

**Statement of
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**Before the
Committee on Natural Resources
Subcommittee on Oversight and Investigations
Oversight Hearing**

"GAO Report Documents BLM's Chronic Mismanagement of Wind and Solar Reclamation Bonds"

June 24, 2015

Chairman Gohmert, Ranking Member Dingell, and members of the Subcommittee, thank you for the opportunity to testify on the Bureau of Land Management's (BLM) policies and practices regarding bonding for wind and solar energy development on Federal lands.

Background

The BLM is responsible for protecting the resources and managing the uses of our nation's public lands, which are located primarily in 12 western states, including Alaska. The BLM administers more land – over 245 million surface acres – than any other Federal agency. The BLM also manages approximately 700 million acres of onshore Federal mineral estate throughout the nation, including subsurface estate overlain by properties managed by other Federal agencies such as the Department of Defense and the U.S. Forest Service. That's more than 10 percent of the Nation's surface and nearly a third of its minerals.

Facilitating the responsible development of renewable energy resources on public lands is a cornerstone of the Administration's energy strategy. Prior to 2009, the BLM had approved approximately 2,500 MWs of wind and geothermal energy projects or enough electricity to power nearly a million homes. No solar energy projects had been approved prior to 2009. Since 2009, the BLM has approved 55 utility-scale renewable energy generation and transmission projects, including 32 utility-scale solar facilities, 11 wind farms, and 12 geothermal plants, with associated transmission corridors and infrastructure to connect with established power grids. If fully built, these projects will provide more than 14,500 MWs of power, or enough electricity to power 4.9 million homes, and will provide over 24,000 construction and operations jobs. The BLM successfully accomplished the Energy Policy Act of 2005's goal of authorizing over 10,000 megawatts (MWs) of renewable energy on public lands three years ahead of schedule. The BLM continues to work toward the President's goal to increase permitting of new renewable electricity generation capacity on public lands to 20,000 megawatts by 2020. Renewable energy projects authorized by the BLM constitute a major contribution not only to the nation's energy grid, but also to the national economy. Projects on public lands have already garnered an estimated \$8.6 billion in total capital investments, with the potential for an additional \$28 billion for approved projects pending construction.

The BLM is also improving the way it sites and reviews renewable energy applications by moving toward a competitive process in preferred development areas, which have been selected to minimize conflict and increase efficiency. In October 2012, the Department finalized the Western Solar Plan that identified 17 Solar Energy Zones (SEZs) and established a blueprint to fast track utility-scale solar energy permitting within these areas. On June 1, 2015, three projects within the Dry Lake SEZ in Nevada were approved under this streamlined permitting process. Using the expedited review process established by the Western Solar Plan, reviews and approval of these three projects were completed in 10 months, less than half the amount of time it took to review and approve projects under the previous application-by-application process. The Western Solar Plan also provides the foundation for the BLM's current rulemaking process to codify competitive solar and wind energy leasing within designated areas.

Renewable Energy Bonding

As stewards of America's public lands, the BLM takes seriously its responsibility to sustain the health, diversity, and productivity of those lands. To ensure that projects are reclaimed and that impacts to the land are restored after a project is decommissioned, the BLM requires that project developers post bonds to cover potential future expenses. As with all development on public lands, the BLM is committed to ensuring appropriate bonding of solar and wind energy projects and has taken steps to improve the processes and procedures for solar and wind energy project bonding.

The BLM authorizes renewable energy projects on public lands using a right-of-way grant under Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761-1771). The BLM requires project developers to submit bonds in an amount that the agency has determined will be adequate to cover the potential costs for hazardous liabilities, decommissioning, and reclamation of the project site, should the developer be unable or unwilling to conduct those activities.

