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SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Field Hearing on
Solar Power Development on Federal Lands: The Road to Consensus
May 11, 2009

Good morning, Mr. Chairman, members of the Subcommittee. Thank you for inviting me to offer testimony on the very timely issue of solar energy development on federal lands.

My name is Katherine Gensler and I am the Manager of Regulatory and Legislative Affairs for the Solar Energy Industries Association (SEIA). SEIA is the national trade association for the solar energy industry and represents nearly 900 members at all points of the value chain – from financiers to project developers, component manufacturers to solar installers. Established in 1974, SEIA works to make solar energy a mainstream and significant energy source in the United States by expanding markets, strengthening the industry, and educating the public on the benefits of solar energy.

In the five minutes I'll be speaking to you today, enough sunlight will shine upon the United States to satisfy America's energy demands for an entire month. The solar industry is working to harness this carbon-free energy and create domestic jobs to move our country to a new, clean energy future. Solar energy will create more than 60,000 jobs, install a gigawatt of solar capacity, and avoid more than 1 million tons of carbon emissions in 2009 alone. These figures will more than double in 2010.

In recent years, broad consensus has emerged around the need for clean renewable energy and the role that solar energy can and must play in meeting that need. For example, in the Energy Policy Act of 2005 (EPAct), Congress directed the Secretary of the Interior to aid the development of 10,000 MW of renewable energy projects on public lands within a decade. More recently, President Obama has set out a goal of doubling the nation's renewable energy production in the next three years. And a majority of states have adopted ambitious Renewable Portfolio Standards.

To further these clean energy goals, former Secretary Kempthorne authorized the Bureau of Land Management to establish renewable energy coordination offices that will expedite the permitting of wind, solar, biomass, and geothermal, and transmission projects on BLM-managed lands. Secretary Salazar has reinforced these policies with his formation of a task force on energy and climate change. We commend the Secretary for his recent announcement that $41 million of funding from the *American Recovery and Reinvestment Act of 2009* (ARRA) will be used to expedite the processing of renewable energy permits.

Despite this broad consensus, the enormous potential of solar power remains untapped. Currently there are 199 solar projects waiting for permits from BLM, with some applications pending since 2005. Yet not a single permit for solar energy development has been issued by BLM. Together, these proposed projects could power 20 million homes and could create 37,000 jobs in the region.

This Congress, recognizing both the need for renewable energy and the financial challenges faced by project developers, established a grant program in lieu of the solar investment tax credit (ITC). This program enables a solar project developer to receive a grant directly from the Treasury Department, rather than having to monetize the ITC through a financial backer. The grant program requires applicants to begin project construction by December 31, 2010.

Despite the diligent efforts of solar project developers, the Department of the Interior, and the States to meet this deadline, we run the risk of having no projects that can satisfy it. The following obstacles must be overcome, and quickly:

- First and foremost, the BLM offices that process solar applications here in Southern California and across the West do not have adequate resources to efficiently process pending applications, particularly for those projects that can meet the Recovery Act deadline of December 31, 2010. As noted earlier, ARRA provided additional resources; now BLM must expeditiously use those funds to organize and staff the renewable energy coordination offices.

- Additional resources also must be provided to the Fish & Wildlife Service, which is charged with assessing the impacts of solar projects on sensitive species and devising mitigation measures to offset these impacts.

- BLM, FWS, and state agencies must have a clear process for early and regular coordination, and commit to clear timeframes for making decisions. At this point we are only 18 months away from the deadline to commence construction; timely interagency coordination is crucial.

- BLM must adopt, and Congress should support, ways to expedite environmental review of projects that are capable of beginning construction by the end of 2010. This does not mean cutting corners; it means finding ways to proceed faster down the same path. Examples include processing projects according to readiness, not the date of filing of a

permit application; ordering the immediate publication of Notices of Intent under the National Environmental Policy Act for projects that have an adequate Plan of Development and have completed or are conducting spring studies; using existing studies where possible; and relying on mitigation measures to address uncertainties.

In addition to these immediate changes, there must be long-term fixes if solar energy is to become a significant and lasting contributor to our nation's energy supply. We have had the opportunity to meet with BLM and FWS on several occasions and both agencies have been very open and responsive. Nonetheless, some issues will require assistance from Congress.

- To ease BLM and FWS resource constraints, the solar and wind industries propose to recycle the rents paid by renewable energy developers back to the state offices or Renewable Energy Coordination Offices that process the ROW permits. The funding provided by ARRA jump-starts these offices; this proposal would provide the agencies with an on-going revenue stream and the certainty that they will have trained staff available for process future solar applications. (See Attachment 1 for background information.)

- In addition, the solar industry has proposed an application processing fee that would be collected through BLM's cost recovery authority. BLM requires legislation from Congress to make this fee nonrefundable.

- Solar permit applications should be accepted in a noncompetitive bidding process. While competitive bidding works for established industries like oil and gas or mining, it is not appropriate for new market entrants like solar. Instead, BLM should grant permits to companies with the financial and technical expertise to bring solar projects to fruition.

