

**GAO REPORT DOCUMENTS BLM'S
CHRONIC MISMANAGEMENT OF
WIND AND SOLAR RECLAMATION
BONDS**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

Wednesday, June 24, 2015

Serial No. 114-12

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.fdsys.gov>

or

Committee address: <http://naturalresources.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

95-299 PDF

WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON NATURAL RESOURCES

ROB BISHOP, UT, *Chairman*
RAÚL M. GRIJALVA, AZ, *Ranking Democratic Member*

Don Young, AK	Grace F. Napolitano, CA
Louie Gohmert, TX	Madeleine Z. Bordallo, GU
Doug Lamborn, CO	Jim Costa, CA
Robert J. Wittman, VA	Gregorio Kilili Camacho Sablan, CNMI
John Fleming, LA	Niki Tsongas, MA
Tom McClintock, CA	Pedro R. Pierluisi, PR
Glenn Thompson, PA	Jared Huffman, CA
Cynthia M. Lummis, WY	Raul Ruiz, CA
Dan Benishek, MI	Alan S. Lowenthal, CA
Jeff Duncan, SC	Matt Cartwright, PA
Paul A. Gosar, AZ	Donald S. Beyer, Jr., VA
Raúl R. Labrador, ID	Norma J. Torres, CA
Doug LaMalfa, CA	Debbie Dingell, MI
Jeff Denham, CA	Ruben Gallego, AZ
Paul Cook, CA	Lois Capps, CA
Bruce Westerman, AR	Jared Polis, CO
Garret Graves, LA	<i>Vacancy</i>
Dan Newhouse, WA	
Ryan K. Zinke, MT	
Jody B. Hice, GA	
Aumua Amata Coleman Radewagen, AS	
Thomas MacArthur, NJ	
Alexander X. Mooney, WV	
Cresent Hardy, NV	
<i>Vacancy</i>	

Jason Knox, *Chief of Staff*
Lisa Pittman, *Chief Counsel*
David Watkins, *Democratic Staff Director*
Sarah Parker, *Democratic Deputy Chief Counsel*

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

LOUIE GOHMERT, TX, *Chairman*
DEBBIE DINGELL, MI, *Ranking Democratic Member*

Doug Lamborn, CO	Jared Huffman, CA
Raúl R. Labrador, ID	Ruben Gallego, AZ
Bruce Westerman, AR	Jared Polis, CO
Jody B. Hice, GA	<i>Vacancy</i>
Aumua Amata Coleman Radewagen, AS	<i>Vacancy</i>
Alexander X. Mooney, WV	Raúl M. Grijalva, AZ, <i>ex officio</i>
<i>Vacancy</i>	
Rob Bishop, UT, <i>ex officio</i>	

CONTENTS

	Page
Hearing held on Wednesday, June 24, 2015	1
Statement of Members:	
Dingell, Hon. Debbie, a Representative in Congress from the State of Michigan	3
Prepared statement of	6
Gohmert, Hon. Louie, a Representative in Congress from the State of Texas	1
Prepared statement of	3
Statement of Witnesses:	
Ellis, Steven A., Deputy Director for Operations, Bureau of Land Management, U.S. Department of the Interior	16
Prepared statement of	18
Questions submitted for the record	20
Fennell, Anne-Marie, Director, Natural Resources and Environment Team, U.S. Government Accountability Office; Accompanied by Elizabeth Erdmann, Assistant Director, Natural Resources and Environment Team, U.S. Government Accountability Office	7
Prepared statement of	9
Additional Materials Submitted for the Record:	
Bishop, Hon. Rob and Hon. Louie Gohmert, May 1, 2015 Letter to Director Kornze, BLM	43
Dingell, Hon. Debbie, June 24, 2015 Letter to Chairman Louie Gohmert ..	5
Ellis, Steven A., Deputy Director for Operations, BLM, June 3, 2015 Letter to Chairman Rob Bishop	45
List of documents submitted for the record retained in the Committee's official files	46
Schinkel, De Shann, Realty Specialist, BLM Rawlins Field Office; Jessica Lewis, Analyst, GAO, e-mail correspondence	46

OVERSIGHT HEARING ON GAO REPORT DOCUMENTS BLM'S CHRONIC MISMANAGEMENT OF WIND AND SOLAR RECLAMATION BONDS

Wednesday, June 24, 2015
U.S. House of Representatives
Subcommittee on Oversight and Investigations
Committee on Natural Resources
Washington, DC

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 1324, Longworth House Office Building, Hon. Louie Gohmert [Chairman of the Subcommittee] presiding.

Present: Representatives Gohmert, Labrador, Radewagen, Mooney, Dingell, Huffman, and Polis.

Mr. GOHMERT. The Subcommittee on Oversight and Investigations is meeting today to hear testimony concerning BLM's ongoing mismanagement of reclamation bonds for wind and solar energy projects on Federal land.

So this Subcommittee on Oversight and Investigations will come to order. Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member and the Vice Chair and a designee of the Ranking Member. This will allow us to hear from our witnesses sooner, and help Members keep to their schedules.

Our subcommittee is meeting to hear testimony on a GAO report documenting BLM's chronic mismanagement of wind and solar reclamation bonds. I do politely ask everyone in the hearing to please silence your cell phones and anything else that makes noise. This will allow minimum distractions for both our Members and our guests to ensure that we all gain as much from this as we can.

Since I am not a judge anymore and do not have a bailiff, I cannot have you carried out if you make noise—at least not immediately—but anyway, please be polite. I didn't even have to say anything to the bailiff, he just went and got them out. That was kind of nice.

[Laughter.]

Mr. GOHMERT. I would ask unanimous consent that all of the Members' opening statements be made part of the hearing record if they are submitted to the Subcommittee clerk by 5:00 p.m. today.

Hearing no objection, so ordered.

I will now recognize myself for 5 minutes.

STATEMENT OF THE HON. LOUIE GOHMERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GOHMERT. Reclamation bonds are used to return solar and wind energy rights-of-way to their pre-developed condition after authorization to use the land ends. BLM requires right-of-way holders to provide these bonds so the reclamation costs are covered in case

the energy developer becomes insolvent or is otherwise unable to pay for reclamation.

If BLM does not have an adequate bond, BLM may have to use taxpayer dollars to cover the costs. As of April 2014, BLM held over \$100 million in reclamation bonds for solar and wind projects.

Unfortunately, GAO found that BLM is chronically mismanaging the wind and solar bond program. The computer databases BLM uses to track bonds are completely unreliable and inconsistent with the project files. BLM has bond adequacy review policies that it does not follow, and 50 percent of the bonds are overdue for review.

In some cases, BLM holds bonds below the established minimum amount, in violation of current BLM policy. GAO estimates that about 30 percent of BLM's wind and solar rights-of-way are underbonded by a total of about \$15 million. Out of the 33 wind rights-of-way that BLM has granted, over 60 percent have little or no documentation to support the bond amount. The remaining 40 percent have inconsistent documentation that varied widely.

These are not new problems. In 2012, the Office of Inspector General for the Department of the Interior evaluated BLM's Renewable Energy Program and found many of the same issues; but instead of taking corrective action, BLM charged ahead.

In fact, in 2013 President Obama proposed to increase renewable energy projects and set an even higher goal for energy generation on Federal land. The Administration's push toward more renewable energy was bolstered by millions of dollars in tax credits and loan guarantees for renewable energy developers.

It is still unclear whether these problems were merely a symptom of an agency that was in over its head or if these breaks on bonding requirements were part of an effort by the Administration to coddle a preferred industry.

The OIG described this rapid expansion of renewables as a boom environment and recognized that the volatility of the renewable energy industry makes reclamation bonds imperative. Instead of heeding this advice, we are here 3 years later to hold BLM accountable for the many problems that both the OIG and now the GAO have documented.

We would like to commend the GAO for doing an extraordinarily thorough, well-documented, and comprehensible review. Some issues, by their nature, tend to catch more attention than others. In this case, that would be particularly true regarding BLM's inability to demonstrate that it has adequately safeguarded bonds entrusted to it.

This, however, is emblematic of the broader problems documented by GAO regarding a program at the Interior that has woefully been mismanaged for some time.

Recognizing and correcting these problems, this time in earnest, is particularly important given the emphasis on promoting renewable energy projects on Federal land. Hopefully we can start down that path today.

[The prepared statement of Mr. Gohmert follows:]

PREPARED STATEMENT OF THE HON. LOUIE GOHMERT, CHAIRMAN, SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

The Subcommittee on Oversight and Investigations is meeting today to hear testimony concerning BLM's ongoing mismanagement of reclamation bonds for wind and solar energy projects on Federal land. This hearing coincides with the release of a new Government Accountability Office report entitled, "BLM has Limited Assurance that Wind and Solar Projects are Adequately Bonded."

Reclamation bonds are used to return solar and wind energy rights-of-way to their pre-developed condition after authorization to use the land ends. BLM requires right-of-way holders to provide these bonds so that reclamation costs are covered in case the energy developer becomes insolvent or is otherwise unable to pay for reclamation. If BLM doesn't have an adequate bond, BLM may have to use taxpayer dollars to cover the costs. As of April 2014, BLM held over \$100 million in reclamation bonds for solar and wind projects.

Unfortunately, GAO found that BLM is chronically mismanaging the wind and solar bond program. The computer databases BLM uses to track bonds are completely unreliable and inconsistent with the project files. BLM has bond adequacy review policies that it doesn't follow, and 50 percent of bonds are overdue for review.

In some cases, BLM holds bonds below the established minimum amount—a violation of current BLM policy. GAO estimates that about 30 percent of BLM's wind and solar rights-of-way are underbonded by a total of about \$15 million. Out of the 33 wind rights-of-way that BLM granted, over 60 percent have little or no documentation to support the bond amount. The remaining 40 percent have inconsistent documentation that varied widely.

These aren't new problems. In 2012, the Office of Inspector General for the Department of the Interior evaluated BLM's Renewable Energy Program and found many of the same issues.

But instead of taking corrective action, BLM charged ahead.

In fact, in 2013 President Obama proposed to increase renewable energy projects and set an even higher goal for energy generation on Federal land. The Administration's push toward more renewable energy was bolstered by millions of dollars in tax credits and loan guarantees for renewable energy developers.

It is still unclear whether these problems were merely a symptom of an agency that was in over its head, or if these breaks on bonding requirements were part of an effort by the Administration to coddle a preferred industry.

The OIG described this rapid expansion of renewables as a "boom" environment and recognized that the volatility of the renewable energy industry made reclamation bonds imperative.

Instead of heeding this advice, we are here 3 years later to hold BLM accountable for the many problems that both the OIG and now the GAO have documented.

I would like to commend the GAO for doing an extraordinarily thorough, well-documented, and comprehensible review. Some issues, by their nature, tend to catch more attention than others. In this case, that would be particularly true regarding BLM's inability to demonstrate that it has adequately safeguarded bonds entrusted to it.

This, however, is emblematic of the broader problems documented by GAO, regarding a program that has been woefully mismanaged for some time.

Recognizing and correcting these problems—this time in earnest—is particularly important given the emphasis on promoting renewable energy projects on Federal land. Hopefully we can start down that path today.

Mr. GOHMERT. At this time I would like to recognize the Ranking Member for her opening statement. I recognize Mrs. Dingell for 5 minutes.

STATEMENT OF THE HON. DEBBIE DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mrs. DINGELL. Thank you, Mr. Chairman. It is always good to be with you, especially on a sunny day after a bad rain last night. Hopefully this is not indicative of today's hearing.

I want to thank the witnesses for taking the time to be here today.

First, I want to applaud the Chairman's focus on whether energy developers on Bureau of Land Management land are adhering to the polluter pays principle. This common-sense principle says that if you cause environmental harm, you are responsible for cleaning it up. It is one way to make sure that companies do not try to increase their profits by making the taxpayer cover the clean-up costs.

BLM adheres to this principle by requiring developers with projects on BLM land to post reclamation bonds. In other words, the developer has to set aside money to restore the site if the company cannot do it when it is time for them to leave.

There are a number of reasons a developer might not be able to pay the clean-up costs, but the best example is that the company has declared bankruptcy. I am finding that in some other projects in our own home state right now.

When that happens and there is no bond or other financial assurance, the taxpayer is stuck with the bill to clean up the pollution. The GAO report, that is at the center of today's hearing, identifies about \$100 million in bonds for wind and solar projects on BLM lands, so this is a potentially serious issue.

The GAO looked at instances when renewable energy companies have left taxpayers on the hook for clean-up costs, and they found none. The GAO report found none. Not a single clean energy project was abandoned by its developer when they moved off the land.

The GAO report also finds that BLM could be doing a better job at managing reclamation bonds, and quite frankly, I agree. So does BLM. All five of GAO's recommendations will be addressed in a rulemaking that was issued last September, 2014. Quite frankly, I think there are bigger fish to fry here.

Since the Chairman and I appear to have found common ground in our concern for preserving the polluter pays principle and protecting the American taxpayer from polluters, I think it would be a good use of this subcommittee's time to look at the issue of self-bonding by the biggest coal companies and specifically focusing on the use of subsidiaries to create the appearance of financial strength.

Coal mining companies are able to avoid purchasing the kind of reclamation bonds required for projects like wind, solar, and oil and gas development by self-bonding if they can demonstrate that they are financially strong.

Coal companies that qualified for self-bonding in the past are now facing declining demand for coal and are suffering from disinvestment. This is drastically changing the landscape. In May 2015, the state of Wyoming notified a company that they no longer qualified for self-bonding. If a company is self-bonded but cannot cover reclamation costs, in reality who is going to pay the bill? The taxpayer, and that is the heart of this hearing.

A 2015 report by the Western Organization of Resource Councils and others found that self-bonding by coal companies creates a taxpayer exposure that is far greater than that posed by clean energy developments on BLM lands. There was an estimated \$3.5 billion in outstanding coal self-bonds as of 2014, compared to \$100 million in clean energy bonds on BLM lands.

The Office of Surface Mining Reclamation and Enforcement is already investigating the issue. Mr. Chairman, I hope this subcommittee can build on this hearing today by focusing on what, as I discovered in my 2:00 a.m. reading, is an even bigger risk to the taxpayer.

I have respectfully handed you a letter to memorialize this request for the record so that we could begin a bipartisan investigation into this issue, and I hope that we can work together on it.

