

**H.R. 2170, H.R. 2171, H.R. 2172
AND H.R. 2173**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

Thursday, June 23, 2011

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CONTENTS

	Page
Hearing held on Thursday, June 23, 2011	1
Statement of Members:	
Hastings, Hon. Doc, a Representative in Congress from the State of Washington	6
Prepared statement of	7
Holt, Hon. Rush D., a Representative in Congress from the State of New Jersey	4
Prepared statement of	5
Lamborn, Hon. Doug, a Representative in Congress from the State of Colorado	2
Prepared statement of	3
Markey, Hon. Edward J., a Representative in Congress from the State of Massachusetts	8
Prepared statement of	9
Noem, Hon. Kristi L., a Representative in Congress from the State of South Dakota	10
Prepared statement of	11
Statement of Witnesses:	
Dougherty, P.J., Vice President, Strategic Marketing Innovations	33
Prepared statement of	35
Holtrop, Joel, Deputy Chief, National Forest System, U.S. Department of Agriculture	16
Prepared statement of	17
Huntley, Chase, Director, Renewable Energy Policy, The Wilderness Society	51
Prepared statement of	52
Lyons, Jim, Senior Director for Renewable Energy, Defenders of Wildlife .	45
Prepared statement of	47
Pool, Mike, Deputy Director, Bureau of Land Management, U.S. Department of the Interior	12
Prepared statement of	14
Taylor, Chris, Chief Development Officer, Element Power, on behalf of the American Wind Energy Association	37
Prepared statement of	39
Thomsen, Paul A., Director of Policy and Business Development, Ormat Technologies, Inc.	41
Prepared statement of	42
Additional materials supplied:	
Bureau of Ocean Energy Management, Regulation and Enforcement, Statement submitted for the record	67
List of documents retained in the Committee's official files	73

**LEGISLATIVE HEARING ON H.R. 2170, STREAMLINING
FEDERAL REVIEW TO FACILITATE RENEWABLE
ENERGY PROJECTS; H.R. 2171, TO PROMOTE TIMELY
EXPLORATION FOR GEOTHERMAL RESOURCES UNDER
EXISTING GEOTHERMAL LEASES, AND FOR OTHER PUR-
POSES; H.R. 2172, TO FACILITATE THE DEVELOPMENT
OF WIND ENERGY RESOURCES ON FEDERAL LANDS;
AND H.R. 2173, TO FACILITATE THE DEVELOPMENT OF
OFFSHORE WIND ENERGY RESOURCES.**

**Thursday, June 23, 2011
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, D.C.**

The Subcommittee met, pursuant to call, at 10:03 a.m. in Room 1334, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, Thompson, Rivera, Gosar, Flores, Landry, Fleischmann, Johnson, Hastings [ex officio], Holt, Costa and Markey [ex officio].

Also Present: Representatives Wittman, Labrador, and Noem.

Mr. LAMBORN. The Subcommittee will come to order. The Chairman notes the presence of a quorum, which under Committee Rule 3[e] is two Members. The Subcommittee on Energy and Mineral Resources is meeting today for a legislative hearing to hear testimony on four bills: H.R. 2170, Hastings, Washington, the "Cutting Federal Red Tape to Facilitate Renewable Energy Act"; H.R. 2171, Labrador, Idaho, "Exploring for Geothermal Energy on Federal Lands Act"; H.R. 2172, Noem, South Dakota, "Utilizing America's Federal Lands for Wind Energy Act"; and H.R. 2173, Wittman of Virginia, "Advancing Offshore Wind Production Act".

Under Committee Rule 4[f], opening statements are limited to the Chairman and Ranking Member of the Subcommittee. However, I intend to recognize full Committee Chairman Hastings and Ranking Member Markey for opening statements, if they wish to make one. In addition, I ask unanimous consent to include any other Members' opening statements in the hearing record, if submitted to the clerk by close of business today.

[No objection.]

Hearing no objection, so ordered.

Furthermore, I ask unanimous consent that Representative Kristi Noem of South Dakota, Representative Raúl Labrador of Idaho, and Representative Rob Wittman of Virginia, all members of the full Natural Resources Committee be allowed to sit on the dais and participate in today's hearing.

[No objection.]

Hearing no objection, so ordered.

Finally, it is the intention of the Chairman to recognize these Members, the authors of the bills before us today, for short opening

statements about their legislation. In addition, the Chairman will remind all Members and the witnesses here today that Committee Rule 3[d] requires that Members and witnesses shall limit remarks to the subject matter under consideration. It is the intention of the Chairman to enforce this provision should the discussion today veer too far from the subject matter of this hearing and the jurisdiction of this Committee.

**STATEMENT OF HON. DOUG LAMBORN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF COLORADO**

Mr. LAMBORN. I now recognize myself for five minutes for an opening statement.

Today, the Subcommittee is considering a package of bills designed to make building renewable energy projects easier on Federal lands. Last month, the Committee heard from a host of renewable energy advocates, that one of the most important changes that could be made to help them advance new electrical power generation is to help provide certainty in the process of permitting projects.

This comes as no surprise to those who follow energy development on Federal lands. Time and time again, we see massive delays in projects. It does not matter if the project is a Navajo-owned coal plant, offshore drilling by Shell, or a wind project in Nantucket Sound. Federal rules, regulations, and bureaucratic red tape slow, stall, or sometimes directly destroy critical projects. It can easily be said that these projects are "not as shovel-ready as expected."

Just this week, news articles were highlighting the President's announcement from last October, where he declared, just like President Carter, he would put solar panels on the White House roof in the spring. Surprising to only the environmental groups that supported this decision, spring has come and gone and yet the White House has yet to move forward with installing panels. The reality is that government red tape, frivolous lawsuits, and bureaucratic bungling slow or stop domestic energy projects.

President Clinton, writing earlier this week, made this exact point. He said, "don't blame the people in the White House for problems in getting shovel-ready projects off the ground. Sometimes, it takes two or three years or more for the approval process. We should try to change this. Keep the full review process when there are real environmental concerns; but when there aren't, the Federal Government should be able to give a waiver to the states to speed up start times on construction projects." I agree with President Clinton on this. We need to streamline projects.

But this effort is not just about the President's failed stimulus package. The U.S. Chamber of Commerce published a recent study titled, "Progress Denied: The Potential Economic Impact of Permitting Challenges Facing Proposed Energy Projects." This study, which I will submit for the record today, had a number of critical findings to it. Of the 350 projects that they examined, the study found that building those projects that were stalled "could produce a \$1.1 trillion short-term boost to the economy and create 1.9 million jobs annually. Moreover, these facilities, once constructed, continue to generate jobs once filled because they operate for years or

even decades.” Based on their analysis, the two authors estimate that in aggregate, each year, the operation of these projects could generate \$145 billion in the economic benefits and involve 791,000 jobs. Let me state that again, the construction of these would have a short-term boost to the economy of \$1 trillion and create nearly two million jobs.

The four bills we are considering today are small steps toward achieving our goal of making renewable energy projects a reality on our Federal lands. Leaving aside conventional energy for the time being, the development of renewable energy on Federal lands holds great promise, while at the same time offering us tremendous opportunity for job creation and domestic energy security.

It has come as no surprise that there are critics of these bills. Groups with names like Wild Lands and Diversity, who claim they support renewable energy, but in reality believe that energy production and Federal lands are incompatible. Groups who challenge traditional and renewable energy projects every step of the way with protests and frivolous lawsuits that add years to the permitting and construction process. And as we heard at our last hearing, years more in planning can be the death of renewable energy projects and a huge blow to implementing a national strategy of all-of-the-above energy critical to America’s future.

Americans are desperate for new jobs and our construction industry has been particularly hard hit by the economic downturn. This package of bills will help streamline the process, give developers more certainty over their time lines, facilitate construction projects, and put more Americans back to work.

I want to thank all of our witnesses for being here today. I look forward to hearing their testimony and I now recognize Ranking Member Holt. And I pledge that if he is not here at the time we start, he will have an opportunity soon after he gets here, if not immediately—let us see if this is—ah, perfect timing. Ranking Member Holt, as soon as you are situated, you are welcome to give an opening statement of up to five minutes and welcome.

[The prepared statement of Chairman Lamborn follows:]

**Statement of The Honorable Doug Lamborn, Chairman,
Subcommittee on Energy and Mineral Resources**

Today the Subcommittee is considering a package of bills designed to make creating domestic energy easier on federal lands. Last month, the Committee heard from a host of renewable energy advocates that one of the most important changes that could make to help them move new energy generation forward is to help provide certainty in the process of permitting projects.

This comes as no surprise to those who follow energy development on federal lands. Time and time again, we see massive delays in projects, it doesn’t matter if the projects is a Navajo owned coal plant, offshore drilling by Shell, or a wind project in Nantucket sound. Federal rules, regulations and bureaucratic red tape slow, stall or sometimes directly kill critical projects. It can easily be said that these projects are “not as shovel-ready as expected.”

President Clinton writing earlier this week made this exact point, he said, “I don’t blame the people in the White House for problems in getting shovel-ready projects off the ground; sometimes it takes three years or more for the approval process. We should try to change this: keep the full review process when there are real environmental concerns, but when there aren’t, the federal government should be able to give a waiver to the states to speed up start times on construction projects.”

But this isn’t just a story of the failure of the President’s stimulus package. The U.S. Chamber of Commerce published a recent study titled, *Progress Denied: The Potential Economic Impact of Permitting Challenges Facing Proposed En-*

ergy Projects. This study, which I will submit for the record today, had a number of critical findings to it. Of the 351 projects that they examined the study found that building those project that were stalled would, quote, “could produce a **\$1.1 trillion** short-term boost to the economy and create **1.9 million jobs** annually. Moreover, these facilities, once constructed, continue to generate jobs once built, because they operate for years or even decades. Based on their analysis, Pociask and Fuhr estimate that, in aggregate, each year the operation of these projects could generate **\$145 billion** in economic benefits and involve **791,000 jobs.**”

Let me state that again, a TRILLION DOLLAR BOOST TO OUR ECONOMY AND NEALRY 2 MILLION JOBS.

The four bills we are considering today are small steps in achieving our goal of making renewable energy projects a reality on our federal lands. The development of renewable energy on federal lands holds great promise, while at the same time offering us tremendous opportunity for job creation and domestic energy security.

It has come as no surprise that there are critics of these bills. Groups with names like wildlands and wilderness, groups and organizations who believe that energy production and federal lands are incompatible. However, a national strategy of all of the above energy is critical to America’s future.

American’s are desperate for new jobs and our construction industry has been particularly hard hit by the economic downturn. This package of bills will help streamline the process, give developers more certainty over their timelines, move forward construction projects, and put more American’s back to work.

STATEMENT OF HON. RUSH HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. HOLT. Thank you, Mr. Chairman. Good morning. Over the first six months of this Congress, we have seen what I would have to call a hostility to clean energy investments growing within the majority, and it is on full display now in the Appropriations Committee. Last week, the Committee passed an energy bill that is a couple of billion dollars below the White House request for investments in research and development, energy efficiency, advanced technology vehicles, renewables such as solar, wind, geothermal, biomass, and it is 40 percent below current funding levels.

In this Committee, the hostility to renewable energy is exceeded only by the hostility to the environment. With many legislative options available for increasing renewable energy development on public lands, the majority has chosen a path of minimum benefit to renewable energy and maximum environmental conflict. I regret that. Some on the Committee would set up a false choice, making Members who care about renewable energy and the environment to choose only one. Fortunately, we can safely reject the bills before us today because they are bad for both.

Were these bills to become law, they would not bring more renewable energy on line from our public lands. In fact, they stand a very real chance of doing the opposite. The bills cut the public comment periods and reduce the planning options for renewable energy projects. I would tell everyone to prepare should these become law, prepare to see more lawsuits and more delay as a result. They create new and duplicative permitting processes. So, I would say prepare to see more project applications rejected right from the start.

Overall, they could well lead to fewer watts of renewable energy production and that is why none of the industry groups that represent solar, wind, offshore wind, geothermal and so forth, support these bills. These bills do not reflect the recommendations of the 10 witnesses who have testified on this subject so far before the Committee. In fact, only one witness recommended anything

remotely resembling what we have in these bills and that recommendation did not go as far as suggesting a complete waiver of NEPA, of the National Environmental Policy Act.

If the majority were serious about legislation to accelerate renewable energy development on public lands, they would find strong bipartisan support, from me and most of the Democrats on the Resources Committee. Unfortunately, the path they have chosen is a path showing no interest in working to actually get renewable energy on line or in allowing Democratic bills to be considered as part of the hearing. Instead, the majority has decided to use public support for clean energy as a lever for dismantling environmental protections, something that I, speaking for myself, but I think for many other people, cannot support.

There is another way. Democrats requested two relevant renewable energy bills to be included in this hearing. One of the bills, introduced by Mr. Heinrich, would do exactly what the wind and solar industries have recommended in the hearing earlier this month. It would take the permit fees paid by the wind and solar companies and funnel the money back into state and Federal agencies doing the permitting, thereby ensuring the adequate human resources for these agencies to be allocated to the projects. Oil and gas industries already enjoy this kind of dedicated funding mechanism.

The other Democratic bill, introduced by our Ranking Member Mr. Markey, would increase the percentage of renewable energy electricity that the Federal Government would be required to purchase. Currently, the government must procure 7.5 percent of its electricity from renewable sources by 2013. The Markey bill would continue to ramp this up through 2025, at which point 25 percent of the Federal electricity would have to come from renewable sources. I ask the Chairman that this Committee hold a legislative hearing on these two bills as soon as possible. They could work.

The American people are overwhelmingly in favor of moving forward on clean energy and there is much this Committee can do to further that objective. I look forward to working with the majority to advance these policies.

Thank you.

[The prepared statement of Mr. Holt follows:]

Statement of The Honorable Rush D. Holt, Ranking Member, Subcommittee on Energy and Mineral Resources, on H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173

Over the first six months of this Congress, we have seen a disturbing hostility to clean energy grow within the Republican caucus. It is on full display right now in the Appropriations Committee. Last week, the committee passed an energy bill that is nearly \$1.9 billion below the White House request for investments in research and development, energy efficiency, advanced technology vehicles, and renewables such as solar, wind, geothermal, and biomass. That is a 40 percent cut below current funding levels.

In this committee, Republican hostility to renewable energy is trumped only by their hostility to the environment. With many legislative options available for increasing renewable energy development on public lands, Republicans have chosen the path of minimum benefit to renewable energy and maximum environmental conflict.

Ideally for Republicans, they would set up a false choice, making those members that care about both renewable energy and the environment choose between the two. Fortunately, we can safely reject these Republican bills before us today because they are bad for both. Were these bills to become law, they would not bring more

renewable energy online on our public lands. In fact, they stand a very real chance of doing exactly the opposite.

These bills cut public comment periods and reduce planning options for renewable energy projects. Prepare to see more lawsuits. They create new and duplicative permitting processes. They increase the likelihood of project applications receiving wholesale rejections. They could well lead to fewer megawatts of renewable energy production.

That is why none of the industry groups that represent solar, wind, offshore wind, and geothermal companies support these bills.

These bills do not reflect the recommendations of the 10 witnesses we've had testify before the full committee on this subject. In fact, only one witness recommended anything remotely resembling what we have before us today, and that recommendation did not go as far as suggesting a complete waiver of the National Environmental Policy Act.

If the majority were serious about legislation to accelerate renewable energy development on public lands, they would have strong bi-partisan support from me and most of the Democrats on this Committee. Unfortunately, the majority has shown no interest in working with us on renewable energy or in allowing Democratic bills to be considered as part of this hearing. Instead, the majority has decided to use public support for clean energy as a lever for dismantling environmental protections. That is something I cannot support.

There is another way. Democrats requested two relevant renewable energy bills be included in this hearing.

One of these bills (H.R. 2176), introduced by Mr. Heinrich, would do exactly what the wind and solar industries recommended in the hearing earlier this month. It would take the permit fees paid by the wind and solar companies and funnel the money back into the federal and state agencies doing the permitting, thereby insuring that adequate human resources from these agencies are allocated to the projects. The oil and gas industries already enjoy this dedicated funding mechanism.

The other Democratic bill (H.R. 2196), introduced by Mr. Markey, would increase the percentage of renewable electricity that the federal government would be required to purchase. Currently, the government must procure 7.5% of its electricity from renewable sources by 2013. The Markey bill would continue this ramp up through 2025, at which point 25% of federal electricity would have to come from renewable sources.

I would ask the chairman that this committee hold a legislative hearing on these Democratic bills as soon as possible.

The American people are overwhelmingly in favor of moving forward on clean energy, and there is much this committee can do to further that objective. I will continue to look forward to working with the majority on advancing policies which do that.

Mr. LAMBORN. I now recognize full Committee Chairman Hastings for five minutes for his opening statement.

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Mr. Chairman, and once again thank you for your courtesy allowing me to be here at your Subcommittee hearing. It is often said that there is no silver bullet to achieving energy security and I certainly agree with that statement. Any long-term energy policy must include all types of American energy, from oil and natural gas, to alternative and renewable forms of energy, such as wind, solar, nuclear, and hydropower. This all-of-the-above energy approach is a cornerstone of House Republican's American energy initiative in an ongoing effort to advance legislation that will expand all types of American energy production to create jobs and to stop this Administration policies that are raising energy prices.

Republicans recognize that energy diversity is essential for energy security. That is why I am very proud that this Committee has not only advanced legislation to expand American oil and

natural gas production, but is now turning our focus to critical minerals and renewable energy projects on Federal lands and waters.

The full Committee has held two hearings examining roadblocks to renewable energy production on public lands. We heard over and over again from representatives of the renewable energy industry about the need for certainty. Let me repeat that, we heard over and over again from those in that industry about the certainty as they proceed forward with their projects. They currently have to navigate through a twisted maze that involves conflicting answers from different agencies, different government agencies, bureaucratic hurdles and endless litigation. It is sad, but true, that too often the biggest obstacle to renewable energy production is the Federal Government.

The four bills we are discussing today take steps to correct that. They all share a common goal of streamlining regulatory hurdles and creating a simpler, clearer path to develop renewable energy projects on Federal lands. For example, environmental review should be focused on the specific areas where the renewable energy project will be located. Small temporary structures to test onshore and offshore wind to determine the best location to put a windmill should not be bogged down in red tape, and each geothermal exploration hole should not have to go through a separate approval process when they are often on the same tract of leased land.

Now all of these are commonsense proposals that will cut years off the time it takes to develop these projects. In other words, it provides a certainty to these industries we are talking about. These bills are necessary in order to encourage a timely and efficiently production of renewable energy on our Federal lands and water, in order to create jobs and expand all types of renewable energy production.

And I thank the Chairman and this Subcommittee for holding the hearing on these important bills and I yield back my time.

Mr. LAMBORN. Thank you. I now recognize full Committee Ranking Member Markey of Massachusetts for five minutes for his opening statement.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Chairman, Committee on Natural Resources, on H.R. 2170, H.R. 2171, H.R. 2172, H.R. 2173

Thank you Chairman Lamborn for holding this hearing today,

It's often said that there's no silver bullet to achieving energy security—and I agree. Any long-term energy policy must include all types of American energy, from oil and natural gas to alternative and renewable forms such as wind, solar, nuclear and hydropower.

This all-of-the-above energy approach is the cornerstone of House Republicans' American Energy Initiative, an on-going effort to advance legislation that will expand all types of American energy production to create jobs and stop Obama Administration policies that are raising energy prices.

Republicans recognize that energy diversity is essential for energy security.

That's why I'm proud this Committee has not only advanced legislation to expand American oil and natural gas production but is now turning our focus to critical minerals and renewable energy projects on federal lands and waters.

The Full Committee has held two hearings examining roadblocks to renewable energy production on public lands. We heard over and over again from representatives of the renewable energy industry about the need for certainty. They currently have to navigate through a twisted maze that involves conflicting answers from different agencies, bureaucratic hurdles and endless litigation.

It's sad but true that too often the biggest obstacle to renewable energy production is the federal government.

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For example, environmental reviews should be focused on the specific areas where the renewable energy project will be located.

Small, temporary structures to test onshore and offshore wind to determine the best location to put a windmill should not be bogged down in red tape.

And each geothermal exploration hole should not have to go through a separate approval process when they are on the same tract of leased land.

These are all common sense proposals that will cut years off the time it takes to develop these projects.

These bills are necessary in order to encourage the timely and efficient production of renewable energy on our federal lands and waters in order to create jobs and expand all types of renewable energy production.

**STATEMENT OF HON. EDWARD MARKEY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MASSACHUSETTS**

Mr. MARKEY. Thank you, Mr. Chairman, very much. The President has announced that he is going to begin, in conjunction with other countries in the world, to deploy oil from our strategic petroleum reserve. I think that is a very important development, in order to ensure that the price of oil does not continue to impact our economy and our country. Iran and Venezuela have asserted their power within OPEC. Unilateral reliance upon Saudi Arabia to increase supply has failed. The President is sending a clear signal with his deployment of the strategic petroleum reserve that the American consumers will not be held hostage to Iranian and Venezuelan dictators or to events which are occurring in Libya and in Yemen that has taken oil off the global market. So this is a very important development this morning, which I think will really help to stabilize the price of oil and not have the same kind of dramatic impact which it has had over the last four or five months since the beginning of the Libyan conflict.

Now over the past two years, the 1603 renewable energy grant program has supported 10,000 megawatts of wind, solar, geothermal, and other renewable energy projects through more than 7,000 separate awards. It has led to \$22 billion in clean energy investments, more than 70 percent of which came from the private sector. Just last Friday, the Energy Department announced a \$150 million loan guarantee to a Massachusetts company called 1366 Technologies, that is using technology developed at MIT to radically reduce the cost of making silicon wafers for solar cells. Earlier this month, construction broke ground on the largest solar power plant in the world in California. This project on public land received fast-track permitting at the Interior Department and was awarded a \$2 billion loan guaranteed by the Department of Energy.

These success stories are part of the Recovery Act. These renewable energy programs come out of what you call workhorse legislation. They successfully pulled billions of dollars of private capital off the sideline, and are now putting thousands of people to work, and putting millions of watts of clean energy electricity production in the ground. These Recovery Act programs are scheduled to

expire by the end of the year or sooner. Again, these are workhorse programs.

That is not what we are here to talk about today. The Republicans oppose workhorse legislation when it comes to renewable energy. We are here today to judge some show horse legislation. The four Republican bills under consideration today deal entirely with weather towers and needless evisceration of environmental protections. They will not bring more renewable energy on line on our public lands. In fact, they stand a very good chance of doing exactly the opposite. These bills are a recipe for more lawsuits, more rejective projects, and fewer megawatts of clean energy production.

Instead of thinking big picture and figuring out how to get more wind towers and solar concentrated towers in the ground, Republicans are sidetracked with weather towers. Now, I fear the only reason that they are even interested in those is because the opportunity it presents to rein in environmental laws. Once they hobble environmental laws for renewable energy, they may be hoping it will be a lot easier to do the same for the industry they really care about, the oil and gas industry.

So instead of show horse legislation, maybe we should call this Trojan horse legislation. If the Republicans are genuinely interested in passing good renewable energy legislation that creates jobs and helps get more renewable energy deployed on public lands, Democrats are eager to work with them in a bipartisan fashion to get those renewable projects on the books. But the fact remains that there are many other approaches to encouraging renewable energy development on public lands, approaches that are actually recommended in the multiple hearings we have had on this subject, approaches that could actually gain the endorsement of the industry they are intended to help.

It was in that spirit that the Democratic side requested that the Committee consider two of our Members' relevant bills as part of this hearing, one by Mr. Heinrich and another by myself. Neither has been included in the hearing today. Therefore, I reiterate my request to the Chairman of the full Committee for a legislative hearing on these Democratic bills, as well, and as soon as possible, so that we can get a comprehensive view of what it takes to be successful in the renewable's area.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Markey follows:]

Statement of The Honorable Edward J. Markey, Ranking Member, Committee on Natural Resources, on H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173

First of all, I'd like to commend the White House for finally deciding to deploy the strategic petroleum reserve. . .

Over the last two years, the 1603 [sixteen-oh-three] renewable energy grant program has supported 10,000 megawatts of wind, solar, geothermal, and other renewable energy projects through more than 7,000 separate awards. It has led to \$22 billion in clean energy investments, more than 70 percent of which came from the private sector.

Just last Friday, the Energy Department announced a \$150 million loan guarantee to a Massachusetts company called 1366 Technologies that is using technology developed at MIT to radically reduce the cost of making silicon wafers for solar cells.

Earlier this month, construction broke ground on the largest solar power plant in the world in California. This project on public land received fast-track permitting

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These success stories are Recovery Act success stories. These renewable energy programs came out of what you call work horse legislation. They successfully pulled billions of dollars of private capital off the sideline and are now putting thousands of people to work and putting millions of watts of clean, renewable electricity production in the ground. These Recovery Act programs are scheduled to expire by the end of the year or sooner.

Again, those are workhorse programs. That's not what we're here to talk about today. Republicans oppose workhorse legislation when it comes to renewable energy. We're here today to judge some show horse legislation.

The four Republican bills under consideration today deal entirely with weather towers and needless evisceration of environmental protections. They will not bring more renewable energy online on our public lands. In fact, they stand a very real chance of doing exactly the opposite. These bills are a recipe for more lawsuits, more rejected projects, and fewer megawatts of clean energy production.

Instead of thinking big picture and figuring out how to get more wind towers and solar concentrating towers in the ground, Republicans are sidetracked with weather towers. I fear the only reason they're even interested in those is because the opportunity it presents to rein in environmental laws. And once they hobble environmental laws for renewable energy, they may be hoping it will be a lot easier to do the same for the industry they really care about, the oil and gas industry.

