Written Testimony

of

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Before

Subcommittee on Energy and Mineral Resources

Natural Resources Committee

U.S. House of Representatives

Concerning

Legislative Hearing on H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173

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Mr. Chairman, Ranking Member Holt, and members of the Subcommittee:

Thank you for the opportunity to provide testimony regarding development of renewable energy resources on federal lands and waters. My statement focuses only on onshore permitting of energy resources on forests and public lands for typically categorized as 'renewable' – that is, geothermal, solar, wind, and biomass energy development. It does so drawing on the collective experience of The Wilderness Society's staff across the country.

The Wilderness Society works on behalf of its 500,000 members and supporters to protect wilderness and inspire Americans to care for our wild places. This includes working to ensure that the development of needed new energy resources is done in a way that protects the ecological integrity of the land.

For The Wilderness Society, that includes enacting policies that would correct the market failure that allows fossil energy providers to dump emissions harmful to the public health and welfare into the atmosphere for free. It also means avoiding the construction of unneeded generating facilities by simply increasing the efficiency of our electrical grid, buildings, gadgets and appliances, and transportation system. And it means promoting more sustainable home-grown sources of energy, especially electricity, to meet future demands and replace the dirty fuels of our past with adequate financial incentives.

We are strong supporters of efforts to tap the rich renewable resources found on our public lands and forests. As with any form of development, however, not all places are appropriate for this kind of activity. Some places are simply too wild or too sensitive to develop. And where it occurs, it must take place in a responsible manner.

We are opposed to H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173 because these four bills are predicated on the false notion that a principal roadblock to the successful approval of renewable energy projects on the public lands is the National Environmental Policy Act (NEPA). (These views are detailed in Appendix A.) These bills are simply not needed to accelerate renewable energy development on public lands and forests. Rather, all of our experience has shown us that attempts to shortcut and undermine environmental values actually delays projects.

Instead, we believe that the best way to rapidly deploy renewable energy projects on our public lands is to end the scattershot approach to permitting that we see today. We can use existing law to move away from project-by-project permitting, and toward clear policies that guide companies to the right places, with early public engagement and consistent environmental review. To us, this kind of "smart from the start" approach includes several key elements:

- Policies that guide projects to areas that have high clean energy potential; minimal conflicts with wildlife, wild lands, and other important resources and uses of the surrounding environments; and, wherever feasible, access to existing transmission.

- Early and ongoing input and coordination with interested stakeholders.

- Thorough analysis of the potential environmental impacts of renewable energy projects, including their cumulative impacts.

- Policies that fully and fairly value public lands and forests, and reinvest significant portion of the revenues generated in conservation activities.

- Effective mitigation measures to address unavoidable impacts.

- Consistent and careful monitoring at the project and landscape level to improve existing and future projects and permitting and mitigation processes.

- Discouraging speculation by evaluating the financial and technological capacity of project proponents to design, build, operate, and decommission projects.

- Policies that encourage new transmission projects and upgrades that connect clean renewable energy resources.

We believe that a smart from the start approach, if properly implemented, will provide added certainty for project developers, investors, conservationists, and other stakeholders by avoiding conflicts that result in costly delays.

We are seeing these concepts become a reality as the Interior Department works to break a five year solar stalemate on public lands. The ongoing programmatic environmental impact statement has the potential to bring order to a process that has frustrated all parties. By identifying zones for development and screening these areas for conflicts with significant natural and cultural resources, the Department can enhance the likelihood that projects permitted will result in projects successfully built. For this reason, we have seen an emerging consensus amongst developers, conservationists, and utilities that a zone-based system for development is the preferred approach as evidenced in a joint comment letter from the members of the California Desert Renewable Energy Working Group that I request be included in the record. Zone-based development can greatly improve both the permitting process and outcomes for wildlife and wild lands.

Central to the ‘smart from the start’ concept is a commitment to take stock in the early stages of a proposed federal action of the pros and cons of alternatives, and choosing the one that gets you the best result with the least conflict. That’s what Congress recognized when it passed NEPA, and that is the role that NEPA continues to serve.

