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TESTIMONY ON

H.R. 596, “PUBLIC LANDS RENEWABLE ENERGY DEVELOPMENT ACT OF 2013”

AND

H.R. 1363, “EXPLORING FOR GEOTHERMAL ENERGY ON FEDERAL LANDS ACT”

SUBMITTED TO THE

HOUSE NATURAL RESOURCES COMMITTEE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

TUESDAY, JULY 29, 2014

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. My testimony draws 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.

We are strong supporters of efforts to tap the rich renewable resources found on our public lands and forests. Renewable energy projects like wind, solar and geothermal have environmental

impacts, although much lower than fossil energy projects when accounting for both the physical and atmospheric footprint. As with any form of development, not all places are appropriate for renewable energy. Some places are simply too wild or too sensitive to develop. And where development occurs, it must take place in a responsible manner to ensure the health and safety of local community and other land users.

You invited me to speak on two of the three bills being considered today.¹ We support H.R. 596, the Public Lands Renewable Energy Development Act, because it provides the Interior Department with direction and additional authority needed to develop renewable energy efficiently and effectively, while avoiding or minimizing ecological impacts. We oppose H.R. 1363, the Exploring for Geothermal Energy on Federal Lands Act, because the bill eliminates important safeguards in the case of proposed projects likely to cause significant environmental harm.

Status of Permitting Renewable Energy on Public Lands

Federal land management agencies have come a long way in a short while to advance renewable energy development. Congress has never spoken directly to how wind and solar should be managed on public lands, and only in recent years has there been an organized effort to leverage the renewable power potential of public lands.

Following direction contained in Secretarial Order 3285, the Bureau of Land Management (BLM) has since taken significant steps to creating a sensible renewable energy program. For example, the BLM finalized its western solar plan in November 2012 that identified low-conflict areas in six southwestern states ideal for solar energy production. The plan seeks to incentivize development in these solar energy zones with more efficient and standardized permitting. The program is still in the implementation phase, but recently saw the first successful competitive auction for parcels of the Dry Lake solar energy zone in Nevada. The BLM has also made substantial progress in working through a large queue of backlogged applications for wind, solar, geothermal and transmission. Fifty-two renewable energy projects have been approved by BLM since the beginning of 2009, totaling 13,957 megawatts of new power. These projects are creating jobs, driving innovation, and will help supply Western markets with clean, renewable power for decades to come. Our public lands have played a major role in achieving near-term federal and state renewable energy generation goals, but only because of focused effort to correct decades of inattention and inactivity toward developing renewable energy as a major component of the nation's energy mix.

¹ Although not the subject of this testimony, note that we also support the intent of the third bill that is the subject of this hearing – H.R. 2004, the Geothermal Production Expansion Act – because it would reduce predatory leasing by speculators seeking to block otherwise development on land found to be otherwise acceptable.

Further innovations are underway. The Office of Management and Budget recently released its final implementation plan for Executive Order 13604, aimed at improving the timeliness and quality of decisions on infrastructure projects. This effort has real potential to rationalize permitting decisions by eliminating redundancy, improving front-end coordination and recognizing the need to improve environmental outcomes through advanced siting and mitigation practices. The BLM is in the early stages of a rulemaking on wind and solar leasing. And the Department of the Interior's Secretarial Order 3330 and supporting strategy for landscape-scale efforts to mitigate the impacts of development, including energy projects, holds great promise to lessen the footprint of development by selecting smart sites and focusing mitigation actions in areas likely to yield the greatest ecological return. However, additional improvements are needed to fully realize the potential for renewable energy on public lands.

Public Lands Renewable Energy Development Act

The Public Lands Renewable Energy Development Act presents a conservative, balanced approach to ensuring renewable energy resources are developed in a manner that safeguards and enhances the health of our public lands, counties and recreational opportunities. The bill provides land managers with additional direction and authorities to aid in developing clean energy projects on public lands.

Under the bill, federal land managers would consider how best to develop these resources to the benefit of taxpayers, project proponents and other land users. In particular, the bill proposes a move to a lease-based system, rather than rights-of-way currently in use. Such a system has been advocated by industry watchers,² the solar industry,³ and public land law scholars⁴ as providing greater certainty for all parties. And the bill considers whether alternative fee structures, such as a royalty, would be more appropriate for these industries in lieu of the current rental system, which has been criticized by the industry and other stakeholders. The bill has the potential to modernize wind and solar development on public lands. It can help put renewable energy on a level playing field with energy sources that have been developed on public lands for over a century, which have thrived on public lands in part due to the stable leasing system in place.