So instead of show horse legislation, maybe we should call this Trojan horse legislation.

If the chairman is genuinely interested in passing good renewable energy legislation that creates jobs and helps get more renewable energy deployed on public lands, Democrats are eager to work with him in a bipartisan fashion.

The fact remains that there are many other approaches to encouraging renewable energy development on public lands. Approaches that were actually recommended in the multiple hearings we've had on this subject. Approaches that could actually gain the endorsement of the industry they are intended to help.

It was in that spirit that the Democratic side requested that the committee consider two of our member's relevant bills as part of this hearing, one authored by Mr. Heinrich (H.R. 2176) and one by myself (H.R. 2196). Neither has been included today. Therefore, I reiterate my request to the chairman of the full committee for a legislative hearing on these Democratic bills as soon as possible.

Thank you and I reserve my time.

Mr. LAMBORN. You are welcome. I now recognize full Committee member and H.R. 2172 author, Representative Noem of South Dakota for five minutes for her opening statement.

**STATEMENT OF HON. KRISTI NOEM, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF SOUTH DAKOTA**

Mrs. NOEM. Thank you, Mr. Chairman, and thank you, Chairman Hastings, for your leadership on this issue. Although this bill has nothing to do with horses, of which I am a big fan of, it does have everything to do with giving our American energy policy some more horsepower and getting our economy going in this country again.

The Utilizing America's Federal Lands for Wind Energy Act is just one part of the Committee's initiative to cut unnecessary bureaucratic red tape for renewable energy development. My bill will speed up the production of clean, renewable energy—American energy—by streamlining the process to develop onshore wind power on Bureau of Land Management and U.S. Forest Service lands. Currently, it can take the industry up to four years to even decide if a location is going to be suitable for a wind project. My bill can reduce that by up to two years in the initial process by streamlining the National Environmental Policy Act or NEPA process. This bill sets a firm time line for issuing permits on Federal land.

It streamlines the regulatory requirements for installing temporary towers to test and to monitor the weather.

Requiring burdensome, duplicative reviews for these temporary structures is unnecessary. It slows down production of this clean energy source, especially in this harsh economic climate. With gas prices around \$4 a gallon, it is important to have an all-of-the-above American energy policy. Wind energy is certainly in that category.

Our Nation has a vast energy, wind energy supply that we can utilize here in resources here at home. We need to make sure that we are using our Federal lands for commonsense clean, renewable energy production.

My home State of South Dakota is a perfect example. We are blessed with enormous potential for producing wind power. The United States Department of Energy has indicated that there are excellent to outstanding areas for wind production throughout our state.

In fact, South Dakota is also home to nine Indian reservations and there is a lot of potential for wind development in Indian country. They often have to go through a lengthy process for renewable energy development. This bill could serve as a model for streamlining the process for wind development on Indian land.

In 2003, the first utility scale Native American wind turbine was installed on the Rosebud Sioux Indian reservation in my state. That was after an eight-year preparation. This wind turbine is now generating energy for businesses on this reservation. They are able to sell their excess green energy to local power cooperatives and create jobs in an area where the unemployment is around 80 percent. This is just one example of how wind power can benefit local communities and it can create jobs. It is our job to ensure that excess government regulations do not get in the way.

I look forward to hearing from the witnesses and their perspective on these bills. Thank you, Mr. Chairman.

[The prepared statement of Ms. Noem follows:]

**Statement of The Honorable Kristi L. Noem, a Representative in Congress
from the State of South Dakota**

Mr. Chairman, I ask unanimous consent to make an opening statement and that my statement be submitted for the record.

Thank you Mr. Chairman. And thank you Chairman Hastings for your leadership on this issue. The Utilizing America's Federal Lands for Wind Energy Act is just one part of the Committee's initiative to cut unnecessary bureaucratic red tape for renewable energy development. My bill will speed up the production of clean, renewable American energy by streamlining the process to develop onshore wind power on Bureau of Land Management and U.S. Forest Service lands. Currently, it can take an industry up to 4 years to even decide if a location is suitable for a wind project. My bill could reduce that by around 2 years in the initial process by streamlining the National Environmental Policy Act (NEPA) process.

This bill sets a firm timeline for issuing permits on federal land and streamlines the regulatory requirements for installing temporary towers to test and monitor weather. Requiring burdensome, duplicative reviews for these temporary structures is unnecessary and slows down production of this clean energy source. Especially during a tough economic climate and gas prices around \$4 a gallon, it is important to have an "all of the above" energy approach, and wind energy is certainly in that category. Our nation has a vast amount of resources here at home, and we need to make sure we are using our federal lands for common sense, clean, renewable energy production.

My home state of South Dakota is a great example. We are blessed with enormous potential for producing wind power. The U.S. Department of Energy has indicated

that there are “excellent-to-outstanding” areas for wind production throughout the state.

South Dakota is also home to 9 Indian reservations, and there is a lot of potential for wind development in Indian Country. They often have to go through a lengthy process as well for renewable energy development. This bill could serve as a model for streamlining the process for wind development in Indian land. In 2003, the first utility-scale Native American wind turbine was installed on the Rosebud Sioux Indian Reservation in my state. That was after an eight-year preparation! This wind turbine is now generating energy for businesses on the reservation. They are able to sell their excess green energy to local power cooperatives and create jobs in an area where unemployment is around 80%.

This is just one example of how wind power can benefit local communities and create jobs. It is our job to ensure that excess government regulations do not get in the way. I look forward to hearing from the witnesses on their perspective on these bills.

Thank you Mr. Chairman.

Mr. LAMBORN. You are welcome. We will now hear from our first panel of witnesses. I would like to invite to the witness table, The Honorable Mike Pool, Deputy Director of the Bureau of Land Management, accompanied by Mr. Walter Cruickshank of the Bureau of Ocean Energy Management, Regulation and Enforcement, and The Honorable Joel Holtrop, Deputy Chief of the U.S. Forest Service.

Like all of our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes, as outlined in our invitation letter. Our microphones are not automatic, so you need to turn them on when you are ready to begin. After four minutes, the yellow light will come on. You are probably familiar with that. In fact, we talked about that a few days ago. So, Mr. Pool, you may begin.

**STATEMENT OF MIKE POOL, DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT**

Mr. POOL. Thank you, Mr. Chairman, members of the Committee. I appreciate the opportunity to come before you today to testify on behalf of the Department of the Interior on the renewable energy bills before you today. As Deputy Director of the BLM, I am here to provide departmental views on these bills and answer any questions related to BLM. With me is Walter Cruickshank, Deputy Director for the Bureau of Ocean Energy Management, Regulation and Enforcement, who will answer any questions you may have on the offshore wind legislation.

The bills exempt certain Federal actions from compliance with the National Environmental Policy Act, the cornerstone law guiding environmental protection and public involvement associated with public lands. The Department opposes these four bills. Since the beginning of his tenure, Secretary of the Interior Ken Salazar has made the development of a new energy frontier on America’s public lands one of his top priorities. As Deputy Director of the BLM, I share this priority and I am happy to tell you that both the BLM and BOEMRE are implementing the Secretary’s Smart from the Start program, through approving development for on-shore wind, solar, geothermal, and for offshore wind, ocean wave, and ocean current energy. Our goal is environmentally responsible development of renewable resources on the public lands with a fair return to the American people for use of their resources.

Guiding all of BLM's management actions, including renewable energy development, is the agency's open and public land use plans, coupled with full environmental review and public involvement under NEPA. This remains a vital tool as we work to protect our Nation's environment and revitalize our economy. H.R. 2170 would narrow the scope of environmental review for renewable energy projects, wind, solar, geothermal, biomass, tidal, or kinetic forces used to generate energy. NEPA analysis would be limited to a proposed action and a no-action alternative. The public comment would be limited to 30 days.

The Department of the Interior opposes H.R. 2170. It restricts the development and consideration of a range of alternatives and reduces the analysis of complex, challenging issues to a limited yes or no choice. There may be unintended consequences to H.R. 2170. Agencies may be forced to select a no-action alternative if a proposal has resource conflicts that cannot be addressed through alternatives.

H.R. 2171 established criteria for geothermal exploration test projects and exempts a proposal meeting those criteria from NEPA compliance. The Department opposes H.R. 2171 because it is inconsistent with sound and longstanding NEPA requirements for Federal actions. The bill offers no exemption for extraordinary circumstances, which are red flags to let the public and the agency know what NEPA reviewed would still be warranted. BLM believes in the absence of an exemption for extraordinary circumstances may result in renewable energy development that impacts the environment.

H.R. 2172 would affect onshore wind power on BLM and Forest Service land by removing the requirement to complete NEPA analysis for met towers. The Department opposes H.R. 2172 because it is also inconsistent with sound and longstanding NEPA requirements for Federal actions. BLM policy provides for categorical exclusions from NEPA review for met towers. It also provides an exception for extraordinary circumstances when NEPA review is still required. The BLM applies CXs only when appropriate. Blanket use of CXs without regard for extraordinary circumstances, as under H.R. 2172, could significantly impact public health and the environment.

H.R. 2173 would exempt certain Federal actions relating to offshore wind production from compliance with NEPA. The Department opposes this bill because of conflicts with section 8p of the Outer Continental Shelf Lands Act, eliminating the Secretary's ability to consider environmental impacts of renewable energy projects on the Outer Continental Shelf.

The 30-day deadline for public review in H.R. 2173 is simply not sufficient to consider public comment, conduct mandatory consultations with other agencies, tribes, and state officials, and perform engineering and safety reviews. The result would be permits being denied unnecessarily.

Thank you for the opportunity to testify. I would be happy to answer any questions.

[The prepared statement of Mr. Pool follows:]

**Statement of Mike Pool, Deputy Director, Bureau of Land Management,
U.S. Department of the Interior**

Introduction

Thank you for inviting the Department of the Interior to present testimony on several bills pertaining to the development of renewable energy resources on our nation's onshore public lands: H.R. 2170, the Cutting Red Tape to Facilitate Renewable Energy Act; H.R. 2171, the Exploring Geothermal Energy on Federal Lands Act; and H.R. 2172, the Utilizing America's Federal Lands for Wind Energy Act.

These bills were introduced little more than one week ago, so the Department of the Interior has not had time to conduct an in-depth analysis of them, but we appreciate the opportunity to outline our general views at this time. The bills exempt certain Federal actions from compliance with the National Environmental Policy Act (NEPA)—the cornerstone law guiding environmental protection and public involvement in Federal actions. The Department opposes these three bills.

Background

Since the beginning of his tenure, Secretary of the Interior Ken Salazar has made the development of the New Energy Frontier on America's public lands one of his top priorities. The Department's renewable energy strategies are guided by the fundamental belief that renewable energy for America will allow us to diversify energy sources and ultimately reduce our reliance on fossil fuels.

As Deputy Director of the Bureau of Land Management (BLM), I share this priority. I am happy to tell you that the BLM is committed to giving priority to renewable energy projects that are "smart from the start." The BLM is working with local communities, state regulators, industry, and other Federal agencies to build a clean energy future. Our goal is environmentally responsible development of renewable energy resources on the public lands with a fair return to the American people for the use of their resources.

Guiding all of the BLM's management actions—including renewable energy development—is the agency's land use planning process. This is an open, public process in which the agency's proposals for managing particular resources are made known to the public in advance of taking action. The BLM's plans are analyzed and frequently critiqued by members of the public and stakeholders, and the BLM must address all comments on agency proposals and make available to the public its responses.

Similarly, the BLM is committed to providing the full environmental review and public involvement opportunities required by NEPA for all agency proposals for BLM-managed lands. As noted in the Presidential Proclamation commemorating the 40th anniversary of the act, NEPA, was enacted to "prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." It established concrete objectives for Federal agencies to enforce these principles, while emphasizing public involvement to give all Americans a role in protecting our environment. America's economic health and prosperity are inexorably linked to the productive and sustainable use of our environment. That is why NEPA remains a vital tool as we work to protect our Nation's environment and revitalize our economy.

Under land use plans and environmental analyses informed by public involvement, the BLM is leading the nation toward the New Energy Frontier with active solar, wind, and geothermal energy programs. In 2010, the BLM approved the first nine large-scale solar energy projects on public lands. These projects will have an installed capacity of 3,600 megawatts, enough to power close to 1 million homes, and will create thousands of jobs. Additionally, the BLM has 29 authorized wind energy projects on the public lands with a total of 437 megawatts of installed wind power capacity. Geothermal energy development on the public lands, meanwhile, with an installed capacity of 1,275 MW, accounts for nearly half of U.S. geothermal energy capacity.

H.R. 2170, "Cutting Red Tape to Facilitate Renewable Energy Act"

H.R. 2170 would narrow the scope of environmental review for renewable energy projects, defined as wind, solar power, geothermal power, biomass or tidal or kinetic forces used to generate energy. Under the bill, NEPA analysis would be limited to a "proposed action" and the "no-action alternative"—rather than the range of alternatives that are generally evaluated during NEPA review. Members of the public would be limited to 30 days after the publication of a draft NEPA document to conduct their review and send comments to the Federal agency.

The Department opposes H.R. 2170, as it unnecessarily restricts the scope of analysis in the NEPA process. This restriction on the development and consider-

ation of alternatives to a proposed agency action would reduce the analysis of complex, challenging issues to a limited “yes-or-no” choice. It would impair the Federal government’s ability to accurately assess the likely impacts of a Federal action and to employ the consideration of alternative means to avoid, minimize and/or mitigate adverse impacts. Furthermore, reducing the timeframe available for review and public comment to 30 days, especially for complicated, multi-state, utility-scale environmental impact statements, could significantly reduce the public’s ability to weigh-in on critical matters affecting them. The BLM relies on this public participation to improve the analysis of actions on public lands.

Properly developed alternatives inform decisions by allowing the decision-maker to evaluate ways to resolve resource conflicts in complex projects. Addressing a reasonable range of alternatives under NEPA provides opportunity to address issues that arise in public scoping and reduces the likelihood of litigation. Alternatives analysis also provides more opportunities for the BLM to work with applicants to address possible alternative means to reduce environmental impacts.

Through the development and consideration of a reasonable range of alternatives, the BLM can work with applicants to explore proposals using different technology or project layout alternatives with the applicant. To accomplish this, the BLM has recently provided guidance on defining a reasonable range of alternatives in development of renewable energy projects on public lands, based on lessons learned from fast track renewable energy projects in 2010. This policy recognizes that the BLM must consider the applicant’s interests and objectives to inform its decision.

There may also be unintended consequences to this legislation. The inability to consider other alternatives may lead the BLM to select the no-action alternative more frequently if a proposed project presents resource conflicts that cannot be addressed through mitigation.

H.R. 2171, “Exploring Geothermal Energy on Federal Lands Act”

H.R. 2171 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. 2171 because it is inconsistent with sound and long-standing NEPA requirements for Federal actions. 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. 2172, “Utilizing America’s Federal Lands for Wind Energy Act”

H.R. 2172 proposes to streamline the process to develop onshore wind power on BLM and U.S. Forest Service (FS) land by removing the requirement to complete NEPA analysis for weather testing or monitoring devices. The bill also reduces agency decision-making timeframes for the site applications.

The Department opposes H.R. 2172 because it is inconsistent with sound and long-standing NEPA requirements for Federal actions. Furthermore, its NEPA-exempt framework contains no exception for extraordinary circumstances. While BLM policy (IM 2009–043, December 19, 2008) currently provides for “categorical exclusions” (CXs) from NEPA review for wind-related weather testing or monitoring devices, it provides an exception for certain extraordinary circumstances when NEPA review is still required. The BLM currently applies CXs only when appropriate. Blanket use of CXs without regard for certain extraordinary circumstances, could significantly impact public health and the environment.

The BLM believes the absence of an exemption for extraordinary circumstances may result in wind energy development that may pose a threat to aviation safety and to the environment. Under H.R. 2172, an exclusion from NEPA could preclude consideration of a condition such as the proposed height of a met tower that may have impacts on aviation operations and Federal Aviation Administration safety requirements, or could preclude consideration of potential bird impacts from guyed

versus non-guyed met towers. An absolute exclusion from NEPA for weather monitoring and testing devices would be inconsistent with consideration of site specific environmental impacts for installations.

Conclusion

Thank you for the opportunity to present testimony on these three pieces of legislation. The Department of the Interior looks forward to continuing its work toward standing up a renewable energy program and a portfolio of projects that reflect the incredible resource potential of America's public lands.

Mr. LAMBORN. Thank you. Mr. Holtrop.

**STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF,
U.S. FOREST SERVICE**

Mr. HOLTROP. Mr. Chairman and members of the Subcommittee, thank you for the opportunity to share the agency's views on three renewable energy bills currently before you. Renewable energy plays an important role in strengthening America's energy independence and in fulfilling the agency's mission, and the Forest Service supports the goal of facilitating its development. We also acknowledge the need to streamline procedures for approving and implementing the development of these resources.

In recent years, the Forest Service has addressed the challenge of contributing to the Nation's renewable energy needs in a multitude of ways. For example, we host over 16,000 megawatts of installed hydropower generating capacity. In geothermal, we currently permit leases producing equivalent electricity for 60,000 homes. In wind energy, we have 15 active permits for testing sites and for solar, we have roughly three million acres of national forest system land that have been identified as suitable for solar energy development. Biomass energy production presents an especially important opportunity for us because biomass for energy can be a by-product of most of our vegetation management work, including hazardous fuels reduction, habitat improvement, and timber production. In Fiscal Year '10, nearly 3.3 million green tons were harvested on national forest system lands for energy production.

Carrying out these renewable energy efforts takes place under a complex body of requirements and policies that has evolved over decades, and we support efforts to achieve improvements in our process. However, the Forest Service cannot support the three bills before you today because we are concerned that the approaches they put forth could have unintended consequences that actually undermine progress toward these goals.

Regarding H.R. 2171 and 2172, we note that geothermal and wind testing projects meeting the criteria for the proposed NEPA exclusion would also meet the eligibility criteria for existing categorical exclusions that the Forest Service is already authorized to use, and we have routinely used them to expedite projects of this nature. However, the provisions for categorical exclusions give us the discretion to undertake a more detailed analysis when certain conditions exist in the area, such as important cultural or archaeological sites or sensitive habitats. This helps us ensure necessary protections and gives us the opportunity to work with project proponents to improve their proposals when such concerns exist.

On the other hand, the requirement proposed by these bills to exclude such analysis for all covered projects without exception could

lead to unanticipated resource damage in some cases and increase the likelihood of litigation in many more. This would ultimately cause further complications and delays in our permitting process and could also increase resistance to efforts to promote renewable energy development. For these reasons, the Forest Service cannot support this legislation.

H.R. 2170 poses similar concerns. Its proposed requirement to limit analysis for renewable energy proposals to only a single proposed action and a no-action alternative would mandate the broad use of shortcut procedures that frequently are not appropriate to apply. Currently, the agency has discretion to determine whether this proposed action, no-action approach is appropriate. The expectation remains that we are to analyze multiple alternatives, unless the proposed action, no-action approach is justified. Indeed, it is our experience that analysis of multiple alternatives usually produces better decisions that garner greater acceptance across a broader range of stakeholders, and provides additional opportunities to work with proponents to improve environmental mitigations.

Furthermore, we are concerned that broad prohibitions on analyzing or considering input on multiple alternatives may increase the likelihood of appeals and litigation, cause delays and implementation, or lead the agency to more frequently select the no-action alternative.

We believe there are other approaches that would have greater promise for meeting the goals of facilitating renewable energy. One such alternative is to authorize the judicious use of categorical exclusions under specific circumstances, rather than the approach proposed in these bills requiring broader exclusions or limitations on NEPA more generally. Another approach is to expand the use of pre-decisional administrative review, which improves resolution of stakeholder concerns, produces better decisions, and gets more work done on the ground.

Thank you for this opportunity to discuss proposals to improve the ability of the Forest Service to meet the Nation's renewable energy needs. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Holtrop follow:]

Statement of Joel Holtrop, Deputy Chief, National Forest System, U.S. Department of Agriculture, Forest Service, on H.R. 2170, H.R. 2171, and H.R. 2172

Mr. Chairman, Members of the Subcommittee, I am Joel Holtrop, Deputy Chief of the U.S. Forest Service. Thank you for the opportunity to share the Agency's views on three renewable energy bills currently before you for consideration.

Recognizing the important role that renewable energy can play in strengthening America's energy independence and in fulfilling the agency's mission, the USDA Forest Service (USFS) supports the goal of the proposed legislation to facilitate the development of renewable energy resources on lands within the National Forest System (NFS). We also acknowledge the need identified in these bills to streamline procedures for approving and implementing the development of these resources. However, we are concerned that the approaches contained in H.R. 2170, 2171 and 2172 could have unintended consequences that ultimately serve to undermine progress towards those goals.

In recent years the USFS has addressed the challenge of contributing to the nation's renewable energy needs in a multitude of ways. Hydroelectric power, although not addressed by the proposed legislation, represents one of the agency's largest contributions to the nation's renewable energy needs: NFS lands host over 16,000 MW of installed hydropower generating capacity, the second most among federal agen-

cies. Regarding geothermal power, as of April 2011 there were 137 geothermal leases producing equivalent electricity for 60,000 homes on approximately 155,000 acres of NFS lands. In wind energy, as of May 2011 the agency has received at least 18 inquiries for meteorological testing projects to explore wind energy production; of these, 11 progressed to the proposal or application stage, and of those 11, five have gone on to receive permits while the remaining six are currently in processing. And for solar energy, although we have received no formal applications for utility or other large-scale commercial solar facilities to date, we do anticipate some applications for solar energy facilities in the future on some of the roughly 3 million acres of NFS land that have been identified as suitable for that purpose.

Biomass energy production presents an especially important opportunity for the NFS to increase America's energy independence while also meeting many other objectives at the core of our mission, such as restoring healthy forests, supporting local economies and communities, and improving water quality. This is the case because biomass products are harvested for energy production in connection with vegetation management projects undertaken for a wide variety of purposes, including hazardous fuels reduction, habitat improvement, timber production, salvage, pre-commercial thinning, maintenance of roads, campgrounds, and various rights-of-way, and other purposes. In FY2010 nearly 3.3 million green tons were harvested on NFS lands for energy production, in the form of small-diameter trees and shrubs, tree-harvest debris and other woody plant matter.

Approval and implementation of these renewable energy efforts, like that for most other USFS activities, takes place under a complex and wide-ranging body of requirements that has evolved over decades of legislative action, administrative policy and judicial review. In some cases, negative unintended effects of the accumulated direction continue to impact the agency's ability to fulfill its mission. We support efforts to achieve improvements in this respect. However, we are concerned that the approaches put forth in these bills could inadvertently lead to increased appeals, more frequent litigation, and missed opportunities for constructive input that will ultimately serve to undermine progress toward that goal. We believe other approaches have greater promise and we would welcome the opportunity to explore them further.

I will now point out some specific concerns regarding the proposed legislation.

H.R. 2171: H.R. 2171 would exclude "the drilling of a well to test or explore for geothermal resources on lands leased by the Department of the Interior" (DOI) from provisions of the National Environmental Policy Act of 1969 (NEPA) requiring preparation of an environmental impact statement. Projects would be excluded when they result in no more than 5 acres of total disturbance, require no new road construction, and are to be completed within 45 days including restoration of the site to pre-existing condition, among other criteria.

In most cases, DOI's Bureau of Land Management (BLM) has the lead for preparing NEPA documentation for geothermal projects on NFS lands leased by the DOI, with the USFS participating as a cooperating agency. However, an interagency agreement pursuant to Section 225 of the Energy Policy Act of 2005 (P.L. 109-58) requires coordination between the two agencies on surface management issues relating to geothermal activities on NFS lands.

As it applies to NFS lands, the projects meeting the criteria set forth in this legislation would also meet the eligibility criteria for an existing categorical exclusion (CE) from NEPA documentation requirements found at 36 CFR 220.6(e)(8), for short-term mineral, energy, or geophysical investigations, as long as specified extraordinary circumstances do not exist.

We support the use of existing statutory and administrative CEs in situations where their application is determined to be appropriate. To help in making this determination, the regulations specify several resource conditions that the agency must consider in determining whether extraordinary circumstances warrant further analysis and documentation in an EA or EIS, and therefore preclude the use of a CE (36 CFR 220.6(b)). These provisions are important in helping to protect Congressionally designated special areas, Native American religious or cultural sites, archaeological sites, habitat for certain categories of sensitive, threatened or endangered species, and other special landscape features.

Conversely, we are concerned that the proposed legislation would preclude the agency from documenting an EIS for any project meeting the specified criteria, thereby removing protections for extraordinary circumstances that are otherwise provided by the regulations for CEs and increasing the possibility of unanticipated resource damage. We also have a more general concern that broad-scale efforts to exclude or otherwise limit documentation of environmental analysis may generate uncertainty and skepticism that has a negative effect on stakeholder collaboration, increasing the likelihood of appeals and litigation as a result.

Given the above concerns, we cannot support this bill and concur with the DOI position to oppose this bill.

H.R. 2172: H.R. 2172 would exclude certain meteorological site testing and monitoring activities associated with wind and solar energy production from NEPA. Projects would be excluded when they result in no more than 5 acres of total disturbance, require minimal off-road access and no new road construction, and are to be decommissioned within 5 years including restoration of the site to pre-existing condition, among other criteria.

Projects meeting the criteria set forth in this legislation would also meet the eligibility criteria for an existing categorical exclusion (CE) from NEPA documentation requirements found at 36 CFR 220.6(e)(3), as long as specified extraordinary circumstances do not exist. Approving the construction of a meteorological sampling site is explicitly mentioned as an example where this CE can be applied.

