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

House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources

H.R. 5482, Energy Poverty Prevention and Accountability Act
H.R. 6474, Regarding Sec. 390 Categorical Exclusions for Geothermal Development
H.R. 6481, Regarding Refundable Expression of Interest Fees

December 12, 2023

Thank you for the opportunity to provide this Statement for the Record on H.R. 5482, the Energy Poverty Prevention and Accountability Act; H.R. 6474, regarding Sec. 390 categorical exclusions for geothermal development; and H.R. 6481, regarding refundable expression of interest fees.

Background

The Bureau of Land Management (BLM) manages approximately 245 million surface acres, located primarily in 12 western states, as well as 30 percent of the nation's onshore mineral resources across 700 million subsurface acres, overlain by properties managed by other Federal agencies such as the Department of Defense and the U.S. Forest Service (USFS), as well state and private lands.

The Federal Land Policy and Management Act of 1976 (FLPMA) provided the BLM with the multiple use and sustained yield mandate that guides all of the BLM's land management decisions. Driven by that mandate established by FLPMA, the BLM sustains the health, diversity, and productivity of the nation's public lands for multiple uses, such as conventional and renewable energy development; livestock grazing; conservation; mining; watershed protection; hunting, fishing, and other forms of recreation, and more. This enables the BLM to contribute tremendously to economic growth, job creation, and domestic energy production, while generating revenues for Federal and State treasuries and local economies and allowing for a thoughtful and balanced approach to management of our public lands.

H.R. 5482, Energy Poverty Prevention and Accountability Act

H.R. 5482 directs various Federal agencies to conduct reviews of Federal energy laws and regulations, as well as proposed energy projects and state renewable energy portfolio standards, to evaluate their impacts on energy access for at-risk communities. In addition, the bill requires the Comptroller General of the United States, in consultation with each relevant agency, to develop criteria to determine whether an at-risk community is experiencing "energy poverty", which is defined in the bill as "a condition in which individuals do not have access to affordable and reliable energy to maintain economic security." The bill also requires a study by the Secretary of the Interior before undertaking or not undertaking certain energy related actions (including conducting leasing and permitting or making withdrawals of Federal land, among other activities) to determine if the activity would impose disproportionate costs on at-risk

communities or increase the likelihood that they will experience energy poverty and job losses. Additionally, H.R. 5482 would allow entities sponsoring certain energy related projects on Federal land to request the lead agency conduct a study on how the applicant's proposal would create jobs and reduce energy prices.

Analysis

The BLM recognizes the importance of affordable and reliable energy to our national and economic security. The BLM supports the Sponsor's goal of mitigating the disparate impact of energy costs to at-risk communities. However, the studies required by the bill, including those that could be requested by an applicant or entity sponsoring a project, would add another layer of complexity to the existing processes, create duplicate analysis requirements, make it difficult to predict timelines for project reviews and permitting, and potentially delay completion of authorizations for energy-related projects. The BLM also notes that the National Environmental Policy Act already requires the analysis of a variety of impacts, both beneficial and adverse. For these reasons, the BLM cannot support the bill.

H.R. 6474, Regarding Sec. 390 Categorical Exclusions for Geothermal Development

H.R. 6474 proposes to amend Section 390 of the Energy Policy Act of 2005 (EPAct 2005), which established five categorical exclusions (CXs) for oil and gas, known as Section 390 CXs, to include exploration or development of geothermal resources.

Analysis

CXs are categories of actions that Federal agencies have determined do not have a significant effect on the quality of the human environment (individually or cumulatively) and for which neither an EA nor an EIS is required to comply with NEPA (40 CFR 1508.4). Although eligible actions may not require an EA or EIS, a CX is not an exemption from NEPA requirements. Section 390 CXs apply only to oil and gas exploration and development pursuant to the Mineral Leasing Act. Other procedural requirements still apply to Section 390 CXs, such as consultation under the Endangered Species Act and National Historic Preservation Act.

The BLM does not anticipate that the Section 390 CXs would offer significant benefits in improving processing times for geothermal projects, as there are considerable inherent differences between geothermal and oil and gas production processes. Currently, the BLM is working on administratively establishing CXs specifically for geothermal development, and these CXs will be more applicable to the geothermal process than the oil and gas-focused Section 390 CXs, which the bill would amend. Additionally, the BLM generally believes that new CXs are better developed through the traditional administrative process than through legislation. As such, the BLM does not support H.R. 6474.

H.R. 6481, Regarding Refundable Expressions of Interest Fees

H.R. 6481 requires the Secretary of the Interior to reimburse the fee for an expression of interest (EOI) if the EOI becomes inactive. The non-refundable $5 per acre EOI fee was established by the Inflation Reduction Act (IRA, Public Law 117-169).

Analysis

An EOI is an informal nomination to request certain Federal lands to be included in a

competitive oil and gas lease sale. The nonrefundable EOI filing fee is intended to minimize spurious EOIs, including those submitted for lands that are ineligible for oil and gas leasing. Historically, many EOIs submitted to the BLM were for lands that were ineligible for a lease sale for reasons such as being located within an existing authorized lease, lacking Federally-owned minerals, or being legislatively unavailable for mineral leasing.

By creating a nonrefundable fee through the IRA, Congress placed the burden on the party submitting an EOI to ensure the lands submitted are available and eligible for leasing. Consistent with Congressional intent, this has decreased the number of spurious EOIs and the workload imposed on the BLM mineral leasing program, making it possible to process EOIs for eligible lands more efficiently. The BLM supports maintaining the nonrefundable EOI fee as directed by Congress, and therefore does not support H.R. 6481.

Conclusion

Thank you again for the opportunity to provide a statement for the record on these bills.