

**Testimony of  
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**House Natural Resources Committee  
Subcommittee on Energy & Mineral Resources  
H.R. 2004, Geothermal Production Expansion Act of 2013  
H.R. 1363, Exploring for Geothermal Energy on Federal Lands Act  
H.R. 596, Public Lands Renewable Energy Development Act of 2013  
July 29, 2014**

Thank you for the opportunity to present the views of the Department of the Interior on three bills pertaining to the development of renewable energy on public lands administered by the Bureau of Land Management (BLM): H.R. 2004, the Geothermal Production Expansion Act of 2013; H.R. 1363, the Exploring Geothermal Energy on Federal Lands Act; and H.R. 596, the Public Lands Renewable Energy Development Act of 2013. These bills seek to expedite the development of geothermal, wind, and solar energy projects on public lands managed by the Departments of the Interior and of Agriculture. This statement addresses the provisions relevant to the Department of the Interior (Department).

The Department and the BLM remain committed to responsibly mobilizing the tremendous renewable energy resources available on public lands, and share the Committee's interest in identifying efficiencies in the development of those resources, consistent with environmental protection and public involvement in agency decision-making. We look forward to working with the sponsor and the Committee to further geothermal, wind, and solar energy development while continuing to protect our nation's public land and water resources.

**Renewable Energy Development on Public Lands**

As part of the Administration's "All-of-the-Above" energy strategy, the Department has made the development of the New Energy Frontier on America's public lands one of its top priorities. Due in large part to a permitting process for renewable energy projects emphasizing early consultation with partners and stakeholders, in 2012, the BLM successfully accomplished the Energy Policy Act of 2005 (EPAAct) goal of authorizing over 10,000 megawatts (MWs) of renewable energy on public lands – three years ahead of schedule. In support of the President's Climate Action Plan to ensure America's continued leadership in clean energy, the Department is now working to reach 20,000 MWs of permitted renewable energy capacity on public lands by 2020. The BLM is already making great strides toward achieving that goal, which would provide enough clean energy to power more than 6 million homes.

In 2009, there were no commercial solar energy projects on or under development on public lands. Since that time, the BLM has approved 52 renewable energy projects; including 29 utility-scale solar facilities, 11 wind farms, and 12 geothermal plants, each with associated transmission corridors and infrastructure to connect with established power grids. If fully built,

these projects will provide more than 14,000 MWs of power, which will support approximately 21,000 construction and operations jobs.

The BLM recently announced it will prioritize 13 renewable energy projects (11 solar and two wind) in 2014 and 2015. The 13 projects represent approximately 3,030 MWs in potential clean energy. The recent successful auction of solar energy leases in the Dry Lake Solar Energy Zone in Nevada is also likely to result in additional projects and increased generation.

Renewable energy projects authorized by the BLM constitute a major contribution to not only the nation's energy grid, but also the national economy. Projects on public lands have already garnered an estimated \$8.6 billion in total capital investments, and the potential for approved projects pending construction is estimated at \$28 billion. Through efficient and environmentally-responsible permitting, the BLM is helping to bring tens of billions of dollars in investments to the United States.

The BLM intends to further these contributions by moving from an application-by-application approach for solar energy projects to a competitive leasing process in designated development areas called Solar Energy Zones (SEZs). In October 2012, the Department finalized a Solar Energy Programmatic Environmental Impact Statement, more commonly called the Western Solar Plan, which identified 17 SEZs and established a blueprint for utility-scale solar energy permitting with access to existing or planned transmission infrastructure. The Western Solar Plan also provides the foundation for the BLM's current rulemaking process to implement competitive solar and wind energy leasing within designated areas.

In authorizing existing projects, reviewing proposed projects, and developing a competitive leasing rule, the BLM has focused on managing renewable energy development in an accelerated but responsible manner which ensures the protection of signature landscapes, wildlife habitats, and cultural resources. This "smart from the start" approach is consistent with the Administration's goal of authorizing safe and sustainable geothermal, wind, and solar energy projects on public lands. The BLM achieves these collaborative goals through close working relationships with local communities, state regulators, private industry, and other Federal agencies.

Under land use plans and environmental analyses informed by public involvement and early consultation with these partners, the BLM is leading the nation toward the New Energy Frontier through active geothermal, wind, and solar energy programs.

### **BLM Management of Geothermal Resources**

Geothermal energy resources on Federal lands are leased and managed in accordance with the Geothermal Steam Act (Steam Act) of 1970, which was amended by the EPAct. The EPAct made extensive changes to the Steam Act which were designed to encourage geothermal energy development and simplify the royalty structure. In 2008, the BLM and U.S. Forest Service (FS) jointly prepared and issued a Programmatic Environmental Impact Statement (PEIS) analyzing the potential for geothermal leasing on Federal lands. Based on this analysis and authorities under the amended Steam Act, the BLM and FS have made 193 million acres of Federal land available to geothermal development.

