

**Statement of
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**Before the
House Natural Resources Committee
Energy and Mineral Resources Subcommittee**

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Introduction

Thank you for inviting the Department of the Interior to present testimony on several bills pertaining to the development of renewable energy resources on our nation's onshore public lands: H.R. 2170, the Cutting Red Tape to Facilitate Renewable Energy Act; H.R. 2171, the Exploring Geothermal Energy on Federal Lands Act; and H.R. 2172, the Utilizing America's Federal Lands for Wind Energy Act.

These bills were introduced little more than one week ago, so the Department of the Interior has not had time to conduct an in-depth analysis of them, but we appreciate the opportunity to outline our general views at this time. The bills exempt certain Federal actions from compliance with the National Environmental Policy Act (NEPA) – the cornerstone law guiding environmental protection and public involvement in Federal actions. The Department opposes these three bills.

Background

Since the beginning of his tenure, Secretary of the Interior Ken Salazar has made the development of the New Energy Frontier on America's public lands one of his top priorities. The Department's renewable energy strategies are guided by the fundamental belief that renewable energy for America will allow us to diversify energy sources and ultimately reduce our reliance on fossil fuels.

As Deputy Director of the Bureau of Land Management (BLM), I share this priority. I am happy to tell you that the BLM is committed to giving priority to renewable energy projects that are "smart from the start." The BLM is working with local communities, state regulators, industry, and other Federal agencies to build a clean energy future. Our goal is environmentally responsible development of renewable energy resources on the public lands with a fair return to the American people for the use of their resources.

Guiding all of the BLM's management actions – including renewable energy development – is the agency's land use planning process. This is an open, public process in which the agency's proposals for managing particular resources are made known to the public in advance of taking

action. The BLM's plans are analyzed and frequently critiqued by members of the public and stakeholders, and the BLM must address all comments on agency proposals and make available to the public its responses.

Similarly, the BLM is committed to providing the full environmental review and public involvement opportunities required by NEPA for all agency proposals for BLM-managed lands. As noted in the Presidential Proclamation commemorating the 40th anniversary of the act, NEPA, was enacted to "prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." It established concrete objectives for Federal agencies to enforce these principles, while emphasizing public involvement to give all Americans a role in protecting our environment. America's economic health and prosperity are inexorably linked to the productive and sustainable use of our environment. That is why NEPA remains a vital tool as we work to protect our Nation's environment and revitalize our economy.

Under land use plans and environmental analyses informed by public involvement, the BLM is leading the nation toward the New Energy Frontier with active solar, wind, and geothermal energy programs. In 2010, the BLM approved the first nine large-scale solar energy projects on public lands. These projects will have an installed capacity of 3,600 megawatts, enough to power close to 1 million homes, and will create thousands of jobs. Additionally, the BLM has 29 authorized wind energy projects on the public lands with a total of 437 megawatts of installed wind power capacity. Geothermal energy development on the public lands, meanwhile, with an installed capacity of 1,275 MW, accounts for nearly half of U.S. geothermal energy capacity.

H.R. 2170, "Cutting Red Tape to Facilitate Renewable Energy Act"

H.R. 2170 would narrow the scope of environmental review for renewable energy projects, defined as wind, solar power, geothermal power, biomass or tidal or kinetic forces used to generate energy. Under the bill, NEPA analysis would be limited to a "proposed action" and the "no-action alternative" – rather than the range of alternatives that are generally evaluated during NEPA review. Members of the public would be limited to 30 days after the publication of a draft NEPA document to conduct their review and send comments to the Federal agency.

The Department opposes H.R. 2170, as it unnecessarily restricts the scope of analysis in the NEPA process. This restriction on the development and consideration of alternatives to a proposed agency action would reduce the analysis of complex, challenging issues to a limited "yes-or-no" choice. It would impair the Federal government's ability to accurately assess the likely impacts of a Federal action and to employ the consideration of alternative means to avoid, minimize and/or mitigate adverse impacts. Furthermore, reducing the timeframe available for review and public comment to 30 days, especially for complicated, multi-state, utility-scale environmental impact statements, could significantly reduce the public's ability to weigh-in on critical matters affecting them. The BLM relies on this public participation to improve the analysis of actions on public lands.

