

**Statement for the Record
Bureau of Land Management
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Water & Power
H.R. 976, Termination of Hydropower Reservations Relating to Specific BLM Patents in
California
December 2, 2011**

Thank you for the opportunity to present this Statement for the Record on H.R. 976, which would terminate hydropower reservations on two patents issued by the Bureau of Land Management (BLM) for certain lands in Madera County, California. While the BLM has no objection to this bill, its role in this matter—to issue patents as authorized by law—is strictly ministerial. Accordingly, the BLM defers to the Federal Energy Regulatory Commission (FERC) on the termination of the reservations encumbering the patented lands.

Background

Under the Federal Water Power Act of 1920 (FPA), the filing of an application for hydroelectric power development automatically withdraws lands from entry, location, or disposal under the public land laws. If FERC decides that the power development value of the withdrawn lands will not be injured or destroyed by location, entry, or selection under the public land laws and notifies the Secretary of that determination, Section 24 of FPA requires that the Secretary open the lands to location, entry, or selection, subject to a reservation to the United States of the right to use the lands in the future for power development.

In 1920 and 1924, lands managed by the U.S. Forest Service in Madera County, California, were withdrawn for the Federal Power Commission's Power Project 105 on behalf of Southern California Edison Company. In 1983, the BLM issued a patent (04-83-0065) with a Section 24 power reservation for 103 acres within the Power Project 105 withdrawal area. By letter dated April 30, 1986, FERC determined that this power project site withdrawal was "non-essential" and formally vacated the withdrawal. Subsequently, the BLM reopened the formerly withdrawn federal lands to the operation of the public land and mining laws. An additional 41 acres of the previously withdrawn lands were conveyed in 1987 under patent 04-87-0050.

In 2006, Donald Smith requested that the BLM take administrative action to terminate the Section 24 power reservation from patent 04-83-0065. The BLM understands that the interested entities—FERC, the local utility Southern California Edison, and the U.S. Forest Service—do not object to termination of the Section 24 power reservation encumbering the patented lands. The Department of the Interior does not have the authority to remove the Section 24 power reservation from the patent; rather, this may only be accomplished through an Act of Congress.

H.R. 976

H.R. 976 terminates the Section 24 power reservation included in patent 04-83-0065 for the parcels of public land conveyed in 1983. The legislation also terminates any Section 24 power reservation that may have been deemed to be omitted from patent 04-87-0050 for the parcels of

public land conveyed in 1987. Enactment of H.R. 976 would provide Mr. Smith with clear title to these lands.

Conclusion

Thank you again for the opportunity to present this Statement for the Record on H.R. 976.