[The letter dated June 24, 2015 follows:]

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
WASHINGTON, DC 20515,
JUNE 24, 2015.

Hon. LOUIE GOHMERT, *Chairman,*
House Subcommittee on Oversight and Investigations,
1324 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMAN GOHMERT:

I write to urge you to conduct a bipartisan investigation into the practice of self-bonding by coal companies, focusing on the use of subsidiaries to meet self-bonding requirements. It is encouraging that we have a common interest in this issue, based on today's hearing about whether energy developers are setting aside enough money to cover their pollution cleanup costs in case they go bankrupt.

Coal mining companies are able to avoid purchasing the kind of reclamation bonds required for projects like wind, solar, oil and gas development by self-bonding if they can demonstrate they are in good financial health.^{1,2} Though only four companies qualified last year, there was an estimated \$3.5 billion in outstanding coal self-bonds.³

However, those large companies are facing declining demand for coal and divestment. A 2015 report by Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation entitled "Undermined Promise II" used publicly available data to demonstrate that three of the four biggest coal companies—Arch Coal, Peabody Energy Corporation, and Alpha Natural Resources—may not qualify for self-bonding anymore.⁴

In May 2015, the State of Wyoming, which has regulatory authority over the coal mines through SMCRA, notified Alpha Natural Resources that they no longer qualified for self-bonding. The state of West Virginia is also looking into Alpha's self-bonding qualifications, which covers about \$262 million in cleanup costs.⁵

The right to self-bond is unique to coal as an energy source and it amounts to a major subsidy. Self-bonding allowed Alpha "to avoid insurance or provisions of about \$400 million for cleanup of mines" in Wyoming.⁶ Cloud Peak Energy held \$200 million in self-bonds at the end of 2014.⁷ The conversion from paying surety premiums saved them \$2 million per year.⁸ Arch Coal held almost \$460 million in self-bonds and Peabody Energy Corporation held over \$1.3 billion in self-bonds at the end of 2014.

Because Arch and Peabody are unlikely to be able to qualify on their own for self-bonding, they are exploiting vague regulatory language⁹ to use their subsidiaries to

¹ 30 CFR 800.12.

² 30 CFR 800.23.

³ Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation, *Fact Sheet for Undermined Promise II*.

⁴ Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation, *Undermined Promise II*.

⁵ <http://www.reuters.com/article/2015/04/27/us-usa-coal-exclusive-idUSKBN0NI21220150427>.

⁶ <http://www.reuters.com/article/2015/05/29/alpha-ntrl-resc-insurance-idUSL3N0YK5AS20150529>.

⁷ Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation, *Fact Sheet for Undermined Promise II*.

⁸ Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation, *Undermined Promise II*, p. 11.

⁹ 30 CFR 800.23.

meet financial fitness thresholds.¹⁰ The distribution of assets and liabilities between the parent company and its subsidiary that is necessary to pass the financial tests, may still leave the taxpayer at risk. Citizen oversight is difficult because SEC filings or other regulatory disclosures contain insufficient information to determine that distribution for the subsidiary.

If the mining sites owned by any of these companies are underbonded because the company will not be able to afford paying out-of-pocket for reclamation, the taxpayer will be responsible for cleanup costs. An investigative reporter for Reuters wrote “If pushed to bankruptcy, those coal companies could leave behind more than \$2 billion in cleanup liabilities and no clear custodian to cover the costs, other than state or federal agencies, according to industry officials.”¹¹

Congressional oversight is clearly needed in this area. We must ensure taxpayer dollars are not needlessly put at risk to cover cleanup costs when this could be avoided. I stand ready to assist with this investigation and look forward to working with you.

Sincerely,

DEBBIE DINGELL,
Ranking Member,
Subcommittee on Oversight and Investigations.

Mrs. DINGELL. Thank you, Mr. Chairman.
[The prepared statement of Mrs. Dingell follows:]

PREPARED STATEMENT OF THE HON. DEBBIE DINGELL, RANKING MEMBER,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Thank you, Mr. Chairman. Thank you to the witnesses for taking the time to be here today.

First, I applaud the Chairman’s focus on whether energy developers on Bureau of Land Management land are adhering to the “polluter pays” principle. This common-sense principle says that if you cause environmental harm, you are responsible for cleaning it up. It’s one way to make sure that companies don’t try to increase their profits by making the taxpayer cover their clean-up costs.

BLM adheres to this principle by requiring developers with projects on BLM land to post reclamation bonds. In other words, the developer has to set money aside to restore the site if the company can’t do it when it’s time for them to leave. There are a number of reasons the developer might not be able to pay the clean-up costs, but the best example is that the company has declared bankruptcy. When that happens and there is no bond or other financial assurance, the taxpayer is stuck with the bill to clean up the pollution.

The GAO report that is at the center of today’s hearing identifies about \$100 million in bonds for wind and solar projects on BLM lands. So this is potentially a serious issue. The GAO looked at instances when renewable energy companies have left taxpayers on the hook for clean-up costs, *and they found none*. Not a single clean energy project was abandoned by its developer when they moved off the land.

The GAO report also finds that BLM could be doing a better job at managing reclamation bonds. I agree. So does BLM. All five of GAO’s recommendations will be addressed in a rulemaking that was proposed in September of 2014. Quite frankly, I think there are bigger fish to fry here.

Since the Chairman and I appear to have found common ground in our concern for preserving the polluter pays principle and protecting the American taxpayer from polluters, I think it would be a good use of this subcommittee’s time to look at the issue of self-bonding by the biggest coal companies and specifically focusing on the use of subsidiaries to create the appearance of financial strength.

Coal mining companies are able to avoid purchasing the kind of reclamation bonds required for projects like wind, solar, and oil and gas development by self-bonding if they can demonstrate they are financially strong.

¹⁰ Western Organization of Resource Councils, the Natural Resources Defense Council, and the National Wildlife Federation, *Fact Sheet for Undermined Promise II*.

¹¹ <http://www.reuters.com/article/2015/04/27/us-usa-coal-exclusive-idUSKBN0NI21220150427>.

Coal companies that qualified for self-bonding in the past are now facing declining demand for coal and are suffering from disinvestment. This is drastically changing the landscape. In May 2015, the state of Wyoming notified a company that they no longer qualified for self-bonding. If a company is self-bonded but can't cover reclamation costs, in reality the taxpayer has to pay the bill. That is the heart of this hearing.

A 2015 report by Western Organization of Resource Councils and others found that self-bonding by coal companies creates a taxpayer exposure that is far greater than that posed by clean energy developments on BLM land. There was an estimated \$3.5 billion in outstanding coal self-bonds as of 2014, compared to \$100 million in clean energy bonds on BLM land.

The Office of Surface Mining Reclamation and Enforcement is already investigating the issue. I hope this subcommittee can build on the hearing today by focusing on this much bigger risk to the taxpayer.

Mr. Chairman, I am respectfully sending you a letter to memorialize this request for a bipartisan investigation into the issue of self-bonding in the coal industry and I hope we can work together on this.

Mr. GOHMERT. Thank you.

I appreciate the input, the observations, and the homework you did, Mrs. Dingell. You are always well prepared.

At this time we will now introduce our witnesses. First we have Ms. Anne-Marie Fennell, who is the Director of the Natural Resources and Environment Team at the U.S. Government Accountability Office. She is accompanied by Ms. Elizabeth Erdmann, who is the Assistant Director of the Natural Resources and Environment Team at the U.S. Government Accountability Office. We asked her to come since she had been participating directly.

Also we have Mr. Steven Ellis, who is the Deputy Director for Operations at the Bureau of Land Management.

I will remind our witnesses that, per Committee Rules, oral statements must be limited to 5 minutes. Your entire written statement will be admitted for the record. However, as you speak, when you get down to 1 minute, the yellow light will come on; and when the red light comes on, you will then need to cease your oral statement. So gauge that accordingly.

The entire panel will be allowed to testify before questioning begins, and the Chair at this time recognizes Ms. Fennell for 5 minutes.

STATEMENT OF ANNE-MARIE FENNELL, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; ACCOMPANIED BY ELIZABETH ERDMANN, ASSISTANT DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FENNELL. Mr. Chairman, Ranking Member Dingell, and members of the subcommittee, I am pleased to be here today to discuss our June 2015 report on BLM's policies and practices for bonding renewable energy development on Federal land.

BLM plays a key role in managing energy produced on Federal lands, including the growing areas of wind and solar projects. To ensure compliance with various requirements, BLM directs developers to obtain bonds to cover the cost of returning the land to its pre-developed condition when a solar or wind project terminates;

this process is known as reclamation. If the bonds are inadequate to cover these costs, the Federal Government may have to pay.

My testimony today highlights the findings of our 2015 report. Specifically I will discuss three areas: first, BLM's policies for the bonding of wind and solar projects; second, the amount of bonds held by BLM for the reclamation of wind and solar projects and how BLM tracks these projects and bonds; and third, the extent to which BLM ensures that the bonds for wind and solar rights-of-way are adequate to cover reclamation costs.

First, BLM has different policies for bonding wind and solar projects on Federal land. For example, BLM's 2008 wind policy established minimum bond amounts, but its 2010 solar policy did not. However, the agency has issued a proposed rule that would establish consistent requirements for the bonding of wind and solar projects in several areas, including ensuring the minimum bond amount.

Second, we found that BLM has about \$100 million in bonds to cover reclamation costs associated with wind and solar projects on Federal lands. BLM tracks bonds through two data systems, but we found that neither system was reliable for this purpose.

Specifically, we found multiple instances in each system where information was missing, inaccurate, or had not been updated. Furthermore, the agency does not have a timeliness standard for wind and solar data entry, contrary to the standard for its mining program.

Third, we found that BLM had limited assurance that bonds for wind and solar rights-of-way will cover reclamation costs. Specifically, we found that about one-third of the wind and solar development rights-of-way were underbonded by about as much as \$15 million in total.

In addition, we found wide variation in how BLM staff documented bond decisions for wind and solar rights-of-way. For example, we found little or no documentation to support the bond amount for about two-thirds of the wind rights-of-way we reviewed.

In addition, BLM does not adequately ensure the wind and solar bond instruments are properly secured, handled, and stored. BLM staff in two field offices told us that bonds were stored in files rather than in secured, locked cabinets or a safe.

Furthermore, there are no policies related to the proper handling and storage of bond instruments for wind and solar projects.

BLM also inconsistently adheres to its policies for the periodic review of the amounts of wind and solar bonds to verify their adequacy. For example, we found that about half of the bonds were at least 4 months overdue for review.

In conclusion, BLM does not have detailed policies to ensure that decisions are accurately documented, bonds are properly maintained and secured, or standards exist for timely data entry. As a result, BLM has limited assurance that the bonds in place will be adequate to cover reclamation costs if the developer does not meet its obligations.

Given these findings, we made five recommendations in our report for BLM to develop policies for documenting decisions, for proper handling and storage of bonds, for timely data entry, as well

as to take steps to ensure projects are periodically reviewed to ensure bond adequacy.

Mr. Chairman, Ranking Member Dingell, and members of the subcommittee, this completes my prepared statement.

I am accompanied by Liz Erdmann, who directly worked on this particular report. We will be happy to respond to questions.

[The prepared statement of Ms. Fennell follows:]

PREPARED STATEMENT OF ANNE-MARIE FENNEL, DIRECTOR, NATURAL RESOURCES
AND ENVIRONMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Chairman Gohmert, Ranking Member Dingell, and members of the subcommittee, I am pleased to be here today to discuss our June 2015 report on the Bureau of Land Management's (BLM) policies and practices for bonding renewable energy development on Federal land, which was released June 23, 2015.¹ The Department of the Interior's (Interior) BLM manages more Federal land than any other agency—more than 245 million surface acres—and this land is increasingly being tapped to meet the Nation's growing demand for energy. BLM plays a key role in managing energy produced on these lands, including energy from renewable resources. Through the Energy Policy Act of 2005, Congress encouraged the Secretary of the Interior to approve non-hydropower renewable energy projects, including wind and solar projects, with a total capacity to generate at least 10,000 megawatts of electricity on Federal lands by 2015. In June 2013, the President proposed an expansion in renewable energy construction projects and set a new goal for Interior to approve a renewable energy capacity of at least 20,000 megawatts of electricity from projects on Federal land, which would be enough capacity to power more than 6 million homes by 2020. Currently, about 1 percent of the Nation's electricity generated from wind and solar energy comes from resources on Federal land.

Projects to produce energy from renewable resources can affect thousands of acres of Federal land and involve significant infrastructure. The projects may require developers to alter the land's topography or remove vegetation, physically or through the use of herbicides, and these actions may affect the site itself or have potential downstream or off-site effects. As a condition of BLM's authorization for renewable energy projects, the developer must agree to remove infrastructure elements and return the land to its predeveloped condition when the project terminates, a process called reclamation. To ensure compliance with applicable requirements, including requirements to reclaim project sites, BLM requires operators of wind and solar energy projects on Federal lands to obtain bonds. If an operator fails to return the land to its predeveloped state, the bond can be used to cover any reclamation costs the Federal Government may incur. If the bonds are inadequate to cover reclamation costs and the Federal Government is unable to recover additional costs from the developer, the Federal Government may have to pay the reclamation costs.

Wind and solar projects on BLM land are subject to Federal laws and regulations, as well as BLM policy. The Federal Land Policy and Management Act of 1976 authorizes BLM to issue rights-of-way on Federal land for a variety of purposes, including systems for generating, transmitting, and distributing electric energy.² Right-of-way holders are required to restore, revegetate, and stabilize the land disturbed by wind and solar projects within a reasonable time, to a condition satisfactory to BLM, as approved by BLM in its Plan of Development.³ For projects that may have a significant impact on the environment, the act requires applicants to submit a plan of construction, operation, and rehabilitation for the right-of-way that complies with applicable laws and regulations and the agency's stipulations. Federal regulations authorize BLM to require a right-of-way holder to provide a bond to secure the obligations imposed by the right-of-way. According to BLM policy, a bond is required for each wind and solar facility on Federal land. BLM may require an

¹GAO, *Renewable Energy: BLM Has Limited Assurance That Wind and Solar Projects Are Adequately Bonded*, GAO-15-520 (Washington, DC: June 5, 2015).