- Solar and other renewable energy projects require wholesale improvement and expansion of our nation's ailing transmission system on a timeframe that is meaningful. To the extent that the Department of the Interior is charged with performing the environmental review of transmission lines on public lands, we urge the department to act expediently and, to the extent practicable, rely on analysis that has already been conducted.

- For those projects that do not have ready access to transmission, stakeholders have focused on the identification of resource "zones," or areas within which solar development could take place (i.e., enough sunlight and relatively flat terrain) while effectively addressing environmental issues such as species protection. BLM is considering these "zones;" the Western Governors' Association is conducting its Western Renewable Energy Zones ("WREZ" process); and California has its Renewable Energy Transmission Initiative ("RETI") process. All of these are multi-stakeholder processes which provide diverse parties a road to consensus. The multi-stakeholder and scientific approach followed in each of these initiatives is key to their success.

- The federal government can facilitate the deployment of solar by providing clear guidance on which federal lands will be open to solar energy development, so project developers do not waste time and money pursuing projects in areas that may ultimately be deemed inappropriate for development.

- If Congress sets aside land for strict preservation, solar developers should receive mitigation credit for those lands.

- Congress should support the use of suitable BLM lands for mitigation easements, an idea introduced by the Nature Conservancy and called “non-acquisition mitigation.”

- The Department of Defense manages large swaths of land in the Southwest, many of which are suitable for solar energy development. Congress should assist the Defense Department in making these lands available for solar power plants.

Solar energy development is among the many possible uses of federal lands in the Southwest. The industry recognizes and supports the need for a balanced approach to preservation, development, recreation, and other uses. By taking the actions outlined above, Congress can turn the broad consensus on the desire for solar energy into real, on-the-ground projects that tap clean, domestic energy resources while providing jobs to grow the local economy.

Thank you for your time. I am happy to answer any questions you may have.

ATTACHMENT 1

Ensuring adequate resources for BLM to process wind and solar energy applications

Background

Congress has gone on record in support of expediting the processing of applications for renewable energy production on federal lands.[1]

However, as of November 2008, there were more than 215 applications pending with the Bureau of Land Management (BLM) for wind energy permits, including both applications for site testing (to set up temporary poles to test wind speed) and to construct actual wind farms. This is up from 150 pending in January 2008. Due to limited staffing, site testing permits for wind energy are taking 18 months or longer. Given the time-limited incentives for renewable energy included in the American Recovery and Reinvestment Act (P.L. 111-5), delays of this magnitude can make or break the economic viability of a project. By contrast, application for development permits for oil and gas drilling generally take 6-7 months.

To date, BLM has approved 192 right-of-way grant authorizations for wind energy projects, 28 for development and 164 for site testing only.

Similarly, there are nearly 200 pending applications for solar energy projects on BLM lands, up from 135 in January 2008. None have yet been approved. Solar projects do not engage in a site testing phase like wind. Instead, they go directly to applying for a full scale development permit, which requires a site specific environmental impact statement (EIS), a process that typically takes two to three years to complete.

In January 2009, the Department of the Interior announced the creation of Renewable Energy Coordination Offices in four western states – Arizona, California, Nevada and Wyoming – where the Department has received the most interest in development. While this approach holds promise, steady funding will be important to fully realize the potential benefits these offices may provide. The AWEA/SEIA proposal discussed below would provide such funding.

[1] Energy Policy Act of 2005 (Public Law 109-58)

Treatment of other major activities on BLM lands

Oil and Gas

Section 365 of the Energy Policy Act of 2005 provides that a portion - around $25 million per year - of the revenues the federal government receives from oil and gas rental payments from BLM lands be recycled back into the BLM for the purpose of expediting the processing of additional oil and gas permit applications by the BLM. This provision is funding seven oil and gas pilot offices and has led to the hiring of 150 BLM staff and is funding 30 staff from agencies like the Forest Service and the Fish and Wildlife Service in order to create "one-stop" locations for oil and gas producers.

Geothermal

Section 234 of the Energy Policy Act of 2005 provides that rentals, royalties and other payments, excluding those paid to state and county governments, made by geothermal developers be used to expedite the processing of additional geothermal permits. This provision is providing $10 to $15 million per year to process geothermal permit applications.

Commercial Filming

Public Law 106-206 established a fee system for commercial filming activities on public lands. The law allows the Secretary to direct these fees to improve the processing of additional permit request. This law provides around $250,000 a year for this purpose.

Communications Towers

The Department of the Interior Appropriations bill beginning in fiscal year 2006 and repeated in each subsequent year has dedicated $2 million out of the rental fees paid by communications tower owners to administering the permit program for communications towers.

Request of wind and solar industries

Currently, the wind industry pays nearly $1 million in rental fees to the BLM every year. There are currently no rental fees for solar projects, but fees will ramp up to $1 million or more quickly as projects get completed and go operational in the next few years.

Similar to the authorities described above for other activities on BLM land, the wind and solar industries would like legislation approved that would recycle up to $5 million of the rental payments paid by wind and solar developers for projects on BLM lands back into the Department of the Interior for the purpose of expediting the processing of additional wind and solar permits. This revenue would partially fund approximately 70 positions related to processing renewable energy applications.