In 2007, the Department published geothermal energy leasing regulations to reflect the EAct's amendments to the Steam Act. The updated regulations provide for more competitive geothermal leasing, simplified royalty calculations, and policies for the administration of leases. Currently, most Federal leases for geothermal are offered through competitive oral auctions held at least once per year. Since competitive auctions began in 2007, a total of 366 geothermal leases have been sold, generating more than \$76 million in revenue. In addition to the price paid at auction, geothermal lease holders pay an annual per-acre rental fee of \$2.00 per acre until production begins, along with a \$155 competitive lease processing fee. Thereafter, lease holders pay royalties or fees on production. Lease parcels that do not receive a bid at auction are made available for noncompetitive lease for a period of two years at a rental price of \$1.00 per acre. Noncompetitive leases are also offered to qualified mining claim holders.

Geothermal leases currently generate over \$15 million in Federal revenues each year, with 50 percent of total royalties shared with states and 25 percent shared with local counties. To date, the BLM has issued 818 geothermal leases covering 1.2 million acres of Federal lands. Approximately 71 leases have reached producing status and currently hold a generating capacity of nearly 1,750 MWs. These producing leases account for more than 40 percent of the total U.S. geothermal capacity, and critically, often provide baseload power that does not have the variable qualities of some other renewable energy sources.

While the geothermal industry is still in its early stages, its future role and importance is expected to increase significantly. According to the Department's 2008 PEIS, geothermal production levels are projected to rise to an estimated 12,200 MWs by 2025. Through the BLM's management of existing and future projects, geothermal resources on public lands will make an increasingly important contribution to building the clean energy economy of the 21<sup>st</sup> century.

#### **H.R. 2004, Geothermal Production Expansion Act of 2013**

H.R. 2004 seeks to focus Federal geothermal energy leasing activities toward entities that intend to develop geothermal resources rather than toward those who may intend to obtain leases for parcels with geothermal resources for speculative purposes. More specifically, the bill aims to address a practice whereby speculators purchase at auction Federal geothermal leases for parcels that are located adjacent to parcels of Federal or private land with existing geothermal leases or developments. This practice is viewed by some as an effort to capitalize upon another company's geothermal exploration efforts, and is a disincentive for future geothermal investment and development. Because the geothermal competitive leasing program is open to all qualified bidders, the potential exists for such speculative activity.

To address this concern, the bill authorizes non-competitive leasing of adjoining Federal geothermal resources when a valid discovery of geothermal resources is made, and the geothermal resources are shown to extend into unleased Federal land. Under the bill, a Federal non-competitive lease would be available only for areas not exceeding 640 acres that have not already been leased or nominated to be leased competitively. Only one noncompetitive lease could be issued for each valid geothermal discovery.

To qualify for a noncompetitive lease under the bill, an applicant would have to demonstrate, consistent with industry standards, a valid discovery of a geothermal resource. An applicant also would have to present sufficient geological and technical data showing that the geothermal resource extends into adjoining Federal lands.

Section 2 of H.R. 2004 would amend Section 4(b) of the Steam Act to define fair market value per acre for non-competitive leases. Under the provisions of Section 2, the lessee would pay fair market value for the non-competitive lease in accordance with regulations issued by the Secretary of the Interior. The bill would set a minimum price on how much the Secretary may determine the fair market value to be at not less than the greater of \$50 per acre, or four times the median amount paid per acre for all land leased during the preceding year.

The bill would make proposed fair market value determinations open for public comment for a period of 30 days and would allow a qualified lessee and any affected party to appeal a fair market value determination. Further, the lease awarded non-competitively would be assessed the annual rental rate of leases awarded competitively.

The BLM generally supports maintaining competitive leasing processes for the development of Federal energy resources but recognizes that there are situations in which non-competitive leasing may be appropriate, such as to increase investor confidence that geothermal discoveries could ultimately be fully developed. Additionally, the BLM supports a requirement that regulations be promulgated to establish procedures for determining the fair market value of leases on adjoining lands.

Specifically, H.R. 2004 would set a minimum price on the Secretary's determination of fair market values for geothermal leases. The BLM would consider a number of factors in identifying a price that is fair for a given lease, including information on known existing resources and the value of other leases within the local market. The BLM supports measures that help ensure a fair return to U.S. taxpayers for the use of public lands, and would like to work with the sponsor on this provision.

Finally, the BLM has concerns with the timeframes included in the bill. Specifically, the promulgation of regulations issued by the Secretary typically requires more than 270 days. The 180 days provided in the bill for determining the fair market value of a lease may not be adequate to conduct such an evaluation.

### **H.R. 1363, Exploring for Geothermal Energy on Federal Lands Act**

H.R. 1363 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. 1363 because it is inconsistent with sound and long-standing NEPA requirements for Federal actions. Circumventing NEPA compliance for projects will undermine the reasoned consideration of the environmental effects of such projects and impede the opportunity to consider alternatives with less adverse impacts on communities and the environment. Failure to include NEPA review can result in a failure to provide relevant and useful information to the public and to the BLM as a decision-maker.