²A right-of-way is an authorization to a qualified individual, business, or government entity to use a specific area of Federal land for a specific amount of time for a certain purpose and with specific terms, conditions, and stipulations that, among other things, are intended to protect the environment, Federal property and economic interests, and the public interest. Wind and solar projects can be composed of multiple rights-of-way.

³A Plan of Development is a detailed construction, operation, rehabilitation, and environmental protection plan.

increase or decrease in the value of an existing bond at any time during the term of the right-of-way, according to Federal regulations.⁴

BLM manages and oversees wind and solar projects in part by maintaining data on each project electronically in two data systems—the Legacy Rehost 2000 System (LR2000) and the Bond and Surety System. LR2000 is BLM’s electronic case recordation system that is used to capture information on the agency’s land and mineral projects. In the case of wind and solar projects, BLM captures information such as the date the right-of-way was issued, acres authorized, project location, case status (e.g., authorized, expired, or closed), and the actions that have taken place. The system also contains bond information for wind and solar projects, including bond numbers, amounts, and bond actions, such as the date when a bond was filed, accepted, or returned. For wind projects, LR2000 contains the number of authorized turbines and towers. The Bond and Surety System contains bond information, such as the type and amount of bond, as well as actions taken, including the date when a bond was filed, accepted, or returned.⁵ BLM staff enter data about wind and solar projects into LR2000, as well as information about bonds into the Bond and Surety System.

My testimony today highlights the key findings of our June 2015 report on BLM’s policies and practices for bonding renewable energy development on Federal land.⁶ Accordingly, this testimony discusses (1) BLM’s policies for the bonding of wind and solar projects on Federal land; (2) the amount and types of bonds held by BLM for the reclamation of wind and solar projects, and how BLM tracks these bonds; and (3) the extent to which BLM ensures that bonds for wind and solar rights-of-way are adequate to cover reclamation costs.

To address these objectives, we reviewed the agency’s policies regarding bonding, the reclamation activities that the bonds are to cover, and the frequency with which bonds are to be reviewed. We also reviewed BLM’s Notice of Proposed Rulemaking—issued in September 2014—that would revise and codify the agency’s current bonding policies for wind and solar projects. In addition, we obtained wind and solar project data, as of April 15, 2014, from BLM’s LR2000 and its Bond and Surety System. We worked with BLM officials to resolve data discrepancies between the two systems and then analyzed the data to identify the bond amounts and types for each right-of-way. To determine how BLM tracks these bonds and understand how LR2000 and the Bond and Surety System are used, the frequency of updates, and the reliability of the data in each system, we interviewed officials in BLM headquarters and all 9 BLM state and 11 field offices with wind or solar energy development projects.

To determine the extent to which BLM ensures that bonds for wind and solar rights-of-way are adequate to cover reclamation costs, we conducted an in-depth file review of all wind and solar energy development projects—45 in total—for which BLM held a bond on April 15, 2014, and interviewed BLM officials and other stakeholders. We compared the bond held with what is specified in BLM’s wind and solar policies, as well as reclamation cost estimates in the project files, and we then determined the extent to which documentation of the bond decision is consistent with government standards for internal control.⁷ We also interviewed BLM officials to determine compliance with existing BLM policies, the depth and detail of reclamation cost estimates, the extent of documentation supporting bond amounts, and the types of staff involved in determining bond amounts. In addition, we analyzed whether BLM was conducting reviews to ensure that bonds are in place, as is called for in BLM policies. Our June 2015 report includes a detailed explanation of the methods used to conduct our work. The work on which this testimony is based was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴ 43 C.F.R. § 2805.12(g) (2014).

⁵ A bond is considered filed when BLM receives the bond instrument from the right-of-way holder. A bond is considered accepted once BLM reviews the bond, determines that it has been executed properly, and notifies the right-of-way holder of the bond’s acceptance. A bond is considered returned when BLM returns the bond to the right-of-way holder after the holder has successfully completed reclamation, at which time a bond is no longer necessary.

⁶ GAO–15–520.

⁷ GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD–00–21.3.1 (Washington, DC: November 1999).

BLM HAS DIFFERENT POLICIES FOR BONDING WIND AND SOLAR PROJECTS, BUT A
PROPOSED RULE WOULD ESTABLISH CONSISTENT REQUIREMENTS

As detailed in our report, in 2008, BLM issued a wind energy development policy that includes provisions for bonding wind energy projects on Federal land.⁸ Among other things, the policy established a minimum bond amount of \$2,000 per meteorological tower for site-specific and project area testing rights-of-way and \$10,000 per wind turbine for wind energy development rights-of-way.⁹ BLM is to determine the bond amount for all wind energy development projects during the right-of-way authorization process “on the basis of site-specific and project-specific factors,” but the policy provides no further details on these factors or how to calculate the costs. BLM is to review all bonds for wind development rights-of-way at least once every 5 years to ensure that the bond amount is adequate.¹⁰

In 2010, BLM issued a solar energy development policy that includes provisions for bonding solar energy projects on Federal land that differ from the bonding provisions of the wind policy.¹¹ Specifically, in contrast to the wind policy, the solar policy sets no minimum bond amount for solar energy development rights-of-way.¹² Rather, the policy states that BLM is to base the bond amount on a reclamation cost estimate provided by the right-of-way applicant that consists of three components: (1) environmental liabilities; (2) decommissioning, removal, and disposal of improvements and facilities; and (3) reclamation, revegetation, restoration, and soil stabilization. A reclamation cost estimate is an estimate of what it would cost a third party to reclaim the site.¹³ The policy states that the applicant is to submit the estimate as part of the decommissioning and site reclamation plan—which defines the reclamation, revegetation, restoration, and soil stabilization requirements for the project area—and the overall Plan of Development. In addition, in contrast to the wind policy, BLM staff are to review annually all bonds for solar development rights-of-way to ensure that the bond amount is adequate to ensure compliance with the right-of-way authorization, including requirements to reclaim the disturbed land.

To help ensure compliance with provisions of the wind and solar bonding policies, BLM has two additional policies that direct BLM state directors to certify annually that all wind and solar energy rights-of-way within their respective states have the required bonds and that the bond data are entered into the Bond and Surety System.¹⁴ This certification does not assess whether the amount of the bond would be sufficient to cover expected reclamation costs. Rather, the annual certification is intended to ensure that a bond has been provided or requested for each wind and solar right-of-way. The certification is to be submitted to BLM headquarters within 30 days after the end of the fiscal year. In addition, field office staff are to enter all bonds received for renewable energy projects into LR2000 and the Bonds and Surety System.¹⁵

⁸ See Bureau of Land Management, IM 2009–043, *Wind Energy Development Policy* (Dec. 19, 2008).

⁹ A wind site-specific testing right-of-way is an authorization to develop individual meteorological towers and instrumentation facilities with a term that is limited to 3 years. A wind project area right-of-way is an authorization to develop a larger site testing and monitoring area, with a term of 3 years that may be renewed. Both wind site-specific testing and wind project area testing rights-of-way are used to determine whether a site’s wind energy resources meet the potential for energy development. A wind energy development right-of-way is an authorization to develop wind energy facilities generally for a term of 30 years that may be renewed. Facilities include wind turbines, as well as on-site access roads, electrical and distribution facilities, and other support.

¹⁰ A bond adequacy review is a review to determine whether the bond amount is sufficient to cover the cost of reclamation.

¹¹ IM 2011–003, *Solar Energy Development Policy* (Oct. 7, 2010).

¹² A solar energy development right-of-way is an authorization to develop solar energy facilities for a term not to exceed 30 years that may be renewed.

¹³ BLM’s policy for mining operations on public lands, which is a reference tool for BLM’s solar energy development policy, states that a bond must be sufficient to allow BLM to contract with a third party to reclaim the operations.

¹⁴ See Bureau of Land Management, IM 2011–096, *Certification of Bonding—Wind Energy Site Testing and Wind Energy Development Authorizations* (Apr. 7, 2011), and IM 2013–034, *Oversight and Implementation Plan—Renewable Energy Coordination Office* (Dec. 20, 2012).

¹⁵ IM 2013–034, Attachment 1, *Oversight and Implementation Plan, Solar and Wind Energy Policies*.

In September 2014, BLM issued a Notice of Proposed Rulemaking related to wind and solar development on Federal lands and requested public comment.¹⁶ The proposed rule would revise and codify existing policies and establish consistent requirements for the bonding of solar and wind energy projects. Requirements would differ based on whether projects were located in certain preferred areas—called designated leasing areas.

- **Projects outside designated leasing areas.** The proposed rule would establish a minimum bond amount per turbine of \$20,000 for wind energy development projects—a doubling of the minimum amount currently set in BLM policy—and establish a minimum bond amount of \$10,000 per acre for solar energy development projects. The minimum bond amount for wind energy site-specific or project area testing projects would remain at the amount currently set in BLM policy, that is, \$2,000 per meteorological tower. The proposed rule would require both wind and solar right-of-way applicants to submit a reclamation cost estimate to help BLM to determine the bond amount, and it would outline specific bond components that must be addressed when determining the estimated costs. The proposed rule would not require BLM to conduct periodic reviews to assess whether the bonds remain adequate to cover potential reclamation costs, as is specified in the current wind and solar policies.
- **Projects inside designated leasing areas.** The proposed rule would establish a standard bond amount for wind energy development of \$20,000 per turbine and \$2,000 per meteorological tower, as well as a standard bond amount for solar energy development of \$10,000 per acre. BLM proposed a standard bond amount because these areas would be identified by BLM as areas with lesser and fewer environmental and cultural resource conflicts. According to BLM officials, when a project terminates inside a designated leasing area, the agency would potentially reoffer the site for new wind or solar energy development. As a result, these sites would require less reclamation than if they needed to be fully reclaimed to their predeveloped condition and the bond amount required would be lower. Under the proposed rule, right-of-way holders would not be required to submit a reclamation cost estimate.

A BLM official told us that the agency expects the proposed rule to be finalized by the end of 2015. Once finalized, the official said BLM plans to rescind the current wind and solar policies and replace them with policies that would address, among other things, the bonding process and adequacy reviews not covered in the proposed rule.

BLM HAS ABOUT \$100 MILLION IN BONDS FOR WIND AND SOLAR PROJECTS, BUT THE SYSTEMS FOR TRACKING THESE BONDS ARE NOT RELIABLE

We found that BLM has about \$100 million in bonds—primarily in the form of letters of credit and surety bonds—to cover reclamation costs associated with 12 solar rights-of-way and 108 wind rights-of-way on Federal land in nine western states, according to our analysis of BLM data. See Table 1 for further detail on the values of bond held and Table 2 for further detail on the types of bonds held.

Table 1: Value of Bonds Held by the Bureau of Land Management for Wind and Solar Projects, by Project Type and Amount, as of April 15, 2014

Project Type	Amount	Percentage
Solar development	\$82,615,899	82.2
Wind development	\$17,106,164	17.0
Wind project area testing	\$720,216	0.7
Wind site-specific testing	\$36,000	<0.1
Total	\$100,478,279	99.9

Source: GAO analysis of Bureau of Land Management bonding data. GAO-15-520
Note: Percentage does not equal 100 because of rounding.

¹⁶Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections, 79 Fed. Reg. 59,022 (Sept. 30, 2014) (to be codified at 43 C.F.R. pts. 2800 and 2880).

Table 2: Types of Bonds Held by the Bureau of Land Management for Wind and Solar Projects as of April 15, 2014

Bond Type	Amount	Percentage
Letter of credit	\$49,177,596	48.9
Surety	\$39,361,443	39.2
Personal, including cash	\$10,839,677	10.8
Treasury security	\$900,000	0.9
Guaranteed remittance	\$139,963	0.1
Undetermined ^a	\$47,600	<0.1
Time deposit	\$12,000	<0.1
Total	\$100,478,279	99.9

Source: GAO analysis of Bureau of Land Management bonding data. GAO-15-520

Note: Percentage does not equal 100 because of rounding.

^a "Undetermined" means that BLM could not provide the bond type.

BLM tracks bonds through LR2000 and the Bond and Surety System, but we found that neither system was reliable for this purpose. Specifically, we found multiple instances in each system where information was missing, inaccurate, or had not been updated as follows:

- **Missing information.** BLM's oversight and implementation plan for solar and wind energy policies directs field offices to enter all bonds received for renewable energy projects into LR2000 and the Bond and Surety System,¹⁷ but we found instances where bonds had been entered into LR2000, but not into the Bond and Surety System. We also found instances where staff did not always enter in the remarks section of LR2000 the number of wind turbines or meteorological towers authorized and located on Federal land, as directed by BLM's wind policy.
- **Inaccurate information.** We found instances in LR2000 and the Bond and Surety System where the type of right-of-way entered for the project was incorrect. For example, one wind development project's right-of-way had been incorrectly entered in both systems as a road right-of-way.¹⁸ As a result, the bond had not been included in the annual state bond certification. When BLM reviewed the bond, the agency determined that the bond amount was approximately \$90,000 less than the minimum set by BLM's wind policy.
- **Information had not been updated.** We found instances where a bond's status or amount had not been updated in one or both systems. In some cases, the data were several years out of date. For example, in one case, LR2000 showed that a bond had been accepted for \$40,000 in 1994, and an additional bond for the same right-of-way had been accepted for \$160,000 in 2011, for a total bond amount of \$200,000. However, BLM had not updated the Bond and Surety System to show that the \$160,000 bond had been accepted, and the system contained no information on the \$40,000 bond.

The LR2000 data standards for BLM's mining program state that all data must be routinely entered within 5 business days of each action taking place.¹⁹ However, there is no such standard for entering wind and solar project data into LR2000.²⁰ Furthermore, BLM has not issued data standards for the Bond and Surety System. Because information in these two data systems was missing, inaccurate, or out of date, BLM has limited assurance that either system is reliable for tracking wind and solar bonds to ensure that bonding policies are being followed and that all projects have the required bonds.

BLM has taken some limited steps to improve its bonding data. Specifically, to reduce potential errors or omissions in the bonding data in LR2000 and the Bond and Surety System, BLM made changes to link certain data in the two systems. Starting in late September 2014, when an action code showing that a bond has been filed, accepted, or returned is entered into the Bond and Surety System for a particular right-of-way, the same information is automatically entered into LR2000.