Importantly, the bill would establish a mechanism to reinvest in the counties, states and communities most impacted by projects. It reauthorizes the current system of payments for geothermal energy development, and creates a similar system for counties and states from the rents or royalties collected from wind and solar development. These funds are needed to address

² E.g., see Scott Bank, "Practical Advice: Wind and Solar Projects on BLM (Bureau of Land Management) Lands," *Project Finance Newsletter*. Chadbourne & Parke LLP. November 2011. Accessed July 26, 2014, at http://www.chadbourne.com/practicaladvice_bureau_of_land_management_nov11_projectfinance/.

³ Solar Energy Industries Association, "Comments to BLM on Proposed Rulemaking Regarding Competitive Process for Leasing Public Lands for Solar and Wind Development." February 2012. Accessed July 26, 2014, at <http://www.seia.org/research-resources/comments-blm-proposed-rulemaking-regarding-competitive-process-leasing-public>.

⁴ Pamela Baldwin, "Fair Market Value for Wind and Solar Development on Public Land," November 2010. Accessed July 26, 2014, at <http://wilderness.org/sites/default/files/Fair-Market-Value-Whitepaper.pdf>

the concerns that infrastructure, public services and quality of life are stressed by the intense activities that come with utility-scale renewable energy development, even as they receive long-term economic benefit.

The bill also creates a system that returns a portion of rents and royalties from wind and solar to improving permitting that can help make it more efficient to review and process applications. These funds would support the data collection, monitoring and planning activities essential to smart permitting decisions, and would be available for transfer to cooperating agencies as well. This provision is similar to the Permit Process Improvement Fund already available for oil and gas development.

Most significantly, the bill makes a commitment to enhance natural resource conservation and stewardship as a part of renewable energy development and production. The bill establishes a fish and wildlife conservation fund that would support expanding recreational access, conservation and restoration work and other important stewardship activities. In the face of shrinking federal resources, these funds are essential to keep pace with the new challenges facing federal and state land managers. These conservation investments would not supplant or compete with traditional mitigation, but would instead create the opportunity to improve our lands and waters as we develop energy resources. Putting revenue already collected from renewable energy to work for conservation will link conservationists, sportsmen, recreationists and the renewable energy industry together.

Exploring for Geothermal Energy on Federal Lands Act

The Exploring for Geothermal Energy on Federal Lands Act is of concern to us because it would eliminate opportunities for public input and environmental analysis afforded by National Environmental Policy Act (NEPA) precisely when it is needed the most. Many, but not all, geothermal exploration applications are currently processed using environmental assessments, meaning the agency has determined the development proposal is unlikely to cause significant environmental impacts through NEPA review. However, when an assessment reveals significant project impacts, NEPA requires agencies to conduct further analysis and stakeholder consultation so projects are developed responsibly and safely. The bill would eliminate the agency's authority to conduct further analysis of public health, safety and environmental impacts for those projects it finds *are* likely to cause significant environmental impact. In so doing, the bill eliminates the opportunity for local communities, adjacent landowners, state governments, tribes and other land users to participate in a decision of whether and how best to permit the proposed activity. For this reason we believe the bill is likely to create significant risk, conflict, and delay for these proposed facilities, and even more likely to do so if such a facility ever attempts to attain a permit for a commercial production facility.

Developing Smart from the Start

We believe that the best way to rapidly deploy renewable energy projects is to end the scattershot approach to permitting that so often characterizes energy development on public lands.

Thoughtful planning can move from project-by-project permitting toward clear policies that guide companies to suitable places, with early public engagement and consistent environmental review. To us, this kind of “smart from the start” approach includes several key elements:

- Landscape-level efforts to guide projects to areas that have high clean energy potential, access to existing or planned transmission, and minimal conflicts with wild lands and other important resources and uses;
- Early and ongoing input and coordination with interested stakeholders;
- Policies that fully and fairly value public lands, incentivize efficient generation and land use practices, and reinvest significant portions of revenue stream in conservation activities; and
- Effective mitigation measures to address unavoidable impacts with consistent monitoring and to improve operations and future permitting.

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. Key aspects of this concept are already being demonstrated for solar energy development on public lands. The recent Dry Lake Solar auction validates that well-selected development zones close to transmission and markets, and free from major natural resource and other conflicts, do exist and will attract significant development interest. Moreover, this experience underscores that existing administrative authority is capable of dramatically improving permitting conditions.

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. Congressional involvement to promote renewable energy development on public lands would be best directed toward supporting these efforts.

Conclusion

The Wilderness Society appreciates the aims of the Subcommittee to improve development of these important clean energy resources on public lands and forests. We share the goal of ensuring 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. Because of its commitment to making wildlife and wildland conservation a part of energy development on public lands, we urge the Subcommittee to advance H.R. 596.

Thank you for the opportunity to provide our views.