

**Statement for the Record
Bureau of Land Management
U.S. Department of the Interior**

**Senate Committee on Energy and Natural Resources
Hearing on
“S. 2666, Public Land Renewable Energy Development Act”
November 7, 2019**

Chairman Murkowski, Ranking Member Manchin, and Members of the Committee, thank you for the opportunity to provide the Bureau of Land Management’s (BLM) views on S. 2666, the Public Land Renewable Energy Development Act (PLREDA), which seeks to promote and expedite the development of geothermal, wind, and solar energy projects on Federal lands and to provide economic certainty to the renewable energy industry.

The BLM recognizes the sponsor’s work to encourage the development of renewable energy on public lands, as well as address feedback from industry regarding the BLM’s management of our renewable energy program. The BLM supports many of the goals of S. 2666, PLREDA, and would like to work with the Committee and the sponsor on technical changes to achieve the bill’s intent to promote and expedite the development of renewable energy on public lands.

Renewable Energy on Public Lands

The BLM is a key contributor to the Administration’s America First Energy plan, an “all of the above” strategy which includes renewable energy. The BLM oversees development on public lands of three primary renewable energy sources: solar, wind, and geothermal. To date, the BLM has approved over 125 renewable energy projects with the potential to provide nearly 18,000 megawatts (MW) of generation capacity. Wind and solar projects on public lands have created approximately 9,000 construction and operation jobs since 2011 and generated over 22 million dollars in revenue in FY 2018. In the same time period, geothermal energy accounted for an additional 15 million dollars in revenue. Laws enacted in most western states require energy companies to supply a portion of their energy from renewable resources. As a result, the BLM anticipates a continued interest in public lands for renewable energy development.

Solar and wind energy development projects on BLM-managed public lands are authorized as rights-of-way (ROWs) under Title V of the Federal Land Policy and Management Act (FLPMA). The applicant is required to pay the Federal Government’s costs in processing the ROW application, and all projects require review under the National Environmental Policy Act (NEPA). Geothermal development projects are authorized via the issuance of leases and the approval of drilling permits and utilization plans under the Geothermal Steam Act of 1970, as amended.

S. 2666, Public Land Renewable Energy Development Act

S. 2666, the Public Land Renewable Energy Development Act, seeks to promote and expedite the development of geothermal, wind, and solar energy projects on Federal lands by establishing

priority areas for solar, wind, and geothermal; codifying a renewable energy coordination office within the Department of the Interior; and outlining interagency coordination procedures. S. 2666 also establishes a renewable energy goal of 25 gigawatts of electricity from renewable energy projects on public lands by 2025. Further, the bill establishes a new disposition of revenues for receipts from solar and wind authorizations, and reestablishes the expired special account and distribution provisions for revenues from processing geothermal energy authorizations. Additionally, S. 2666 allows for limited “grandfathering” of project owners to pay the rental and fees at the rates in effect before the effective date of the BLM’s Wind and Solar rulemaking, and revises how the BLM determines base rental rates. Lastly, the bill allows for noncompetitive geothermal leasing for co-production of geothermal energy to a lessee with a producing oil and gas well, and for noncompetitive leasing of parcels adjacent to existing leases that have a valid discovery under certain conditions to the lessee of the proven lease.

Land Use Planning, Environmental Review & Permit Coordination (Sections 3-6)

S. 2666 (section 3) requires the BLM to establish, review, and modify within certain timeframes priority and other “variance” areas for geothermal, wind, and solar energy development. Additionally, the bill (section 4) directs that in some cases additional review under the NEPA may not be required for proposed renewable energy projects if the Secretary determines the analysis conducted under the relevant Programmatic Environmental Impact Statement (PEIS) is sufficient. Finally, the bill (section 5) establishes a renewable energy permit coordination office and requires the Secretary to enter into a Memorandum of Understanding with Secretaries of Agriculture and Defense to help improve coordination for permitting renewable energy projects.

Analysis

The BLM supports the goal to simplify and expedite the development of renewable energy projects on public lands. As noted in the bill, the BLM, through its land use planning process, completed wind, geothermal, and solar energy PEIS documents in 2005, 2008, and 2012 respectively. The BLM Wind and Solar Rule also established “designated leasing areas,” as preferred locations for solar or wind energy development. The geothermal planning effort identified lands on both BLM-managed public lands and National Forest System lands that are available and open for geothermal leasing, together with appropriate protective stipulations or use limitations.

The BLM notes that the agency has existing authority to identify preferred locations for wind and solar projects. The BLM is reviewing potentially available solar energy development areas, as contemplated in the 2012 Solar PEIS and Record of Decision (ROD). For example, the BLM is currently evaluating a proposed plan amendment in Nevada for the Dry Lake East area that considers identifying new or expanded Solar Energy Zones.

In addition, the BLM supports efforts to continue to streamline lengthy and unnecessarily burdensome environmental reviews. Under this Administration, the Department and the BLM have made it a priority to improve its environmental review and permitting authorization procedures for energy and infrastructure projects. One such example is Secretary’s Order (S.O.) 3355 (*Streamlining National Environmental Policy Act Reviews and Implementation of*

Executive Order 13807), which provides a number of internal Departmental directives to increase efficiency of environmental reviews, including setting page and time limit goals on all NEPA analysis. We appreciate Congress's focus on addressing unnecessarily burdensome requirements, and would like to work with the sponsor and Committee on authorizing other methods to streamline environmental reviews, including consideration of potential Categorical Exclusions for renewable energy similar to those in the Energy Policy Act of 2005 (PL-109- 58, Section 30)

Finally, while we support the goal to expedite permitting and interagency coordination as outlined in the bill, we would like to retain the flexibility to adjust these offices in the future to adapt to emerging renewable energy workloads. The BLM already has an existing Renewable Energy program within its Energy, Minerals, and Realty Management Directorate and would like to work with the Committee on making technical changes to make this section more effective.