¹⁷ IM 2013-034, Attachment 1, *Oversight and Implementation Plan; Solar and Wind Energy Policies*.

¹⁸ A road right-of-way is an authorization to construct a road on a segment of BLM land.

¹⁹ Bureau of Land Management, *H-3809-1, Surface Management* (Sept. 17, 2012).

²⁰ Bureau of Land Management, *LR2000 Case Recordation Data Standards for the Lands and Realty Program* (revised Apr. 10, 2013).

However, when a bond action code is entered into LR2000, the same information must still be entered manually into the Bond and Surety System. In addition, these changes only apply to data entered into the Bond and Surety System starting in September 2014, so all previously entered data will not be added to LR2000 unless manually entered.

BLM HAS LIMITED ASSURANCE THAT BONDS FOR WIND AND SOLAR RIGHTS-OF-WAY WILL COVER RECLAMATION COSTS

BLM has limited assurance that bonds for wind and solar rights-of-way will cover reclamation costs. Specifically, we found that 14 wind and solar development rights-of-way were underbonded by as much as \$15 million in total. In addition, we found wide variation in how BLM staff documented bond decisions for wind and solar project rights-of-way. Further, BLM does not adequately ensure that wind and solar bond instruments are properly secured, handled, and stored. BLM also inconsistently adheres to its policies for the periodic review of the amounts of wind and solar bonds to verify their adequacy.

Underbonding of wind and solar development projects. We found that 14 out of 45 wind and solar development rights-of-way were underbonded by as much as \$15 million in total—approximately \$5.5 million for wind rights-of-way and as much as \$9 million for solar rights-of-way—according to our review of BLM project files and data.²¹ Specifically, we identified 10 wind rights-of-way where the bond amount was lower than the \$10,000-per-turbine minimum established in BLM’s 2008 wind policy. These 10 rights-of-way were underbonded by a total of approximately \$5.5 million. Nine of those rights-of-way were authorized prior to the 2008 policy; however, for rights-of-way that were authorized before the policy took effect, BLM officials told us they directed staff to obtain bonds that meet the \$10,000-per-turbine minimum. BLM officials told us that they are in the process of obtaining bonds for these nine rights-of-way. One right-of-way was reauthorized in 2012 at about \$1,500 per turbine.²² BLM’s files show that the bond amount for the right-of-way was determined using salvage values of the equipment. While salvage values may be considered in estimating reclamation costs, BLM officials told us the 2008 policy does not permit salvage values to be used to reduce the bond below the \$10,000-per-turbine minimum.²³ BLM officials told us they are currently developing a reclamation cost estimate for this right-of-way, which will help them develop a revised bond.

We also found four solar rights-of-way that may be underbonded by as much as \$9 million. These rights-of-way were part of a single solar project with a total estimated reclamation cost of approximately \$27.5 million.²⁴ This figure includes \$18.5 million for decommissioning and removal of project structures and equipment and \$9 million for revegetation and restoration. However, the project is currently bonded at \$18.5 million, an amount that may only cover the decommissioning and removal of structures. BLM officials explained that because the project is in California—where recycling of materials is required—the \$9 million estimated for revegetation and restoration would be covered by the salvage value of project structures. While the salvage value presented in the documents we reviewed may be sufficient to cover those costs, the project’s documentation did not indicate that BLM officials included these costs when setting the total bond amount.

Unclear documentation of bond decisions. We found wide variation in how BLM staff documented bond decisions for wind and solar project rights-of-way. Specifically, for 21 of the 33 wind rights-of-way we reviewed, there was little or no documentation to support the bond amount. For some of these rights-of-way, there was no documentation because BLM staff defaulted to the minimum amount set by BLM’s wind policy without conducting any site- or project-specific analysis. For the remaining 12 wind rights-of-way, the project files contained documentation that BLM officials used to support their bond decisions; however, this documentation varied widely. For example, for 1 right-of-way, the holder developed a reclamation

²¹ We reviewed all BLM wind and solar energy development projects—45 in total—for which BLM held a bond as of April 15, 2014.

²² This right-of-way was underbonded by approximately \$3.9 million.

²³ BLM officials told us that they had originally sought to bond this project above the minimum, at \$25,000 per turbine based on the size of the turbines, but the right-of-way holder appealed the bond determination to the Interior Board of Land Appeals. The Interior Board of Land Appeals is an appellate review body for the Department of the Interior. According to BLM officials, the board decided to remand the decision to BLM.

²⁴ This project consists of four rights-of-way, each with their own bond.

cost estimate,²⁵ but the estimate did not reflect the current state of the project and the estimated costs were greater than the bond that BLM required. And for 6 rights-of-way, the documentation outlined the cost of decommissioning and removal of structures, but it did not include cost estimates for revegetation of the project site. We also found that BLM inconsistently documented bonding decisions for 2 solar rights-of-way. Specifically, for 1 right-of-way, the holder did not develop a reclamation cost estimate, as directed by BLM's 2010 solar policy. As a result, it was not clear from the project files what BLM considered in determining the amount of the bond that was in place. In another case, BLM allowed the right-of-way holder to provide the bond in phases as the project was constructed, but there was no documentation demonstrating how each phase's reclamation costs were estimated, or what the payment schedule and amounts of future bonds would be.

We also found discrepancies between information in the project files and what was recorded in LR2000 or the Bond and Surety System in 13 of the 45 wind and solar rights-of-way. For example, for 1 wind right-of-way, the files indicated the applicant's initial plan to build 24 turbines, but LR2000 showed the project had 20 turbines. A BLM official told us that since the right-of-way's original authorization in the 1980s, the type and number of turbines had changed over time. However, there was no documentation of these changes in the files, and the BLM official told us that, as a result of our inquiry, he had to go and physically inspect the right-of-way to confirm the type and number of turbines. Federal standards for internal control call for transactions and other significant events to be clearly documented and that the documentation should be readily available for examination.²⁶ BLM has not issued policies that direct BLM staff to document information related to bond decisions in the project files. According to BLM officials, they will develop these policies once the proposed rule is finalized.

Inadequate handling and storing of bonds. BLM also does not adequately ensure that wind and solar bond instruments are properly secured, handled, and stored. BLM staff in two field offices told us bonds were stored in the files for the rights-of-way, rather than in a locked cabinet or safe. In one of these offices, a staff member told us that about 20 percent of the bond instruments were stored in the project files, and the remaining bond instruments were stored in a safe. However, in that office, that staff member told us that someone had mistakenly shredded the bond instruments kept in the safe because the individual did not know what they were. According to BLM's manual regarding records administration,²⁷ offices should ensure that appropriate internal controls and safeguards are in place to prevent the loss of official documentation. BLM has general guidance on records retention and storage, and at least one office within BLM's Energy, Minerals, and Realty Management Directorate has detailed guidance on the acceptance, assessment, and storage of bond instruments.²⁸ However, the National Renewable Energy Coordination Office, which oversees wind and solar energy projects, does not have policies or guidance related to the proper handling and storage of bond instruments. As a result, BLM cannot assure that all bonds are properly maintained and secured, leaving the Federal Government potentially at risk financially if reclamation costs are not covered by the right-of-way holders.

Inconsistent adherence to periodic review policies. BLM inconsistently adheres to its policies for the periodic review of wind and solar bonds to verify their adequacy. BLM's wind and solar policies direct officials to review the adequacy of wind bonds every 5 years and solar bonds every year. Of the 45 wind and solar rights-of-way we reviewed, 23 had bonds that were at least 4 months overdue for an adequacy review. Some BLM officials responsible for these reviews told us that they were not aware that bonds were supposed to be reviewed. Others told us they were aware that bonds were to be reviewed but had not completed the reviews due to workload and staffing constraints. BLM officials told us that LR2000 contains information such as the authorization date that can be used to determine when a right-of-way is due for review. However, LR2000 does not automatically notify BLM officials that a right-of-way is due for its periodic review. Several BLM officials told us that it would be possible to set up an action code in LR2000 to provide such automatic notification. If reviews of bond amounts are not conducted in a timely

²⁵ BLM's wind policy does not direct applicants to develop a reclamation cost estimate for a wind project right-of-way. However, according to BLM officials, BLM may direct an individual applicant to develop a reclamation cost estimate or may develop one itself.

²⁶ GAO/AIMD-00-21.3.1.

²⁷ Bureau of Land Management, *BLM Manual, MS-1270: Records Administration* (October 1992).

²⁸ Bureau of Land Management, *Fluid Minerals Bond Processing User Guide* (December 1996).

manner, BLM officials cannot be sure that bonds in place are adequate to cover reclamation costs.

BLM does not have detailed policies to ensure that all bonds are properly maintained and secured and bond decisions accurately documented in project files. In addition, BLM has no standard for the timely entering of data of wind and solar project data into LR2000 and no data standards for the Bond and Surety System. As a result, BLM may not have accurate and complete information with which to track wind and solar bonds, and BLM has limited assurance that the bonds in place will be adequate to cover reclamation costs if the right-of-way holder does not meet its obligations. As a result of these findings and to help ensure that bonds are adequate to cover reclamation costs for wind and solar projects on Federal land, we made five recommendations to the Secretary of the Interior in our June 2015 report. Specifically, we recommended that the Secretary direct the Director of the Bureau of Land Management to:

- develop detailed policies for processing wind and solar bonds to ensure bonds are properly secured, handled, and stored;
- develop policies that detail how information related to bonding decisions should be documented in project files;
- develop a policy that all data for wind and solar energy projects be entered in LR2000 and the Bond and Surety System within 10 business days;
- establish data standards for the Bond and Surety System; and
- develop an LR2000 action code to automatically notify BLM staff that a right-of-way is due for a bond adequacy review.

In its comments on a draft report, the agency concurred with each of these recommendations.

Chairman Gohmert, Ranking Member Dingell, and members of the subcommittee, this completes my prepared statement. I would be pleased to answer any questions that you may have at this time.

GAO CONTACT AND STAFF ACKNOWLEDGMENTS

If you or your staff members have any questions about this testimony, please contact me. Other individuals who made key contributions to this testimony include Elizabeth Erdmann (Assistant Director), Morgan Jones, Jessica Lewis, Susan Malone, and Jarrod West. Cheryl Arvidson, Antoinette Capaccio, Kirsten B. Lauber, and Dan Royer also made important contributions.

Mr. GOHMERT. Thank you, Ms. Fennell. I appreciate your testimony.

At this time I would recognize Mr. Ellis for 5 minutes.

STATEMENT OF STEVEN A. ELLIS, DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. ELLIS. Mr. Chairman, Ranking Member Dingell, and members of the subcommittee, thank you for the opportunity to be here today.

BLM manages nearly 250 million acres of surface property and 700 million acres of subsurface estate in the Nation. That means 10 percent of the Nation's surface, or nearly a third of its mineral estate.

We manage these lands under a dual framework of multiple use and sustained yield. Facilitating the responsible development of renewable energy resources on public lands is a cornerstone of the Administration's energy strategy. Since 2009, the BLM has approved 55 renewable energy generation and transmission projects. This includes 32 solar projects, 11 wind farms, 12 geothermal plants.

These projects will provide more than 14,500 megawatts of power, or roughly enough electricity to power 4.9 million homes and provide over 24,000 jobs in construction and operations.

Renewable energy projects on public lands have already generated an estimated \$8.6 billion in total capital investments, with the potential for an additional \$28 billion for approved projects that are pending construction.

As stewards of America's public lands, we take very seriously our responsibility to sustain the health and diversity of those lands. To ensure that lands are restored after a project is decommissioned, we require project developers to post bonds to cover future expenses.

As with all development on public lands, the BLM is committed to ensuring appropriate bonding of solar and wind energy projects. We continue to take steps to improve the processes and procedures for solar and wind energy bonding. For example, in September of 2014, the BLM issued a proposed comprehensive leasing rule for solar and wind energy development that includes mandatory bonding requirements. We are currently in the process of reviewing comments on the appropriate minimum bond amounts and will make a determination as part of that final rule.

Further, as part of the implementation of the final rule, we plan to update policies to improve recordkeeping and processing of renewable energy bonds. These policies will identify standards for proper project file documentation and establish automated notifications that a right-of-way is due for bond adequacy review.

The policies will also include a variety of internal controls: an annual certification by managers that bonds are properly processed, held in secure locations, and readily available.

The BLM also has been engaged with GAO to ensure the bonds for reclamation costs of wind and solar projects are adequately documented. We appreciate the work of the GAO and generally agree with their recommendations. We believe that through the publication and implementation of the proposed competitive solar and wind leasing energy rule all of GAO's recommendations will be fully addressed.

We take our responsibility to maintain proper documentation of bond instruments seriously. We will continue to take steps to address any identified shortcomings, including training staff and updating office-specific procedures.

BLM's responsibility to ensure appropriate bonding for energy projects extends to all types of development on public lands. For example, we recently solicited public input on bonding requirements for oil and gas projects on public lands, updating potentially outdated regulations.

We are also reviewing individual oil and gas well bonds on a case-by-case basis and raising bonding requirements where appropriate using existing authorities.

In conclusion, Mr. Chairman and members of the committee, we remain committed to ensuring that development of all types of public lands occurs in an environmentally sound manner, and we will continue to take steps to ensure that projects are bonded appropriately.

Thank you.

[The prepared statement of Mr. Ellis follows:]

PREPARED STATEMENT OF STEVE ELLIS, DEPUTY DIRECTOR, OPERATIONS, BUREAU OF
LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Chairman Gohmert, Ranking Member Dingell, and members of the subcommittee, thank you for the opportunity to testify on the Bureau of Land Management's (BLM) policies and practices regarding bonding for wind and solar energy development on Federal lands.

BACKGROUND

The BLM is responsible for protecting the resources and managing the uses of our Nation's public lands, which are located primarily in 12 western states, including Alaska. The BLM administers more land—over 245 million surface acres—than any other Federal agency. The BLM also manages approximately 700 million acres of onshore Federal mineral estate throughout the Nation, including subsurface estate overlain by properties managed by other Federal agencies such as the Department of Defense and the U.S. Forest Service. That's more than 10 percent of the Nation's surface and nearly a third of its minerals.