As mentioned earlier, we support the use of existing statutory and administrative CEs in situations where their application is determined to be appropriate, including the regulations that help make that determination by specifying the extraordinary circumstances that preclude such use. These protections are helpful in many respects, including those that sometimes exist for wind testing proposals, like visual impacts from ridge top development and the potential impacts on migratory birds and bats.

Similar to our concerns regarding H.R. 2171 above, a requirement to exclude documentation of environmental analysis may lead to unanticipated resource damage in some cases, and a chilling effect that increases the likelihood of appeals and litigation.

The legislation also sets forth a requirement that issuance or denial of permits for such projects take place within 30 days after receipt of receiving an application, and that any denial clearly state the deficiencies resulting in that decision and provide opportunity for remedy. By contrast, USFS regulations at 36 CFR 251.58(c)(7) require grant or denial of an application such as this one that is subject to a processing fee within 60 days from receipt of the processing fee. This provision raises concerns about whether the proposed legislation's shorter timeline is consistent with agency capacity.

Although we support the goal of streamlining procedures for development of renewable energy resources on NFS lands, we cannot support this bill given the above concerns.

H.R. 2170: H.R. 2170 requires that a Federal agency shall consider and analyze only the proposed action and the "no action" alternative when reviewing any proposed renewable energy project on Federal lands, including proposals to produce energy from solar power, geothermal power, wind, biomass or other sources. The bill further requires, in complying with NEPA, that consideration of public comments be limited to those that specifically address the proposed action and/or the no action alternative rather than other potential alternatives.

We acknowledge that there are cases where it can be appropriate to limit alternatives to a proposed action and no action alternative. Examples include certain land exchanges where a willing seller is interested in a specific parcel, or various types of special uses involving unique landscape attributes, or certain vegetation management projects where there is broad-based support for urgent action and an effective treatment clearly presents itself. In the latter case, legislation can play a critical role in establishing effective parameters that guide decisionmaking and maintain public support, as is the case with hazardous fuels projects and the Healthy Forests Restoration Act of 2003 (P.L. 108-148).

However, in all these cases the agency has limited discretion to determine whether this approach is appropriate; the expectation remains that we are to analyze multiple alternatives unless the proposed-action/no-action approach is deemed justifiable. Indeed, it is our experience that analysis of multiple alternatives often produces better decisions that garner greater acceptance across a broader range of stakeholders, and provides additional opportunities to work with proponents to improve environmental mitigations. Furthermore, we are concerned that broad prohibitions on analyzing or considering input on multiple alternatives may have a negative effect, generating uncertainty and skepticism that increases the likelihood of appeals and litigation. This can cause delays in implementation even if the agency position is most frequently upheld, or lead the agency to more frequently select the no-action alternative.

Although we support the goal of streamlining procedures for development of renewable energy resources on NFS lands, we cannot support the proposed legislation given the above concerns.

Conclusion: Thank you for this opportunity to discuss proposals to improve the ability of the U.S. Forest Service to meet the nation's renewable energy needs. This

concludes my prepared statement, and I would be pleased to answer any questions you may have.

Mr. LAMBORN. All right. Thank you for your testimony, as well. We will now begin questioning. Members are limited to five minutes for their questions. I now recognize myself for five minutes for questions.

Director Pool, you state that the Administration is opposed to H.R. 2170 because it would reduce to a yes or no question the decision about how and where to place renewable energy projects. The cost of draft environmental impact statements are beginning to exceed \$7 million, which can be more than \$10,000 per page. This tremendous cost includes considering a reasonable range of alternatives.

The problem facing renewable energy developers is that projects can go anywhere. There are 22 million acres, for instance, of solar resources in the Southwest and as a solar developer, most of those acres could be considered as a reasonable alternative. Can you tell the Committee how frequently BLM is sued about decisions based on inadequate consideration of reasonable alternatives?

Mr. POOL. Yes, as it relates to litigation associated with our authorizations. What we have discovered, especially over the last several years, if we do quality work up front in response to the National Environmental Policy Act, and we have indeed improved upon our collaborative models, working with the proponent, working with the environmental community, working with state entities, county entities, the more work we do up front, where everybody is involved and have a great understanding as to what is being proposed, and I am referring to utility scale type applications on public lands, when they are at the table and they are being consulted and we value their input, and we do that quality work up front, then on the back end of these processes, it usually moves very expeditiously and we are less prone to litigation. If we fail to complete our requirements under the National Environmental Policy Act and other statutes, including the Endangered Species Act, the Bald Eagle Legal Protection Act, the National Environmental Historic Protection Act, among many others, that is when we become vulnerable to litigation.

So, we have clearly demonstrated, I think, a good example under the Secretary's leadership, for the first time in public land history, we authorized last year nine utility scale solar projects in Nevada and California and we hope to approve 10 more solar projects at the end of this fiscal year. The projects we approved last year was roughly 3,600 megawatts.

So, I guess what I am saying, NEPA has been around for many, many years. It is what we utilize as a tool in authorizing all proposed actions on public lands. With each passing year, we learn more in terms of improving upon collaborative models. And we have discovered, these are public interest determinations. These are the American public's public lands. And so, we take into account very carefully their views, whatever segment of the society they represent: conservation, industrial development, other state, county considerations. When we take that information into account

and weigh it very carefully, and it is the NEPA that guides us through those processes—

Mr. LAMBORN. OK, Mr. Pool, let us talk about alternatives—

Mr. POOL. Yes.

Mr. LAMBORN.—the process of looking at alternatives. Of those nine projects that you just mentioned, how many of them are under construction and how many are still tied up in litigation?

Mr. POOL. I do not have the exact dates on the construction. I would be glad—

Mr. LAMBORN. Is it three under construction, does that sound right, and six tied up in litigation?

Mr. POOL. We have four tied up—under construction now.

Mr. LAMBORN. So the other five are tied up in litigation?

Mr. POOL. I think that—

Mr. LAMBORN. The consideration of so-called reasonable alternatives.

Mr. POOL. Oh, well, let me be specific about that. What a range of alternatives does, when we start scoping out with the proponents in what we call the pre-application phase, it gives us a preliminary indication in reference to our land-use plans and other scientific information that has been presented to BLM to look at the possible suitability of that project. Now, we are consulting much earlier than we used to do with the Fish and Wildlife Service and the Park Service because of visual proximities. What a range of alternatives affords BLM and working with the proponent is that we weigh the environmental analyses through a range of alternatives such that at the end of the process, when we evaluate the environmental impacts for each alternative and the needed mitigations, then we can extract from that range of alternatives to issue a record of decision.

Mr. LAMBORN. OK, Mr. Pool, that may be the theory, but the reality is that that is a loophole for people to bring lawsuits and tie things up for years.

Mr. POOL. We do not view it that way, Chairman. What we have discovered with some of these recent projects, with everybody participating in the collaborative process, is that many times when we elect to approve these projects, taking into account the environmental analyses and the mitigations and working with the proponent, we have adjusted the configuration of some of these facilities. We have altered the project, the site locations, because the mitigations, as addressed in a range of alternatives, not just no action or proposed action, allows us greater utility, but working with the proponent, as well as the conservation community, and our state and county stakeholders to really give a full overview of that site consideration.

So, in our view, by having a range of alternatives with public input affords us, I think, a much more sustainable decision on the tail end of the process. And in many cases, having a range of alternatives, we have made adjustments in terms of site locations. We have reconfigured, for example, the number of wind turbines.

Mr. LAMBORN. OK. Well, we have run out of time. Thank you for your answer.

I would like to recognize the Ranking Member Mr. Holt for five minutes of questions.

Mr. HOLT. Thank you, Mr. Chairman. To move along, I would like to ask the witnesses just to answer briefly, maybe one word, if appropriate, because I wanted to get through a series of questions. Mr. Pool and Mr. Holtrop, the BLM and the Forest Service already have the authority to grant categorical exclusions under NEPA for site testing of wind and other renewable projects, is that correct?

Mr. POOL. That is correct.

Mr. HOLTROP. Yes, that is correct.

Mr. HOLT. And Mr. Pool and Mr. Holtrop, it is my understanding that the BLM and the Forest Service have been exercising its authority to grant categorical exclusions. You have talked about this now in your testimony. How many categorical exclusions have been issued for wind-testing projects on BLM land since FY-08 versus projects that have gone through environmental assessment? It is about 80 percent, is it not?

Mr. POOL. We have authorized about 149 CXs and about 32 environmental assessments.

Mr. HOLT. So, yes, far more than three-quarters of them have.

Mr. POOL. Right.

Mr. HOLT. Mr. Holtrop, how many categorical exclusions has the Forest Service issued for wind-testing projects?

Mr. HOLTROP. Fifteen out of 15 project proposals.

Mr. HOLT. And environmental assessment?

Mr. HOLTROP. To date, all of them have been used as a categorical exclusion.

Mr. HOLT. Mr. Pool, has the BLM required an environmental assessment for a solar site-testing application?

Mr. POOL. A solar site-testing application?

Mr. HOLT. For solar. I think the answer is no.

Mr. POOL. I was just going to say no, but I want to be sure.

Mr. HOLT. Yes, OK.

Mr. POOL. My expert says no, too.

Mr. HOLT. So, you already have the authority to grant categorical exclusions. Now, H.R. 2172 would, in effect, then prevent your agencies from taking a more thorough look at a project when there are extraordinary circumstances. I believe that is what each of you has said, Mr. Pool and Mr. Holtrop.

Mr. POOL. That is correct.

Mr. HOLTROP. That is correct.

Mr. HOLT. So, H.R. 2172 really is not only unnecessary, but might tie the Agencies' hands. Would you see it that way?

Mr. POOL. I believe it would, yes.

Mr. HOLT. OK. Now the majority claims, Mr. Pool, that this legislation is necessary to streamline the permitting process for renewable energy. But, as you have said, and I just want to get this clearly in the record, if the legislation were enacted, could it not have the opposite effect and slow down or even prevent by leading the agency to select the no action alternative, even if with longer review, the project might have been approved?

Mr. POOL. That is our position, yes, sir.

Mr. HOLT. Do you believe that H.R. 2170 would lead to more lawsuits and, hence, possible delays in renewable projects?

Mr. POOL. I believe any action that would shortchange the NEPA process would indeed result in more lawsuits.

Mr. HOLT. OK. And I would comment that although some people want to avoid the comment period, the comment period actually is a way of avoiding lawsuits, but that is just my comment.

Let me talk with Mr. Cruickshank for the minute-and-a-half that I have remaining, for the Bureau of Ocean Energy. The current system in place provides the agency can issue leases to companies, so that their claim is not jumped by other companies during the testing; is that correct?

Mr. CRUICKSHANK. That is correct.

Mr. HOLT. And the testing can cost millions of dollars, I believe.

Mr. CRUICKSHANK. Yes, that is true.

Mr. HOLT. So, 2173 appears to set up a wholly new process of permitting for site testing, which would appear to add an additional layer of permitting review for onshore—for offshore, I beg your pardon, renewable energy projects. Do you see it that way at the Bureau?

Mr. CRUICKSHANK. We would actually like to see some clarification on the bill. We think that is one likely interpretation, they would add an additional process to what we have in place now.

Mr. HOLT. So it could add actually additional hurdles. In the last few seconds that remain, Mr. Pool, would you care to talk about the importance of the public comment period, and do you find that useful to your agency in the environmental reviews you have had?

Mr. POOL. Almost certainly. I think it is this wonderful opportunity the American public has. They can participate in the process, Congressman. Many of these projects are in close locations to their communities. It is not uncommon for them to express concerns about the visual resource impact in these rural areas. And so, it just affords them to express their views and we take those into consideration.

Mr. HOLT. Thank you.

Mr. POOL. And it does create a much stronger decision process on the tail end.

Mr. LAMBORN. OK, thank you. I would like to recognize Representative Fleischmann of Tennessee.

Mr. FLEISCHMANN. Can you tell me what the Bureau of Land Management, BLM, is attempting to take in order to streamline the process?

Mr. POOL. Congressman, usually in terms of when development on public land, the companies will come in and they will seek testing periods, so to speak, and what we call met towers. They will test the wind volumes typically a minimum of three years, could go longer. And then depending on the information that is recorded, then they make their determination as to whether or not they want to invest in that particular location.

Let us assume that they do and then they will come back to the Bureau and they will file what is called a right-of-way application. Accompanying that is a plan of development, and this is more precisely, for example, how many turbines they would like to install in that particular area. We evaluate the proximity of that location in relationship to other laws. More recently, for example, with the passage of the Bald and Golden Eagle Protection Act, there are

various guidelines that the Fish and Wildlife Service has issued. For eagles and wind turbines, there is a lot of compatibility in the same thermals that they both enjoy. But, our goal is not to create a high instance of take with wind turbines and the close proximity to eagle territories, a high density of nesting and, therefore, we work both with the proponents and we work with the Fish and Wildlife Service on those mitigations, so as to accommodate these projects within reason.

Mr. FLEISCHMANN. A follow-up question, and maybe Mr. Holtrop would like to also address this. My big concern is the lawsuits that sometimes will—often do—impede the process. Do either of you gentlemen have any idea how much these delays cost companies that are trying to implement either wind energy or offshore wind?

Mr. POOL. You know, I cannot quantify the delays. But, as I mentioned in my comments, that if we do some quality up front work with the proponents, with our other Federal agencies, in terms of these site locations, and we start to identify those resources conflicts and issues early on and we make other members of the public part of that process, through scoping, through public comment periods related to an EIS, we seem to be less prone to litigation, if we follow those steps: good environmental analyses, public input, and working with the proponent on these mitigations that I just mentioned earlier. And that is what the public desires to see. They do have value to input, both the conservation community, other state entities that we work with, and counties. So, we factor all of that in and we think if we really optimize the collaborative model along those lines, that we greatly reduce litigation risks.

Mr. HOLTROP. I would like to also add that I also am not able to quantify the effect from a time standpoint or an expense standpoint to the companies of these proponents that litigation would lead to and I am sure that it is significant. I am sure that there is an issue associated with that. I think, like my colleague, Mr. Pool, we are also interested in finding ways to avoid that whenever that is possible. I think the fact that there are litigation for projects such as this when that happens is reflective of the fact that we have a broad range of resources we are managing our public lands for, one of which is appropriate use of renewable energy resources. And we believe that the complexities of all of those values and resources that we are managing, we need to have that full set of tools available to us, to work with the public in an effective manner and in doing so, I think we can reduce the amount of litigation by engaging the public early on.

Mr. FLEISCHMANN. OK. I understand your positions, but both of you all would agree that these costs can be extremely burdensome on companies that are trying to invest and develop these technologies. I guess I am looking for a yes or no.

Mr. HOLTROP. I would assume that that is the case.

Mr. POOL. Yes, I would assume that is true.

Mr. FLEISCHMANN. OK. Thank you, gentlemen. I yield back.

Mr. LAMBORN. Thank you. I would like to recognize the Ranking Member from Massachusetts for any questions he may have.

Mr. MARKEY. Thank you, Mr. Chairman, very much. Mr. Cruickshank, the Outer Continental Shelf is a shared resource. As the bill's sponsor knows, the Navy uses the Virginia OCS exten-

sively to practice maneuvers. There are many telecommunication's wires strung along the ocean floor there, as well. Planes fly through the area. Could not the time frames in this bill requiring the Interior to decide on a permit within 30 days potentially hinder consultation with the U.S. Navy, the Federal Communications Commission, the Federal Aviation Administration, and other agencies about whether the proposed site and structure could hinder the activities of those agencies?

Mr. CRUICKSHANK. Yes, sir. We believe 30 days is too short to allow us to fully consult with all of those agencies over what their concerns and issues might be.

Mr. MARKEY. Now have you been talking to the Navy and the Federal Communications Commission about this provision at all, about this potential for having a deadline?

Mr. CRUICKSHANK. Not about this specific provisions as yet. We have just gotten the bill recently, so we have not worked through entirely. We have touched base briefly to know their concerns, but we have not gone into great depth with them yet.

Mr. MARKEY. So there are basically just time constraints in terms of consultation, and 30 days is an awful lot of pressure to put on people to make a decision about the next century's use of an ocean off of a coastline of a state and I just think that it is an unrealistic time frame, which they are proposing.

Now in his questions, the Chairman mentioned the number of lawsuits currently ongoing with renewable energy projects on public lands. Do these lawsuits halt the consideration process at your agencies? Mr. Pool?

Mr. POOL. And let me just preface, if I may, Congressman, in reference to the Chairman's earlier question. We have had one injunction filed on just one of our solar projects. When people seek injunctive relief through a temporary restraining order, we adjudicate the merit of that TRO that has been filed and what is typically challenged is the quality of our NEPA process: did we consult with our Federal agencies, did we carry out our Native American consultations. And we feel very confident that for all of these projects, that we have clearly executed our responsibilities under the National Environmental Policy Act.

Mr. MARKEY. Mr. Pool, if this bill was to become law and a geothermal test were to be proposed outside of Yellowstone Park that would tap the geothermal wells that produce Old Faithful and other famous geysers, would the Interior Department have grounds to review the project, as long as the project's technical specifications fit within the terms described within this bill?

Mr. POOL. Oh, most certainly. Yes, we would evaluate any project, geothermal project, that may be in close proximity to Yellowstone or one of the BLM wellness areas or other park service units, so as not to impact those park attributes.

Mr. MARKEY. Under current law. How about under the law they are proposing?

Mr. POOL. I do not think it would work for us. I think the current system we have now, the laws we have in place would help facilitate the right decision.

Mr. MARKEY. So what would this bill do, in terms of your ability to evaluate the impact on Old Faithful?

Mr. POOL. I think the time frames are unrealistic, in terms of working through the NEPA process and the consultation process that we have before us.

Mr. MARKEY. So if you had to make a decision in 30 days?

Mr. POOL. That would be impossible.

Mr. MARKEY. Impossible?

Mr. POOL. Yes. Because of our consultation requirements, they currently are a regulatory standard for—environmental impact statement, for example, it is a minimum, minimum 45-day public comment period. And depending on the magnitude of the project, some of our utility scale solar projects, the company has actually come back and requested more time and we have granted up an additional 45 days, a full 90 days. And we think that we are honoring the public's request to further analyze all the information that has been provided and allow them to have information to be well informed and that is a good public process.

Mr. MARKEY. So this bill could kill Old Faithful?

Mr. POOL. Well—

Mr. MARKEY. If there was a company that really wanted to drill and have their own geothermal, you would really have a tough—

Mr. LAMBORN. It is time for our next—

Mr. MARKEY.—time to—

Mr. LAMBORN. It is time for our next witnesses.

Mr. MARKEY. Anyway, I just thought that it is important for us to understand the consequences.

Mr. LAMBORN. OK. Mr. Thompson of Pennsylvania.

Mr. THOMPSON. Thank you, Mr. Chairman. Thanks for putting this hearing together. Thank you, gentlemen, for your testimony.

First of all, I want to get some clarification from you all, my colleague who just made some comments about century-long impacts. And as I have read these three bills, I wanted to get yours, as you have read them, obviously, based on your comments, your interpretation. The way I read these bills, we are not talking about century-long impacts here. We are talking about temporary structures for measurement. We are not talking about permanent structures. So would you agree that we are not talking about things that have a century-long impact? We are talking about temporary structures for measurement within each of these three bills.

Mr. POOL. That is correct, if you are referring to the testing, met towers, so to speak.

Mr. THOMPSON. Correct.

Mr. POOL. Yes. Oftentimes, Congressman, and as pointed out earlier, we have authorized 80 percent of those actions through what we call a categorical exclusion. I mean, the company just does not come in and get their freelance on public lands. Our goal is to work with them and find the right location for their met towers.

Mr. THOMPSON. So, if you would, tell me the criterion for the— and 80 percent is impressive and actually 100 percent with the Forest Service, I think, is pretty impressive. It almost speaks to the support of these three bills, just not your words, but your actions of what you have done. Tell me about the 20 percent that have not been excluded from the NEPA?

Mr. POOL. Those are what we call extraordinary circumstances and these are our departmental guidelines. We do not have full un-

derstanding of every acre of public land. We develop the land-use plans. We build in scientific information. But, given the 250 million acres that we manage, sometimes we lack additional on-the-ground data. So, oftentimes, when the company wants to place met towers, we will discover that they are in close proximity of critical habitats associated with wildlife species, we are trying to better conserve. There has been issues associated with the height of met towers that may conflict with Federal Aviation guidelines, may conflict with adjacent military installations when they conduct their aerial testing and training. There has been issues raised on some of these where the Native American community has raised concerns about sacred sites in that proximity. So based on that new information and to fully flush out getting that met tower placed, we will elevate that to a little bit higher environmental standard.

Mr. THOMPSON. OK, thank you.

Mr. HOLTROP. If I could also?

Mr. THOMPSON. OK.

Mr. HOLTROP. My interpretation of H.R. 2171 and 2172, referring to your first question, is the same as what you are interpreting it. These are for testing, for exploratory purposes. H.R. 2070, on the other hand, I think is intended to also apply to the development of these projects, and it could have long-term implications—at least that is my interpretation.

And then also just like Mr. Pool, while for wind energy test projects, in all cases to date, we have been able to utilize the existing categorical exclusion. If there were extenuating circumstances, those would be the types of opportunities we would be looking for in needing to have the ability to do a more thorough analysis at that point, if there were those types of extenuating circumstances. To this date, that has not been the case.

Mr. THOMPSON. I just want to kind of pursue this categorical exclusion from NEPA, which sounds like it is working and a good idea from your testimony. In 2009, the Forest Service specifically attempted to apply NEPA to oil and gas processes in the national forest, the Allegheny National Forest that I represent. Ninety-seven percent of it is—some service rights are privately owned and held, even though the State Department of Environmental Protection effectively and thoroughly has long maintained this process. To both panelists, do you believe that the Service or the BLM would attempt to further apply NEPA to other forms of energy production or frankly would—or is your success with this categorical exclusion from NEPA something you intend to apply to the search for the exploration in the production of other energy?

Mr. HOLTROP. The categorical exclusion is an exclusion from needing to document an environmental review in the form of an environmental impact statement or an environmental assessment. It is not authority to not do an environmental analysis of the project. It has to do with the documentation and review process needs that are associated with it. We have explicit categories that we have worked with the Council on Environmental Quality to determine what types of actions are authorized for us to utilize categorical exclusions for and if any type of project fits within one of those categories, we pursue that as an efficiency measure, if that is the appropriate way to go.

Mr. THOMPSON. Thank you. Thank you, Mr. Chairman. My time has expired.

Mr. LAMBORN. All right, thank you. Mr. Gosar of Arizona.

Dr. GOSAR. Mr. Pool and Mr. Holtrop, give me a time frame for these processes with and without a categorical exclusion? Tell me the time frame from start to implementation.

Mr. POOL. Congressman, for BLM, we have about 80 CXs we use for all of our programs and the application of those CXs can vary from one jurisdiction to the next, depending on the program activity. But, it is designed to accelerate the approval process. And my more recent example, for our geothermal activity, and Nevada is a big geothermal state, that we were able to process a CX in less than six weeks, for example.

Dr. GOSAR. So, from all processing, permitting, NEPA, six weeks?

Mr. POOL. That is correct, because the extraordinary circumstances involve a variety of disciplines that we have in the field offices. It is not just one person and so—

Dr. GOSAR. And how are they subjective to litigation in those fast tracks?

Mr. POOL. For CXs?

Dr. GOSAR. Yes.

Mr. POOL. Not to my knowledge.

Dr. GOSAR. Forest Service, time frame?

Mr. HOLTROP. It is a broad question that you are asking.

Dr. GOSAR. We are going to define this very quickly.

Mr. HOLTROP. OK. So, if we are talking about wind energy proposals for the met towers, for just determining whether there is sufficient wind energy there for further development, of those projects that I have mentioned that we have used a categorical exclusion on, the length of time it has taken us to complete those projects has ranged to a little under two months, to usually done within a year's time and in one case, it took us 21 months and I believe that was because of iterations with the proponent.

Dr. GOSAR. When you said that you have fewer litigations when you do the proper analysis, particularly the NEPAs, talk to me about the time frame about the NEPAs. What is the average time frame with NEPAs going on right now, and is that satisfactory in your viewpoint? Is it salient to keep it the same way?

Mr. HOLTROP. We are generally able to complete an environmental assessment in an average time of less than a year and an environmental impact statement in about a year-and-a-half. That is about how long it takes use on average for environmental impact statements and environmental assessments across all of the variety of programs that we have. Obviously, if there are some more complex issues that we are dealing with, with greater public interest, those tend to take a longer period of time.

Dr. GOSAR. Mr. Pool?

Mr. POOL. Yes. It can vary; but usually on the high-level projects, we try to target an 18-month turnaround time; and that factors in a scoping period, a series of meetings, and working with the public. Sometimes the draft environmental impact statement can take several months to produce because the amount of information that is required, all of the scientific information, the analysis, the alternative analysis. Then, as I mentioned earlier, we will open up the

EISs to a minimum of 45 days and oftentimes the public will say, because of the volume of these documents, "we need more time." Then from there, we develop the final EIS and then we prepare an ROD.

And I just want to clarify one thing, Congressman. When you asked me about whether or not the CXs were open to litigation, I think anything that we authorize is subject to litigation.

Dr. GOSAR. Yes.

Mr. POOL. What I wanted to say is that to my knowledge, and we have been using CXs at BLM for 30 years, I cannot reflect on any one time where we issued a CX that was litigated.

Dr. GOSAR. Well, I am just really curious because in Arizona, in District 1, the average NEPA life or the average time for a NEPA is 5.9 years. And so, I am getting some very different figures from you two gentlemen, because the process in Arizona, particularly in District 1, is broken and there is a problem, particularly when we are struggling to find out how extreme wings of environmental communities, who have not gotten along, actually using equal access to funding to justify filing litigation. And we would love to know what has been used for litigation in that kind of funding for litigations within all of these parameters that you are talking about. We would like to have a report on that.