Currently, the BLM requires minimum bond amounts of \$2,000 per wind energy test site, and \$10,000 per wind turbine. There is currently no minimum bond amount for solar energy projects. The BLM does not assess the bond based on minimum requirements. Rather, the agency determines the appropriate bond amount based on site- and project-specific factors, including intensity and duration of impacts as well as potential reclamation and administrative costs. The reclamation cost estimate is also based in part on a third party estimate provided to the BLM. In many cases, the bond amount exceeds the wind energy minimum requirement, particularly when bonding development projects rather than test sites. A bond is released only once reclamation has been satisfactorily completed. The BLM periodically reviews and updates required bond amounts to ensure that projects are adequately bonded. Of the 43 wind and solar projects approved by the BLM since 2009, the agency has required and secured a total of \$154 million worth of bond assurances to cover potential costs associated with reclamation.

On September 30, 2014, the BLM issued a proposed rule that describes a competitive leasing process for solar and wind energy leases in designated leasing areas. The proposed rule includes mandatory bonding requirements for solar and wind energy to ensure consistency and predictability across the program, including a minimum bond amount of \$10,000 per acre for solar energy development, \$20,000 per wind energy turbine, and \$2,000 per energy testing site.

The BLM is in the process of reviewing public comments received on appropriate minimum bond requirements before the rule is finalized. As part of the implementation of the final rule, the BLM plans to update policies to improve recordkeeping and processing of renewable energy bonds, such as identifying proper project file documentation, requiring routine data on a more timely basis, and establishing an automated notification process for BLM staff that a right-of-way is due for a bond adequacy review. The policies will also include a variety of internal controls, including an annual certification by managers that bonds are properly processed, held in secure locations, and readily available.

The BLM has also been engaged with the U.S. Government Accountability Office (GAO) to ensure that bonds are adequately documented and reviewed to ensure adequacy for reclamation costs for wind and solar projects on Federal land. Based on the GAO's ongoing review, the BLM has identified and is implementing improvements to its recordkeeping and processing procedures for renewable energy bonds. The finalization and implementation of the competitive solar and wind leasing rule will fully address the GAO's recommendations. The BLM will continue to take steps to address office-specific shortcomings, including training staff and updating procedures.

The BLM takes seriously its responsibility to maintain proper documentation of bond instruments. During the GAO audit, the BLM was made aware of a concern that some reclamation bonds for renewable energy projects in the Rawlins Field Office in Wyoming may have been mistakenly removed from a safe and shredded. In response, the BLM has conducted a preliminary review of the bonding status of its renewable energy projects in the Rawlins Field Office and can confirm that the 21 bonds required for the 18 renewable energy projects within that field office are adequately documented and in compliance with BLM policy for holding bond instruments.

Bonding on Public Lands

In addition to the renewable energy arena, the BLM is working to ensure appropriate bonding for other types of development on public lands. For example, the BLM's current regulations governing minimum bonding requirements for oil and gas were established in the 1950s and 1960s and have not been updated since. These minimum requirements – \$10,000 for a lease bond, \$25,000 for a statewide bond, and \$150,000 for a nationwide bond – no longer bear a relationship to the costs of reclamation for an oil and gas development site. As a result, the GAO previously reported that bonds covering oil and gas projects on public lands may be as much as \$968 million below what reclamation would cost for those wells.

In response to the GAO report and in recognition of its potentially outdated regulations, the BLM has published an Advance Notice of Proposed Rulemaking soliciting public input on bonding requirements for oil and gas projects on public lands. The BLM is also concurrently reviewing individual oil and gas well bonds on a case-by-case basis using existing authorities. Based on these reviews, the BLM is taking steps to raise bonding requirements where appropriate to ensure that bonding levels are commensurate with identified operational risks. Further, in an effort to strengthen our oil and gas inspection and oversight capability, the BLM has repeatedly proposed to create a fee system that would cover the BLM's inspection and enforcement

activities as part of the Administration's Budget requests. Those fees will help the BLM to improve production accountability, safety and environmental protection, and would parallel a fee system already in place for offshore oil and gas programs. The BLM continues to look for additional opportunities to ensure appropriate reclamation of projects while minimizing potential liability to taxpayers.

Conclusion

The BLM is committed to ensuring that development of all types on public lands occurs in an environmentally sound manner and will continue to take steps to ensure that all projects are bonded appropriately. The BLM looks forward to working with Congress as we continue to address important aspects of bonding on public lands. Thank you for the opportunity to testify, I am happy to answer any questions the Subcommittee may have.