Facilitating the responsible development of renewable energy resources on public lands is a cornerstone of the Administration's energy strategy. Prior to 2009, the BLM had approved approximately 2,500 MWs of wind and geothermal energy projects or enough electricity to power nearly a million homes. No solar energy projects had been approved prior to 2009. Since 2009, the BLM has approved 55 utility-scale renewable energy generation and transmission projects, including 32 utility-scale solar facilities, 11 wind farms, and 12 geothermal plants, with associated transmission corridors and infrastructure to connect with established power grids. If fully built, these projects will provide more than 14,500 MWs of power, or enough electricity to power 4.9 million homes, and will provide over 24,000 construction and operations jobs. The BLM successfully accomplished the Energy Policy Act of 2005's goal of authorizing over 10,000 megawatts (MWs) of renewable energy on public lands 3 years ahead of schedule. The BLM continues to work toward the President's goal to increase permitting of new renewable electricity generation capacity on public lands to 20,000 megawatts by 2020. Renewable energy projects authorized by the BLM constitute a major contribution not only to the Nation's energy grid, but also to the national economy. Projects on public lands have already garnered an estimated \$8.6 billion in total capital investments, with the potential for an additional \$28 billion for approved projects pending construction.

The BLM is also improving the way it sites and reviews renewable energy applications by moving toward a competitive process in preferred development areas, which have been selected to minimize conflict and increase efficiency. In October 2012, the Department finalized the Western Solar Plan that identified 17 Solar Energy Zones (SEZs) and established a blueprint to fast track utility-scale solar energy permitting within these areas. On June 1, 2015, three projects within the Dry Lake SEZ in Nevada were approved under this streamlined permitting process. Using the expedited review process established by the Western Solar Plan, reviews and approval of these three projects were completed in 10 months, less than half the amount of time it took to review and approve projects under the previous application-by-application process. The Western Solar Plan also provides the foundation for the BLM's current rulemaking process to codify competitive solar and wind energy leasing within designated areas.

RENEWABLE ENERGY BONDING

As stewards of America's public lands, the BLM takes seriously its responsibility to sustain the health, diversity, and productivity of those lands. To ensure that projects are reclaimed and that impacts to the land are restored after a project is decommissioned, the BLM requires that project developers post bonds to cover potential future expenses. As with all development on public lands, the BLM is committed to ensuring appropriate bonding of solar and wind energy projects and has taken steps to improve the processes and procedures for solar and wind energy project bonding.

The BLM authorizes renewable energy projects on public lands using a right-of-way grant under Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771). The BLM requires project developers to submit bonds in an amount that the agency has determined will be adequate to cover the potential costs for hazardous liabilities, decommissioning, and reclamation of the project site, should the developer be unable or unwilling to conduct those activities.

Currently, the BLM requires minimum bond amounts of \$2,000 per wind energy test site, and \$10,000 per wind turbine. There is currently no minimum bond amount for solar energy projects. The BLM does not assess the bond based on minimum requirements. Rather, the agency determines the appropriate bond amount based on site- and project-specific factors, including intensity and duration of impacts as well as potential reclamation and administrative costs. The reclamation cost estimate is also based in part on a third party estimate provided to the BLM. In many cases, the bond amount exceeds the wind energy minimum requirement, particularly when bonding development projects rather than test sites. A bond is released only once reclamation has been satisfactorily completed. The BLM periodically reviews and updates required bond amounts to ensure that projects are adequately bonded. Of the 43 wind and solar projects approved by the BLM since 2009, the agency has required and secured a total of \$154 million worth of bond assurances to cover potential costs associated with reclamation.

On September 30, 2014, the BLM issued a proposed rule that describes a competitive leasing process for solar and wind energy leases in designated leasing areas. The proposed rule includes mandatory bonding requirements for solar and wind energy to ensure consistency and predictability across the program, including a minimum bond amount of \$10,000 per acre for solar energy development, \$20,000 per wind energy turbine, and \$2,000 per energy testing site. The BLM is in the process of reviewing public comments received on appropriate minimum bond requirements before the rule is finalized. As part of the implementation of the final rule, the BLM plans to update policies to improve recordkeeping and processing of renewable energy bonds, such as identifying proper project file documentation, requiring routine data on a more timely basis, and establishing an automated notification process for BLM staff that a right-of-way is due for a bond adequacy review. The policies will also include a variety of internal controls, including an annual certification by managers that bonds are properly processed, held in secure locations, and readily available.

The BLM has also been engaged with the U.S. Government Accountability Office (GAO) to ensure that bonds are adequately documented and reviewed to ensure adequacy for reclamation costs for wind and solar projects on Federal land. Based on the GAO's ongoing review, the BLM has identified and is implementing improvements to its recordkeeping and processing procedures for renewable energy bonds. The finalization and implementation of the competitive solar and wind leasing rule will fully address the GAO's recommendations. The BLM will continue to take steps to address office-specific shortcomings, including training staff and updating procedures.

The BLM takes seriously its responsibility to maintain proper documentation of bond instruments. During the GAO audit, the BLM was made aware of a concern that some reclamation bonds for renewable energy projects in the Rawlins Field Office in Wyoming may have been mistakenly removed from a safe and shredded. In response, the BLM has conducted a preliminary review of the bonding status of its renewable energy projects in the Rawlins Field Office and can confirm that the 21 bonds required for the 18 renewable energy projects within that field office are adequately documented and in compliance with BLM policy for holding bond instruments.

BONDING ON PUBLIC LANDS

In addition to the renewable energy arena, the BLM is working to ensure appropriate bonding for other types of development on public lands. For example, the BLM's current regulations governing minimum bonding requirements for oil and gas were established in the 1950s and 1960s and have not been updated since. These minimum requirements—\$10,000 for a lease bond, \$25,000 for a statewide bond, and \$150,000 for a nationwide bond—no longer bear a relationship to the costs of reclamation for an oil and gas development site. As a result, the GAO previously reported that bonds covering oil and gas projects on public lands may be as much as \$968 million below what reclamation would cost for those wells.

In response to the GAO report and in recognition of its potentially outdated regulations, the BLM has published an Advance Notice of Proposed Rulemaking soliciting public input on bonding requirements for oil and gas projects on public lands. The BLM is also concurrently reviewing individual oil and gas well bonds on a case-by-case basis using existing authorities. Based on these reviews, the BLM is taking steps to raise bonding requirements where appropriate to ensure that bonding levels are commensurate with identified operational risks. Further, in an effort to strengthen our oil and gas inspection and oversight capability, the BLM has repeatedly proposed to create a fee system that would cover the BLM's inspection and

enforcement activities as part of the Administration's budget requests. Those fees will help the BLM to improve production accountability, safety and environmental protection, and would parallel a fee system already in place for offshore oil and gas programs. The BLM continues to look for additional opportunities to ensure appropriate reclamation of projects while minimizing potential liability to taxpayers.

CONCLUSION

The BLM is committed to ensuring that development of all types on public lands occurs in an environmentally sound manner and will continue to take steps to ensure that all projects are bonded appropriately. The BLM looks forward to working with Congress as we continue to address important aspects of bonding on public lands. Thank you for the opportunity to testify, I am happy to answer any questions the subcommittee may have.

QUESTIONS SUBMITTED FOR THE RECORD BY CHAIRMAN GOHMERT TO MR. STEVEN A. ELLIS, DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF LAND MANAGEMENT

Mr. Ellis did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Question 1. The Department of the Interior's Office of Inspector General (OIG) issued a report in June 2012 on BLM's renewable energy program. The OIG's 2012 report "found that BLM [was] poised for a massive expansion of wind and solar projects" and that "BLM ha[d] taken aggressive action to increase its processing of renewable energy rights-of-way (ROW) grants." The OIG noted that "BLM's focus on increasing the number of renewable energy projects . . . exposed some weaknesses in financial accountability and resource protection including obligations to protect the Government's financial interests by collecting rental revenues, managing the bond process, and by appropriate monitoring and enforcing ROW requirements." In light of these findings, the OIG made nine recommendations, including three that specifically addressed bonding:

- Issue an updated wind IM that clearly requires bonds on all projects.
- Reassess the minimum bond amounts for wind projects as well as methods for determining the bond amount, including expanding the use of a bond review team.
- Track and manage bond information on all renewable energy projects, including the amount of the bond, when BLM requested and received the bond, contact information for the bonded party, the type of bond, and when the bond requires updating.

Despite these recommendations—with which BLM substantially concurred—the Government Accountability Office issued a report in June 2015 that found many of the same problems documented by the OIG 3 years before were still ongoing. Please explain in detail how BLM implemented the OIG's 2012 recommendations, including any policy or management changes that were made, and explain how the deficiencies identified by the OIG were not corrected over the past 3 years.

Question 2. After reviewing the OIG's report in 2012, BLM asserted that it would make sure (1) its bonding policies and procedures were followed; (2) that BLM staff understood the policies BLM had in place; and (3) that bond information was accurately and promptly entered into the computer system. Based on the GAO's 2015 report, it appears that BLM has made no progress in these areas. Please provide the name(s) and title(s) of the BLM official(s) who was/were responsible for implementing the OIG's recommendations and describe any steps BLM has taken to hold such official(s) accountable.

Question 3. BLM points to the September 2014 proposed rule for bonding as a cure-all for the myriad deficiencies with the wind and solar bond program. However, BLM has many policies in place currently that it simply chooses not to follow (e.g., periodic bond reviews). Please describe how BLM will ensure compliance with the new regulation, when it has continually and demonstrably failed to ensure compliance with existing policy.

Question 4. The proposed rule does not include a periodic bond adequacy review requirement—not even a generic requirement that would allow flexibility in establishing specific review periods. Given that fully half of all wind and solar project rights-of-way are past due for review under BLM’s current policy, please explain BLM’s rationale for omitting a periodic bond adequacy review requirement from the new rule.

Mr. GOHMERT. Thank you, Mr. Ellis. I appreciate your testimony. At this time we will begin questioning. First of all, Ms. Fennell, some of your recommendations are almost identical to recommendations by the Office of the Inspector General that had been done several years ago, and I wanted to follow up on some of those.

But I also appreciated the Ranking Member’s comments.

I am recognized for 5 minutes. Sorry.

She made a comment that we had not had any losses as far as right-of-way damage at this point. Something that had concerned me—I had seen that out of 31 authorized wind rights-of-way, 21 have been reassigned or had their names changed. Two of those have gone through bankruptcy, and subsequently a reassignment. Eight of the 21 have gone through three or more name changes. Those are the kinds of things that cause concern, that perhaps we need to be prepared for in the event one of those bankruptcies in the future does not afford the land and environment being properly repaired back to where it was before they came in with the right-of-way.

Ms. Fennell, your team reviewed every single wind and solar right-of-way for which BLM held a bond as of April 15, 2014. Is that correct?

Ms. FENNELL. Yes, it is.

Mr. GOHMERT. During the course of review, GAO conducted interviews with BLM staff, as I understand it, across the whole country. Is that right?

Ms. FENNELL. Yes, we did interview BLM headquarters, state, and field office officials that had wind and solar projects.

Mr. GOHMERT. Do you know if it was someone with GAO who interviewed the realty specialist in the Rawlins Field Office that was responsible for managing the wind and solar bonds?

Ms. FENNELL. Yes, we did interview the realty specialist in the Rawlins office.

Mr. GOHMERT. And it was her job to make sure that BLM had a bond for each wind and solar right-of-way that was managed by the Rawlins office, correct?

Ms. FENNELL. Yes, that is correct.

Mr. GOHMERT. Did the realty specialist advise GAO during her review that she only found about 20 percent of the bond instruments in the project files?

Ms. FENNELL. Yes, she did. In the course of our review, she was describing the process that she used for the annual certification process. At that point, she indicated 20 percent were found in project files.

Mr. GOHMERT. And actually those should have been in the safe. Is that not correct?

Ms. FENNELL. They should have been retained in a properly secured storage cabinet or safe.

Mr. GOHMERT. Right. About the other 80 percent, did she comment on what happened to those?

Ms. FENNELL. She did. She indicated that she was not able to find them. They were surety bonds, which means that they could be replaced, but she was not able to locate them.

Mr. GOHMERT. Well, it appears that she had indicated that those were shredded. Is that not correct?

Ms. FENNELL. During the course of the conversation she did indicate that she believed that the bonds had been mistakenly shredded in a safe.

Mr. GOHMERT. Yes. I have noted in an e-mail from De Shann Schinkel on March 20, 2015, just 2 or 3 months ago, that she did not know the value of all the bonds that were shredded. So even as recently as March, she was still indicating that those bonds were shredded, correct?

Ms. FENNELL. Yes, that is correct. That was part of an e-mail that was following up on a number of questions that we had for her, including the shredding.

Mr. GOHMERT. Right, and I had seen that e-mail following up. Did anybody inquire as to specifically why those bonds would have been shredded?

Ms. FENNELL. She had indicated to us that she thought they had been mistakenly shredded, but she did not provide any other elaboration.

Mr. GOHMERT. All right. So basically, in summary, we had 20 percent of the bonds that were in project files instead of being secured as required by policy, and then 80 percent were gone, apparently shredded, correct?

Ms. FENNELL. Yes, at the time of our review, that is what we were informed.

Mr. GOHMERT. Mr. Ellis, I did want to ask you about your June 3, 2015 letter saying that all the bonds in the Rawlins office are currently accounted for. You did not elaborate or answer the questions that were submitted to you by Mr. Bishop and me, and I am curious why that ended up being glossed over.

Mr. ELLIS. Mr. Chairman, when we learned of this matter through the draft GAO report, I talked to our Acting State Director in Wyoming, Mary Jo, and asked her to look into this and to conduct an internal review to see if she could substantiate this claim and examine the bonding status.

Mr. GOHMERT. My question before time expired was very specific as to why you glossed over this. I was not looking for an account of what you did, but why you glossed over the fact that those were missing.

Mr. ELLIS. It is my understanding, Mr. Chairman, from the Wyoming BLM Acting State Director that the bonds are not missing; that all bonds are accounted for.

Mr. GOHMERT. All right. Well, we will have to pursue that in a second round then.

At this time I will recognize the Ranking Member, Mrs. Dingell, for 5 minutes.

Mrs. DINGELL. Thank you, Mr. Chairman.

I am going to try to get two lines of questioning here because I myself am confused by some of the last; but I want to get to what I think is the very important crux of the matter.

Obviously, the GAO report made some findings that disturb us all; we want to work together and corrective action is needed. So, Director Ellis, the Majority claims that BLM has not taking corrective action since these issues were reported by the Inspector General.

