fossil fuels and oil imports, and to reduce carbon and other pollution associated with energy production and use. Facilitating renewable energy development is a major component of the Department's all-of-the-above energy strategy along with effective management of conventional energy programs.

The Bureau of Land Management (BLM) administers over 245 million surface acres – more than any other Federal agency – which are located primarily in 12 western States, including Alaska, as well as approximately 700 million acres of onshore subsurface mineral estate throughout the Nation. The BLM, together with the Bureau of Indian Affairs, also provides permitting and oversight services on approximately 56 million acres of land held in trust by the Federal government on behalf of tribes and individual Indian owners.

The BLM's management of public land resources and protection of public land values results in extraordinary economic benefits to local communities and to the Nation. Public lands generated an estimated \$4.6 billion in revenues in 2012, returning more than four dollars for every dollar invested. Beyond this efficient production of non-tax revenue for the U.S. Treasury, the BLM's management of public lands supports significant economic activity and hundreds of thousands of jobs for Americans. One critical economic benefit BLM provides the Nation is its contribution

to America's energy portfolio. We estimate that oil, gas, coal, and non-metallic mineral activities on the Federal mineral estate directly and indirectly support nearly two percent of jobs in Colorado, nearly 10 percent of jobs in New Mexico, and over 40 percent of jobs in Wyoming. The BLM continues its important role in supplying feedstock and transmission access for the Nation's electrical infrastructure. Approximately twelve percent of domestic natural gas production, which is helping drive a resurgence in American industry, is derived from BLM-managed lands. In addition to responding to increased demand for natural gas, coal produced from BLM's Federal mineral estate has provided approximately 22 percent of U.S. electrical production annually over the last ten years.

These benefits are not only economic, but also contribute substantially to America's energy security. Nearly 38 million acres of Federal mineral estate are under lease for oil and gas; however, only about 33 percent of this acreage is currently in production. Approximately 7,000 applications for permits to drill (APDs) have been approved by the BLM, but were not drilled as of September 30, 2012.

Since 2008, the BLM has approved more than 23,000 APDs. As part of the BLM's ongoing efforts to ensure efficient processing of oil and gas permit applications, the BLM is preparing to implement new automated tracking systems that could reduce the review period for drilling permits by two-thirds and expedite the sale and processing of Federal oil and gas leases. The new system for drilling permits will track applications through the entire review process and quickly flag any missing or incomplete information—greatly reducing the back-and-forth between the BLM and industry applicants currently needed to amend paper applications.

The BLM also is investing in environmentally sound renewable energy projects, harnessing wind, solar, and geothermal resources on the public lands. Since 2009, the BLM has approved 41 renewable energy projects, including 23 utility-scale solar facilities, eight wind farms, and 10 geothermal projects, with associated transmission corridors and other infrastructure to connect to established power grids. If fully built, these projects have the potential to provide more than 12,000 megawatts of power—enough electricity to power nearly four million homes—and support an estimated 14,000 construction and operations jobs. For calendar years 2013 and 2014, the BLM has identified 23 renewable energy projects for review, including 14 solar facilities, six wind farms and three geothermal plants.

The BLM is working with local communities, tribes, state regulators, industry, and other Federal agencies to ensure a clean energy future. Our goal is environmentally responsible development of conventional and renewable energy and other mineral resources on Federal and Indian lands with a fair return to the American people, tribes, and individual Indians for the use of their resources.

H.R. 555, "BLM Live Internet Auctions Act"

H.R. 555 amends the Mineral Leasing Act to authorize the Secretary of the Interior to conduct onshore oil and gas lease sales through Internet-based bidding methods, in order to expand the Nation's onshore leasing program and to ensure the best return to the Federal taxpayer. The bill also requires the Secretary to conduct an analysis of the first 10 Internet-based lease sales and

report the findings of the analysis to Congress within 90 days following the 10th Internet-based lease sale.

Analysis

The BLM supports H.R. 555, which allows the BLM to expand upon its success with the oil and gas Internet lease auction pilot project. The BLM would like to work with the Committee to include related language in the bill to provide the Secretary the discretion to hold lease sales (via the Internet or oral auction) more or less frequently than quarterly (as currently required by the Mineral Leasing Act) or within any state in which lease tracts are available and there is public interest. Finally, the BLM would like to work with the Committee on technical and clarifying modifications to the bill.