But, we are having a problem here and what I am hearing from you is not what is happening in real life, in real time, on the ground in my district. So, I would like to have better follow through as far as what is impeding our process out there, OK. Thank you.

Mr. HOLTROP. I would be more than happy to come and meet with you, if you would like. I would like to get to the bottom of that myself.

Mr. LAMBORN. All right. Now, I would like to recognize Representative Johnson of Ohio.

Mr. JOHNSON. Thank you, Mr. Chairman. Thank you for holding this important hearing on these four bills that we are hopeful is going to cut through the bureaucratic red tape that is impeding our ability to unleash our renewable energy resources on Federal lands. You know, we have heard time and time again from this Committee, from companies that have wanted to go forward with renewable energy projects, but they cannot because of a flawed, failing permitting process. Interestingly, the Bureau of Land Management seemed to notice that red tape was getting in the way of these projects; so in order to ensure that the so-called stimulus program dollars would be spent on renewable projects, they created a fast-track program to get permits approved for these projects. Surprisingly though, only 35 percent of these fast-track projects were able to be approved in time to receive the funding from the stimulus program. Go figure.

Thankfully, these four bills cut to the heart of the problem and speed up the permitting process on Federal lands, so that we can get on about doing what the stimulus program was designed to do in the first place, which is create jobs and make America more energy secure. The U.S. Chamber of Commerce estimates that nearly 1.1 trillion in investments are currently being held up due to the permitting process. Now, granted, not all of these projects

are on Federal lands, but a large portion of the held-up projects are. If the bureaucrats would get out of the way and allow these projects to go forward, nearly 1.9 million jobs would be created. It is mind boggling to me that we are letting this private funding in the private sector sit on the sidelines, while unemployment hovers around 10 percent. Unfortunately, but not surprisingly, Mr. Pool, you testified today that BLM and the Department of the Interior are opposed to all four of these bills.

Let me ask you my first question, Mr. Pool. Regarding BLM's decision to fast track certain projects in an effort to move the permitting process along and take advantage of the so-called stimulus program, was there a formal process that BLM used to decide which projects qualified for the fast-track process and, if so, could you briefly describe that process?

Mr. POOL. Yes, sir, I would be glad to do that. It is a two-way street, that the companies, based on the load centers in the United States, and California being one of the premiere load centers, that is where we had a lot of interest. We have had it for a number of years. Also, the State of California has a high renewable portfolio standard that the state has set through the state legislature. Other states do not have that. So that is one dynamic that really accelerates renewable development in California.

In terms of accelerating the processes to the R funding and also the stimulus incentives that is available to industry, we really accelerated our hiring staff, we developed renewable project offices, and that helped us to really get geared up to help move forward in an expeditious way many of the environmental requirements, including various studies. So—

Mr. JOHNSON. I am sorry for interrupting you, because we only have a limited amount of time. I am really not hearing much about the process, the formal process. I am hearing a lot of other stuff, but I am not hearing about the formal process that you went through to identify these projects. Would you agree that a 35 percent approval rate, given what the stimulus program was designed to do, is that in your mind acceptable?

Mr. POOL. Well, as I mentioned earlier, industry has a lot of influence in terms of those priorities.

Mr. JOHNSON. No. Is that acceptable? Do you think 35 percent approval rating is acceptable?

Mr. POOL. I think that what we achieved, this Administrative achieved in advancing renewable development on public lands was remarkable, as I mentioned earlier.

Mr. JOHNSON. Is 35 percent approval rating on permits acceptable?

Mr. POOL. I think it was a good—

Mr. JOHNSON. That is a yes or no question, Mr. Pool.

Mr. POOL. Well, I cannot—

Mr. JOHNSON. Is it acceptable or not?

Mr. POOL. Congressman, I do not know what 35 percent. I am just saying that what we have accomplished—

Mr. JOHNSON. It is a good batting average, if you are playing baseball, but when you are talking about America's unemployment rate and energy security, I submit to you that it is not very good.

Mr. POOL. And what I am trying to say is that that is an arrangement between the investments the company elect to make and when they elect to make it, in light of the stimulus funding, the added resources that we, BLM, were provided, to really accelerate these projects.

Mr. JOHNSON. Well, I think the private sector has indicated their commitment to these investments; \$1.1 trillion IN investments are being held up by this flawed permitting process. Mr. Chairman, I am out of time; but, hopefully, it will come back around again.

Mr. LAMBORN. That certainly could happen. At this point, I would like to recognize Mr. Labrador for five minutes.

Mr. LABRADOR. Thank you, Mr. Chairman. Thanks for holding this hearing. Mr. Pool, you are here testifying against all four bills; correct?

Mr. POOL. That is correct.

Mr. LABRADOR. And I assume that you read the bills, correct?

Mr. POOL. That is correct.

Mr. LABRADOR. And you understand the bills?

Mr. POOL. Yes.

Mr. LABRADOR. So, we should probably trust your opinion, your analysis, and your conclusions on these bills, because you have actually read the bills and understand them; correct?

Mr. POOL. Correct.

Mr. LABRADOR. Well, you just had a colloquy with the Ranking Member earlier about my bill, which is H.R. 2171. And in his words, and you agreed with this, this bill would destroy—that we are attempting to destroy Old Faithful and you agreed with that, correct?

Mr. POOL. Well, I am not sure if I really understood the Old Faithful analogy; but, in terms of, you know, authorizing and leasing for geothermal development of public land, we do take into account through the NEPA process adjacent provinces like Yellowstone and other critical environments.

Mr. LABRADOR. But according to him, we would be drilling or we would be actually exploring on Old Faithful and you agreed with that. Now, let me just read part of the bill, because I am not sure that you have read it. According to the bill, the definition of a geothermal exploration test project, it means the drilling of a well to test or explore for geothermal resources on lands leased by the Department of the Interior, on lands leased by the Department of the Interior, for the development and production of geothermal resources. Also, the NEPA exclusion shall not apply with respect to a project that the NEPA shall not apply with respect to a project that the Secretary of the Interior determines under subsection C, which is a geothermal exploration test project. So a geothermal test exploration project has to be on lands leased, correct? Do you agree with that?

Mr. POOL. That is correct.

Mr. LABRADOR. So tell the Committee, is any land adjacent to Old Faithful currently leased by BLM?

Mr. POOL. I do not know the proximity of any leased lands in Wyoming to Yellowstone currently. I do not have that information.

Mr. LABRADOR. Thank you. So would the BLM lease lands that would impact Old Faithful?

Mr. POOL. I do not think we would.

Mr. LABRADOR. You do not think it. Then this bill, which only impacts lands leased for geothermal development, would have absolutely no impact on the case presented by the Ranking Member; correct?

Mr. POOL. Would you state that again, please?

Mr. LABRADOR. This bill would in no way affect any lands that are leased that are close—not that are leased, but that are close to or adjacent to Old Faithful; correct?

Mr. POOL. Only based on the proximity of those leases that we have granted.

Mr. LABRADOR. But there are currently no leases granted and you cannot foresee the BLM granting any leases, correct?

Mr. POOL. We would not grant leases that would impact—

Mr. LABRADOR. Old Faithful.

Mr. POOL.—Yellowstone National Park.

Mr. LABRADOR. So why in the world did you agree with the Ranking Member's characterization that this would actually impact Old Faithful?

Mr. POOL. Well, I think it was in the context of the shorter time frame, you know.

Mr. LABRADOR. No, he said that we are destroying, our plan is to destroy Old Faithful and you seemed to agree that this bill would destroy Old Faithful. Is that an accurate conclusion?

Mr. POOL. My response was in the context of leasing and proximity of Yellowstone that would impair the values of Yellowstone is something we would not do.

Mr. LABRADOR. It is not something you would do; but under my bill, it could not be done because it would have to be lands leased and you just told us that there are no lands leased at this time and that BLM would not lease any lands. So, I am having a hard time understanding how you—

Mr. POOL. Well, let me clarify. We have a lot of lands currently under lease with geothermal development.

Mr. LABRADOR. But none at Old Faithful—none that would impact Old Faithful, correct?

Mr. LABRADOR. Or any other significant jurisdiction where we have high entries or space that need to be protected and conserved.

Mr. LABRADOR. Thank you. So your conclusion and his conclusion were wrong and I am having a hard time understanding why would we trust anything else that is coming from you or from the other side. Thank you, very much.

Mr. POOL. Congressman, I did want to clarify one point, if I may.

Mr. LABRADOR. No, thank you.

Mr. POOL. OK.

Mr. LAMBORN. We will now shift to Representative Landry of Louisiana.

Mr. LANDRY. Mr. Chairman, I would yield the balance of my time to Mr. Johnson.

Mr. JOHNSON. I thank my colleague for yielding. You know, I get so frustrated coming to these hearings and hearing the same rhetoric out of the Administration over and over and over again. Mr. Chairman, I may be new to Congress; but having been born and raised on the farm and spending 27 years in the military and being

a businessman myself, somewhere along the way God gifted me with a little bit of commonsense. In the first 230 plus years of our Nation's history, we have been the Nation of innovation, ingenuity, seeing the glass as half full, and going after opportunities, but there is a disturbing pattern that I have noticed coming from this Administration and the Department of the Interior. It seems to me that from the top to the bottom, we have a culture of no. No permeates everything that this Administration and the Department does. No to unleashing America's natural resources. No to renewable energy projects. And no to energy independence and energy security.

You know, I do not really have anymore questions because I do not think we are going to get any good answers. But, I thank the Chairman for bringing these important bills to the Committee and I look forward to voting in favor of them in the future. And with that, I want to yield back the balance of my time to Mr. Labrador. Do you have any other?

Mr. LABRADOR. I do not have any other questions.

Mr. LAMBORN. OK. In that event, we will go to the gentleman from Texas, Mr. Flores, if he has any questions.

Mr. FLORES. I do not.

Mr. LAMBORN. OK. Then that concludes this panel. Thank you for being here. Thank you for your testimony. Thank you for the answers to the questions.

[Witnesses excused.]

Mr. LAMBORN. I would like to invite up the second panel now, consisting of PJ Dougherty, Vice President of Helios Strategies; Chris Taylor, Chief Development Officer of Element Power; Paul Thomsen, Director of Policy and Business Development for Ormat Technologies, Inc.; Chase Huntley, Director of Renewable Energy Policy for the Wilderness Society; and Jim Lyons, Senior Director, Renewable Energy for Defenders of Wildlife.

As you come forward, let me repeat what I said to the earlier panel. Your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes, as outlined in our invitation letter to you. Our microphones are not automatic, so that you have to activate them when you begin speaking. You have five minutes. After four minutes, the yellow light comes on and after five minutes, the red light comes on.

At this point, I would like to ask Mr. Dougherty to begin. Thank you for being here.

**STATEMENT OF PJ DOUGHERTY, VICE PRESIDENT,
HELIOS STRATEGIES**

Mr. DOUGHERTY. Chairman Lamborn, Ranking Member Holt, other members of the Subcommittee, it is a pleasure to be here with you today to discuss the development and deployment of renewable energy technologies on Federal lands. Thank you, along with your staff, for your efforts on this legislation.

I am currently employed with Strategic Marketing Innovations, Inc. It is a leading government relations and Federal marketing firm here in Washington. We represent numerous clients in the clean energy and renewable energy arena.

My testimony is based on nearly 20 years as a senior official at the U.S. Department of Energy with the focus on clean energy technology development and practices. I also work very closely with other Federal and state agencies and industry across the country during my time at DOE. In general, these bills before us today would take a significant step toward increasing development of renewables on Federal lands. They are measured in their reach and scale to allow timely testing and resource assessments, while still ensuring protection of the environment. In short, these bills would add predictability to the clean energy project planning and development processes.

However, I have several recommendations on how they could be improved, which are discussed in more detail in my written statement for the record. In relation to H.R. 2170, I would recommend adding language advocating for an adaptive management approach, similar to that contained in S-630, the Marine Hydrokinetic Renewable Energy Promotion Act of 2011, which is pending floor action in the Senate. This language would ensure the intent of H.R. 2170 as applied to how many different sizes of pilot projects across the different technologies. I would also recommend replacing tidal or kinetic forces with marine and hydrokinetic energy, which is the statutory definition used in EISA 2007 to refer to ocean, tidal, and wave technologies.

In relation to H.R. 2171, I would recommend the Subcommittee work closely with the Department of Energy and the geothermal industry to determine if the well depth limit language is adequate to meet the goals of the legislation.

In regards to H.R. 2172, this bill is noteworthy in that it would protect the data collected, plus protecting the investment of the project proposer. I would recommend the Subcommittee consider modifying this language to allow a two-track system of data collection and disclosure based on whether or not Federal funds are used to collect that data.

In relation to H.R. 2173, I would recommend the Subcommittee rename this bill the Offshore Renewable Testing Act, as it does include other technologies beyond offshore wind. The Subcommittee should also clarify that wave and ocean energy technologies are qualified under the definition of offshore energy resources and that the bill applies to the collection of water energy flows, as well as meteorological data.

Finally, I would also recommend engaging the offshore wind development community and Department of Energy's wind and water program, to determine that the language related to areas affected at the seabed is adequate to achieve the goals of this legislation.

While these bills will play a significant role in removing barriers to project development and spur investment, the Federal role, in my view, goes beyond regulation. It includes adopting proper policies, stimulating R&D investment, and making process improvements that stimulate a balanced energy portfolio. The combination of those three removes uncertainty from the market and sends a strong signal that the U.S. is and will remain a safe investment for innovative energy technology development, manufacturing, and project development, as well.

Now, there are many players in this effort, including the Federal agencies and their dedicated staffs that have been working closely with industry, the utility sector, and many stakeholders across the country. Federal technology programs, particularly those at DOE, have directly supported the development and commercialization of new energy technologies, such as geothermal, solar, wind, biomass, and water technologies. Agencies like Department of Defense and USDA have also funded the development and deployment of renewable energy technologies for many, many years. Department of Transportation, Commerce, and the Interior have also contributed consistently over the years to the development and deployment of advanced energy technologies.

In conclusion, the legislation discussed today would build on these efforts today to bring us steps closer to realizing stronger economy, a cleaner energy future, enhance national security, and strengthen U.S. leadership in the global energy marketplace.

Thank you, again, for the opportunity to appear before you. I am happy to answer any questions.

[The prepared statement of Mr. Dougherty follows:]

**Statement of P.J. Dougherty, Vice President,
Strategic Marketing Innovations**

Chairman Hastings, Ranking Member Markey, and other members of the Subcommittee, it is my pleasure to appear before you today to give testimony on a series of bills put forth by the Committee to accelerate the deployment of renewable energy technologies on federal lands. Thank you, along with your staff, for your efforts on this legislation.

My name is P.J. Dougherty, and I am a Vice President with Strategic Marketing Innovations Inc., a government relations and federal marketing firm in Washington, D.C. Our firm represents numerous clients in the renewable energy arena, including the Ocean Renewable Energy Coalition. The Ocean Renewable Energy Coalition is the only national trade association exclusively dedicated to promoting marine and hydrokinetic renewable energy technologies from clean, renewable ocean resources. Founded in April of 2005, the Coalition has grown to over 50 members.

I will be speaking today on how these bills could impact our nation's ability to accelerate renewable energy technology development, demonstration and deployment on federal lands. I will also share my thoughts on the role of the federal government as a whole in achieving our national energy, economic, environmental and national security goals.

My testimony is based on nearly 20 years as a senior official at the U.S. Department of Energy (DOE), with a focus on clean energy technologies and practices. During my time at DOE, I served in a variety of positions, including Deputy Chief of Staff for the Office of Energy Efficiency and Renewable Energy, Acting Program Manager for the Wind and Water Power Program, and National Coordinator of the Wind Powering America Deployment Program. I also worked across the EERE portfolio to engage and coordinate with other agencies on overlapping mission areas, including the Departments of Agriculture, Commerce, Defense, Interior and Transportation.

Renewables Overview

The U.S. is blessed with abundant renewable resources on public lands. According to the U.S. Department of the Interior's Bureau of Land Management, renewable resources on public lands are estimated to potentially generate 2.9 million MW of solar, 206,000 MW of wind, and 39,000 MW of geothermal energy. While this entire resource is not likely to be developed in our lifetimes, it represents a game changer for our nation's energy, economic, environmental and national security. Clearly, renewable energy can play a significant role in expanding our homeland energy supply and the power needs of our military facilities around the world.

Federal commitment to creating a robust U.S. renewable energy industry will advance our national economic goals by creating high-quality employment in rural communities, new sources of revenues for all levels of government, long-term investment in supporting infrastructure, and strengthening the thousands of businesses that make up the U.S. energy and industrial supply chain. However, it will take

a concentrated and committed effort combining investment in research and development, effective regulatory policies, and coordinated federal processes to make these goals a reality.

Proposed Legislation

The bills before us today, as written, would take a significant step forward towards increasing the development of renewables on federal lands. The bills are measured in their reach and scaled to allow timely testing and resource assessments while still ensuring protection of the environment and our natural resources. In general, these critical first steps in developing any energy project would be advanced in a timely and predictable manner by removing a level of uncertainty that exists within today's numerous regulatory frameworks. This uncertainty is the primary disincentive to further public and private investment in the development and deployment of new energy generation technologies.

I would like to offer some specific thoughts on each of the bills and then close by offering my opinion on the larger role of government in developing and deploying cleaner energy technologies.

H.R. 2170—Streamlining Federal Review to Facilitate Renewable Energy Projects.

H.R. 2170 aims to focus NEPA requirements on proposed energy projects in federal lands and waters. The bill would also set a reasonable limit on comment periods and provides clear definitions of qualified renewable technologies within the scope of H.R. 2170. While I believe the majority of project developers and investors would find reason to support this language, it may be subject to legislative and legal challenge by other interested stakeholders. The Subcommittee may want to consider adding language advocating for an adaptive management approach similar to that contained in S.630, the Marine and Hydrokinetic Renewable Energy Promotion Act of 2011, which is pending floor action in the Senate. This language would ensure the intent of H.R. 2170 is applied to accommodate different sizes of pilot projects across technologies. The Subcommittee should also consider replacing “tidal or kinetic forces” with “marine and hydrokinetic energy,” the statutory definition used in EISA 2007 to refer to ocean, tidal, and wave technologies.

H.R. 2171—Promoting the Timely Exploration of Geothermal Resources under Existing Geothermal Leases.

H.R. 2171 seeks to ease the regulatory burdens related to geothermal resource assessments to those tests and explorations that are very limited in areas affected and overall scope. The bill also sets timetables for federal officials to act on applications and would focus the consideration of NEPA requirements. H.R. 2171 is a reasonable fix given its limited scope. However, I would recommend the Subcommittee work closely with the Department of Energy and the geothermal industry to determine if the well depth limit under Sec. 2 (a)(3)(A) is adequate to meet the goals of the legislation.

H.R. 2172—Facilitate the Development of Wind Energy Resources on Federal Lands.

H.R. 2172 is focused primarily on allowing installation of onshore wind resource assessment equipment with provisions similar to H.R. 2171 regarding NEPA requirements scaled to project impact size and scope. The bill would also protect the data collected, thus protecting the investment of the project proposer. I would recommend the Subcommittee consider modifying this language to allow a two track system of data collection and disclosure, based on whether or not federal funds are used to collect the data.

H.R. 2173—Facilitate the Development of Offshore Wind Energy Resources.

H.R. 2173 is focused on allowing installation of offshore wind and other renewable resource assessment equipment and mirrors the provisions contained in H.R. 2171 and H.R. 2172. It also prescribes the process for decommissioning of testing equipment and remediation of affected areas, refocuses NEPA requirements given scale and scope, and sets timetables for federal officials to act on applications for resource assessments. The bill also protects data collected as in H.R. 2172. While I would recommend the Subcommittee adopt this provision, the Subcommittee may wish to rename this bill the Offshore Renewable Testing Act, as it does include other technologies beyond offshore wind, including marine hydrokinetic energy technologies. The Subcommittee may also want to clarify that wave and ocean energy technologies are qualified under the definition of offshore energy resources and that the bill applies to collection of water energy flows as well as meteorological data. Finally, I would also recommend engaging the offshore wind development commu-

nity and the Department of Energy's Wind Program to determine if the language under Sec. 2 (a) (1) (B) related to areas affected at the seabed is adequate to achieve the goals of the legislation.

Larger Federal Role in Renewable Energy Development

While I believe these bills would play a significant role in removing barriers to project development and spur investment, the federal role goes beyond streamlining the regulatory regime. It includes ensuring a balanced investment in developing, testing and deploying advanced technologies as well as ensuring a clear, timely and predictable process for permitting and siting projects. The combination of proper policies, R&D investment, and process improvements are the key elements to demonstrate a national commitment to a balanced energy portfolio that utilizes our homeland resources. The combination also removes uncertainty from the market and sends a strong signal that the U.S. is and will remain a safe investment for innovative technology development, manufacturing and project development.

I would like to touch further on the important role the federal agencies and their dedicated staffs are playing in the renewable energy arena. To do so, I will borrow some language previously used in testimony in 2009 by James Dehlsen, father of the U.S. wind industry, and with whom I have had the honor of working with and for over the past few years.

First, the federal technology programs, particularly those at DOE, have over their 30-year history directly enabled the development and commercialization of new energy technologies such as geothermal, solar, biomass, wind and marine hydrokinetics. The Department's management—political and career—and the technical experts at headquarters and the national laboratories can take much of the credit for helping to create today's global renewable industries. They closely collaborated with the emerging industry players to understand, and then mitigate risk; they requested the funds necessary to research, develop and demonstrate new technologies; they shared the pride when technology achieved commercial success and gritted through the setbacks along the way; and they promoted the new technologies, within the government, as well as the nation's utilities, and their consumers. They helped launch major industrial activity and large-scale renewable power generation.

Second, the Departments of Defense and USDA have both funded the development and deployment of renewable energy technologies for many years. They have also been in the forefront in recognizing the benefits to not only their mission areas but the nation and world in developing substitutes for fossil fuels for transportation as well as using homeland resources to generate electricity. DOD in particular has voiced the danger to their critical mission areas and, more important, their men and women in uniform, from continued reliance on non-renewable fuels, particularly in combat areas and forward operating bases.

Third, many other federal and state agencies have also played and will continue to play a significant role in the success we have made to date in alternative energy technologies. DOT/FAA, Commerce's NOAA and NTIA, USDA's Forest Service and many state energy and economic development offices have also contributed consistently over the years to developing our cleaner energy technologies. These partnerships, along with the U.S. generation, transmission and distribution industries, are all necessary to our success.

The legislation discussed today will build on these efforts to date and bring us steps closer to realizing a stronger economy, cleaner energy future, enhanced national security and strengthened U.S. leadership in the global energy marketplace.

Thank you again for the opportunity to appear before you today and I am happy to take your questions.

Mr. LAMBORN. Thank you. Mr. Taylor?

STATEMENT OF CHRIS TAYLOR, CHIEF DEVELOPMENT OFFICER, ELEMENT POWER, TESTIFYING ON BEHALF OF THE AMERICAN WIND ENERGY ASSOCIATION

Mr. TAYLOR. Thank you, very much, Chairman, Ranking Member. I appreciate the opportunity to testify today. My name is Chris Taylor. I am the Chief Development Officer of Element Power. We are a global wind and solar development operation company with headquarters in Portland, Oregon. I am also here representing the American Wind Energy Association.

As we had testified before this Committee back on June 1st, far and away the biggest challenge our industry is facing today, right now, is the looming expiration of Federal tax incentives for renewable energy, as well as the lack of progress on the demand side policy, such as renewable energy standards and we certainly look forward to talking about the benefits of these bills and what they would do. But, it is important to note that any change in siting projects on public land will not result in the full utilization of our Nation's renewable potential unless we also have policy action on the incentive and demand side.

With respect to the bills under consideration today, in AWEA's testimony two weeks ago, we suggested that the Committee consider legislation that would provide categorical exclusions for temporary met towers to test wind speeds. BLM's current wind energy development policy, which I do want to note, we think, in general, is well drafted and BLM, in general, has been a good agency to work with. There are some exceptions, which I am about to talk about; but, overall, have been supportive. They do currently allow for categorical exclusions. However, as you heard today, a significant percentage of those met tower applications are not being processed that way. I guess I have a high number of my projects that are in the 32 that went through the full EA and we feel that this is an unnecessary waste of resources.

The issue really has to do with inconsistent application at the field office level. However, some offices routinely require EAs, while others routinely use the CATX, and in rare cases, we are even asked for a full EIS. So, we very much appreciate the introduction of H.R. 2172 by Representative Noem; and as long as met towers meet certain conditions spelled out in the bill, such as limiting road building, we think that using the categorical exclusion makes sense. We thank the Representative for her leadership on this issue.

We do believe that the met tower application process can be improved within the confines of NEPA. We support providing CATX's, except in cases where "extraordinary circumstances are present," as described in the existing regs, and we think this would be providing an appropriate balance between the need to support development and the protection of natural resources.

I have a few specific examples here. It is hard to see, I know, for you up on the bench there, but this is a picture of one of the sites where we had to perform a full EA. We had to take the equipment in. We had to have a week's worth of Native American monitors, archaeological monitors, biological monitors. As you can see, there is not a plant to be found at this site. There is an existing track. You can see the two tracks to the left of the tower. That piece of junk in the front was there when we got there. We did not bring that, but there is an existing "trail" going up there. We could not drive on that. We had to carry the equipment on our backs. This is an area that is opened to OHV use. In fact, some OHV guys came up and said, what are you guys doing carrying that stuff," as they zoomed off to recreate.