I do not think that is true. Is it not true that you have issued a rule? Can you talk about that?

When do you think it is going to be final, and when will things be such that this will be tightened?

Also, what are you doing in the meantime to tighten things internally before the rule is final?

Mr. ELLIS. Well, we have actually made significant improvements in the process of assessing bonds for renewable energy products in response to the IG's report of 2012. In the summer of 2012, the BLM issued policy to ensure field offices were complying with the existing bonding policy. For example, it required state directors to certify annually that all right-of-way bonds are up to date and consistent with policy and required field offices to enter all bonds into the LR2000 System and the Bond and Surety System.

We also entered into this rulemaking process that you referred to for wind and solar, to ensure consistency and predictability across the program. We have not yet completed that process, but we hope to do so as expeditiously as possible.

Mrs. DINGELL. So, can I just be clear for the record? It sounds to me like you were following very closely the recommendations that the external reviews have given you. You are taking the issues that need to be addressed in rulemaking and putting them in a rule.

That rule still has to be finalized. You are using the tools you have, like issuing internal policies and conducting staff training, to correct other issues. Is that accurate?

Mr. ELLIS. That is correct.

Mrs. DINGELL. Thank you.

Let's go to shredding. I am about as confused as anybody from what I just heard. Did I just hear that you shredded 80 percent of the bonds? Ms. Fennell?

Ms. FENNELL. During the course of a conversation with the reality specialist to have an understanding of what their procedures were for conducting annual certifications, we learned at that point in time that 20 percent of the bonds were found in project files that were not in a secured cabinet or a safe.

The remaining 80 percent we were informed, which were surety bonds and which had been indicated through the two database systems that BLM has still existing, were not able to be found.

Mrs. DINGELL. But does it mean they were shredded?

Ms. FENNELL. The realty specialist went on to inform us that she had heard that the bonds had been in the safe and then were mistakenly shredded.

Mrs. DINGELL. So this is hearsay. Let me ask you another question. One type of bond that can be held is a check. Is that not correct?

Ms. FENNELL. Yes, that is correct.

Mrs. DINGELL. And presumably copies are made of that check for any number of reasons, including information redundancy. Is that correct?

Ms. FENNELL. I believe that is.

Mrs. DINGELL. And, Mr. Ellis, you could help me answer. Both of you were participating in this discussion.

Those checks have personally identifiable information. Do you have protocols for protecting personally identifiable information that might include shredding copies of checks after they have been cashed or rendered unnecessary?

Mr. ELLIS. We do protect personally identifiable information. That is true. We do protect that.

Mrs. DINGELL. So is it in the universe of options that the bonds at issue in the secondhand account—hearsay—of possible bond shredding mentioned in the GAO report were copies of checks that were no longer necessary to keep on hand and that contained personally identifiable information?

One of you want to respond?

Mr. ELLIS. Well, I might respond in this way. I was not part of this group to do the investigation. I have talked to our Acting State Director, Mary Jo Rugwell. She has indicated to me that all of the bonds are accounted for. She indicated that if anything may have been shredded, it could have been—

Mrs. DINGELL. So you disagree that 80 percent of the bonds are missing or not accounted for?

Mr. ELLIS. No, all of the bonds are accounted for. The bonds are accounted for. They are in the safe. That is what I was told.

Mrs. DINGELL. Well, I would just hope—we have to be very clear—no hearsay or thirdhand information. GAO in its report said that they had investigated. I think it is very clear we have to tighten; but I do not want rumors to start off that are not true either, Mr. Chairman.

Mr. GOHMERT. Thank you.

To be clear, my question was about the 80 percent that were not available previously, not currently, so to set the record straight there.

At this time the Chair recognizes Mrs. Radewagen for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman and the Ranking Member.

I also would like to thank the panel for appearing today.

Ms. Fennell, can you explain the reclamation process for wind and solar projects and describe why reclamation bonds are important?

Ms. FENNELL. Reclamation bonds are important because they ensure that there is no financial risk to the Federal Government in the event that the developer is unable to meet the obligation for reclaiming the land to its preconditioned state.

Mrs. RADEWAGEN. Now, in some cases reclamation can be very expensive, and if it is a large project and there is a lot of infrastructure, reclamation can cost tens of millions of dollars. Is that right?

Ms. FENNELL. Yes, that is correct.

Mrs. RADEWAGEN. What is the total value of wind and solar bonds held by BLM?

Ms. FENNELL. Currently it is \$100 million for wind and solar projects.

Mrs. RADEWAGEN. And that is for how many rights-of-way?

Ms. FENNELL. It is 120 rights-of-way, which does include 45 for wind and solar energy development, and then the remainder would be for wind testing, either project area or site-specific area.

Mrs. RADEWAGEN. So GAO looked at every single right-of-way that required a bond, right?

Ms. FENNELL. We looked at the processes that BLM had in place, the policies that they had in place, as well as the practices that they had in place in general. Then we did a detailed file review of 45 wind and solar projects.

Mrs. RADEWAGEN. Can you explain how GAO determined those numbers? Did they come from BLM or did you independently verify them?

Ms. FENNELL. We utilized the BLM data systems to ascertain the number of wind rights-of-way and solar rights-of-way projects. In the process of that, we found discrepancies in the data; so we went and worked with the BLM officials to ensure that the numbers that we had were correct, and that we were able to report them in our report.

Mrs. RADEWAGEN. When the GAO team began looking at the data from BLM, was it consistent?

Ms. FENNELL. We did find that the LR2000 and the Bond and Surety System did have information that was either missing, inaccurate, or that had not been updated. We were——

Mrs. RADEWAGEN. So the answer would be no?

Ms. FENNELL. Correct.

Mrs. RADEWAGEN. The BLM has two separate databases for tracking wind and solar bond information. During the review, did you find that they were reliable?

Ms. FENNELL. We did not find that they were reliable for the purpose of tracking the wind and solar rights-of-way.

Mrs. RADEWAGEN. Were the two databases at least consistent with each other?

Ms. FENNELL. We did find discrepancies between the two systems.

Mrs. RADEWAGEN. During the review, did GAO find that the two systems were missing information?

Ms. FENNELL. Yes, we did.

Mrs. RADEWAGEN. What kind of information?

Ms. FENNELL. We found that there was either bond amounts that were in one system but not in the other system, that dates would be different, or that project information was not up to date. So we did find discrepancies between the two systems and what was contained in both.

Mrs. RADEWAGEN. What about timeliness? Were the databases at least up to date?

Ms. FENNELL. They were not up to date. We did find issues with both databases in terms of either information in one database that was up to date and not in another, or sometimes we found

information in the project files that was more up to date than what was contained in the databases or vice versa.

Mrs. RADEWAGEN. So without implementing GAO's recommendations, BLM could not have confidence that the information it keeps on wind and solar bonds is accurate?

Ms. FENNELL. Yes, that is correct. That is why we made several recommendations to ensure that policies or data standards should be put into place in order to ensure that the information is up to date, that the data systems are accurate, and that there is timely entry of information in the data systems.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Mr. GOHMERT. I thank the gentlelady.

At this time the Chair recognizes Mr. Huffman for 5 minutes.

Mr. HUFFMAN. Thank you, Mr. Chairman.

I find it noteworthy that the Majority's information on this hearing, the focus of this hearing, and the questioning that has happened to date has been strangely silent about dirty fossil energy projects, and whether they might suffer from some of the same problems that are being leveled at clean renewable energy projects, or maybe even worse problems.

Now, Ms. Fennell, the GAO has written many reports on lax bonding policies and practices regarding the oil and gas program, too, correct?

Ms. FENNELL. Yes, that is correct.

Mr. HUFFMAN. When were the oil and gas bond amounts last updated?

Ms. FENNELL. In our last report that we did in 2011, I believe that we found that the minimum bond amounts had not been updated in 50 years.

Mr. HUFFMAN. Right. Since the Eisenhower presidency, I believe. You have also made findings about the adequacy of the current bond amounts for oil and gas projects. Is it fair to say you have found those to be woefully inadequate?

Ms. FENNELL. We did find that there were problems associated with the adequacy of the information that is also contained in their database systems.

Mr. HUFFMAN. Thank you.

Deputy Director Ellis, on this theme of taxpayer risk from potential pollution, can you tell me how many renewable energy projects on Federal land have not been cleaned up by the developer before they left?

In other words, how many wind and solar projects have ever left taxpayers on the hook?

Mr. ELLIS. To this point, there have been none.

Mr. HUFFMAN. How about oil and gas sites? Could you say the same of those?

Mr. ELLIS. No. I do not have all the numbers with me; I think in the last 3 years I was made aware that there were seven instances on oil and gas where there were some reclamation costs and we did have to go the bond.

Mr. HUFFMAN. I have reference here to a 2010 GAO report finding that BLM spent \$3.8 million to reclaim 295 orphaned wells in 10 states. Does that sound about right?

Mr. ELLIS. I cannot validate those numbers for sure, but I can tell you we do have orphaned wells—and we have had to spend some money on orphaned wells—but many of these orphaned wells, such as those in Alaska were not bonded. They are very old. They were not bonded.

Mr. HUFFMAN. I believe BLM has identified an additional 144 orphaned wells in seven states that need to be reclaimed as well; so we are looking at a pretty sizable taxpayer exposure for orphaned wells and other problems related to inadequate bonding from oil and gas projects. Is that fair to say?

Mr. ELLIS. Yes. The orphaned wells, it is an issue, particularly in Alaska.

Mr. HUFFMAN. Well, thank you.

Mr. Chairman, I am really struck by what this hearing could have been if we were really interested in oversight of taxpayer exposure from these energy projects, and if we did not have an unwritten rule in this committee and with the House Majority right now that we can never say anything bad about fossil fuel energy projects; we have to always pick on clean renewables.

If we were interested, we could take a look at the inadequate bonding rates that go back to the Eisenhower administration. We could take a look at this one-of-a-kind, self-bonding give away to the coal industry that puts them in an even more risky position relative to protecting the taxpayer. We could look at the fact that that self-bonding program inures to the benefit of major coal companies in millions of dollars each and every year, that we have had independent reports suggesting that the failing financial health of those coal companies underscores the risk to taxpayers right now, and that they may be playing games with their subsidiaries in order to continue enjoying this one-of-a-kind self-bonding status that is not available to clean, renewable energy programs.

All of that is something that we could have addressed. We could have talked about the fact that instead of picking on clean renewable energy, which has never cost the taxpayers a dime, where we have identified some inadequacies and discrepancies that are being addressed by BLM right now, fixed in a rulemaking. Instead of that, we could talk about the actual loss to taxpayers that is occurring and the significant risk that we face because of these lopsided policies that continue to tilt the energy playing field in favor of dirty fossil fuel energy projects.

That all could have made for a great hearing, but unfortunately we are left with this very shallow farce of an oversight hearing, and I think that is a tragedy.

With that, I will yield the balance of my time.

Mr. GOHMERT. Thank you

At this time I will yield to Mr. Labrador for 5 minutes.

Mr. LABRADOR. I yield back to the Chairman.

Mr. GOHMERT. You yield back or you yield?

Mr. LABRADOR. I yield.

Mr. GOHMERT. Well, thank you.

I realize the gentleman had just come in, but that would allow me to follow up on a couple of matters. We may want to look into what we are characterizing as the give aways to coal companies. I know it surely appears to people that are mining coal in my

district and friends from West Virginia that there really appears to be a war on coal and so many have been put out of business. We have so many coal miners that are in the country that are out of work, and they certainly were not aware of any give aways since their companies have been put out of business.

But we also may want to have a hearing on the gentleman's comment that clean renewables have never cost the taxpayers a dime. They are costing us a fortune every year, especially when you look back at Solyndra and some of those that we continue to prop up with taxpayer monies. Some industries, like coal and oil and gas, they're allowed to deduct the cost of doing business as any manufacturer is; yet in the renewables, we just give money away trying to get people into those businesses, but—

Mr. HUFFMAN. Would the gentleman yield?

Mr. GOHMERT. Well, let me get back to that.

As of this writing, we have not found evidence that bonds were shredded. Mr. Ellis, you said that. Did you look into that, as to whether or not they were shredded?

Mr. ELLIS. Mr. Chairman, I have indicated that I spoke with our Acting State Director of Wyoming. I asked her to look into the matter. She got back to me.

Mr. GOHMERT. That was not my question. I was asking if you did. You are here testifying, and you said as of this writing we have not found evidence. Having investigated things as a prosecutor, I know you have to go to the source; and we have an e-mail as of March that again says that she did not know the value of the documents that were shredded.

Let me ask you this. It was mentioned that sometimes these are checks that are used instead of bonds. Do you know if those were checks that were taken from the safe or that were not accountable, or were they actually bonds that later were replaced?

Mr. ELLIS. I do not know, Mr. Chairman, the specifics of checks. I can tell you that we are very pleased that the Inspector General is looking into this matter. We support—

Mr. GOHMERT. I am not interested in who else is looking at it. I am interested in your department. One of the things that disturbs me to no end—I like people being held accountable when they cost the government tremendous amounts of money unnecessarily—we had someone with Interior that left out language back in the Clinton administration that has cost this country billions of dollars in revenue from offshore drilling. We kept trying to find somebody to be held accountable, and we were told by Interior, "Well, we think maybe the person that did that is no longer with the government."

She had gone to work for, as we understood it, an oil and gas company. Now, as I understand it, that person is back with the Obama administration.

We have to start holding people accountable that do not follow the rules and that create problems. The letter that Chairman Bishop and I sent asked you specific questions, or asked Director Kornze on what date were the bonds shredded. Who removed the bonds from the safe? Who destroyed the bonds? Are the individuals responsible for removing and destroying the bonds currently employed by BLM? Who had access to the safe? Why were the bonds

removed from the safe? Were the entire contents of the safe removed at the time the bonds were removed? Were the entire contents of the safe destroyed at the time the bonds were destroyed? When did the Rawlins Field Office notify the state office that the bonds had been destroyed? How was notification provided?

It does not give me any comfort that you say the OIG is investigating. We were asking for answers from you, and the best we get in your letter is, "As of this writing we have not found evidence that bonds were shredded;" then you gloss over it as if there was never a problem in saying the bonds are appropriately documented and the assets are protected.