H.R.1964, “National Petroleum Reserve Alaska Access Act”

H.R. 1964, the National Petroleum Reserve Alaska Access Act, directs the Department to continue a program of competitive oil and gas leasing in the 23 million-acre National Petroleum Reserve in Alaska (NPR-A). On May 14, 2011, as part of an effort to increase safe and responsible domestic oil production, President Obama directed the Secretary of the Interior to conduct annual oil and gas lease sales in the NPR-A. The BLM has followed through on this direction with lease sales in the NPR-A in December 2011, November 2012, and is planning another lease sale in November of this year. The Department supports the goal of facilitating the development of oil and gas resources in the NPR-A in an environmentally responsible manner, but has several significant concerns with the bill.

Analysis

Many of the activities called for in H.R. 1964 are within the scope of existing Department authorities and consistent with our priorities and activities already underway. Under these authorities, 191 tracts are currently leased by the BLM in the NPR-A with a leased acreage of over 1.5 million acres. We would like to work with the Committee to move toward our shared goal of improving the efficiency of the oil and gas leasing and development process while maintaining safety and environmental standards in the NPR-A.

The Department opposes bill provisions regarding the issuance of a new Integrated Activity Plan and Environmental Impact Statement (IAP/EIS). These provisions would undermine the extensive public resource planning process recently completed for the NPR-A. In 2010, the BLM moved to establish consistent management direction for the entire NPR-A, including the unplanned southern portion of the Reserve, through an IAP/EIS. The Secretary signed a Record of Decision (ROD) on February 21, 2013, that presents a balanced approach to responsible oil and gas development while providing protection to valuable surface and subsistence resources. The IAP/EIS and subsequent decision was the result of careful resource analysis and extensive public input. The lands made available for development under the ROD contain 72% of the NPR-A's estimated economically recoverable oil and over half of the estimated economically recoverable gas. The ROD also requires that the BLM establish an “NPR-A Working Group” that will include representatives of North Slope tribal entities, Native corporations, and State and

local governments – entities directly affected by development within the NPR-A. We will be moving forward with this effort in the very near future.

The bill requires the U.S. Geological Survey (USGS) to complete an updated comprehensive assessment of technically recoverable conventional and unconventional fossil fuel resources in the NPR-A. In 2011, the USGS released its assessment of the economic recoverability of undiscovered, conventional oil and gas resources within the NPR-A and adjacent state waters. Because the USGS used all available information in its assessment and no new data or information has become available since that time, the USGS believes reassessing these resources now would not yield additional information. The USGS is evaluating the unconventional petroleum resources in NPR-A, with the plan to assess these resources in the future. Furthermore, a coalbed methane assessment for the North Slope, including the NPR-A, was completed in 2006. The results for other unconventional resources on the North Slope, including shale gas and tight gas, are expected to be available in two to three years.

It is not clear from the language in the bill whether a coal assessment would be required. The North Slope of Alaska contains coal resources, but the cost of mining and transporting the coal would be substantial. The USGS, in cooperation with the Department of Energy, National Energy Technology Laboratory, published a database compilation of published and nonconfidential unpublished coal data from the Cook Inlet and North Slope areas of Alaska. Despite the database, there are relatively few data with which to conduct a robust coal assessment.

The Department has additional concerns with the bill, including:

- The implication that all requested permits be issued, regardless of a proposed action's potential impacts or the availability of alternatives;
- The timelines required by the bill that may result in shortcuts to public involvement, comment, and review requirements of other laws, including the National Environmental Policy Act;
- The suggestion that the Department pre-approve rights-of-way on millions of acres of lands that industry may never seek to develop; and
- The requirement that the Secretary must ensure that other federal permitting agencies comply with the deadlines set forth in the bill [Sec. 4(b)].

If enacted, these requirements would likely divert BLM resources and result in the delay of further development of NPR-A resources in an environmentally responsible manner. In addition, the requirement of a “direct” transportation route for oil and gas resources does not allow for considerations such as land ownership, geography, and protection of surface resources. The current IAP/EIS allows for site-specific applications for a pipeline through most of the BLM-managed lands on the North Slope. The BLM's existing regulations already establish deadlines for appropriate authorizations and require prompt notification of any delays.

The BLM's leasing program in the NPR-A ensures that safe and responsible exploration and development of domestic oil and natural gas resources can be done in a manner that also protects wildlife and habitat, and honors the subsistence values of rural residents and Alaska Natives. We welcome the opportunity to work with the Committee, the oil and gas industry, the Alaska

Native community, and the public to continue to develop the NPR-A in an environmentally responsible manner. The Administration remains firmly committed to facilitating environmentally responsible development in this region.