So, this is a fairly egregious example. I don't want to represent this as typical or the norm for BLM, but these are some of the examples that we run into. Having some legislation that is black and

white, that we can wave around to say this is crazy, would be helpful to us.

We are also being asked to monitor. This gives you the idea of what a met tower is. That is a four-by—that piece of metal at the bottom is much smaller than this table we are sitting at. We are not talking about a lot of ground disturbance, but they are requiring us to use literally shovels to dig out the holes to stick in the anchors, rather than an auger, which also seems a little unnecessary. And we are being asked to monitor this, have someone walk out there, because you cannot drive out there to look and see if any birds have run into this six-inch pole, which we certainly support for wind projects; but for a met tower, it is a little crazy.

I also want to point out the two other issues I want to bring out—the BLM using more discretion, and how they incorporate comments from other agencies. Sometimes a comment from a relatively low-level field biologist from the U.S. Fish and Wildlife Service that is not even official policy of the agency, is not based on science, suddenly becomes virtually the word of God and it is adopted by BLM as such and we are forced to comply with that, even when there is no reason to do so. I think that policy can be strengthened.

Last, with respect to the builds and alternatives analysis, we do share some concerns that the other witnesses mentioned about potential unintended consequences of increasing litigation. But, I think we could restrict the geographic scope of these and the credibility of these alternatives. They should be things that are actually likely to get build, that are actually moving forward, not just something somebody uttered once one day that are not credible proposals.

Finally, cumulative effects analysis is another area where currently the process is skewed because we are forced to look at every project that has ever been proposed, not just those that appear to be moving forward that actually have a plan of development on file, that actually have an interconnection request on file, et cetera.

So by limiting the scope of both the alternatives analysis and the cumulative effects analysis, we think those are important and we do not want to get rid of those, but they could be done in a way that is a little more reasonable and a little more limited to what is likely to actually happen, and we would really like to work with the Committee and other stakeholders to implement those.

Thank you.

[The prepared statement of Mr. Taylor follows:]

Statement of Chris Taylor, Chief Development Officer, Element Power, on behalf of the American Wind Energy Association, on H.R. 2170, H.R. 2171, H.R. 2172 and H.R. 2173

Subcommittee Chairman Lamborn, Subcommittee Ranking Member Holt and other members of the Subcommittee, thank you for the opportunity to testify today.

My name is Chris Taylor. I am Chief Development Officer for Element Power. Element Power is a global wind and solar energy development company with U.S. headquarters in Portland, Oregon and regional offices in California, Minnesota and Virginia. Element Power has wind energy projects under construction or in operation in both the U.S. and Europe and thousands of megawatts (MWs) of wind energy projects under development across the United States, including eight proposed wind projects on BLM-owned land. I oversee the development of all of our wind and solar energy projects in North America.

I am testifying on behalf of the American Wind Energy Association (AWEA), where I currently serve on AWEA's Siting Committee Steering Committee.

AWEA is the national trade association representing a broad range of entities with a common interest in encouraging the deployment and expansion of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

As AWEA testified before the full committee on June 1st, far and away the biggest challenging facing the wind energy industry right now is the lack of stable federal policy support, namely long-term financial incentives and a demand-side policy like a clean or renewable electricity standard.

I recognize that these issues do not fall within the jurisdiction of this Committee. However, it needs to be clear that any changes that are made to make it easier to site projects on public lands will be of limited use if projects aren't able to be built because federal tax incentives, including the production tax credit and investment tax credit, expire for wind energy next year or because the lack of demand-side policies limit the market for renewable energy.

With respect to the specific bills under consideration today, in AWEA's testimony two weeks ago, we suggested the Committee consider legislation providing categorical exclusions for temporary meteorological towers to test wind speeds. BLM's wind energy development policy current allows categorical exclusions, but the option is inconsistently applied at the field office level. Some offices often require an environmental assessment (EA) for these temporary towers, which leave no permanent site disturbance. In rare cases, we are asked for a full-scale environmental impact statement (EIS).

We appreciate the introduction of H.R. 2172 by Representative Noem, which would exempt met tower applications from the National Environmental Policy Act (NEPA) as long as the application meets certain conditions spelled out in the bill, such as limiting road building and soil and vegetation disruption. We thank Representative Noem for her leadership on this issue.

AWEA believes the met tower application process can be improved within the confines of NEPA. We support providing categorical exclusions except in cases where extraordinary circumstances are present as described in existing regulations. This would provide an appropriate balance between the need to support development as well as protect natural resources.

I have a few examples to share of requirements applied to met tower installations that add unnecessary time and expense to the process. My company has been required to hire environmental specialists to survey an area prior to construction and then the same specialists, often multiple individuals, are required to be on-site during the entire installation, which can take up to a week.

We are also required to haul equipment to the site by foot or helicopter and install met towers without the use of machinery in areas with high OHV use. In one case the installers were approached by OHV drivers while carrying met tower equipment to an installation site. These examples highlight how the renewable energy industry is held to a higher standard than other uses on BLM lands.

AWEA is also concerned that the BLM does not use enough discretion when applying the recommendations of cooperating agencies like the U.S. Fish and Wildlife Service (USFWS) in the NEPA process. Often times right-of-way (ROW) applications are held up by the USFWS commenting and then requirements for evaluation and mitigation are applied without any existing scientific data to support the suggested impacts.

With respect to H.R. 2170, introduced by Chairman Hastings, AWEA appreciates the Committee's interest and leadership in attempting to make NEPA more manageable from a development perspective. There is no doubt that getting through the alternatives analysis process can be difficult and add a lot of additional cost and time to the NEPA process.

However, AWEA is concerned that limiting analysis to only the proposed project and a single no project alternative could have the unintended consequence of more agency decisions rejecting projects. By limiting the flexibility to consider alternatives, including relatively modest adjustments, such as relocating a road or a turbine or two that might be considered by the agency too close to a resource of concern, out of an abundance of caution the agency may just say no.

We are also concerned that limiting the alternatives analysis could have the perverse effect of increasing litigation, as affirmative decisions are targeted for not being protective enough of resources. It would be difficult to demonstrate otherwise in court without analysis to which to point.

That said, in the spirit of the Chairman's interest in streamlining the NEPA process, clarifications of requirements for the alternatives analysis would be helpful. For example, it is reasonable that alternatives to be analyzed should be economically and technically feasible. Additionally, alternatives analyzed should be limited to a reasonable number of alternatives focusing on potential environmental impacts identified during site specific field studies. Similarly, a geographic limitation on alternatives to be considered would help ensure the alternatives are in fact reasonable.

AWEA also believes it would be helpful to better define cumulative effects analysis. BLM and the USFWS require analysis of a variety of projects that are unlikely ever to be built (due to a lack of transmission, market, adequate wind resource or other key factors), which skews the analysis by implying a far higher degree of cumulative impact that is likely to actually occur. Today, cumulative effects analysis includes projects that have merely submitted a ROW application or have even just begun wind measurement. These thresholds need to be strengthened so only those projects that are truly likely to come to fruition are analyzed.

AWEA would be interested in working with this Committee, the Department of the Interior and other stakeholders to discuss what sideboards on alternatives and cumulative effects analyses might be helpful while still balancing preservation of our nation's resources.

Thank you again for the opportunity. I am happy to answer any questions you may have.

Mr. LAMBORN. OK, thank you. Mr. Thomsen?

STATEMENT OF PAUL THOMSEN, DIRECTOR OF POLICY AND BUSINESS DEVELOPMENT, ORMAT TECHNOLOGIES, INC.

Mr. THOMSEN. Thank you, Mr. Chairman, distinguished members of the Committee. It is my honor to testify today on behalf of Ormat Technologies. My name is Paul Thomsen and I am the Director of Policy and Business Development and I am also the President of the Geothermal Energy Association. I would like to make note that the Geothermal Energy Association did submit a letter of support for H.R. 2171.

Ormat Technologies is a world leader in the geothermal power plant sector. The company has four decades of experience and is responsible for the development of over 1,000 megawatts of geothermal generation throughout the world and over 400 megawatts of generation in the United States. Important to this hearing is the fact that Ormat is engaged in the largest effort undertaken by a single company within the last 20 years to categorize, map, sample, and drill green field geothermal prospects in the United States.

The U.S. Geological Survey has estimated that the geothermal industry has the potential to generate 39,000 megawatts of electricity in the United States using existing technologies. This sort of potential is remarkable and can even be used reliably to power state capitals, such as Idaho's state capital in Boise, which has been using geothermal power since 1982. Today, 144 projects are estimated to be under some form of development in the United States and are projected to produce 624,000 construction jobs, if permitting that work can be done efficiently. These 144 projects will require \$26 billion in capital over the next five years, with approximately 50 percent allocated to the exploration and drilling phases to develop these projects.

In order to open the capital markets to develop these projects, the U.S. must commit to finding permitting solutions that support greater development activity. H.R. 2171, Exploring for Geothermal Energy on Federal Lands Act, supports greater geothermal devel-

opment by clearly defining and enhancing the existing categorical exclusion policy and setting time lines that create accountability and remove the uncertainty from the NEPA process. This bill does this by limiting the size of the disturbance, the time allowed at the site, and the time required to respond to the notice of intent, all of which are not currently regulated under the existing CX. This removes much of the subjective nature of the current process, allowing for BLM staff to be more confident in their decisions and allow developers to know in a timely manner if their exploration efforts will be granted a CX.

We believe H.R. 2171 falls in line with the BLM and DOE's focus on exploration and development on Federal lands. As noted earlier, the Energy Policy Act of 2005 was designed to promote and streamline domestic renewable energy production. This is evident to Ormat in the superior work of Director Bob Abbey, who hails from Nevada as their former state director, and our Acting Director, Amy Lueders, who have worked tirelessly with our industry to shepherd projects through the EA and EIS process in a timely manner.

A DOE blue ribbon panel recently recommended that the DOE geothermal program also focus on locating geothermal resources, and in the near term they suggested using rapid recognition surveys, surface exploration, and temperature gradient drilling. DOE will be better able to do this work under the provisions of this bill.

For those that might be worried that a developer might CX its way through the regulatory process, you need not worry. BLM's geothermal regulations govern the various stages or phases of project development, including exploration operations, drilling operations, utilization operations, and finally commercial operations. At each phase, the project proponent submits separate applications to conduct operations, which correspond to the development phase. The information needed to access potential and environmental increases in detail and focus, as the intensity of the use moves from exploration phase to an energy facility operation phase.

In December of 2008, BLM issued an instructional memorandum, which provided guidance for the approval of a notice of intent to conduct geophysical explorations with no road construction by means of a CX. The BLM did this after reviewing 244 geophysical exploration projects and determining that geophysical exploration operations that do not include the construction of a road do not individually or cumulatively have a significant impact on the human environment.

H.R. 2171, the Exploring for Geothermal Energy on Federal Lands Act, supports greater geothermal development by clearly defining and enhancing the existing CX policy and setting time lines that create accountability and remove uncertainty from the NEPA process.

That concludes my statements. Thank you, very much.
[The prepared statement of Mr. Thomsen follows:]

**Statement of Paul A. Thomsen, Director of Policy and Business
Development, Ormat Technologies, Inc., on H.R. 2171**

Mr. Chairman, members of the committee, it is my honor to testify today on behalf of Ormat Technologies regarding H.R. 2171.

Ormat Technologies is a world leader in the geothermal power plant sector. The company has four decades of experience in the development of state of the art, environmentally sound power solutions, primarily in geothermal and recovered energy generation. Ormat is responsible for the development of over 1,000 MW of geothermal generation throughout the world and over 400 MW of generation in the United States.

EXPANDING THE GEOTHERMAL FOOTPRINT:

Geothermal electrical generation is a baseload renewable energy source that uses heat from the earth to create electricity. Baseload means that it's a power source that is constantly producing energy, just like fossil fuel combustion, but clean and renewable—and a renewable that doesn't rely on the wind to blow or the sun to shine. The U.S. Geological Survey estimated the geothermal industry has the potential to generate 39,000 MW of electricity in the United States using existing technologies.¹ This sort of potential is remarkable and can even be used to reliably power State Capitols such as Idaho's State Capitol in Boise, which has been using geothermal heat since 1982! We congratulate the State of Idaho for its vision and use of this remarkable, clean and reliable renewable source of energy.

Today, 144 projects estimated to be under development in the United States² are projected to produce 624,000 construction jobs if permitting the work can be done efficiently. These 144 projects will require \$26 billion in capital over the next five years with approximately 50 percent allocated to exploration and drilling phases. In order to open the capital markets to develop these projects, the U.S. must commit to finding permitting solutions that support greater development activity.

H.R. 2171 “(the) Exploring for Geothermal Energy on Federal Lands Act” supports greater geothermal development by clearly defining and enhancing the existing Categorical Exclusion (CX) policy and setting timelines that create accountability and remove the uncertainty from the NEPA process

BLM and DOE recognize the importance of permitting and exploration on Federal Lands:

- Energy Policy Act of 2005—The Energy Policy Act of 2005 (“EPAAct 2005”)³ was designed to promote and streamline domestic renewable energy production. It also includes provisions specifically aimed at making geothermal energy more competitive with fossil fuels.⁴
- Implementing Statements and Directives—Consistent with the mandate to encourage renewable energy development contained in the EPAAct of 2005, the Department of the Interior (“DOI”) has taken steps to make the production, development, and delivery of renewable energy top priority.⁵ Furthermore, BLM's 19 Priority Renewable Energy Projects for 2011 include five geothermal projects throughout the western U.S.⁶
- The DOE Blue Ribbon Panel—The U.S. Geological Survey estimated in 2008 that 30 GWe of undiscovered geothermal resources could be found in the western United States.⁷ The panel recommended that the DOE geothermal program focus on locating these resources in the near term using rapid reconnaissance surveys, surface exploration, stress measurements, fracture mapping, temperature gradient drilling or even cost-shared exploration drilling. The Program should also partner with other agencies, including the Department of the Interior, the U.S. Geological Survey (USGS), and the Nevada Bureau of Mines to share knowledge and data.

Regulatory Process Governing Geothermal Energy Development:

BLM's geothermal regulations govern the various stages or phases of project development, including exploration operations, drilling operations, utilization operations, and commercial use. At each phase, the project proponent typically submits separate application to conduct operations which correspond to the development phase. The information needed to assess potential environmental impacts increases

¹ <http://pubs.usgs.gov/fs/2008/3082/pdf/fs2008-3082.pdf>

² http://www.geo-energy.org/reports/GEA_January_Update_Special_Edition_Final.pdf

³ Pub.L. 109-58.

⁴ See EPAAct 2005 §§ 221–237.

⁵ BLM News Release, Secretary Salazar Issues Order to Spur Renewable Energy Development on U.S. Public Lands (March 11, 2009), available at <http://www.blm.gov/wo/st/en/info/newsroom.html>.

⁶ BLM News Release, BLM Announces 2011 Priority Renewable Energy Projects (March 8, 2011), available at <http://www.blm.gov/wo/st/en/info/newsroom.html>.

⁷ Williams, Colin F., Reed, Marshall J., Mariner, Robert H., DeAngelo, Jacob, Galanis, S. Peter, Jr., 2008, Assessment of moderate- and high-temperature geothermal resources of the United States: U.S. Geological Survey Fact Sheet 2008-3082, 4 p.2008-3082. 2008. <http://pubs.usgs.gov/fs/2008/3082/>

in detail and focus as the intensity of use moves from the exploration phase to an energy facility operation phase.

- **Exploration Operations**—A BLM-approved geothermal exploration permit, also known as an approved Notice of Intent to Conduct Geothermal Resource Exploration Operations (“NOI”), is required to explore any BLM-managed public lands open to geothermal leasing.
- **Drilling Operations**—A BLM-approved geothermal drilling permit⁸ is required to drill wells and conduct related activities for the purposes of performing flow tests, producing geothermal fluids, or injecting fluids into a geothermal reservoir.
- **Utilization Operations**—BLM authorization is required prior to starting preliminary site investigations that may disturb the surface, building pipelines and facilities connecting the well field to utilization facilities not located on Federal lands leased for geothermal resources, testing a facility that is not located on Federal lands leased for geothermal resources, starting commercial use operations, or building or testing a utilization facility.
- **Commercial Use**—Finally, before using Federal geothermal resources, the applicant must submit a completed commercial use permit.

Focusing on Exploration Operations and CX’s:

In December of 2008, BLM issued Instruction Memorandum No. 2009–044 which provided guidance to 516 Department Manual 11.9 B. Fluid Minerals: Approval of Notice of Intent to Conduct Geophysical Exploration with No Road Construction, by means of CX.

The BLM did this after reviewing 244 geophysical exploration projects and determining that geophysical exploration operations that do not include the construction of roads do not individually or cumulatively have a significant effect on the human environment. Therefore, the BLM determined that establishment of the new geophysical exploration CX was warranted (see 72 Fed. Reg. 45504 Aug. 14, 2007). BLM recognized that geophysical operations had evolved so that there are far fewer environmental impacts; the BLM and operators also employ BMPs that further reduce the impacts of these operations. In addition, the BLM has developed many COAs that can be included in any approval of geophysical operations that, like BMPs, further reduce the impacts of the proposed operations. The consistent use of these BMPs and COAs precludes the need for a new environmental evaluation specific to each new proposed action⁹.

H.R. 2171 “(the) Exploring for Geothermal Energy on Federal Lands Act” supports greater geothermal development by clearly defining and enhancing the existing (CX) policy and setting timelines that create accountability and remove the uncertainty from the NEPA process.

Once the delay in permitting is resolved, the true power of renewable energy will be unlocked, creating a workforce to satisfy the geothermal industries’ labor-intensive demands in science, sub-surface research, exploration, drilling, construction, and operation and maintenance. Replacing fossil fuels with domestic labor creates a market for U.S. export of services and equipment.

Improving project permitting has the potential to mobilize a workforce reminiscent of the U.S. Maritime “Liberty Ships” program, which engaged a similar sized workforce of 640,000 to produce, among other things, 2,700 “Liberty Ships.” The program engaged a new workforce from various employment sectors and, in doing so, developed partnerships that improved shipyards, pre-fabrication and sub-contracting. Streamlining the geothermal permitting process would enable the industry to follow in the footsteps of the “Liberty Ships” program and help expedite the construction of 144 geothermal plants while affording an opportunity to create jobs, build similar partnerships and foster innovation across a number of sectors.

Technical Suggestions:

Since this bill deals with NEPA, and NEPA is primarily directed in this case at surface disturbance, it really doesn’t make any sense to limit the depth of the hole, nor what kind of vehicle is used (wheeled or tracked), so long as the disturbance is less than 5 acres. The well has to be permitted under state rules as to type of well, depth, protections and casing design.

Therefore we suggest striking lines 17–19 on page 2 and lines 4–5 on page 3 since those variables are defined by the well pad size.

⁸“*Geothermal drilling permit* means BLM written permission to drill for and test Federal geothermal resources.” 43 C.F.R. § 3200.1.

⁹http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2009/IM_2009-044.html

We also suggest adding language to Line 12 on page at the end of the sentence that states “. . .within three years unless project becomes part of larger project.”

We would also propose that Section 106 of the National Historic Preservation Act be completed during the leasing process which would significantly curtail further delays.

Best Regards, Paul A. Thomsen, Director, Ormat Technologies, Inc.

Mr. LAMBORN. OK, thank you. Now before we hear from Mr. Lyons, I want to clarify an issue. Under Committee Rule 4[a] and House Rule 112[g][5], witnesses appearing in a non-governmental capacity are required to file with their testimony a completed disclosure form describing their education, employment, and experience, and provide other background information pertinent to their testimony the purpose of this information is to help the members of the Committee judge the testimony in context. Committee Rule 4[a] indicates that failure to comply with these requirements may result in the exclusion of the written testimony from the hearing record and/or the barring of an oral presentation of the testimony.

Mr. Lyons, recognizing that your disclosure statement was submitted to the Committee late and includes a statement where you admit that it remains incomplete, before you make a statement, will you verbally commit to us that you will provide a complete disclosure form to the Committee in a timely fashion?

Mr. LYONS. Yes, Mr. Chairman. I apologize for submitting it late. We were notified late of the invitation to testify. I was not aware that it was incomplete, but will gladly complete that information. I apologize.

Mr. LAMBORN. OK. Well, thank you, so much, and at this point, I would like to welcome you and hear your testimony.

**STATEMENT OF JIM LYONS, SENIOR DIRECTOR,
RENEWABLE ENERGY, DEFENDERS OF WILDLIFE**

Mr. LYONS. Thank you, Mr. Chairman, and members of the Committee. I certainly appreciate the opportunity to testify before you today and want to thank you for your interest in renewable energy and trying to accelerate the development of renewable energy in the United States. I am Jim Lyons. I am the Senior Director for Renewable Energy at Defenders of Wildlife, an organization dedicated to the protection and restoration of wild animals and plants in the natural communities.

We certainly appreciate the efforts to encourage renewable energy development, but would suggest that a different set of solutions is needed than what is proposed by the legislation we are discussing today. I think we would all agree that what is needed is greater certainty. What you heard from witnesses at your June 1 hearing is that uncertainty associated with financing for projects, and certainly that financing will affect the available, primarily from Treasury grant program funds and from the DOE loan guarantee program, poses the greatest challenge to wind and solar development in the United States.

For example, Roby Roberts noted on behalf of the American Wind Energy Association, “without more stable Federal financial incentives and demand-side policies, any changes to make developing wind energy projects on public lands more attractive will be of only marginal benefit.” Dan Reicher, who also testified before you on

June 1, is the Director of Stanford's Steyer-Taylor Center for Energy Policy and Finance, and also is associated with the law and business communities schools said "What I worry more about than the siting of renewable energy projects on public lands is successfully navigating the long and complicated road that takes the renewable technology to the routine construction operation of hundreds of full-scale commercial plants with low-cost financing."

Oil and gas continue to benefit from generous tax breaks and Federal subsidies, many of which are permanent. However, renewable energy continues to struggle to gain something close to a level playing field. Similarly, without the market mechanisms in place to provide for increased demand for renewable sources of energy, which Mr. Taylor alluded to, it is reasonable to ask if private capital will flow to solar wind and geothermal energy production. As you have heard, without the certainty of long-term capital for investments, companies interested in entering this market, or simply investing in the U.S. market, are forced to scramble to prove the viability of their technologies and of their investments.

In addition, companies have been forced to scramble to secure access to lands with potential for solar development, in particular in the hope public capital will be there to help track the private capital to bring utility scale projects on line. This scramble is the bane of good business planning and of thoughtful and smart project siting and planning.

We argue that this can best be achieved by employing what we refer to as "smart from the start" principles. If I could, Mr. Chairman, I would like to include for the record as part of my testimony a letter that we wrote to President Obama in February of this year, which highlights the need for "smart from the start" planning in those principles. Knowing where critical habitats and sensitive landscapes are located, determining where critical migratory corridors exist, where water resources are scarce, siting projects in low conflict areas, and the benefit to conservation advocates is obvious, but the benefit to developers is also substantial. Developing in high conflict areas can substantially increase project costs, as you know. Impact in wildlife resources can require mitigation and the development of mitigation strategies can at time be costly. And of course, controversial projects in high conflict areas oftentimes face tough scrutiny.

Better approached project development is to begin by determining where highly valued habitats, sensitive landscapes, and natural resources exist and the tools, in fact, and technologies do exist to do that in a much more expedited way. We think there are many innovative strategies in the works to help further reduce the potential impacts of renewable energy development and I want to credit the industries, solar, wind, and geothermal, for working with us, with the Department of the Interior, and others to try and find remedies for the impediments that they have run into.

As one example of innovative approaches, Kansas Governor Sam Brownback recently announced his road map for wind energy policy. The road map included a plan to protect tall grass prairie area from commercial wind development. In announcing this plan, the Governor noted, "we will continue to encourage the expansion of an unparalleled economic development opportunity that will allow our

state to regain its energy exporter status, while also protecting the ecological jewel of our state and nation.”

I want to end my comments today, Mr. Chairman, by emphasizing that we think certainty is the key to improving and accelerating the development of renewable energy. Project developers seek certainty in order to attract capital to build their projects and sell their product, which, of course, is clean energy. Utilities seek certainty that the power they purchase will actually be produced. Investors seek certainty that they are going to get a return on their investment, which is one of the principal reasons they are making these investments. And conservationists seek certainty that clean energy can be produced to address the impacts of climate change to produce jobs and economic benefits, which are critical—and can do so without harming wildlife, wildlands, and other natural resources.

We certainly appreciate your help, Mr. Chairman, in addressing these issues, but I would submit to you that I think the critical issue associated with certainty is that of providing long-term stable financing, so that the industry does not have to beg from year to year to receive the funds that are necessary to provide that certainty from the investments that they seek.

Mr. LAMBORN. OK, thank you for your testimony.

Mr. LYONS. Thank you, very much.

[The prepared statement of Mr. Lyons follows:]

Statement of Jim Lyons, Senior Director for Renewable Energy, Defenders of Wildlife, on H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173

Mr. Chairman and Members of the Committee:

Thank you for the invitation to testify before you today. My name is Jim Lyons and I am the Senior Director for Renewable Energy at Defenders of Wildlife. Founded in 1947, Defenders of Wildlife is a nonprofit organization with more than 1 million members and supporters across the nation and is dedicated to the protection and restoration of wild animals and plants in their natural communities.

On behalf of Defenders of Wildlife, I am here today to express my strong support for renewable energy development. Defenders believes that this nation must accelerate efforts to promote the development of renewable energy in order to generate the multiple benefits that would result, including jobs, economic growth, and a reduction in greenhouse gas emissions. We believe that a clean energy future is an essential part of producing a healthy American economy and a healthy planet and we are working with renewable energy developers, investors, utilities, conservation leaders, and the Obama administration to help realize that future.