Properly developed alternatives inform decisions by allowing the decision-maker to evaluate ways to resolve resource conflicts in complex projects. Addressing a reasonable range of alternatives under NEPA provides opportunity to address issues that arise in public scoping and

reduces the likelihood of litigation. Alternatives analysis also provides more opportunities for the BLM to work with applicants to address possible alternative means to reduce environmental impacts.

Through the development and consideration of a reasonable range of alternatives, the BLM can work with applicants to explore proposals using different technology or project layout alternatives with the applicant. To accomplish this, the BLM has recently provided guidance on defining a reasonable range of alternatives in development of renewable energy projects on public lands, based on lessons learned from fast track renewable energy projects in 2010. This policy recognizes that the BLM must consider the applicant's interests and objectives to inform its decision.

There may also be unintended consequences to this legislation. The inability to consider other alternatives may lead the BLM to select the no-action alternative more frequently if a proposed project presents resource conflicts that cannot be addressed through mitigation.

H.R. 2171, “Exploring Geothermal Energy on Federal Lands Act”

H.R. 2171 establishes criteria for “geothermal exploration test projects” and exempts a proposal meeting those criteria from NEPA compliance. The bill authorizes a geothermal leaseholder proposing to drill such a test project to notify the Secretary of their proposal 30 days prior to the start of drilling. The Secretary is allowed 10 days within which to review the proposal and determine if it meets the criteria for exemption from NEPA, or to identify the reasons why the proposal does not meet the criteria and thus would not be exempt from NEPA. If the latter, the Secretary is required to notify the proponent of specific deficiencies and to give the leaseholder the opportunity to meet the criteria and thereby become exempt from NEPA.

The Department opposes H.R. 2171 because it is inconsistent with sound and long-standing NEPA requirements for Federal actions. Furthermore, its NEPA-exempt framework contains no exception for “extraordinary circumstances” – i.e., circumstances when NEPA review would still be warranted. The BLM believes the absence of an exemption for extraordinary circumstances may result in geothermal development that may pose an impact to the environment. The BLM is ensuring that development of geothermal resources on the public lands is implemented in an environmentally responsible manner. NEPA review is an important component of this responsible development.

H.R. 2172, “Utilizing America’s Federal Lands for Wind Energy Act”

H.R. 2172 proposes to streamline the process to develop onshore wind power on BLM and U.S. Forest Service (FS) land by removing the requirement to complete NEPA analysis for weather testing or monitoring devices. The bill also reduces agency decision-making timeframes for the site applications.

The Department opposes H.R. 2172 because it is inconsistent with sound and long-standing NEPA requirements for Federal actions. Furthermore, its NEPA-exempt framework contains no exception for extraordinary circumstances. While BLM policy (IM 2009-043, December 19,

2008) currently provides for “categorical exclusions” (CXs) from NEPA review for wind-related weather testing or monitoring devices, it provides an exception for certain extraordinary circumstances when NEPA review is still required. The BLM currently applies CXs only when appropriate. Blanket use of CXs without regard for certain extraordinary circumstances, could significantly impact public health and the environment.

The BLM believes the absence of an exemption for extraordinary circumstances may result in wind energy development that may pose a threat to aviation safety and to the environment. Under H.R. 2172, an exclusion from NEPA could preclude consideration of a condition such as the proposed height of a met tower that may have impacts on aviation operations and Federal Aviation Administration safety requirements, or could preclude consideration of potential bird impacts from guyed versus non-guyed met towers. An absolute exclusion from NEPA for weather monitoring and testing devices would be inconsistent with consideration of site specific environmental impacts for installations.

Conclusion

Thank you for the opportunity to present testimony on these three pieces of legislation. The Department of the Interior looks forward to continuing its work toward standing up a renewable energy program and a portfolio of projects that reflect the incredible resource potential of America’s public lands.