"The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment." 40 C.F.R. § 1500.1(c). This is the overarching principle by which the agencies charged with administering our public lands must, and should, make decisions that best balance renewable energy development with management of the many other uses and resources found on these lands.

In its forty year history, the NEPA process has improved the health and well-being of communities, saved billions in tax-payer dollars, and unequivocally improved the quality of decision-making. NEPA's common sense axiom is "look before you leap." NEPA requires that agency decisions are transparent, grounded in rigorous scientific analysis, and fully informed by the collective expertise of all stakeholders.

NEPA recognizes that the public—which includes industry, landowners, local and state governments, tribes, and business owners among others—can make important contributions by providing unique expertise. In 2008, a groundbreaking review conducted by the National Academy of Sciences confirmed the benefits of public participation. The panel found:

> When done well, public participation improves the quality and legitimacy of a decision and builds the capacity of all involved to engage in the policy process. It can lead to better results in terms of environmental quality and other social objectives. It also can enhance trust and understanding among parties. Achieving these results depends on using practices that address difficulties that specific aspects of the context can present.[1]

The business community has also awakened to the value the value of public participation afforded through the NEPA process. For example, in October 2009, the project manager for the SunZia power line testified before a hearing jointly held by this committee and the Subcommittee on Energy and Power that "NEPA still works." In discussing the effects of input received from the environmental community, for instance, he observed that, "the result is a better one for all involved" and "[t]he contributions provided to SunZia by these important stakeholders have been immeasurable."[2]

Public participation via NEPA has made important contributions leading to real improvements. Numerous examples have been compiled by the Environmental Law Institute in *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government*.[3]

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[1] Thomas Dietz and Paul C. Stern, Editors, Panel on Public Participation in Environmental Assessment and Decision Making, National Research Council, 2008.
[2] Testimony of Tom Wray, Project Manager, SunZia Transmission Project. November 5, 2009. Available at http://naturalresources.house.gov/UploadedFiles/WrayTestimony11.05.09.pdf.
[3] Available at http://ceq.hss.doe.gov/nepa_information/NEPA_Success_Stories.pdf.

As the National Academy of Sciences recommended: "Public participation should be fully incorporated into environmental assessment and decision-making processes, and **it should be recognized by government agencies** and other organizers of the processes as a **requisite of effective action**." (emphasis added). NEPA plays an invaluable role in making review of renewable energy projects meaningful and, ultimately, leading to projects that will be less likely to be challenged or derailed once approved.

Let me address directly the often-heard charge that NEPA, along with other environmental requirements, unduly restricts the pace and advancement of renewable energy projects. We know that this is not true. Of the nine solar energy projects permitted in 2010, the average time for environmental review was 527 days, or 1.4 years. Permitting that was initiated during the Obama Administration and received "fast-track" status took an average of 423 days, or 1.1 years to reach a final record of decision. This is well within other permitting time frames for similarly sized projects, and is remarkable given that these projects are unique in scale and complexity. That NEPA is working as intended is equally true of permitting of resource testing facilities as of commercial-scale generation. For example, more than three-quarters of the 38 wind testing facilities permitted on public lands between 2008 and 2011 were processed using categorical exclusions under the law. Ample authority exists to enhance the effectiveness of implementation of this statute without these proposed legislative remedies.

However, several roadblocks do stand in the way of faster deployment of renewable energy. Time and again major companies, financial houses, market watchers, and others deeply steeped in the business of building projects have pointed to the need for policies that create markets for these technologies and alleviate fiscal uncertainty as the chief roadblocks to the industry. The renewable energy industry is at a critical point in its maturation process. Significant, targeted investments in this industry will leverage private equity, produce new megawatts of power, put Americans to work, and strengthen our competitiveness in the global marketplace for renewable energy technologies.