We believe a clean energy economy is possible. To make it a reality we must promote thoughtful planning, effective use of technology, and a long-term commitment of resources to finance the development and growth of the renewable energy sector. These elements are critical to provide the certainty that the renewable energy industry, utilities, conservationists, investors, and the public demand.

Part of our challenge is to find ways to tap into this vast resource for renewable energy production while avoiding, minimizing, and mitigating the impacts on wildlife, wild lands, and other important natural resources associated with public and private lands. We need not sacrifice the conservation gains of the 20th century—leading to the conservation of millions of acres of public lands and the protection of wildlife, wilderness, and water resources—for the sake of our efforts to solve the conservation challenges of the 21st century.

Today the Subcommittee is examining four bills with the intention of removing impediments to developing renewable energy on federal lands. We applaud this Committee’s efforts to examine the challenges of developing renewable energy industry. We can and will work with all parties to improve the administrative processes affecting project siting, permitting, and development. I firmly believe we can achieve these outcomes without additional legislative assistance. In fact, some of the proposed shortcuts and “work arounds” intended to short circuit NEPA may do more harm than good, precisely because they will introduce added uncertainty to the proc-

ess. We appreciate the offer for help with these issues, but I am not convinced that legislative remedies are needed or would help, nor do they address the real roadblocks to clean energy development.

The successful development of clean energy in the United States is dependent upon three things. We need energy resources, technology, and capital. I would submit that the most significant roadblock to our efforts to develop clean energy resources in the United States is capital. The long term commitment of capital and with it the assurance that the financial resources will be there to cover the high front end costs associated with the development of solar, wind, or geothermal energy is the Achilles heel of this energy sector.

To illustrate this point, I want to reference the comments to two of the witnesses at the June 1 hearing of the House Natural Resources Committee on this subject.

At that hearing, Roby Roberts noted on behalf of the American Wind Energy Association (AWEA):

“Without more stable federal financial incentives and demand-side policies, any changes to make developing wind energy projects on public lands more attractive will be of only marginal benefit.”

And, Dan Reicher, Director of Stanford University’s Steyer-Taylor Center for Energy Policy and Finance and a faculty member of the Stanford Law School and the Graduate School of Business, stated,

“What I worry more about more than *siting* renewable energy projects on public lands is successfully *navigating* the long and complicated road that takes a renewable energy technology from the first gleam in a scientist’s eye and an early pilot project *all the way* to the routine construction and operation of hundreds of full-scale commercial plants with low-cost financing and good paying jobs on all kinds of land—private and public.”

In this regard, Mr. Reicher and other witnesses at that hearing cited the importance of the DOE loan guarantee program and the Section 1603 Treasury Grant program as essential sources of capital for renewable energy projects as a means to spur private sector investment in these new technologies. Both of these programs are set to expire at the end of this year. Lacking assurances that federal grants and loan guarantees will continue to be available to provide the long-term capital for utility scale renewable energy, the future of our Nations’ renewable resources will remain uncertain.

Oil and gas continue to benefit from generous tax breaks and federal subsidies (many of which are permanent); however, renewable energy continues to struggle to gain something close to a level playing field. Of course, this is one reason that the Obama administration has proposed to end subsidies for oil and gas production (aside from the enormous profits these companies have been reporting). Redistributing this capital to improve the prospects for growth in the renewable energy sector and to improve the prospects of attracting private capital is critical to providing certainty for developers, investors, and a host of other stakeholders, including the conservation community.

Similarly, without the market mechanisms in place to provide for increased demand for renewable sources of energy, it is reasonable to ask if private capital will flow to solar, wind, and geothermal energy production. While 38 states have established renewable or alternative energy standards, a national renewable energy standard is still lacking. And, with the recent development of technologies to tap abundant natural gas resources from sources such as the Marcellus shale, which is particularly abundant in the northeastern United States, can renewable sources of energy, such as wind, compete?

As you have heard, without the certainty of long-term capital for investment, companies interested in entering this market—or simply investing in the U.S. market—are forced to scramble to prove the viability of their technologies and their investments. In addition, companies have been forced to scramble to secure access to lands with the potential for solar development, in particular, in the hope that the public capital will be there to help them attract the private capital to bring utility-scale projects on line. This scramble is the bane of good planning and of thoughtful and smart project siting.

We all recognize that careful planning is essential to making good business decisions. Just as investors look to a good business plan before committing capital to a project, making good decisions about project siting and development are essential to reducing impacts on wildlife. This past February, 17 conservation organizations wrote to President Obama to express their support for accelerating the development of renewable energy on public lands. (I have attached a copy of that letter to my testimony.) We argued that this can best be achieved by employing “smart from the start” principles.

Simply stated, “smart from the start” is good planning. Knowing where critical habitats and sensitive landscapes are located, determining where critical migratory corridors exist, and where water resources are scarce are key to siting projects in low-conflict areas. The benefit to conservation advocates is obvious, but the benefit to developers is substantial as well.

Developing in high conflict areas can substantially increase project costs for biological surveys and inventories for rare plants and animals. Operating in areas that are home to threatened and endangered species requires federal agencies to consult with the U.S. Fish and Wildlife Service. And, impacting wildlife resources can require mitigation that may involve restoring habitats or acquiring similar lands to compensate for habitats negatively affected by the project. Of course, controversial projects in high-conflict areas face tough scrutiny. If approved despite high environmental costs, they may face potential litigation which can further increase project costs and cause development delays.

A better approach to project development is to begin by determining where highly-valued wildlife habitats, sensitive landscapes and natural resources exist and avoid them. This is actually easier than one might think, as the technology has improved our ability to identify and map key wildlife areas.

For example, through support from the Department of Energy, the Western Governors’ Association has worked with state fish and wildlife agencies to develop decision support systems to improve efforts to locate energy projects in low risk areas. And, the American Wind Wildlife Association has recently launched an online tool to help wind developers determine where wildlife conflicts may occur and how to avoid them.

While guiding development to low-conflict zones is one means of reducing wildlife conflicts, it will not completely address wildlife impacts. For this reason, all interests acknowledge the need to develop mechanisms for mitigating project impacts on wildlife, which, in the state of California, is required by law. Mitigation strategies can seek to avoid or minimize project impacts, but they can also be designed to compensate for impacts by permitting the restoration of habitats similar to those that are lost or by acquiring similar habitat proximate to the project.

At Defenders, we are exploring the prospect of mitigation banking. That is, working at the landscape level to identify areas that might be protected or restored in order to mitigate energy projects before they are designed and built. The benefit of this approach is that it helps achieve conservation goals such as minimizing impacts on wildlife populations, reducing the need to list species as threatened or endangered, and helping to restore habitat for threatened and endangered species. It also helps developers understand the mitigation costs they may face in developing a project in a particular landscape. In fact, BLM Special Status Species policy directs the agency to not only minimize threats to sensitive species, but also “improve the condition of the species habitat” and “initiate proactive conservation measures” to minimize the likelihood of ESA listing.” (BLM Manual 6840.2; 6840.02).

Many innovative strategies are in the works to help further reduce the potential impacts of solar, wind, and geothermal development on wildlife, wild lands, and important natural resources. And, to its credit, the renewable energy industry is increasingly playing a role in helping to identify both the problems and potential solutions. We encourage the use and expansion of efforts like the regional habitat conservation planning process in the central flyway for Whooping Cranes and Lesser Prairie Chickens. And we support efforts such as that of Kansas Governor Sam Brownback, who recently announced his Road Map for Wind Energy Policy. The plan includes a plan to protect a tallgrass prairie area from commercial wind development. The governor noted,

“We will continue to encourage the expansion of an unparalleled economic development opportunity that will allow our state to regain its energy exporter status while also protecting an ecological jewel of our state and the nation.”

Similar efforts are underway in Wyoming and Oregon to protect remaining sage grouse habitat while facilitating further wind energy development.

We are also encouraged by the progress that is being made by the Department of the Interior, working with the wind energy industry and through its federal advisory committee on onshore wind energy guidelines, to address the need to provide greater certainty for developers with regard to requirements for reducing the impacts of wind energy on wildlife and protecting bald and golden eagles. In response to draft guidance issued by the U.S. Fish and Wildlife Service, we joined with the American Wind Energy Association (AWEA), National Audubon Society, the Union of Concerned Scientists and others in suggesting that a properly designed and implemented voluntary, risk-based approach for minimizing and mitigating the effects of wind energy on wildlife can work. (I would like to also submit a copy of our joint

comments for the record.) We support this strategy because we believe a risk-based approach is consistent with the notion of guiding renewable energy projects to low-conflict areas and is consistent with good business practices. And, we believe that developers who engage in good planning will seek to operate in low risk areas where the successful development of their project is more likely and their ability to successfully attract investors and capital is also greater.

This same concept, guiding renewable energy project development to low-risk areas, is at the heart of identifying zones for development for utility scale solar projects and is one of the alternatives presented in DOI and DOE's draft solar Programmatic Environmental Impact Statement. We support this concept as well, because we believe it will accelerate project development, shorten planning horizons, and help simplify the requirements for coordination and consultations with state and federal agencies entrusted with the protection of our wildlife and other public land assets. And we continue to work with the U.S. Fish and Wildlife Service, with Department of the Interior officials, and with our colleagues in the conservation community to find ways to improve and accelerate the project siting, permitting, and development process.

I want to end my statement this morning, by returning to where I began. Certainty is the key to improving and accelerating the development of renewable energy resources in the United States. Project developers seek certainty in order to attract capital, to build their projects, and sell their product—clean energy. Utilities seek the certainty that the clean energy they buy will be produced and available to help them meet renewable energy standards and an increasing public demand. Investors seek certainty so that they have some assurance of a return on investment which, of course, is the primary reason they choose to invest in projects. And conservationists seek certainty that clean energy can be produced to address the impacts of climate change, produce the jobs and economic benefits attributed to the new clean energy economy, and do so without harming the wildlife, wild lands, and other natural resources Americans treasure.

As I mentioned previously, we need your help in providing greater certainty that the financing will be there, over an extended period of time, to support the R&D and development essential to proving the viability of utility-scale solar energy and to getting solar, wind and geothermal projects built. Having to beg for clean energy financing one year at a time is not conducive to good planning and will not provide the assurances to private investors, markets, and utilities that clean energy will be there when they need it or that it is, in fact, worth the investment.

We look forward to working with you, Mr. Chairman, to find solutions to these challenges and to identify remedies to the roadblocks that are impacting the development of clean energy in America. Working within our existing environmental laws will, in fact, result in better renewable energy development and greater certainty, assuring the viability of the renewable energy industry for the long term. This is our future and we are committed to helping realize the vision of a clean energy economy with all the benefits it can provide.

Thank you, again, for the opportunity to testify before you today.

Mr. LAMBORN. We will now have questions from members of the Committee. I will recognize myself for five minutes.

Mr. Dougherty, in your testimony, you say that the uncertainty that exists within today's regulatory framework and that it exists and that this uncertainty is the primary disincentive to further public and private investment in the renewable energy market. Do you believe that having firm time lines for the permitting application and for reducing research project time lines will help to alleviate some of this uncertainty?

Oh, I am sorry.

Mr. DOUGHERTY. I think you missed a witness, sir.

Mr. LAMBORN. Yes. We had a gentleman, who sat in the wrong order, so we will now—before I ask the questions, we will now go to Mr. Huntley. Yes, I see that, Mr. Holt.

Mr. HUNTLEY. Thank you, sir. My apologies, sir.

Mr. LAMBORN. We are supposed to sit in the order in which we are invited to be on the panel. So, we have a little mixup here. But,

I would like to hear your testimony, so I recognize you for five minutes. Thank you.

**STATEMENT OF CHASE HUNTLEY, DIRECTOR,
RENEWABLE ENERGY POLICY, THE WILDERNESS SOCIETY**

Mr. HUNTLEY. Thank you, sir. Mr. Chairman, Ranking Member Holt, and members of the Subcommittee, thank you for the opportunity to testify today regarding development of renewable energy resources on Federal lands and waters. My name is Chase Huntley. I am Director for Renewable Energy Policy with the Wilderness Society. We strongly support efforts to tap into the rich renewable resources found on our public lands and forests. As I will detail in a minute, we have pressed hard for a “smart from the start” approach that sites renewable energy in the right places, and builds what we need with the right input from the very beginning.

We agree with this Subcommittee’s goal of accelerating development on public lands, but we cannot support the bills under discussion today because we feel they are based on a false assumption, that the National Environmental Policy Act is a roadblock to development. These views are further detailed in my written statement, but rest on our belief that there is sufficient flexibility under the law.

Rather, we believe the best way to speed up permitting is to work within existing law, to end the scatter shod approach of project-by-project permitting that we see today. For too long, energy development has been characterized by conflict and controversy, attributed in most cases to poor siting decisions that were not revealed until late in the permitting process, putting sensitive wildlife and wild lands at risk of severe damage and stranding company’s investments. We cannot afford to repeat this experience with the renewable energy industry, so important to our energy security.

Instead, we must move toward clear policies that guide companies to the right places with early engagement and consistent environmental review. We have seen progress at the Interior Department in this direction with the new guidance for solar and wind by identifying and avoiding environmental and other impacts early, ideally before projects are even proposed. This approach can prevent the conflict and controversy responsible for increased project costs and time delays. This is developing “smart from the start,” and we believe that this approach will provide the certainty sought by project developers, investors, conservationists, and other stakeholders.

But let me address directly the often heard charge that NEPA, along with other environmental requirements, unduly restricts the pace and advancement of renewable energy. We know that this is not true from our recent experience with the Interior Department’s fast track projects. After nearly a decade of inattention and inactivity, this Administration’s commitment to moving ahead with renewable energy on public lands resulted in permits for more megawatts of renewable energy than ever before. The public involvement afforded during environmental review has been indispensable to ensuring that projects are built in a manner that maxi-

mizes their energy potential, while avoiding the impacts that would undermine the viability of sensitive resources.

In our work on projects permitted to date, environmental reviews has not been a roadblock, rather it has served as a road map to better outcomes. For example, of the six solar projects permitted in 2010, which we supported, and none of which we challenged legally, all saw significant changes as a result of the review process. In fact, it is unlikely we would have been able to support these projects in the absence of that opportunity.

To be sure, more can be done to improve the efficiency and effectiveness of the existing review process, but shortcutting or sidestepping this process will only result in more conflict, more delays, and more costs to developers and ultimately to consumers. We understand the interest to move forward quickly, but ample authority exists to enhance permitting without these legislative remedies.

We will continue to work diligently with the industry, with the Administration, and with Congress to find solutions that work as well for wind and solar, as they do for wildlife and wild lands. But focused only on the permitting system, we overlook the proverbial elephant in the room. Time and again, we have heard clearly from developers, investors, and business leaders that siting and permitting is not the real barrier to renewable energy developments, rather it is the on again, off again nature of critical financing, like loan guarantees and refundable tax credits, both of which expire at the end of this year, and the lack of policies, like a national renewable energy standard that create the market demand for renewable power. If we are to reach our common goal of dramatically expanding clean, renewable energy, we must remove these barriers to success. In our view, this is what Congress should concert its considerable influence.

In conclusion, real progress is being made to develop renewable energy on the public lands. The environmental review process has provided a critical road map for successes to date. We are encouraged by the approaches under development at the Interior Department to guide wind and solar energy development using existing authorities, away from conflicts with the wildlife habitat, sensitive wild lands, and other important resources. But, ultimately, the biggest obstacle remain stable financing and market demand.

Thank you for the opportunity to offer these views. I look forward to answering your questions.

[The prepared statement of Mr. Huntley follows:]

**Statement of Chase Huntley, Director, Renewable Energy Policy,
The Wilderness Society, on H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173**

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 and waters. My statement focuses only on onshore permitting of energy resources on forests and public lands for typically categorized as 'renewable'—that is, geothermal, solar, wind, and biomass energy development. It does so drawing 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.

For The Wilderness Society, that includes enacting policies that would correct the market failure that allows fossil energy providers to dump emissions harmful to the public health and welfare into the atmosphere for free. It also means avoiding the construction of unneeded generating facilities by simply increasing the efficiency of our electrical grid, buildings, gadgets and appliances, and transportation system. And it means promoting more sustainable home-grown sources of energy, especially electricity, to meet future demands and replace the dirty fuels of our past with adequate financial incentives.

We are strong supporters of efforts to tap the rich renewable resources found on our public lands and forests. As with any form of development, however, not all places are appropriate for this kind of activity. Some places are simply too wild or too sensitive to develop. And where it occurs, it must take place in a responsible manner.

We are opposed to H.R. 2170, H.R. 2171, H.R. 2172, and H.R. 2173 because these four bills are predicated on the false notion that a principal roadblock to the successful approval of renewable energy projects on the public lands is the National Environmental Policy Act (NEPA). (These views are detailed in Appendix A.) These bills are simply not needed to accelerate renewable energy development on public lands and forests. Rather, all of our experience has shown us that attempts to short-cut and undermine environmental values actually delays projects.

Instead, we believe that the best way to rapidly deploy renewable energy projects on our public lands is to end the scattershot approach to permitting that we see today. We can use existing law to move away from project-by-project permitting, and toward clear policies that guide companies to the right places, with early public engagement and consistent environmental review. To us, this kind of “smart from the start” approach includes several key elements:

- Policies that guide projects to areas that have high clean energy potential; minimal conflicts with wildlife, wild lands, and other important resources and uses of the surrounding environments; and, wherever feasible, access to existing transmission.
- Early and ongoing input and coordination with interested stakeholders.
- Thorough analysis of the potential environmental impacts of renewable energy projects, including their cumulative impacts.
- Policies that fully and fairly value public lands and forests, and reinvest significant portion of the revenues generated in conservation activities.
- Effective mitigation measures to address unavoidable impacts.
- Consistent and careful monitoring at the project and landscape level to improve existing and future projects and permitting and mitigation processes.
- Discouraging speculation by evaluating the financial and technological capacity of project proponents to design, build, operate, and decommission projects.
- Policies that encourage new transmission projects and upgrades that connect clean renewable energy resources.

We believe that 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.

We are seeing these concepts become a reality as the Interior Department works to break a five year solar stalemate on public lands. The ongoing programmatic environmental impact statement has the potential to bring order to a process that has frustrated all parties. By identifying zones for development and screening these areas for conflicts with significant natural and cultural resources, the Department can enhance the likelihood that projects permitted will result in projects successfully built. For this reason, we have seen an emerging consensus amongst developers, conservationists, and utilities that a zone-based system for development is the preferred approach as evidenced in a joint comment letter from the members of the California Desert Renewable Energy Working Group that I request be included in the record. Zone-based development can greatly improve both the permitting process and outcomes for wildlife and wild lands.

Central to the ‘smart from the start’ concept is a commitment to take stock in the early stages of a proposed federal action of the pros and cons of alternatives, and choosing the one that gets you the best result with the least conflict. That’s what Congress recognized when it passed NEPA, and that is the role that NEPA continues to serve.

“The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” 40 C.F.R. § 1500.1(c). This is the overarching principle by which the agencies charged with administering our public lands must, and should, make decisions that best balance renewable energy development with management of the many other uses and resources found on these lands.

In its forty year history, the NEPA process has improved the health and well-being of communities, saved billions in taxpayer dollars, and unequivocally improved the quality of decision-making. NEPA's common sense axiom is "look before you leap." NEPA requires that agency decisions are transparent, grounded in rigorous scientific analysis, and fully informed by the collective expertise of all stakeholders.

NEPA recognizes that the public—which includes industry, landowners, local and state governments, tribes, and business owners among others—can make important contributions by providing unique expertise. In 2008, a groundbreaking review conducted by the National Academy of Sciences confirmed the benefits of public participation. The panel found:

When done well, public participation improves the quality and legitimacy of a decision and builds the capacity of all involved to engage in the policy process. It can lead to better results in terms of environmental quality and other social objectives. It also can enhance trust and understanding among parties. Achieving these results depends on using practices that address difficulties that specific aspects of the context can present.¹

The business community has also awakened to the value the value of public participation afforded through the NEPA process. For example, in October 2009, the project manager for the SunZia power line testified before a hearing jointly held by this committee and the Subcommittee on Energy and Power that "NEPA still works." In discussing the effects of input received from the environmental community, for instance, he observed that, "the result is a better one for all involved" and "[t]he contributions provided to SunZia by these important stakeholders have been immeasurable."²

Public participation via NEPA has made important contributions leading to real improvements. Numerous examples have been compiled by the Environmental Law Institute in *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government*.³

As the National Academy of Sciences recommended: "Public participation should be fully incorporated into environmental assessment and decision-making processes, and **it should be recognized by government agencies** and other organizers of the processes as a **requisite of effective action**." (emphasis added). NEPA plays an invaluable role in making review of renewable energy projects meaningful and, ultimately, leading to projects that will be less likely to be challenged or derailed once approved.

Let me address directly the often-heard charge that NEPA, along with other environmental requirements, unduly restricts the pace and advancement of renewable energy projects. We know that this is not true. Of the nine solar energy projects permitted in 2010, the average time for environmental review was 527 days, or 1.4 years. Permitting that was initiated during the Obama Administration and received "fast-track" status took an average of 423 days, or 1.1 years to reach a final record of decision. This is well within other permitting time frames for similarly sized projects, and is remarkable given that these projects are unique in scale and complexity. That NEPA is working as intended is equally true of permitting of resource testing facilities as of commercial-scale generation. For example, more than three-quarters of the 38 wind testing facilities permitted on public lands between 2008 and 2011 were processed using categorical exclusions under the law. Ample authority exists to enhance the effectiveness of implementation of this statute without these proposed legislative remedies.

However, several roadblocks do stand in the way of faster deployment of renewable energy. Time and again major companies, financial houses, market watchers, and others deeply steeped in the business of building projects have pointed to the need for policies that create markets for these technologies and alleviate fiscal uncertainty as the chief roadblocks to the industry. The renewable energy industry is at a critical point in its maturation process. Significant, targeted investments in this industry will leverage private equity, produce new megawatts of power, put Americans to work, and strengthen our competitiveness in the global marketplace for renewable energy technologies.

Congressional involvement to promote renewable energy development on public lands would be best directed toward ensuring that federal financing tools will be predictably available, establishing policies that create market demand for renewable

¹Thomas Dietz and Paul C. Stern, Editors, Panel on Public Participation in Environmental Assessment and Decision Making, National Research Council, 2008.

²Testimony of Tom Wray, Project Manager, SunZia Transmission Project, November 5, 2009. Available at <http://naturalresources.house.gov/UploadedFiles/WrayTestimony11.05.09.pdf>.

³Available at http://ceq.hss.doe.gov/nepa_information/NEPA_Success_Stories.pdf.

power, and support smart from the start policies, including a zone-based approach to solar energy development on public lands, will ensure consistently good permitting decisions are made over time.

In conclusion, The Wilderness Society appreciates the efforts of the Subcommittee to accelerate development of these important clean energy resources on public lands and forests. We support the Subcommittee's goal of 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.

Successfully advancing development of wind, solar and other renewable energy resources requires us to do better than we've done with other forms of energy on the public lands and forests. 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. This smart from the start approach relies on the type of information and input received by federal agencies through the NEPA process. To be sure, more can be done to improve the efficiency and effectiveness of the existing review process, but shortcutting or sidestepping this process will only result in more conflict, more delays, and more costs to developers and, ultimately, consumers. Rather than turning our backs on this essential federal law, we should be putting effort into expanding the marketplace for renewable power and creating the fiscal certainty needed to attract private investment.

Thank you for the opportunity to provide our views.

Appendix A. Detailed Views on Proposed Legislation

Cutting Red Tape to Facilitate Renewable Energy Act (H.R. 2170)

The Wilderness Society opposes this bill. This bill offers a 'rifle shot' approach that offers the agency—and ultimately the project proponent—too narrow a scope of review: one document, one alternative, and only one chance at getting it right. This approach is not supported by our recent experience with developing renewable energy resources on public lands and forests. Concerns related to the pace of environmental review could be ameliorated by ensuring that federal and state agencies responsible have the resources, personnel, direction, and technical expertise necessary to thoroughly evaluate development zones to speed project review time, prioritize applications most likely to be built for review, and conduct a robust stakeholder process to minimize conflict and controversy.

Limiting environmental review to one action alternative may seem more expedient, but the fact is that the majority of renewable energy projects proposed for public lands are very large and complex projects involving first-of-a-kind technologies at this scale with which neither the agency nor the company have much experience. It sets up a decision between build and no build based on the agency's interpretation of the proposed project, existing and almost always imperfect data, and no formal consultation with states, tribes, and other stakeholders. Our experience with the Interior Department's fast track projects underscores this point. In all cases, significant changes were made between the draft and final environmental impact statements, often incorporating elements of multiple alternatives. The agency and project proponents need the ability to consider more than one alternative as has already been shown.

Moreover, the inclusion of biomass in this bill is highly problematic as biomass more commonly involves the sourcing of wood materials, particularly use of secondary materials, and not the siting of plants on public lands. This bill as written could foster public distrust in biomass proposals resulting in delays and complications as the U.S. Forest Service moves to a restoration focus as Secretary Vilsack has proposed.

Utilizing America's Federal Lands for Wind Energy Act (H.R. 2171)

The Wilderness Society opposes this bill. This bill will not result in faster or cheaper completion of wind projects on federal lands—in fact, we have concerns it could have exactly the opposite effect. By putting these facilities outside the very law designed to gather the critical information and input from states and other stakeholders necessary to ensure quick and intelligent deployment of commercial scale projects, project developers may find significant investments stranded at the project review stage when conflicts are uncovered through the environmental review process. Concerns related to meteorological permit processing time should be dealt with by the agencies administratively, under existing law and with full consideration of the current use of categorical exclusions.