Increasing Economic Certainty for Renewable Energy Development on Public Lands (Sections 6-9)

S. 2666 (section 6) establishes the rate of increase for rent for wind and solar authorizations once the initial base rent is determined, and provides criteria for determining how and when rents can be reduced. The bill also (section 7) allows for limited grandfathering to certain project owners that applied for a ROW on or before the effective date of the Wind and Solar Rule, and would permit them to pay the rents and fees in effect before the date of the rule making. Section 8 establishes a goal of 25 gigawatts of electricity from wind, solar, and geothermal energy projects by not later than 2025. Further, the bill (section 9) establishes a new deposition of revenues for receipts from solar and wind authorizations. Under the bill, until December 2039, 25 percent would be allocated to the States; 25 percent to the Counties; 35 percent to Renewable Energy Resource Conservation Fund (the Fund); and 15 percent to the U.S. Treasury to be made available to facilitate the processing of permits. After 2040 the distribution changes and 40 percent of the revenues would go into the Fund and 10 percent would go to the U.S. Treasury. The Secretary would be permitted to make amounts in the Fund available to other Federal and State agencies for protection and restoration of important wildlife habitat and corridors and water resources; securing recreational access to Federal lands; and carrying out activities authorized under the Land and Water Conservation Fund.

Analysis

Under FLPMA, (section 504g) the BLM is required to collect Fair Market Value (FMV) for all ROW authorizations on public lands. We have concerns with section 6 of the bill as written, as it would eliminate the BLM's discretion to increase, or decrease, wind or solar rental rates to match market fluctuations in land values over the 30-year term of a grant. In order to receive FMV over the lifespan of a project, the BLM updates its rent schedule every five years, indexed to changes in agricultural land values collected by the U.S. Department of Agriculture.

The BLM recognizes the concerns raised by some grant holders regarding disproportionately high rents in Southern California, and would be interested in working with Congress on technical modifications to the current rent schedule structure. Further, the BLM does not generally object

to criteria identified in section 6 that could inform rental rate determinations for wind and solar. Some of the criteria listed are already in BLM regulations and would be redundant. The BLM would like to work with the Committee on technical changes to make this section more effective while still receiving FMV for land use.

While the BLM is committed to reducing unnecessary burdens on industry and recognizes the increasing costs associated with the development of renewable energy on public lands, the BLM does not support the grandfathering (i.e. exempting) of existing projects and applications as proposed in section 7. Similar to the concerns outlined above, the BLM has concerns that “grandfathering” all existing projects or applications to fixed payments, at 2016 rates, would be inconsistent with the requirements of FLPMA to collect FMV for use of the public lands. The BLM is currently working on regulatory and administrative alternatives for potential rent adjustments. Both the BLM and the Forest Service would like to work with the Sponsor and the Committee on making technical changes to make this section more effective.

Additionally, the BLM notes that all revenues from solar and wind energy authorizations on public lands currently go to the U.S. Treasury. We do not support the diversion of solar and wind energy receipts and have concerns with the potential long-term costs associated with such diversion. The BLM would like to work with the sponsors and the Committee to determine how best to achieve the overall goal of this title, while ensuring that U.S. taxpayers receive fair market value for these resources.

Finally, under existing authorities, the BLM currently collects full cost recovery as costs are incurred throughout the wind and solar application process. Due to the difficulty in estimating the total cost for processing an application up front, the Department recommends continuing its current cost recovery process instead.

Geothermal Development on Public Lands (Sections 10-12)

S.2666 (section 10) proposes to renew and maintain the disposition and distribution of geothermal revenues originally enacted in the Energy Policy Act of 2005, where 50 percent would be allocated to the States; 25 percent to the Counties; and 25 percent to the U.S. Treasury. S. 2666 (section 11) allows for noncompetitive geothermal leasing for co-production of geothermal energy to the holder of a producing oil and gas well, and section 12 permits noncompetitive leasing of parcels adjacent to existing leases that have achieved a paying well or other valid discovery to the lessee of the existing lease with the valid discovery of geothermal resources.

Analysis

The BLM appreciates the sponsor’s effort to facilitate co-production of geothermal energy from a producing oil and gas well as outlined in S. 2666 and would like to work with the sponsor and Committee on how best to achieve such a goal. However, the Administration has concerns with the bill’s revenue sharing proposal, which runs counter to the President’s FY 2020 Budget proposal to restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the U.S. Treasury.

We note that the co-production proposal is a complicated matter, and the BLM would need to draft new regulations and guidance for co-producing geothermal with oil and natural gas resources. The BLM generally supports maintaining competitive leasing processes for the development of Federal energy resources but recognizes that there may be situations in which non-competitive leasing may be appropriate. We would also like to work with the sponsor to ensure that the Department's Office of Valuation Services will have the appropriate discretion to determine the FMV of the resources to be leased, consistent with the DOI's standard valuation practices under any new statutory direction.

Conclusion

Thank you for the opportunity to provide this statement. We look forward to working with you to continue to adopt innovative solutions to reduce regulatory burdens on the development of domestic energy and its delivery to the American people.