Once again, it is like Interior is trying to gloss over this whole issue where somebody took those bonds out of the safe, from what we understand; and something happened to them. Indications were—whether it is hearsay or not—the best thing we have understood so far is that they were shredded; and yet we do not have an account from you that you have actually looked into this serious matter.

Have you looked into these specific matters?

Mr. ELLIS. Mr. Chairman, as I responded in my letter and earlier, the Acting State Director of Wyoming looked into it and told me that all the bonds were accounted for, that based on their looking into this, that the bonds were not shredded.

Mrs. DINGELL. Mr. Chairman.

Mr. GOHMERT. Well, you are not answering the question, clearly. His letter did not answer the question, but my time has expired.

I yield 5 minutes to Mr. Polis.

Mrs. DINGELL. Would you be willing to yield one moment for a clarification?

I do think that the Inspector General, it is my hope and intent I've been told, has an ongoing investigation where all of the questions that you have asked should be answered; and that when there are IG investigations, management is asked not to become involved in the investigations, which would appear to be intimidating employees.

Is that also part of what we are dealing with right now, that the IG's office is doing this investigation?

Mr. GOHMERT. Well, let's go to Mr. Polis, and then we will come back. The problem is that we sent a specific letter to the Director of BLM; and they are dodging it saying, "Hey, well, it looks like there is an OIG investigation now."

So anyway, Mr. Polis, you are recognized for 5 minutes.

Mr. POLIS. Thank you, Mr. Chairman.

I want to thank the Chairman for holding this hearing today, not because of some of the non-issues that the Majority continues to raise, but because I think this hearing speaks to the need for improvement in the development of renewable energies on public lands.

Along those lines, I introduced a bill earlier this month with Representative Gosar, the bipartisan bill—H.R. 2663, the Public Lands Renewable Energy Development Act, that would streamline the regulatory and permitting process for wind and solar development on public land.

It has been very frustrating to me as a policymaker how oil and gas is able to develop on public lands without doing NEPA studies, with minimum permitting delays—usually in a period of weeks or months—but renewable energy projects often take years to be able to permit on public lands.

I was going to ask Deputy Director Ellis if he would agree that encouraging the development of renewable energies on public lands is a critical national priority and what can the Federal Government do to streamline and make less costly and faster the permitting process for renewable energy projects on public lands?

Mr. ELLIS. Well, Congressman, I might respond this way. We are very proud of the role that the BLM plays in providing the Nation's energy needs, including renewable energy.

Regarding the bill, the department and the BLM are committed to responsibly mobilizing the tremendous renewable energy resources that are available on public lands; and we share your interest in identifying efficiencies that are consistent with their multiple use and sustained yield mandate.

We are very proud of the record that we have had, particularly since 2009. As I indicated in my testimony, when all of these projects get online, it will be 14,500 megawatts of power, which is enough to supply a lot of homes. I indicated in my testimony we are proud of this. This is energy that is clean. It is renewable; it is clean. It is environmentally sound energy.

Also with that said, we still have oil and gas. We have geothermal. We have coal. We have a complete portfolio on public land.

Mr. POLIS. Is there more that you can do administratively, of course, in addition to Congress and this committee taking up H.R. 2663, to streamline and reduce the cost or timeline for approving renewable energy projects?

Mr. ELLIS. Let me respond this way, Congressman. As you probably know, a few years ago we did an environmental impact statement to identify solar energy zones. I believe there are about 17 of these. We went through that process so industry would know that there were areas that they could go where we felt that the resource conflicts were less than they were in other areas; and since we had an umbrella EIS over these zones, we could do the NEPA work faster.

So it really encourages industry to go to those areas.

Mr. POLIS. What is the estimate of the time frame for the NEPA work in those preferential areas?

Mr. ELLIS. Boy, in some of those we have been able to get that NEPA work done in a matter of a year, which is pretty quick.

Mr. POLIS. Would you consider it an analogous project for wind and geothermal and other forms of renewable energy?

Mr. ELLIS. It can take longer if it is outside those zones. It really depends upon—

Mr. POLIS. Well, those were solar zones. Would you consider a similar process around creating streamlined zones for wind and geothermal?

Mr. ELLIS. Congressman, we have had those discussions.

Mr. POLIS. I think that would be welcomed. If you can submit later, we would love to see a comparison between the NEPA

process in the preferred solar zones and the regular NEPA process around solar outside of those zones, assuming there has been some of those pending.

Also, we would love to be updated on your process around establishing similar zones for other forms of renewable energy and look forward to working with you on that.

I want to encourage you to take a look at H.R. 2663 as well, the bipartisan bill that would facilitate zoning for renewable energy projects on public land.

I yield back the balance of my time.

Mr. GOHMERT. I thank the gentleman.

We will start a second round.

Mr. Ellis, were you aware that at least 50 of the orphaned wells in Alaska were originally drilled years ago by the U.S. Navy, and it was the Navy that abandoned them?

Mr. ELLIS. Yes, Mr. Chairman. I am aware that some of those are Navy wells. I do not know if it is 50, but I am aware that some are Navy wells.

Mr. GOHMERT. OK, and this is a direct question. Were you aware or were any of the bonds that were in the Rawlins Field Office replaced?

Now, you said they are there. But were bonds in the Rawlins Field Office, any of them, actually replaced?

Mr. ELLIS. All right. If I may for clarification purposes, you are suggesting that the bonds are accountable, that maybe there were some that were not there and now they are back? Is that it?

Mr. GOHMERT. Unless you are deaf, you have heard another witness testify that 80 percent of the bonds were not available in the Rawlins Field Office. Twenty percent were in project files. Your letter says all of the bonds were accounted for. I am asking you whether you know whether some or all of the 80 percent that were originally missing, as testified to today, were replaced.

Mr. ELLIS. What I am aware of is that all of the bonds today are accounted for.

Mr. GOHMERT. Have you heard the testimony today that 80 percent of the bonds were missing?

Mr. ELLIS. I did hear what GAO had to say.

Mr. GOHMERT. Have you investigated whether or not any were ever missing?

Mr. ELLIS. The question I asked the Acting State Director of Wyoming was to find out, based on what was read in the draft report, if some bonds had been shredded and if the bonds are accounted for, and I said earlier——

Mr. GOHMERT. Did you ever see the letter that Chairman Bishop and I sent to Director Kornze?

Mr. ELLIS. I did.

Mr. GOHMERT. So you ignored all of those questions that we were asking and you just simply asked, "Are the bonds there now?"

Mr. ELLIS. Yes. We asked BLM in Wyoming to look into the matter and see if there had——

Mr. GOHMERT. You just testified that you asked them if the bonds were there. Is that what you asked?

Mr. ELLIS. We asked them, Mr. Chairman, to look into the matter based on what we saw in the draft report. They responded to

us that the bonds were not shredded, and that all of the bonds are accounted for and in the safe.

Mr. GOHMERT. By the way, I did not swear you in—I think we are going to start swearing witnesses in—but even if you are not sworn in, it is a crime to testify untruthfully before a congressional committee.

Now, the question that I have been trying to get an answer to is, what happened to the 80 percent? And you are testifying to this committee, of your own knowledge, that there were no bonds ever shredded. Is that what you are testifying to?

Mr. ELLIS. That is the information that I was given from—

Mr. GOHMERT. You are willing to stand on that, that no bonds were ever shredded. You are willing to stand on that under penalty of testifying falsely?

Mr. ELLIS. That—

Mr. GOHMERT. Because a lawyer would advise you that if you do not know, you had better say, “I do not know.” But if you are saying they were not shredded based on the evidence that I had, then there is an obligation you have to make sure you have the proper evidence and not mislead this Congress.

So let me ask you again—are you testifying that no bonds were ever shredded?

Mr. ELLIS. Mr. Chairman, as I indicated earlier in my testimony and in response—

Mr. GOHMERT. I am asking you a direct question. Is it your testimony that no bonds were ever shredded?

Mr. ELLIS. I can only testify to what I was told.

Mr. GOHMERT. You had better testify to what you know of your own personal knowledge. Are you testifying to this panel, to this committee that no bonds were ever shredded? Yes or no?

Mr. ELLIS. Mr. Chairman, I asked a question of our Acting State Director, to look into this.

Mr. GOHMERT. So your testimony is the bonds were not shredded. Is that right? Yes or no?

Mr. ELLIS. My testimony is what I had in the record, what I have—

Mr. GOHMERT. So why don't you say, “I do not know”? That would be a safer answer than saying yes, you inquired and no bonds were shredded. Because if you say, “I inquired and no bonds were shredded,” I am telling you, Mr. Ellis, you are misleading this committee. I am asking you—do you want that on the record? Your testimony is that no bonds were shredded.

Mr. ELLIS. I was told by the Acting Director of the state of Wyoming—

Mr. GOHMERT. I am asking you if you stand by what you were told.

Mr. HUFFMAN. Point of parliamentary inquiry, Mr. Chairman. I have just heard you interrupt the witness, I think no less than 10 times.

Mr. GOHMERT. When a person asking the question—

Mr. HUFFMAN. Are we entitled to actually get his testimony or do you intend to shout him down and not let him talk?

Mr. GOHMERT. Your point is invalid because a witness is required to answer the question.

The gentleman is out of order.

Mr. HUFFMAN. The Chairman is out of order.

Mr. GOHMERT. Thank you.

If we are not allowed to get questions answered by witnesses, then these hearings are worthless.

Mr. HUFFMAN. Exactly, so let him answer and then it will not be worthless.

Mr. GOHMERT. He would not answer the question.

Mr. HUFFMAN. You can shout on YouTube any time you want.

Mr. GOHMERT. I am asking the question one final time. I realize we do not have a Department of Justice that has carried out any prosecutions so far, but some day we will; and I am asking you—are you standing by testimony that no bonds were shredded?

Mr. ELLIS. Mr. Chairman, I will respond in two ways. One, the Inspector General is investigating this. I look forward to the Inspector General getting down and finding the facts of—

Mr. GOHMERT. Well, that is not answering the question. You are saying that you did not do your job. You will let somebody else investigate.

Mr. ELLIS. No, what I am saying is that we inquired. I had the Acting State Director inquire—

Mr. GOHMERT. And you believe that? That is your testimony. No bonds were shredded.

Mr. ELLIS. That is the information that was provided to me.

Mr. GOHMERT. And you stand by that. You believe it.

Mr. ELLIS. The information that was provided to me. With that said, I look forward to reading the—

Mr. GOHMERT. Do you believe it or not?

Mr. ELLIS [continuing]. Inspector General's report.

Mr. GOHMERT. I am just trying to get an answer. You provided that information to Congress. Do you believe no bonds were shredded?

Mr. ELLIS. All I can go by, Mr. Chairman, is what I am told by—

Mr. GOHMERT. I am asking you: do you believe no bonds were shredded?

Mr. ELLIS. It is my understanding from the BLM in Wyoming—

Mr. GOHMERT. Do you believe no bonds were shredded?

Mr. ELLIS. I can only go by what I was told.

Mr. GOHMERT. Do you believe no bonds were shredded?

Mrs. DINGELL. Point of order, Mr. Chairman.

Mr. GOHMERT. We are trying to get an answer to the question that the witness will not answer.

Do you believe it or not? You are the Assistant Director. Just answer the question.

Mrs. DINGELL. Mr. Chairman, can I respectfully say that we have an Inspector General's investigation going on. We are dealing in hearsay, period. I do not like anybody's reputation and integrity being done on hearsay.

I think the GAO study looked at it, and they could not find enough information. The Inspector General is. We are all very concerned about hearsay reports, but even when the GAO looked at

it—badgering the witness today is not going to get us any further. I think we look forward to the Inspector General's study.

Mr. GOHMERT. There is an explanation. Credibility is always an issue. This gentleman made inquiry, and his testimony as to the credibility of the information he got is always going to be an issue, whether the OIG looks into it or not. If he did not believe the information he got, that is certainly important whether the OIG looks into it or not.

But, frankly, I am so tired of government officials hiding behind some other answer and not doing their jobs when laws and regulations are being violated. They put people in prison for violating them if you are not in the government, and yet nobody is held accountable in the government. I want that to stop, and that is why I kept pushing for an answer.

So, sir, do you believe that no bonds were shredded based on the credibility of the people that told you?

Mr. ELLIS. Mr. Chairman, based on what I know of our Acting State Director—she indicated that based on them inquiring and looking at that, that no bonds were shredded.

Mr. GOHMERT. Were they replaced?

Mr. ELLIS. I have full confidence in Mary Jo's feedback on this.

Mr. GOHMERT. All right. My time has expired.

The gentlelady, Mrs. Dingell, is recognized for 5 minutes. And if they do not answer your questions, then you have however long it takes to get an answer.

Mrs. DINGELL. So, Mr. Chairman, I really wanted to get into some more substantive issues; but I really want to say, first of all, none of us wants to see things and we need to tighten the process. The GAO study is there, two different rulemakings. A second one I want talk about, too, on oil and gas.

But I want to be clear for the record. Is it not true that we keep original bond instruments because it is best for recordkeeping, but holding the original bond document does not impact the ability of the BLM to use the bonds if necessary. In order for that bond to be released back to the project component, the BLM still has to submit a request to the bond company asking for that to occur?

In the event that BLM does not have the original document, a duplicate can be made by that bonding company that serves as appropriate documentation for that bond. So while we are looking at processes that none of us approve of and we are getting cleaned up, is it not true that that could be how we now have the rest of those bonds accounted for?

Mr. ELLIS. Congresswoman, yes, we do have to go back to the company if there was—

Mrs. DINGELL. But you can account for 80 percent of those documents if they were not found when somebody was initially looking at it. So that would account for the discrepancy between the 20 percent and the 80 percent, potentially.

Mr. ELLIS. I cannot say from my—

Mrs. DINGELL. You do not know how, but that would be one form.

Mr. ELLIS. That would be one form.

Mrs. DINGELL. Thank you. That is all I want, a simple yes or no.

I do not want to have a war on anything, Mr. Chairman, but even the Pope has said that we have to worry about the environment. So I worry about all of this.

I want to put this in context though. In a report from 2010, the GAO calculated that we not only have proposed rulemaking on wind and solar, but there is one right now on oil and gas as well. The GAO calculated that over 20 years BLM has reclaimed 295 oil and gas wells at a cost of \$3.8 million. That is about \$13,000 per well.