Exploring the Geothermal Energy on Federal Lands Act (H.R. 2172)

The Wilderness Society opposes this bill. The agency can address concerns about how existing categorical exclusions are applied or if additional exclusions are needed administratively, through a public process.

Clean Energy Promotion Act (H.R. 2176)

The Wilderness Society supports redirecting revenues to permit process improvement, but recommends also seeking to authorize the Interior Department to reinvest in other key activities that would mitigate impacts on human and natural communities.

Mr. LAMBORN. OK, thank you for your statement. Thank you all for being here.

Now, we will begin the questioning. I would like to start my five minutes with Mr. Dougherty. In your testimony, you say that the uncertainty that exists within today's regulatory framework, that this does exist, and this uncertainty is the primary disincentive to further public and private investment in the renewable energy market. Do you believe that having firm time lines for the permitting application process and reducing research project time lines will help to alleviate some of this uncertainty?

Mr. DOUGHERTY. Yes.

Mr. LAMBORN. Good. Then, Mr. Taylor, I have a question for you. In your testimony, you say—but, wait, before we go on, do you want to amplify on that any? You are welcome to do so, if you would like.

Mr. DOUGHERTY. Yes. I think from my experience with the wind industry, with the geothermal industry, with the water, marine, hydrokinetic industry, and others, a clear timely predictable process is key to alleviating any uncertainty and then taking away risk that you do not need to have, in order to do a project. I do agree that—my focus here was on the siting bills, so I do agree that a predictable Federal incentive process is also critical. I think the combination of the two would do well to help spur the clean energy future that we are all looking for.

Mr. LAMBORN. OK, thank you. Now, Mr. Taylor, in your testimony, you say that categorical exclusions are inconsistently applied at the field office level and that some offices require an environmental assessment for meteorological met towers, and you are sometimes asked to do a full environmental impact statement. Can you tell us how long a full EIS takes to complete, how long an assessment takes, and give an indication of how these costs impact your business?

Mr. TAYLOR. Thank you, Chairman. So, yes, in my testimony, I alluded to that. I would say for an environmental impact statement, for me, that would be reason to walk away. It is just not worth it. It is just way too much cost and time to put up a met tower. I mean, you expect to do that to build a project; but to put a met tower, as a business decision, for me that would not be worth the effort.

An EA, it really depends on how much detail they are looking for, how reasonable the office is, what kind of comments they receive. But, it is many months that that can drag on.

I do not have the estimates with me today for the cost. I would be happy to follow up in writing with that, of the EA. But, what I do have would be the cost for all the monitoring I described,

which is in the tens of thousands of dollars just for that monitoring. That does not include the EA. It is just having the people sit around for a week, watching. I will be happy to submit the other information, if you would like.

Mr. LAMBORN. If you could, please, that would be great. OK, thank you. I am going to yield back the balance of my time. I would now like to recognize the Ranking Member for five minutes and I am going to ask Mr. Landry of Louisiana to take the gavel for the remainder of the hearing.

Mr. HOLT. Thank you, Mr. Chairman. Several of the witnesses or a couple of the witnesses have talked about the real delays here; not the NEPA process, but the financial process, the technical process, all those other things. Mr. Thomsen, I would like to look at your experience in this. Your company was recently awarded a multi-hundred-million-dollar loan guarantee for three geothermal facilities in Nevada, is that correct?

Mr. THOMSEN. That is correct.

Mr. HOLT. And it would be more than 100 megawatts of base load power, is that correct?

Mr. THOMSEN. Correct.

Mr. HOLT. Sizeable project. Was the loan guarantee through the ARRA, the so-called Recovery Act program?

Mr. THOMSEN. Yes, it was.

Mr. HOLT. How many jobs will that create?

Mr. THOMSEN. A little over 300 construction jobs and about 30 full-time positions in very rural counties in Nevada.

Mr. HOLT. So that is significant. You know, the spending plan for this current year, H.R. 1, would have rescinded all remaining funds in the loan guarantee program had it become law four or five months ago. And so, I suppose you would not have gotten this loan guarantee that will make possible hundreds of construction jobs and dozens of permanent jobs; is that correct?

Mr. THOMSEN. It is. And to be clear, we have not received the loan yet. We received—

Mr. HOLT. It has been approved.

Mr. THOMSEN.—conditional commitment from the Department of Energy. And, unfortunately, that loan is actually contingent on two of those three projects finishing NEPA permitting.

Mr. HOLT. I see.

Mr. THOMSEN. Both are in the public review phase and both have been in that process for well over 24 months.

Mr. HOLT. Well, I suppose the headline that will come out of today's hearing is "death panel dooms Old Faithful." But, I do not want to engage in histrionics. I just want to make—or exaggeration. I just want to make the point that there is a reason for the environmental review and I would like to understand kind of how that works.

Let me stay with Mr. Thomsen for a moment. I do not know your exact expertise. It might be financial. It might be public policy. But, you have people in the consortium, the company that is working to build these geothermal projects. You have experts in financial. You have experts in plumbing and piping and all of those other things. You probably do not have on staff, except the extent that it is required by NEPA, an archaeologist or someone who

would be an expert in endangered species. We rely on the process to bring those considerations in, is that correct?

Mr. THOMSEN. We do not have an archaeologist; but when you are developing as many projects as we are, we have a very competent permitting team, consisting of well over 10 individuals, biologists and permitting experts, who have come to us through other fields—

Mr. HOLT. And that is because there are—

Mr. THOMSEN.—with specific expertise.

Mr. HOLT. It is because, is it not, NEPA requirements are imposed on you for—

Mr. THOMSEN. Well, NEPA does not impose that. We have to hire experts in each one of these fields. You know, you touched on the process and I think this is an interesting debate. I would like to just take a moment. The lands that we are working on for Federal lands are leased to us by the BLM. The BLM geothermal program conducted a programmatic environmental impact statement, looking at lands that were reasonable for development. Those lands then go to state offices that look at them and see if they fit into their resource management plans. Then those lands go for lease to developers and the 2005 Energy Policy Act was a fantastic piece of legislation that allows—freed up the leasing process, to allow developers to competitively bid for leases for development.

We compete against other developers with the intent that BLM has put these lands up as acceptable parcels for renewable development. We competitively bid on that. The bonus bid comes back to the—it is actually divvied up kind of interestingly, where 25 percent goes to the BLM, 25 percent goes to the state, and 25 percent goes to the local jurisdiction or county in which those lands were leased. Then, we have these leases and we go into a permitting phase.

Mr. HOLT. Just to truncate your comment, I think you are illustrating the point that I think is important to make, which is BLM, these agencies, and Congress, itself, have a responsibility to balance many competing interests. That is the role of government, to balance competing interests, and that happens because this process is set up. And if we remove pieces of the process that make it impossible for those to be balanced, then it is not included. Well, I should yield my time now or my time is in the negative, so I thank you for your comments. We should pursue that more.

Mr. LANDRY [presiding]. I was going to let you go on a little longer.

Mr. HOLT. You are kind, but I—

Mr. LANDRY. I understand. The Chair now recognizes Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman. Mr. Thomsen, apparently, we found an area where NEPA regulations are creating jobs, right, because you have to hire additional people to comply with those NEPA regulations, so maybe that is a good thing about NEPA regulations. Would you agree with that statement or not?

Mr. THOMSEN. I would begrudgingly agree with that statement.

Mr. LABRADOR. But, it is not really the kind of jobs that we want to be creating because they are not really productive jobs. They are just complying with more Federal regulation.

Mr. THOMSEN. They often pale in comparison to the jobs that would be created if we could develop these projects.

Mr. LABRADOR. Thank you. I would rather have you developing the projects than going through more regulatory requirements.

Let us go back to Old Faithful here for a second. Do you agree with the Ranking Member's description of how H.R. 2171 would actually destroy Old Faithful?

Mr. THOMSEN. Absolutely not.

Mr. LABRADOR. And why not? Is it even possible under the law to destroy Old Faithful?

Mr. THOMSEN. I believe, you know, as I have discussed the process for BLM, to be compliant with their programmatic environmental impact statement, to be compliant with their range management plans, and for them to put up a lease in the area of Old Faithful for developers to bid on would not happen.

Mr. LABRADOR. OK.

Mr. THOMSEN. Second, I think it is—you know, it is probably not rational to think that business would try to destroy one of our national treasures by trying to develop a project there.

Mr. LABRADOR. You are expecting Congress to be rational, though, right, and government agencies? Now, are you familiar with the 1988 Geothermal Steam Act Amendment?

Mr. THOMSEN. I am.

Mr. LABRADOR. Under the 1988 Geothermal Steam Act Amendments, it has the units of a national system that are listed as significant thermal features, and we have some really strong requirements before you can even lease lands on these units that are part of the national park system—that are significant thermal features. Would you be surprised that Yellowstone National Park is part of one of those units?

Mr. THOMSEN. Would I be surprised? Yes.

Mr. LABRADOR. Yes. So under this Act, Yellowstone National Park is actually protected. And, in fact, it tells us that the Secretary has to determine, number one, if a lease is even appropriate, and the determination is whether there is going to be any significant adverse effect on these lands. The one area that is protected is Old Faithful in Yellowstone National Park. Not only does it do that, but it gives special protections for these units and even if a lease is agreed upon—and none of us, I think, believe that a lease would be approved for Old Faithful—but even if it were approved, it tells the Secretary of the Interior that he must remove the lease if it is having any significant adverse effect. Would you agree with that?

Mr. THOMSEN. I would agree and I think to elaborate, the way we read page four, lines eight through 19, take that to even if you were to receive a geothermal lease, a typical lease, let us say in the Nevada desert, and the Secretary or the BLM were to find a significant impact there, they have the right clearly outlined to determine that you are not eligible for a CX. Then as a developer, we would go to the environmental assessment phase or an EIS, which we currently do, to continue to see if we may drill. Simply what this CX does, in places that have previously been scoped, approved, and are part of the plan, is allow us to look and do very non-intrusive temperature gradient holes, to see if there are resources so

that we can decide, as a company, whether we want to designate our time and resources to looking to fully permit and fully develop those projects.

Mr. LABRADOR. OK. Now NEPA was not intended to apply to projects that individually or cumulatively have no significant impacts, right?

Mr. THOMSEN. I cannot comment directly on that statement.

Mr. LABRADOR. OK. Do you think the waiver in section 2b of H.R. 2171 is consistent with the BLM's current findings on NEPA and exploratory practices and the type authorized under the bill?

Mr. THOMSEN. I do and I think, you know, in my statement, I think it actually refines the actions. Currently, the categorical exemption for geophysical activity only has one factor, which is you cannot build a road and you—excuse me, two, you cannot build a road and you cannot build a pad. And this allows for, I think, a lot of interpretation, which we have heard from this panel that makes BLM wary. It also allows for a lot of potential mischief under those broad scopes. H.R. 2171 reins that in and says you can only disturb an acre. You cannot build a road. It limits the depth. It limits the time, really, you know, handcuffing developers to doing what was the intent, looking for temperature gradient and nothing more.

Mr. LABRADOR. All right. Thank you, very much.

Mr. LANDRY. OK. I guess it would be my turn. And if you do not mind, after, we are going to do a second round. Mr. Holt has some additional questions.

Mr. Thomsen, I am going to go out on a limb here. The industry that you and Mr. Taylor are in are considered a renewable energy industry or a green energy, is that not correct?

Mr. THOMSEN. Yes, it is.

Mr. LANDRY. And I would believe that you all would not be here today unless you were passionate about your industry?

Mr. THOMSEN. It is our core business.

Mr. LANDRY. Well, I am so sorry to welcome you to the Federal Government, OK, because the frustrations that you see and the frustrations that the oil and gas industry has been facing and many other energy industries in this country, and I think it is inexcusable. I want you to know I am with you, all right. So make sure any of the liberal bloggers out there, who take me as big oil, I want you to know I am with you to try to cut through some of that red tape.

What I do not understand is do you believe that NEPA balances the environment with the economic impact?

Mr. THOMSEN. I believe it attempts to and I think it is very hard. The question was asked earlier about the impact of delays on a project and the cost. We have heard some examples where you simply walk away from the development of a project. But, I can tell you, you know, when you have many projects in the pipeline, unexpected delay is very difficult to deal with, and I think a long lead time or the work required to do the proper work up front is respectable and we support that. What you need in business is consistency or an expectation. When you do not have that, that is where the trouble comes. When we can file for a CX, we may get it in six

weeks, we may get it in six months, or we may find out that it needs to be an EIS. That is where the real trouble comes in.

Mr. LANDRY. Would you say certainty is what you are looking for?

Mr. THOMSEN. Yes, sir.

Mr. LANDRY. Mr. Taylor?

Mr. TAYLOR. Same question?

Mr. LANDRY. Yes.

Mr. TAYLOR. Yes. I think that predictability and certainty. One other point I would add, which I assume Mr. Thomsen would agree with, is one of the challenges in our industry is you have multiple different time lines that need to all come together. You have a whole separate process that is regulated by FERC, for access to the transmission good, for example, and that is a highly regulated process with defined time frames. And if you get to the point where you are ready to build the substation and connect to the grid, but you do not have your permits, you are often told by the grid operator, you have to put millions of dollars up and if you do not know you are going to get a permit, how can you commit to the millions of dollars to build the interconnection that is necessary to transmit that power onto the grid, to say nothing of power contracts, financing, and all the other complexities. So knowing when these things are going to happen, so that you can plan for them to coincide is critically important in our industry.

Mr. LANDRY. Well, just to clarify something. Mr. Huntley or Mr. Lyons, either one, I do not know anywhere under NEPA where in the studies, they are required to balance the environment with the economic impact of it. Do you all know? I do not know if Mr. Thomsen might have been confused whether or not he and his own company try to balance whether or not they want to do a project under NEPA. But, under NEPA, do you all know of any provisions where when we do the studies, we look at what is the cost of the environment and what is the cost to the economy?

Mr. HUNTLEY. Thank you, sir. That is an excellent question because I think one of the biggest misconceptions about the statute is that it does not dictate outcomes. It creates process where many factors can be balanced. That includes economic considerations, considerations of environmental impacts, considerations of impacts to states, to tribes, to other assets.

My reading of NEPA is that the process that NEPA creates affords all stakeholders the opportunity to bring their concerns to bear and that would include economic considerations.

Mr. LANDRY. But when you include the economic considerations, are you just looking at it from a one side, as to if we impact the environment, what is the economic impact of impacting the environment? In other words, you are looking for it in one dimension, rather than saying, OK, what is the impact on the environment and what is the benefit to the economy if we go ahead and allow the project to continue? What is the overall economic impact based upon how many jobs it is going to create? What is it going to do to the price of energy? Does it take that into account as well?

Mr. HUNTLEY. I believe that, again, the process that is created affords the opportunity for all of those considerations to be brought forward. And what I have heard from the panelists today is that

all too often, these concerns are raised late in the permitting process. What we have offered as an alternative is a way to look at these considerations much earlier, to give companies the predictability and certainty that they crave by having a better sense of what the impacts would be on places, to find the right places, and get development to those places—taking into account not just environmental considerations but, again, the full suite of impacts to society.

Mr. LANDRY. Well, I am going to abide my time and then the Chair recognizes Mr. Holt for five minutes the second round.

Mr. HOLT. Thank you. Thank you, Mr. Lamborn. Mr. Thomsen, in your testimony, let us see, in the printed testimony, it was page two and I think I heard you also say this in your oral testimony, you said that H.R. 2171, that you support it because it will lead to “clearly defining and enhancing the existing categorical exclusion.”

Now, I have read 2171. It does not do anything to clarify or better define categorical exclusion. What it says is under some circumstances, NEPA shall not apply. So did you really mean to say that it defines and clarifies categorical exclusion?

Mr. THOMSEN. To the Chairman, to Mr. Holt, you know, this was a question that came up with staff. I think the words NEPA exclusion in line 13 could be revisited on page three of the bill. You know, I think the intent, and I—

Mr. HOLT. So, you would like it to clarify categorical exclusion; is that what you mean?

Mr. THOMSEN. Well, I do not think it is my place to speak to the intent of the bill. The way I read it is this exclusion, as written, is permissible with the approval of the Secretary and the BLM. In my mind, that is the same as a categorical exclusion.

Mr. HOLT. No, it would be in the statute. Yes, in the statute, you would say, it shall not apply. So, that is—the NEPA shall not apply. It does not say categorical exclusion shall be imposed in a certain circumstance or clarify that.

The other point I would like to raise is you said, again fairly categorically, that lands next to Yellowstone would never be leased from the BLM. I would suggest that maybe in the President Lamborn Administration, if there were oil there or in some other administration, where energy production is foremost or is the sole concern, then, in fact, it might be leased. So, I do not think that we would want to then get into a situation where NEPA would be raised.

Mr. Taylor, according to your testimony, the Wind Energy Association supports the consistent use of categorical exclusions. This is along the same line that we were talking about a just a moment ago with Mr. Thomsen for meteorological towers, is that correct?

Mr. TAYLOR. Yes.

Mr. HOLT. In your testimony, you acknowledged that there may be extraordinary circumstances in which the categorical exemption from NEPA would not be appropriate; is that correct?

Mr. TAYLOR. Yes.

Mr. HOLT. Yes. Yet, H.R. 2172 simply exempts meteorological towers from NEPA. In other words, it does not clarify; it does not say it should; it just says, NEPA shall not apply. So, it seems to

me that the bill does not mandate the use of categorical exemptions or say that there might be extraordinary circumstances. Would you not agree that because of such a broad exemption, it might actually be counterproductive in moving along with these projects?

Mr. TAYLOR. Representative Holt, Chairman, if I could maybe expand a bit on that. I think the challenge is this: under current BLM policy, it allows the use of categorical exclusions today and most BLM offices apply that in a rational matter. There are some specific offices, and it is well known which ones they are, in particular, the California Desert District Office is the one that is the biggest challenge, does not do so. So, we are open to a variety of strategies to getting to a reasonable outcome. I think what we are looking for is some more clearer direction that we can point to, to say that this is what the appropriate policy is. And the reason that we would be concerned about categorically exempting from NEPA any met towers, my company would never propose this, but what if someone proposed to put one—

Mr. HOLT. So, you want uniformity and predictability in the implementation.

Mr. THOMSEN. Without having—

Mr. HOLT. You are not advocating that NEPA be thrown aside?

Mr. THOMSEN. If we can get to an implementation that is consistent with what the policy currently is, we would be very happy with that and I do not think that necessarily requires a total exemption through NEPA.

Mr. HOLT. OK. So, you would like a consistent process that does not promote more litigation or does not, because of limited options, lead the agency to say no prematurely?

Mr. THOMSEN. I think that is a fair statement, yes.

Mr. HOLT. Thank you. I thank you for your courtesy, Mr. Chairman, and we look forward to the Lamborn Administration.

Mr. LANDRY. Mr. Labrador?

Mr. LABRADOR. Mr. Chairman, thank you. Just to make it clear for the record, the 1988 Geothermal Steam Act Amendments has the following language it, and I am having fun, I guess, with this going back and forth, but if the Secretary determines that the exploration, development, or utilization of the land subject to the lease application is reasonably, reasonably likely to result in a significant adverse effect on a significant thermal feature, and we already determined that Yellowstone is one of those significant thermal features, within a unit of the national park system, the Secretary shall not, shall not issue such a lease, just to make it clear for the record.

Mr. Thomsen, geothermal exploration test project under H.R. 2171 is to last no more than 45 days. If you have to go through a full NEPA review, how much time would you likely spend on NEPA assessments and processing?

Mr. THOMSEN. In our experience, for exploration, to receive an EA takes about 12 months.

Mr. LABRADOR. OK. How many worker hours would be required if a NEPA review were required for every permit?

Mr. THOMSEN. A lot.

Mr. LABRADOR. Hundreds? Dozens?

Mr. THOMSEN. I would say thousands of man hours.

Mr. LABRADOR. Thousands, OK. What efficiencies are gained by having BLM employees focus a NEPA review on when the project is ready to go at the development stage, rather than at the exploration phase?

Mr. THOMSEN. To the Chairman and Mr. Labrador, a great question. I think, you know, we have brought this up. BLM has limited resources and if they try—you know, we need to drill lots of temperature gradient holes to start to delineate where the resource is and if it is a viable resource. Then, we move into the full exploration phase, where we drill wells, observation wells in much larger diameter, much deeper, to see flow testing and know if there is a project. During these phases, we are like oil and gas wildcatters and the success rate is getting lower and lower in this country, as we move East, away from anomalous resources, such as the geysers in northern California. So, the success rate is going down dramatically.

If they were to do an EA for every TGA hole or exploration hole, the resources would be spread very thin. And we think that if we do this responsibly, through the research management plans and the programmatic environmental impact statement, we can allow them to focus their resources on the viable projects that may come to fruition, resolving some of the other concerns we have heard, which is getting those real projects through the process expeditiously, while, you know, addressing all of the concerns from the environmental community and through NEPA. Oftentimes, I think we take it out on NEPA, the bigger problem, which is, maybe, you know, staff resources and so forth. So, we think it can have a large impact and allow not only developers like Ormat Technologies and the industry; but also the Department of Energy geothermal program to start doing this work, to start to identify where this resource is, so that we can more rapidly develop the emerging geothermal resource in the country.

Mr. LABRADOR. Thank you. H.R. 2171 addresses likely environmental impacts by limiting the project's footprint, the well's depth, and surface disturbance. What additional factors might be considered should NEPA apply?

Mr. THOMSEN. You know, again, it is dependent on field offices. But, we have been asked questions that related to 12-mile bird studies for a rig that might be up for 45 days; comprehensive numerical water models, trying to see what the reservoir impact will be, that we have had to go through. So, these can become costly and quite timely. And this is really the result of taking it to the staff level experts, who want this data for projects that may or may never come to fruition.

Mr. LABRADOR. OK. Now the provisions of H.R. 2171 talk about 2,500 feet well depth and one acre of soil disruption. Do you think these are sufficient to facilitate improved exploration for geothermal energy?

Mr. THOMSEN. I think it is and I also think it is a compromise. When we talk to the industry, they would love to go deeper and bigger under the CX and I think that the one-acre disturbance really limits their ability to do so. And I think, again, it focuses the existing CX or at least policy that is there today that allows for some of this to occur.

Mr. LABRADOR. All right, thank you. Mr. Huntley, in your testimony, you say that the legislation before us today is predicated by the false notion that NEPA approval is the principal roadblock to renewable energy projects. However, witness after witness has told our Committee that these projects are tied up in the permitting process for years or months. I just want to make sure that the record reflects that you disagree with the other witnesses, who have said that the delays, uncertainty, and environmental process is a primary reason for delays in the renewable energy projects. Do you agree or disagree with the renewable energy witnesses, who have come before this Committee?

Mr. HUNTLEY. Thank you, sir. With respect, I think we have heard different messages from both this panel and the prior panel. What I have heard is that there are challenges to the implementation, especially the consistent implementation of the statute, a statute that affords the opportunity to consider economic and other costs. We continue to work with many of the companies represented at the table and with the agencies you heard from on the first panel, to improve the efficiency and the effectiveness of implementation of the law. So, I appreciate the question, but I heard a different message.

Mr. LABRADOR. All right. Thank you, very much.

Mr. LANDRY. Thank you, Mr. Labrador. I wish Mr. Holt would have hung around just a little longer, so I could address something. I want to thank Mr. Labrador for inserting the language that Mr. Holt spoke about. I think it is necessary that we exclude NEPA from the process and I will tell you why: because for too long, you cannot create certainty unless you legislate it, unfortunately, because when you leave it to the whim of the Administration, it becomes a subjective argument, instead of an objective one, and this Administration seems to not be able to calculate reason from fiction when it comes to creating jobs. And so, I think it is necessary that after we have hearings, it is Congress's role to come in and to create that certainty by legislating those things.

And Mr. Huntley, I know your testimony, you expressed support for a zone-based system of renewable energy development and I am sure you know that BLM manages about 120 million acres of land and that I understand is some of the best land for creating solar energy projects. And of the 120 million acres, only 22 million acres would be available for right-of-way applications and of that, 677,000 or so acres have been identified as solar energy zones. So this amounts to less than one percent of the total land viable for solar development.

Now, if you are a strong supporter of tapping into renewable resources, do you believe that setting aside one percent of our public land and locking away the rest is an effective way to expand our renewable energy production in this country?

Mr. HUNTLEY. Thank you for the question, sir. I believe that what we have been presented with from the Bureau of Land Management were two options, neither of which, I think, would be satisfactory for the majority of the stakeholder's interest in seeing solar developed. However, in that analysis that the Bureau put forward in December of last year, they jointly, with the Department of Energy, estimated that less than one-half of that 600,000 acres

would be required to support utility scale development on public lands to meet the needs of the six states over the next 20 years.

I do not believe that the particular places in that 670,000 acres are necessarily the right places for the rest of time, but what is most attractive to our organization with the zone-based approach that has been put forward—and we believe could be improved upon—is that it identifies the right places to start. I think for that reason you will find in the letter that I submitted for inclusion in the record, which we signed jointly with the large-scale solar association and six utility companies, there is an emerging consensus amongst the solar industry that this is an appropriate way forward.

Mr. LANDRY. So, basically, under your analysis, .5 percent is all we need, because you said half of that amount would be necessary. I guess—well, let me ask you this, take a look at this, I mean, this is the industry. Does the industry feel that they could use more land, that stakeholders would like to see more land become available?