H.R. 1965, “Federal Lands Jobs and Energy Security Act”

H.R. 1965 includes various provisions intended to expedite energy development, but often at the expense of sound public land management, public participation, and environmental review. The Department opposes the bill for the reasons outlined below.

Title I, Energy Permitting

H.R. 1965 (Title I) makes numerous changes to existing authorities governing the permitting of Federal energy resources. The bill generally requires the BLM to process APDs within 60 days (unless NEPA review is incomplete), and stipulates that a submitted APD is deemed approved if the Secretary has not made a decision within 60 days. The bill makes permanent the current \$6,500 permit processing fee, but provides that the BLM can only collect the fee when a decision is issued on the APD, cannot collect a fee on a resubmitted APD, and requires that 50 percent of the processing fee be transferred to the BLM Field Office in which the permit is processed. The bill provides that, subject to appropriation and up to an overall total of \$10 million per year, not less than 25 percent of wind and solar right-of-way (ROW) authorization fees shall be available to the field office responsible for the lands where they are collected, not less than 25 percent of the fees shall be available to the BLM for permit approval activities, and not less than 25 percent shall be available to the Department of Interior for department-wide permitting activities. The bill also requires a \$5,000 documentation fee for each protest filed on these permits with 50 percent of these fees remaining with local BLM Field Offices.

The bill requires the BLM to establish a “Federal Permit Streamlining Project” in every BLM office that processes energy projects, and explicitly states the BLM may not require a finding of extraordinary circumstances when using section 390 categorical exclusions of the Energy Policy Act. Finally, Title I, Subtitle D includes provisions pertaining to judicial review procedures.

Analysis

The Department opposes Title I of H.R. 1965 as it would essentially strip from the BLM its ability to issue APDs based on important reviews and clearances – including cultural surveys and necessary tribal consultation – and mandates unreasonable timeframes for processing APDs. The Department strongly supports efforts to encourage wind and solar energy development and believes funding support for those objectives can best be achieved through a combination of user fees and regular discretionary appropriations. In addition, the BLM opposes the \$5,000 documentation fee submitted for each protest because it is an inappropriate economic barrier for the public to seek judicial review or redress of an agency decision.

The bill’s provisions establishing “Federal Permit Streamlining Projects” are impractical, and would likely result in the establishment of such project offices in over 50 of the BLM’s Field Offices. Coordination of these projects among multiple agencies would be extremely time

consuming and costly, and would hinder the BLM's ability to conduct its other vital land management responsibilities. In addition, the BLM views the availability of the extraordinary circumstances review an important step in assuring that a categorically excluded action does not have impacts that are unanticipated, and thus opposes the bill's provisions on this point. Finally, the Department of the Interior defers to the Department of Justice regarding the provisions of the bill (Title I, Subtitle D) pertaining to judicial review procedures.

Title II, Oil & Gas Leasing

H.R. 1965 (Title II) reverses the oil and gas leasing reform policy initiated by former Secretary Salazar in January 2010 that was implemented to ensure environmental protection of important natural resources on BLM lands (BLM Instruction Memorandum 2010-117). The bill also requires the BLM to offer for lease no fewer than 25% of lease nominations in areas open to leasing each year; and requires that the BLM actively lease in areas designated as open when Resource Management Plans are revised; and states that acreages offered for lease shall not be subject to protest. Finally, the bill allows lease sales to be categorically excluded from further NEPA review.

Analysis

The Department opposes Title II of H.R. 1965. The leasing reforms that were implemented in 2010 established an orderly, open, and environmentally sound process for developing oil and gas resources on public lands in a manner that has maintained robust leasing and permitting. The reforms focus on making oil and gas leasing more predictable, increasing certainty for stakeholders, including industry, and restoring needed balance with comprehensive upfront analysis added to the development process. Requiring the BLM to offer no fewer than 25 percent of lease nominations in areas open to leasing each year is an arbitrary standard that undermines rational and diligent review on the basis of greatest development potential, as well as other economic, environmental, and health considerations.

The BLM has concerns with the requirement that it actively lease in areas designated as open when Resource Management Plans are revised. Continuing to lease in some open areas in which recreational or ecological values are at risk could prevent the BLM from protecting important resource values. It could be counterproductive to efforts to develop energy resources on Federal lands if the result is greater near-term resource damage that, in turn, would necessitate more onerous restrictions on future energy development activities. In addition, limiting protests of oil and gas leases and providing categorical exclusions from further NEPA review limits the public's opportunity to engage in decisions about the lands the BLM manages. Americans who have valid and important concerns should have an opportunity to participate in the management of lands that belong to them.