Congressional involvement to promote renewable energy development on public lands would be best directed toward ensuring that federal financing tools will be predictably available, establishing policies that create market demand for renewable power, and support smart from the start policies, including a zone-based approach to solar energy development on public lands, will ensure consistently good permitting decisions are made over time.

In conclusion, The Wilderness Society appreciates the efforts of the Subcommittee to accelerate development of these important clean energy resources on public lands and forests. We support the Subcommittee's goal of faster, cheaper, and better outcomes for those interested in developing the rich renewable energy resources found on these lands—of developing renewable energy smart from the start.

Successfully advancing development of wind, solar and other renewable energy resources requires us to do better than we've done with other forms of energy on the public lands and forests. Putting in place policies designed to avoid known conflicts as early as possible is just common sense – but it is a new way to do business for federal agencies. This smart from the start approach relies on the type of information and input received by federal agencies through the NEPA process. To be sure, more can be done to improve the efficiency and effectiveness of the existing review process, but shortcutting or sidestepping this process will only result in more conflict, more delays, and more costs to developers and, ultimately, consumers. Rather than turning our backs on this essential federal law, we should be putting effort into expanding the marketplace for renewable power and creating the fiscal certainty needed to attract private investment.

Thank you for the opportunity to provide our views.

Appendix A. Detailed Views on Proposed Legislation

Cutting Red Tape to Facilitate Renewable Energy Act (H.R. 2170)

The Wilderness Society opposes this bill. This bill offers a 'rifle shot' approach that offers the agency—and ultimately the project proponent—too narrow a scope of review: one document, one alternative, and only one chance at getting it right. This approach is not supported by our recent experience with developing renewable energy resources on public lands and forests. Concerns related to the pace of environmental review could be ameliorated by ensuring that federal and state agencies responsible have the resources, personnel, direction, and technical expertise necessary to thoroughly evaluate development zones to speed project review time, prioritize applications most likely to be built for review, and conduct a robust stakeholder process to minimize conflict and controversy.

Limiting environmental review to one action alternative may seem more expedient, but the fact is that the majority of renewable energy projects proposed for public lands are very large and complex projects involving first-of-a-kind technologies at this scale with which neither the agency nor the company have much experience. It sets up a decision between build and no build based on the agency's interpretation of the proposed project, existing and almost always imperfect data, and no formal consultation with states, tribes, and other stakeholders. Our experience with the Interior Department's fast track projects underscores this point. In all cases, significant changes were made between the draft and final environmental impact statements, often incorporating elements of multiple alternatives. The agency and project proponents need the ability to consider more than one alternative as has already been shown.

Moreover, the inclusion of biomass in this bill is highly problematic as biomass more commonly involves the sourcing of wood materials, particularly use of secondary materials, and not the siting of plants on public lands. This bill as written could foster public distrust in biomass proposals resulting in delays and complications as the U.S. Forest Service moves to a restoration focus as Secretary Vilsack has proposed.

Utilizing America's Federal Lands for Wind Energy Act (H.R. 2171)

The Wilderness Society opposes this bill. This bill will not result in faster or cheaper completion of wind projects on federal lands – in fact, we have concerns it could have exactly the opposite effect. By putting these facilities outside the very law designed to gather the critical information and input from states and other stakeholders necessary to ensure quick and intelligent deployment of commercial scale projects, project developers may find significant investments stranded at the project review stage when conflicts are uncovered through the environmental review process. Concerns related to meteorological permit processing time should be dealt with by the agencies administratively, under existing law and with full consideration of the current use of categorical exclusions.

Exploring the Geothermal Energy on Federal Lands Act (H.R. 2172)

The Wilderness Society opposes this bill. The agency can address concerns about how existing categorical exclusions are applied or if additional exclusions are needed administratively, through a public process.

Clean Energy Promotion Act (H.R. 2176)

The Wilderness Society supports redirecting revenues to permit process improvement, but recommends also seeking to authorize the Interior Department to reinvest in other key activities that would mitigate impacts on human and natural communities.