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. 596, Public Lands Renewable Energy Development Act of 2013**

H.R. 596 aims to increase renewable energy development on public lands, primarily through the reestablishment of a special account for processing geothermal energy authorizations and the creation of a competitive wind and solar leasing pilot program. The bill would also establish a royalty system for wind and solar energy authorizations, create a conservation fund to address some of the impacts of wind and solar energy development on public lands, and require the Secretaries of the Interior and Agriculture to determine the feasibility of carrying out a mitigation banking program. The bill’s provisions are directed toward all public and National Forest System lands that have not been excluded from solar or wind energy development by a land use plan, Resource Management Plan, or Federal law.

Since this bill and previous versions were introduced, the Department has utilized administrative authorities to implement the Western Solar Plan and expand solar, wind, and geothermal development opportunities on public lands. The Department supports the goals of H.R. 596, and we are excited to work with the Committee and the sponsor to further harness the vast renewable resources on public lands while continuing to ensure a fair return to U.S. taxpayers.

H.R. 596 would amend the EPAct to reestablish the geothermal special account, which expired in 2010, through Fiscal Year 2020 to provide funds for the processing of geothermal leases and use authorizations. Under current law, 50 percent of geothermal revenues are directed to the state in which the project is located, with the remaining funds divided evenly between the county in which the project is located and the Treasury. Under H.R. 596, the states would continue to receive 50 percent of geothermal revenues; while the BLM would receive an amount specified in advance appropriations acts from the total directed to the Treasury. The BLM estimates the proposed special account would generate \$4 million per year in funding for the program, which is currently supported by \$7 million in appropriated funds. The Department has generally proposed funding geothermal program operations through a combination of cost recovery fees and the regular appropriations process. We look forward to working with this Committee and the Interior appropriations committees in evaluating funding options for the geothermal leasing program.

Section 202 of H.R. 596 would establish a pilot program for the competitive leasing of wind and solar energy sites on Federal lands. The bill requires the pilot program be established within 180 days of enactment and expanded to all covered lands within five years of enactment following a joint determination by the Secretaries of the Interior and Agriculture. Under the proposed pilot program, the Secretary would select one solar and one wind project within 90 days of the program's establishment to be made available for development through competitive leasing. The section also outlines various competitive leasing requirements, including the payment of royalties, fees, and bonuses; lease terms and readjustments; and the issuance of regulations for reclamation and restoration bonding requirements.

The Department shares goals similar to those of Section 202 in the bill, and through its existing authorities, is currently developing a competitive leasing program for solar and wind energy projects on public lands. In 2012, the BLM completed its Western Solar Plan which designated 17 Solar Energy Zones (SEZs) and included the decision to proceed with competitive leasing for solar projects in those areas. The BLM recently completed a successful competitive leasing auction in the Dry Lake SEZ in Nevada, which resulted in \$5.8 million in high bids. The BLM plans to build on the success of the Dry Lake auction, and anticipates publishing a proposed competitive leasing rule by the end of 2014. This rule will give additional detail to the competitive leasing program for the solar and wind energy programs. The BLM's current rulemaking process reflects the goals of H.R. 596 in implementing a competitive leasing process, and the agency would like to work with the sponsor and the Committee on improvements to the proposed language.

The Department also shares the legislation's goal of capturing the fair market value of leased projects as part of its commitment to ensure an appropriate return to U.S. taxpayers. While the BLM currently ensures a fair return to the public from solar and wind energy authorizations through an annual acreage rent and MW capacity fee, the agency is also supportive of efforts which could improve and simplify how that return is captured. The Department is glad to work with the sponsor and the Committee on exploring alternative ways to secure an appropriate return to taxpayers from solar and wind projects' use of public lands.

The Department is concerned, however, that the royalty system proposed under H.R. 596 would not provide a fair return from projects during periods without electric generation. We recommend the Committee augment the legislation to include a revenue collection system covering all phases of project development and operation.

H.R. 596 would also require the development of a comprehensive inspection, collection, fiscal, and production accounting and auditing system by the BLM and Department's Office of Natural Resources Revenue. Replacing the existing annual acreage and MW capacity fee with the system necessary to accurately determine royalties would require the Department to collect, track, and audit significantly different types of information from what is currently collected. The Department would need additional time and resources to develop a robust royalty auditing system capable of ensuring a fair return. The Department looks forward to working with Committee to determine the best way to meet the revenue capturing objectives of the legislation.

Finally, Section 204 of H.R. 596 provides for the allocation of royalty and bonus revenues from solar and wind energy leases to states (25 percent), counties (25 percent), a Renewable Energy Resource Conservation Fund (25 percent), the BLM or Forest Service (15 percent), and the U.S. Treasury (10 percent). Currently, all such revenues from solar and wind energy authorizations on public lands go to the Treasury.

**Conclusion**

Facilitating the responsible development of renewable energy resources on public lands remains a cornerstone of the Administration's broad energy strategy. The Department and BLM both support efforts to safely advance geothermal exploration and renewable energy opportunities on public lands, and we look forward to working with the Committee and sponsors of the legislation on these shared goals.