Title III, Oil Shale

H.R. 1965 includes provisions (Title III) regarding oil shale planning, leasing, and regulation. The bill would deem final the BLM's 2008 oil shale regulations, stipulate that the 2008 Resource Management Plan amendments satisfy all legal and procedural requirements under any law, and

require the Secretary to implement those actions without any further administrative action. The bill also would require the Secretary to hold, within 180 days of enactment, a lease sale for additional parcels for oil shale research, development, and demonstration leases, and, no later than January 1, 2016, no less than five commercial lease sales in areas with the most potential for oil shale development.

Analysis

The Department opposes the provisions in Title III of H.R. 1965 because they undermine the BLM's careful and transparent development of oil shale regulations and environmental plans initiated in response to the current state of technology and a Government Accountability Office (GAO) report finding that oil shale development could have significant negative impacts on the quality and quantity of water resources. The bill also disregards the fact that there are currently no proven economically viable and environmentally sound ways in the United States to extract liquid fuel or suitable refinery feedstock from oil shale on a commercial scale.

Beginning in 2010, the BLM began a new public planning process to take a fresh look at the land use plan allocation decisions made in 2008. The BLM concluded that, in light of the many fundamental questions about oil shale that need to be answered, it is vital that the BLM administer a balanced, carefully planned research, development, and demonstration (RD&D) program that will help inform the agency's decision on how to authorize future commercial oil shale development on public lands. On March 22, 2013, the BLM published a Record of Decision amending several resource management plans to encourage RD&D of oil shale on nearly 700,000 acres in Colorado, Utah and Wyoming. Additionally, the BLM has developed a proposed rule governing oil shale development with the goals of ensuring a fair return to the American taxpayer, encouraging responsible development of Federal oil shale resources, and evaluating necessary safeguards to protect scarce water resources and important wildlife habitat. In late March 2013, the BLM published these proposed revisions for public comment. In November 2012, the BLM signed two leases for RD&D oil shale proposals to encourage industry to create and test technologies aimed at developing oil shale resources on a commercial scale. H.R. 1965 would disrupt these public planning and regulatory efforts.

H.R. 1394, "Planning for American Energy Act of 2013"

H.R. 1394 directs the Secretary of the Interior to develop a 4-year strategy for the development of onshore Federal energy and minerals resources – including a strategic production objective of oil and natural gas; coal; critical minerals; helium, wind, solar, biomass, hydropower, and geothermal energy; oil shale; and other energy production technology sources. The bill requires that actions be taken to achieve certain energy production objectives unless the President determines it is not in the national security or economic interests of the United States to do so. The bill further directs the completion of a programmatic EIS in accordance with the National Environmental Policy Act (NEPA) which is deemed sufficient to satisfy requirements of resource management planning and land use planning associated with implementation of the 4-year strategy.

Analysis

The Department opposes H.R. 1394 because it would direct Federal land managers to manage lands for the primary purpose of energy development rather than make thoughtful decisions on balanced multiple-use management through a public process based on site specific analysis and consideration. Guided by the Federal Land Policy and Management Act, the BLM's unique multiple-use management of public lands includes activities as varied as livestock grazing; outdoor recreation, including hunting and fishing; the conservation of natural, historical, cultural, and other important resources – as well as development of both conventional and renewable energy resources.

H.R. 1394 also imposes additional layers of administrative planning for energy development on top of those which the BLM is already undertaking through existing authorities. These authorities already provide extensive legal and regulatory direction for the development of oil, gas, and coal from the public lands. In addition, the BLM has recently made significant progress on programmatic planning for a suite of renewable and unconventional energy resources, including wind, solar, geothermal and oil shale.

Finally, the bill's requirement that the Department take all necessary actions to achieve energy production goals on Federal lands fails to acknowledge the comprehensive approach to support expansion of safe and responsible energy development already in place and that the Department is committed to maintaining. The BLM has made significant progress in the past several years, reducing protests and appeals by better planning through its leasing reforms. As stated above, we continue to offer a healthy number and quality of lease sales, with good industry response, and an emphasis on permitting has produced a large inventory of permits and acreage that industry has yet to develop.

Conclusion

Thank you for the opportunity to present testimony on these four bills.