Mr. TAYLOR. Thank you, Representative Landry. To answer the question, so 600,000 acres, if you assume that all of that were available, and my company does solar photovoltaic, the panels, we do not do solar thermal, so I am not as familiar with the acreage requirements for solar thermal, but for photovoltaic, the sort of rule of thumb is somewhere around seven acres per megawatt of output. So, with that kind of a figure, if you truly had 600,000 acres available, you could produce a massive amount of solar energy.

I think the challenge is more about, from my personal perspective, having looked at the maps and what the areas BLM identified, I do not think they did as good a job as they could have done consulting with the industry and other stakeholders on where are practical places to develop. I think they did a good job—I do not want to speak for Mr. Huntley or for Mr. Lyons, I do not know if the environmental stakeholders feel like they picked places that were environmentally unacceptable. I think they picked some of the right places, but they picked some other places that just are not feasible from a transmission and market standpoint, and that is evidenced by the fact that there are no applications. Even though they have given these sort of a green light, many of those locations do not have anyone applying to go there because there is no business reason to do it.

So, I think they are on the right track. I think we share the view that getting to buy in up front makes our life easier. But, I think there is still some more work to do to really tailor that to where the need is.

Mr. LANDRY. Well, you see that is my frustration, is that I do not think you all allow the stakeholders an opportunity to sit at the table when you all and the bureaucrats decide where the stakeholders should be placing their projects. You know, at the end of the day, it comes down to dollars and cents, all right. It does not come down to a forest dream of where you would like them to place a solar panel. The question is whether or not they can place their solar panel on a particular piece of acreage and can they make money placing it on it. If they cannot make any money, they will not put it in there.

So, I think the lesson here is that, again, you are all not allowing the stakeholders an opportunity to give their input as to where they need to place them and what acreage they need to place them. At the same time, it again shows that this Federal Government is just incapable, OK, of promoting any energy industry. I mean, I just find it fascinating that I can sit in this Committee and hear from wind and solar and thermal industries that are basically singing off the same hymnal, as oil and gas and coal industries. So with that, I think you all should take into consideration more of what the stakeholders need.

That is the end of the questions that I have. I think that we—I am going to ask unanimous consent to submit for the record a letter from the Chamber of Commerce supporting all four bills and the project number report that Chairman Lamborn mentioned in his opening statement. And, of course, since I am the only one here, I guess we can consent to it.

[NOTE: The letter from the U.S. Chamber of Commerce and the U.S. Chamber of Commerce's study titled "Progress Denied: A Study on the Potential Economic Impact of Permitting Challenges Facing Proposed Energy Projects" has been retained in the Committee's official files. The study can be found at <http://www.uschamber.com/reports/progress-denied-study-potential-economic-impact-permitting-challenges-facing-proposed-energy>

Mr. LANDRY. Thank you all, so much, for your participation in this hearing. I thank you all for your testimony and any members of the Committee that have additional questions for the record, I will ask that they respond to those in writing. If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 12:51 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Statement submitted for the record by the Bureau of Ocean Energy Management, Regulation and Enforcement, U.S. Department of the Interior

Mr. Chairman, and Members of the Committee, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) submits the following statement for the record to discuss its renewable energy program, efforts to facilitate and expedite the development of the Nation's offshore wind energy resources, and comments on two bills before the committee, H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, and H.R. 2173, the Advancing Offshore Wind Production Act.

These bills were introduced little more than one week ago, so the Department of the Interior has not had time to conduct an in-depth analysis of them, but we appreciate the opportunity to outline our general views at this time. The bills exempt certain federal actions from compliance with the National Environmental Policy Act (NEPA)—the cornerstone law guiding environmental protection and public involvement in federal actions. The Department opposes these two bills.

Outer Continental Shelf (OCS) Wind Resources and Energy Development Goals

BOEMRE manages the energy and mineral resources of the OCS, which comprises some 1.7 billion acres of submerged lands generally located between three and 200 nautical miles off the continental U.S., Alaska, and Hawaii. The U.S. Department of Energy (DOE) estimates that the total offshore wind potential is over 4,000 gigawatts (GW) for areas up to 50 miles from shore with average wind speeds of seven meters per second or greater at 90-meter elevation. This estimate includes the resources of the Great Lakes and the coastal submerged lands under state jurisdiction, which are not managed by BOEMRE. However, OCS lands constitute the vast majority of what DOE considers "offshore" in its wind energy estimate.

According to a report prepared and issued jointly by DOE's Office of Energy Efficiency and Renewable Energy and BOEMRE earlier this year, each average GW of wind power capacity can generate 3.4 million megawatt-hours of electricity annually.¹

This amount of power would replace the use of 1.7 million tons of coal or 27.6 billion cubic feet of natural gas and reduce the carbon emissions associated with those fossil fuels by 2.7 million metric tons. The Nation's vast offshore wind resources are located close to our largest electricity demand centers, allowing offshore wind to compete directly with fossil fuel-based electricity generation. Northeastern and Mid-Atlantic coastal states especially can benefit from OCS wind resources to meet ambitious renewable energy portfolio standards and related policy goals calling for the use of a stable and clean supply of energy resources for electrical generation.

In addition to these energy and environmental benefits, offshore wind energy development would have considerable direct and indirect economic benefits. The National Offshore Wind Strategy suggests that offshore wind development would create approximately 20.7 direct jobs per annual megawatt installed in U.S. waters. Many of these jobs would be located in economically depressed port areas that could become important fabrication and staging areas for the manufacture, installation, and maintenance of offshore wind turbines.

The National Offshore Wind Strategy addresses these goals and discusses three focus areas that are central to achieving them—(1) technology development, (2) market barrier removal, and (3) advanced technology demonstration. BOEMRE is working closely with DOE and with other federal agencies, state, local, and tribal governments, and other stakeholders to establish an effective process for siting and permitting offshore renewable energy projects.

OCS Renewable Energy Regulatory Framework

The Energy Policy Act of 2005 provided the Secretary of the Interior with the authority to administer an OCS renewable energy program. This authority, including the mandate to promulgate necessary regulations, was delegated to BOEMRE (then the Minerals Management Service) in March 2006. In early 2009, at the start of the Obama Administration, a draft rule had been issued, but a final regulatory framework was not yet promulgated. On taking office, Secretary Salazar addressed the remaining issues, leading to the publication of BOEMRE's final OCS renewable energy regulatory framework on April 29, 2009.

The regulatory framework is a comprehensive approach to managing the full life cycle of OCS renewable energy activities, from initial study and leasing, through site characterization and assessment and project construction and operation, ultimately to cessation and decommissioning. The regulatory framework reflects a renewable energy program which embraces a "life cycle" approach that encompasses:

- Coordination through task forces established with state, local and tribal governments;
- Lease and grant issuance including competitive and non-competitive leasing as well as commercial and limited leases;
- Plans and operations oversight, including site assessment, construction and operations, and general activities plans, plan approval, and environmental and safety monitoring and inspections;
- Payments to cover bonding activities; and
- Decommissioning at the end of a project's life span.

Additionally, key mandates for the Renewable Energy Program include:

- Safety;
- Protection of the environment;
- Coordination with affected State and local governments and Federal agencies;
- Collecting a fair return for the use of Federally-owned resources; and
- Equitable sharing of revenue with States.

With over 20 existing laws and Executive Orders that apply to the OCS, consultation and coordination is critical to a successful renewable energy program. As BOEMRE strives to facilitate sustained development of a domestic offshore wind industry, we are working with a wide array of stakeholders to find ways for offshore wind projects to proceed with minimal adverse effects on other uses and resources. Our most valuable consultation and coordination tools have proved to be the state-by-state intergovernmental task forces that we have established. These bodies bring together all interested and affected government parties to facilitate information sharing and foster informed and efficient decision-making with the goal of advancing environmentally responsible offshore renewable energy development. To date,

¹A *National Offshore Wind Strategy, Creating an Offshore Wind Energy Industry in the United States*, February 7, 2011

we have nine task forces on the Atlantic coast that are helping BOEMRE to proceed with commercial wind energy leasing, as well as one on the Pacific coast that may focus on marine hydrokinetic energy development.

Since the OCS renewable energy regulatory framework was established in 2009, Secretary Salazar and BOEMRE have sought to outline, refine, and streamline our siting and permitting processes for wind leasing and development. BOEMRE has launched several initiatives to support our efforts as summarized briefly below.

Atlantic Offshore Wind Energy Consortium

In early 2010 Secretary Salazar invited the governors of the Atlantic coast states to join with the Department of the Interior in an Atlantic Offshore Wind Energy Consortium (AOWEC) for the purpose of facilitating federal-state cooperation and coordination for the efficient, expeditious, orderly, and responsible development of wind resources along the Atlantic coast. On June 8, 2010, the Secretary and 11 governors signed a Memorandum of Understanding (MOU) outlining the scope and objectives of the Consortium and establishing working groups charged with formulating an action plan addressing issues relating to: (1) siting and permitting, (2) data and science, and (3) investment in infrastructure. DOE is serving an advisory role to BOEMRE by assessing national infrastructure investment requirements as described in the National Offshore Wind Strategy. The action plan was completed in February of this year, and BOEMRE is considering its recommendations, which relate to improving coordination, implementing pilot projects, revising existing statutory and regulatory authorities to streamline permitting, and improving data acquisition and sharing.

Smart from the Start Atlantic Wind Initiative

On November 23, 2010, Secretary Salazar announced *Smart from the Start*, a program to expedite commercial wind lease issuance on the Atlantic OCS. This initiative has three main elements:

- Streamlined processes, including more efficient National Environmental Policy Act (NEPA) compliance review, for renewable energy lease issuance;
- Identification of Wind Energy Areas (WEAs) followed by information gathering to stimulate investment in Atlantic OCS wind leasing and development; and
- Processing of OCS energy transmission line proposals on a parallel but separate track from generation projects.

Work has begun to identify as WEAs those areas of the OCS that have high wind energy resource potential and relatively low potential use conflicts. BOEMRE will then conduct an environmental assessment (EA) to analyze potential impacts associated with issuing leases and conducting site characterization and assessment activities. If the EA leads to a finding of no significant impact, we will be able to issue leases and will not have to prepare an environmental impact statement (EIS). This will allow developers to acquire leases on an expedited basis and enable them to acquire necessary financing of their projects. BOEMRE will conduct a full EIS when the lessee submits a construction and operations plan for review.

Smart from the Start also calls for enhanced coordination on offshore wind within the federal government. The Department of the Interior has led the formation of the Atlantic Offshore Wind Interagency Working Group—which includes executive level officials of DOE, Commerce, Defense, Homeland Security, the Environmental Protection Agency, the Council on Environmental Quality and other federal agencies—to facilitate the sharing of relevant data. In response to our January 2011 data call to the Working Group, we received 180 entries from our federal partners. BOEMRE will use these data sets when conducting environmental analysis and during the identification and modification of WEAs, and when possible, we will share this data publicly through the Multipurpose Marine Cadastre.

Smart from the Start has been well received by federal and state stakeholders and the offshore renewable energy industry.

Additional Cooperation with Other Federal Agencies

BOEMRE is also working with interested federal agencies to establish agreements to facilitate coordination on OCS renewable energy development. For example, we have in place an MOU with DOE to facilitate and expedite OCS wind and hydrokinetic development. Consistent with this MOU, DOE is making available up to \$50.5 million over 5 years to develop offshore wind technology and to reduce specific market barriers to its deployment. We also have an established MOU with the National Oceanic and Atmospheric Administration (NOAA) on OCS energy development and environmental stewardship, a MOU with the U.S. Fish and Wildlife Service concerning the Migratory Bird Treaty Act and a MOU with the Federal Energy Regulatory Commission regarding the leasing and licensing of marine hydrokinetic

projects. Other MOUs in development are with the Department of Defense (Secretary), the Army Corps of Engineers, and the U.S. Coast Guard. We are confident that these inter-agency groups will ultimately improve permitting processes and promote efficient and effective decision-making.

BOEMRE Research and Studies

BOEMRE has two main scientific research programs. The Environmental Studies Program (ESP) has completed numerous research projects and has several more that are planned or ongoing to determine and evaluate the effects of OCS activities on natural, historical, and human resources and the appropriate monitoring and mitigation of those effects. For example, the ESP has completed or is conducting a number of scientific studies that explore the potential effects of offshore wind projects on birds, marine species, and other aspects of the environment. BOEMRE and DOE co-fund a number of studies within ESP and also partner on research efforts led by the International Energy Agency. Pursuant to the MOU mentioned above, DOI and DOE have also formed an interagency working group with other federal agencies including NOAA, Department of Defense, Army Corps of Engineers, and the Department of the Navy which will facilitate an integrated national network for characterization of offshore wind resources and design conditions. BOEMRE's Technology Assessment and Research (TA&R) Program also conducts research associated with operational safety, engineering standards, and pollution prevention.

One noteworthy research project just completed under our TA&R program is on Offshore Wind Energy Turbine Structural and Operating Safety. BOEMRE asked the National Research Council's Marine Board to conduct a study relating to the structural safety of offshore wind turbines. The study addresses three specific areas: (1) standards and guidelines for design, fabrication and installation of offshore wind turbines; (2) expected roles of third-party entities, called Certified Verification Agents (CVA), in overseeing the design and construction of offshore wind turbines and identifying standards for monitoring, inspection and compliance verification; and (3) expected qualifications to be considered a recognized CVA. BOEMRE received the final report on April 28, 2011, and is in the process of analyzing the recommendations to determine whether to modify the relevant offshore renewable energy regulations.

The National Ocean Policy's Coastal and Marine Spatial Planning

BOEMRE is implementing the OCS renewable energy program in accordance with Executive Order 13547, which President Obama issued in 2010 to establish a comprehensive and integrated national policy for stewardship of the oceans, our coasts and the Great Lakes, including a framework for coastal and marine spatial planning (CMSP). We fully understand and support the need to work together with all OCS users and regulators, and we look forward to coordinating with the National Ocean Council and leading and participating in regional planning bodies undertaking CMSP. We believe our intergovernmental task forces are a valuable vehicle for informing these efforts. We will use an integrated interagency marine information system, developed in collaboration with the National Ocean Council, to implement Executive Order 13547. Part of this system will be the Multipurpose Marine Cadastre, which provides legal, physical, ecological, and cultural information in a common geographic information system framework. This tool was created in partnership with NOAA to comply with a mandate in section 388 of the Energy Policy Act of 2005.

Outreach to Non-governmental Stakeholders

BOEMRE has repeatedly engaged non-governmental organizations (NGOs) to obtain feedback on its regulatory framework and associated processes. During promulgation of our renewable energy regulatory framework rule, we conducted several stakeholder information gathering sessions, as well as workshops on the draft and final regulations. Since the final framework was issued, we have continued meeting with NGOs and stakeholders, including The Nature Conservancy, the National Wildlife Federation, and the Mariners Advisory Committee and have had valuable information exchanges. We have also communicated with representatives of fishing interests through the special working groups established by Massachusetts and Rhode Island, as well as the regional Fisheries Management Councils. BOEMRE also has continued its dialogue with industry representatives, primarily through the Offshore Wind Development Coalition. Based on all of our conversations with stakeholders, we have identified regulatory revisions that we will pursue to bring more clarity and efficiency to our processes. Our first such revision—designed to simplify the leasing process for offshore wind in situations where there is only one qualified and interested developer by eliminating a redundant and therefore unnecessary step—became effective on June 15.

Status of OCS Wind Development

All of the initiatives discussed to this point are helping BOEMRE to identify areas where there are relatively few impediments to offshore wind development and move forward quickly and efficiently to promote the establishment of an offshore renewable energy industry.

BOEMRE's efforts have already resulted in significant accomplishments in offshore wind development:

- The Bureau has issued 4 short-term leases that permit the installation of data collection facilities to inform planned commercial wind development activities (three off New Jersey and one off Delaware). These leases were issued in 2009 under an interim policy initiated while the OCS renewable energy regulatory framework was being developed.
- Interior issued the first ever U.S. offshore commercial wind energy lease in October 2010 for the Cape Wind Energy Project in Nantucket Sound off Massachusetts. Shortly thereafter, the lessee submitted a construction and operations plan, which BOEMRE approved on April 18, 2011. The lessee hopes to begin construction later this year. The Cape Wind Energy Project proposal contemplates building 130 wind turbine generators, 3.6 megawatts each, with the maximum capacity to produce about 468 megawatts. The average expected production from the wind facility could provide about 75 percent of the electricity demand for Cape Cod and the islands of Martha's Vineyard and Nantucket. At average expected production, Cape Wind could produce enough energy to power more than 200,000 homes in Massachusetts.
- BOEMRE announced the first four WEAs—off the coasts of New Jersey, Delaware, Maryland, and Virginia—established under *Smart from the Start* on February 9, 2011, in a Notice of Intent to Prepare an Environmental Assessment for Mid-Atlantic Wind Energy Areas. We have determined that there is no competitive interest in leasing the area made available off Delaware and we will complete the noncompetitive leasing process in response to NRG Bluewater Wind's commercial wind lease request. We hope to make a final decision on lease issuance by the end of this year. By contrast, we have determined that there is competitive interest off Maryland, and we believe there will also be competitive interest off New Jersey and Virginia. BOEMRE plans to complete competitive processes for these three states by early 2012. We will continue to consult with our intergovernmental task forces on all of these leasing processes.
- BOEMRE intends to designate a second set of WEAs—potentially including areas offshore Massachusetts, Rhode Island, New York, and North Carolina—by the end of this year. We have already received numerous expressions of interest off the coast of Massachusetts, and we will be soliciting nominations and other relevant information in the other three areas in the coming months. We will continue to consult with the intergovernmental task forces in these states.
- BOEMRE will consult with the established Maine intergovernmental task force concerning possible future deepwater wind leasing and development and anticipates establishing new task forces in Georgia, South Carolina and Hawaii later this year. The University of Maine's DeepC wind program, funded in part by DOE, is working on developing new technologies, including floating wind turbines for use in deep waters. BOEMRE will work with Maine in the event that we receive an unsolicited application for a commercial wind lease offshore Maine. We also have received an application for a short-term lease for data collection off Georgia under the interim policy, and are currently processing that application.
- BOEMRE also received a request for a right-of-way for a 750-mile backbone transmission line running about 10 miles offshore from New York to Virginia. The developer has ambitious plans for this transmission line, believing that it can link future Atlantic OCS wind energy installations in a manner that can facilitate efficient interconnection to the onshore electrical grid. We held initial meetings on the proposed project with members of our New York, New Jersey, Delaware, Maryland, and Virginia Task Forces in early June, and will continue to consult and coordinate with our Task Forces and other stakeholders in processing this request.

H.R. 2170 and H.R. 2173

H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, and H.R. 2173, the Advancing Offshore Wind Production Act, were introduced only a week ago, and the Department has not had sufficient time to conduct a comprehensive analysis of the bills or their potential effects on BOEMRE's offshore re-

renewable energy program. The Department appreciates the committee's efforts to accelerate the development of renewable energy projects on federal lands and waters. However, these bills make sweeping changes to environmental review of renewable energy projects both onshore and offshore. Since the final regulations for the OCS Renewable Energy Program were announced in 2009, BOEMRE has been working extensively with other federal agencies, Atlantic coastal state Governors, and other stakeholders to seek ways to improve the leasing and permitting process for developing this vital component of our nation's comprehensive energy policy without cutting corners on safety or environmental protection. The Department opposes these bills.

While H.R. 2170 and H.R. 2173 limit or exempt NEPA review of offshore renewable energy projects and offshore meteorological site testing and monitoring projects, the projects would not be exempt from consultations mandated by several other laws including the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), National Historic Preservation Act (NHPA), National Marine Sanctuaries Act (NMSA), Marine Mammal Protection Act (MMPA), and Coastal Zone Management Act (CZMA). Depending on the location, government-to-government consultations may also be required with affected tribal governments. The important consultation BOEMRE performs in conformance with these laws is often informed by the NEPA analysis customarily undertaken by BOEMRE, and we are concerned that the elimination or limitation of NEPA analysis contemplated by this legislation would deprive those consultations of valuable information and analyses.

H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, limits Federal NEPA reviews for all renewable energy projects to the "proposed action" and "no action alternative", eliminating the consideration of alternative locations and other project modifications. By limiting the federal agency to a "Take It or Leave It" option, the bill constrains the federal agency's ability to consider reasonable alternatives to a proposed renewable energy project that could ultimately generate a comparable amount of energy but with less environmental impact. Limiting consideration of a reasonable range of alternatives prevents BOEMRE's ability to work with applicants to explore different technologies, siting, and project plans that would advance responsible renewable energy development.

H.R. 2173, the Advancing Offshore Wind Production Act, would completely eliminate NEPA review and analysis of meteorological site testing and monitoring projects on the OCS. This bill may conflict with section 8(p) of the OCS Lands Act (OCSLA), because it may eliminate the Secretary's ability to consider all impacts of meteorological testing and monitoring projects and to consider environmental impacts of renewable energy projects on the OCS.

Section 8(p) requires BOEMRE to issue a renewable lease, easement or right of way for these types of activities, and to determine if competitive interest exists for such a grant. The bill appears to allow permits for meteorological site testing and monitoring activities while remaining silent on the need for a lease, easement or right of way.

H.R. 2173 also sets up a permitting process—which could be read as an additional step in addition to the leasing process—by describing "permit timeline conditions." This section includes a public and interagency comment period during the permitting process while at the same time establishing a 30 day deadline for the Secretary to act on permit applications—thus inherently constraining opportunities for comment.

BOEMRE's comment and consultation process, currently established as part of the leasing process, is extensive. BOEMRE works closely with federal agencies, such as the U.S. Coast Guard (USCG), the Department of Defense, NOAA, and the Federal Aviation Administration (FAA), during the renewable energy leasing process. These agencies have provided invaluable input, assisting us with the acquisition of useful data and information, resolution of multiple use challenges, and identification of key nongovernmental stakeholders. For example, in deciding what areas to offer for lease, consultation and discussions with the Coast Guard resulted in the Coast Guard withdrawing its objection to a significant portion of an area that it initially had objected to, and allowed a larger area to be included in further considerations for leasing.

Several federal laws mandate BOEMRE consult with other federal agencies and tribes, such as the ESA, MSFCMA, CZMA, MMPA, NMSA, and NHPA. The ESA and MSFCMA consultations are generally completed within time periods greater than 30 days. The NHPA allows up to 30 days for an affected tribe to submit a response to BOEMRE's request to initiate a consultation, and the consultation itself can take much longer. The NHPA also requires consultation with State Historic Preservation Officers. The CZMA allows affected states up to 60 days to respond to

a BOEMRE-prepared consistency determination (under Subpart C) and six months to respond to a lessee's consistency certification (under Subparts D and E). The NMSA requires notification with a description and potential impacts of actions that are likely to destroy, cause the loss of, or injure any sanctuary resource no less than 45 days before final approval of the action. Consultation may take an additional 45 days longer, and reasonable and prudent alternatives may be recommended. In addition to these mandated consultations, BOEMRE also consults with the Department of Defense to resolve possible multiple use conflicts; FAA regarding conflicts with air navigation, and USCG regarding conflicts with marine navigation. The time to complete these consultations, as well as any others that may be required, varies depending on a variety of factors, including previous activity in the area and, most importantly, with the complexity and controversy of the many safety, environmental, and operational issues to be addressed.

Finally, since only governmental entities may take part in Task Force meetings, BOEMRE frequently participates in stakeholder outreach efforts with entities such as maritime navigation organizations and commercial fishing groups that may be affected by offshore renewable energy activities. BOEMRE believes that continuing this effort will be crucial in order to avoid or minimize user conflicts and diffuse potential litigation challenges, and that 30 days will likely be insufficient time to meaningfully engage with these groups.

Both bills are inconsistent with sound and long-standing NEPA environmental reviews and with BOEMRE's technical and engineering reviews necessary to promote safe operations and environmental protection for responsible renewable energy activities on the OCS.

Conclusion

BOEMRE has set ambitious but achievable goals to help the U.S. make development of domestic sources of clean, renewable energy a reality. The combination of streamlined processes along with the increased involvement of state and federal partners is helping BOEMRE make good strides in reaching those goals. BOEMRE is excited to have a prominent role in the nation's renewable energy future, and looks forward to working with stakeholders to develop a thriving domestic offshore wind industry that is coordinated and supports Executive Order 13547 and the national policy for stewardship of the oceans.

Mr. Chairman this concludes BOEMRE's statement for the record.

The following documents were submitted for the record and have been retained in the Committee's official files.

- Alaska Wilderness League, American Rivers, Clean Water Action, Defenders of Wildlife, Environment America, Friends of the Earth, Greenpeace USA, Izaak Walton League of America, League of Conservation Voters, National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club, The Trust for Public Land, The Wilderness Society, Union of Concerned Scientists, Letter to President Barack Obama dated February 9, 2011.
- California Desert & Renewable Energy Working Group, Letter to Robert Abbey, Director, Bureau of Land Management, U.S. Department of the Interior, dated May 2, 2011.
- Defenders of Wildlife, National Audubon Society, American Wind Energy Association, The Sonoran Institute, AES Wind Generation, Inc., Element Power, Western Resource Advocates, Mass Audubon, The Union of Concerned Scientists, MAP, Horizon Wind Energy, NextEra Energy, Inc., Ridgeline Energy, LLC, Pattern Energy Group, LP, Iberdrola Renewables, Inc., Sierra Club and others, Letter to Hon. Rowan W. Gould, Acting Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, dated May 19, 2011.
- The New York Times article entitled "Regulation Lax as Gas Wells' Tainted Water Hits River" dated February 26, 2011.
- The New York Times article entitled "Wastewater Recycling No Cure-All in Gas Process" dated March 1, 2011.
- Pittsburgh Tribune-Review article entitled "Public water safe from radioactivity throughout region" dated June 21, 2011.
- The Wall Street Journal article entitled "The Facts About Fracking."