That seems low to me since those numbers are probably higher now that fracking is so widespread, but I will go with it.

Mr. Ellis, do you know how many wells there are on public lands right now?

Mr. ELLIS. Approximately 95,000.

Mrs. DINGELL. OK. So 95,000 wells at \$13,000 per well comes to about \$1.2 billion in well reclamation cost BLM could have to cover if the bonds are not enough to cover them. So does BLM hold \$1.2 billion bonds from the oil and gas industry?

Mr. ELLIS. We do not. That number is about \$186 million.

Mrs. DINGELL. So are you saying that the potential cost of reclaiming these wells is at least \$1 billion more than what you actually hold from oil and gas companies? And why?

Mr. ELLIS. Congresswoman, if you look at the oil and gas bonds, they are based on a number of factors, and that includes the past reclamation performance of the company. We often do not require full bonding in oil and gas for the reclamation.

In fact, part of it is based on the track record of the company. If the company has a good track record, then sometimes we hold less than the full reclamation amount. Now, that could be accounting for part of this. Generally oil and gas companies, our experience has been they are pretty good at reclaiming these areas.

Mrs. DINGELL. I think in my 2:00 a.m. reading I heard that called performance bonding. Is that correct?

Do you allow performance bonding for renewable energy companies?

Mr. ELLIS. We do for renewable energy under this rule that we are working on.

Mrs. DINGELL. But do you right now? Under existing law, do you?

Mr. ELLIS. No, we do not for wind and solar.

Mrs. DINGELL. Is it not true that you require bonds for the full calculated cost of liabilities to the United States?

Mr. ELLIS. It is for wind and solar.

Mrs. DINGELL. So, BLM gives exceptional leniency to oil and gas companies compared to renewable energy companies; and BLM requires performance bonding for oil and gas projects, but not for renewable energy projects.

It sounds as though BLM is tough on renewable energy developers. In fact, I think it sounded even tougher. Since my colleagues on the other side of the aisle are interested in this underbonding, I trust that they will support BLM's advanced notice of proposed rulemaking of April 2015 that tries to correct oil and gas underbonding.

A statement on the Majority's Web site indicates opposition to that, which I cannot understand given your interest in the renewables.

Thank you, Mr. Chairman. You can have my 7 seconds back. Thank you.

Mr. GOHMERT. The Chair recognizes Mrs. Radewagen for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Ms. Fennell, when GAO reviewed all the bonds that BLM had, you found that most of the bonds are held as letters of credit or surety bonds; but there was one bond worth almost \$50,000 that is described as undetermined. In the report, it says BLM could not provide the bond type.

How can BLM hold a bond that is undetermined?

Ms. FENNELL. We asked that very question, and they were not able to provide an answer. This was how it was recorded in the databases. So, when we replicated the table that you're referring to in our report, where we list out the various types of bonds, we did include that, given that that was part of the total.

Mrs. RADEWAGEN. Did GAO try to determine the bond type?

Ms. FENNELL. We followed up with questions, but we did not determine the bond type because we were not able to receive responses to our questions as to what it was.

Mrs. RADEWAGEN. It seems like this is yet another example of missing or inaccurate information that BLM has on these bonds.

In another example, the GAO report says that a BLM employee had to drive out to the right-of-way and count the number of wind turbines that were on the property because the databases in the project file were so confused. Is that correct?

Ms. FENNELL. As part of our review of the data, when we found discrepancies or inaccurate information, we would go back and speak with the BLM officials to clean up the data. As a result of our inquiry, that was, indeed, the case where they did go out and verify the number of turbines.

Mrs. RADEWAGEN. The OIG report issued in 2012 covered a lot of the same issues that the GAO report covers. Ms. Fennell, are you aware of any other documents that identified concerns with handling wind and solar bonds?

Ms. FENNELL. The IG report and our report, I believe, are the more recent reports related to the bonding for wind and solar.

Mrs. RADEWAGEN. What about bond handling policies? Does BLM have any specific policies for properly storing wind and solar bonds?

Ms. FENNELL. They do not. As a result of not having a policy in place, we made a recommendation that one should be developed so that there would be proper handling, accounting, and storing of wind and solar bonds.

Mrs. RADEWAGEN. If there is no real guidance, then where are these bonds being stored?

Ms. FENNELL. We found that in two field offices, they had indicated to us that there were bonds that were maintained in project files that were not properly secured in a locked cabinet or safe. Those are illustrative of the problems that we found, which is that

there is no guidance. Therefore, we made the recommendation that guidance should be established.

Mrs. RADEWAGEN. Mr. Ellis, the 2012 IG report highlights the need for close supervision of solar projects on Federal land and perhaps explains why BLM is required to review bonds annually. The report found that solar projects frequently go through name changes, reassignments, and of course, bankruptcies. Some of us may have heard of Solyndra.

Have renewable projects been pushed to expand at a pace that BLM cannot keep up with?

Also, why are BLM employees not aware that bonds were supposed to be reviewed as discussed in the GAO report?

Mr. ELLIS. The things that we do—we have turnover of employees; and sometimes employees, it is possible they may not all be as familiar with the time frames of when they are supposed to look at these things.

This is being clarified in the new rule that we are working on, and so it is not inconceivable that we would have situations out there where employees may not be totally familiar with these things. I think what our goal is to do, and we have taken these steps, is to try to train these employees and help them understand what the rules are as far as looking at these things.

It is being clarified in the new rule to provide greater consistency across the landscape.

Mrs. RADEWAGEN. Is this a management task too large for BLM to responsibly administer?

Mr. ELLIS. No. We are a very complex agency. We do many, many things. This is one of those things that we do in a multiple use and sustained yield mission. So we have many, many tasks and many things. Right now, we are dealing with a severe fire situation in Alaska. We have many things in our portfolio. With that being said though, I would say that the GAO, in this instance, what they bring to us is always valuable. We always learn from these things. It is very valuable.

And as we indicated in the recommendations that they have—I believe there are five of them. In four of them, we say we are going to accept these recommendations. I think there was one where we went partially, because we think that by accepting these we will get at some of the very things, Congresswoman, you mentioned.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Mr. GOHMERT. I thank the gentlelady.

At this time—I could not remember if you had had a second round or not. Mr. Huffman is recognized for 5 minutes—

Mr. HUFFMAN. Thank you, Mr. Chairman.

Mr. GOHMERT [continuing]. Or however long it takes to get answers to your questions.

Mr. HUFFMAN. Well, I will let the witness actually answer when I ask questions, and we will see how that goes.

We have had this hearing that is supposed to be about the policies and practices for the bonding of energy projects on Federal land, BLM specifically. That is nominally the subject of this hearing. It is focused on clean renewable energy projects and a few discrepancies that are being addressed, that have been acknowledged, but that have not cost the taxpayer any money.

When we point out the lopsided nature of exposure to taxpayers and costs to taxpayers when it comes to dirty fossil fuel energy projects, twice now in this hearing there has been some intellectual sleight of hand by the Majority.

They brought up Solyndra. Now, I just want to ask you, Deputy Director Ellis, did Solyndra ever have an energy project on BLM land?

Mr. ELLIS. No.

Mr. HUFFMAN. No. So they would never have any bonding issues with Solyndra if we were talking about the subject of this hearing, right?

Solyndra, in fact, was a technology that received some loan guarantees through a Department of Energy program. It has nothing whatsoever to do with the subject of this hearing, but it has come up twice when we point out something that should be the subject of this hearing, and that is the enormous taxpayer exposure from inadequate bonding rates for oil and gas projects set in the 1950s and 1960s and the hugely permissive self-bonding, one-of-a-kind rule for coal energy projects.

When we talk about those things, the Majority changes the subject and talks about Solyndra. Now, we could talk about the subsidy issue. We could talk on that side of it about the equally disproportionate subsidies that have gone to fossil fuel energy projects over the decades and that continue to this day. It would tell a similar story about a playing field for energy that is hugely tilted in favor of dirty fossil projects.

We could have that conversation, but that would probably best occur in the Energy and Commerce Committee. Here in this committee, though, I want the record to be crystal clear that we could have focused on things that are really costing the taxpayers money right now, and that is the inadequate bonding of dirty fossil energy projects.

Instead, we have chosen this “tempest in a teapot” over some anomalies and discrepancies involving clean renewable projects; none of which have failed, none of which have cost the taxpayers any money. As you have testified, Deputy Director Ellis, at the end of the day, it appears that all of the bonds are going to be accounted for.

So I just want to say to you, Deputy Director, that you have kept your composure and kept your cool in the face of some questioning that I find disappointing, to be charitable. Never have I seen so much hostility, bullying, and animus directed at something that was just so disproportionately and relatively insignificant, frankly, in the scheme of things. It’s as if this were a Benghazi hearing over a few discrepancies that are already being addressed in a rule-making.

Mr. GOHMERT. If the gentleman is accusing me of animus, I would ask that—

Mr. HUFFMAN. My apologies to you. This is my time, Mr. Chairman. My apologies to you that you have suffered through some questioning that I think is beneath the dignity of this committee and the House of Representatives.

Mr. GOHMERT. I would ask that the gentleman's words be taken down for accusing me of animus. That is an improper accusation under the House rules.

Mr. HUFFMAN. When you say that someone is lying and being dishonest, that is not animus?

Mr. GOHMERT. I did not accuse anybody of lying; and, no, you can make the allegation without animus. Animus violates the rules, and I would ask the gentleman's words be taken down.

Mr. HUFFMAN. There will be a lot of words taken down, I'm sure Mr. Chairman, including many of yours.

Mr. GOHMERT. The Chair recognizes Mr. Labrador for 5 minutes.

Mr. LABRADOR. Ms. Fennell, thank you for being here.

During your examination of BLM's bonding of wind and solar projects, did you examine the information in the two data systems, the LR2000 and the Bond and Surety System?

Ms. FENNELL. Yes, we did.

Mr. LABRADOR. In your report, you state that you worked with BLM officials to resolve data discrepancies. Were the officials you worked with familiar with how the two systems operated?

Ms. FENNELL. Yes, they were.

Mr. LABRADOR. Did the BLM officials you worked with provide an explanation for the missing, inaccurate, and out-of-date information in the systems?

Ms. FENNELL. For each case that we asked questions about, they were able to work with us to explain what the information should be. We went back and forth multiple times in order to ensure that the data was reliable enough for purposes of reporting out in our report.

Mr. LABRADOR. But if the data was inaccurate, how were you able to rely on their statements about what the data should be?

Ms. FENNELL. We reviewed documentation in the project files. We looked at the data that was contained in both databases, and then we continued to work with the BLM officials to clean up the data so that we could report out on the numbers.

However, we did find that, for tracking purposes, neither system was reliable, because we found information that was missing, or inaccurate, or that had not been updated.

Mr. LABRADOR. Was it that the systems were not reliable, or unreliable, or was it that the data was not being input into the system?

Ms. FENNELL. There were a combination of factors. In fact, some of the data entry issues became the basis of some of the recommendations that we have made in order to ensure that policies and standards are put into place to allow for timely data entry and for also ensuring that data standards are established for the Bond and Surety System.

Mr. LABRADOR. So what was their explanation for not inputting the data correctly?

You say the data was available. What was their explanation for just not doing their job correctly?

Ms. FENNELL. There were several reasons that were cited, including that there had been a downsizing of the land examiners that did a lot of the data entry, leaving a lot of the work to the realty surety specialist; and they had workload and resource constraints.

In addition, some cited training as well, in terms of not being as familiar with some of the coding and some of the data entry requirements for the systems; so there were a combination of factors that explained why there were timeliness issues associated with the data entry.

Mr. LABRADOR. Mr. Ellis, thank you for being here.

Are you familiar with the process BLM employees use to enter bonding information into the LR2000 and the Bond and Surety System?

Mr. ELLIS. I am aware of the two systems that we have, Congressman. Also, in the GAO report, they did have some findings here; and we acknowledge that we need to establish a requirement for routine data entry. We acknowledge this, and this is something we are working on.

We realize that there were some issues between the two systems.

Mr. LABRADOR. So how often is this information supposed to be updated?

Mr. ELLIS. Well, the requirement—what GAO recommended was 5 business days. This is difficult. In our new policy that we are coming out with, we pushed this to 10 business days. Really, Congressman, our employees, who would have to be land law examiners, have a lot on their plates, and so we think—

Mr. LABRADOR. So who is ultimately responsible to make sure that the information is properly recorded?

Mr. ELLIS. Generally our staff in the field offices in the districts, our realty specialist and land law examiners are the individuals that input that data.

Mr. LABRADOR. Are all BLM employees trained on how to use the LR2000 and the Bond and Surety System?

Mr. ELLIS. They are not. For example, if employees generally do not work in that arena, no, they would not be trained. But our goal is to train the people that normally use the system as part of their job.

Mr. LABRADOR. So after the Inspector General found inaccurate bond information in the system, can you tell me what steps were taken after the report was issued to ensure that the information was properly recorded?

Mr. ELLIS. What we have asked the employees to do is to look at those deficiencies that were found and update the information.

Mr. LABRADOR. And are they doing that? Has that been done?

Mr. ELLIS. It is my understanding that they are doing it. I cannot tell you if it has all be completed, but I can get back to you on that.

Mr. LABRADOR. Thank you.

Mr. GOHMERT. The gentleman yields back. At this time Mrs. Radewagen, you are recognized for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Ms. Fennell, does BLM consistently follow its current periodic review policy?

Ms. FENNELL. We found that for half of the rights-of-way that they were delayed in terms of conducting those reviews. The policy states the frequency by which adequacy reviews are to be conducted, and we found that in half of the time they did not follow that. In fact, half were overdue by at least 4 months.

Mrs. RADEWAGEN. When GAO looked at how often BLM conducted periodic reviews, what did you find?

Ms. FENNELL. We found that for the projects that were due to have a periodic review based on the policies that are in place, that half of them were at least 4 months overdue in terms of having those reviews conducted.

Mrs. RADEWAGEN. The report says 23 out of 45 wind and solar development rights-of-way were at least 4 months overdue for an adequacy review. That is over 50 percent.

When GAO asked the BLM officials who were responsible for conducting these periodic reviews why they had not been done, the officials had three excuses: some said they did not know the bonds were supposed to be reviewed; some said they were too busy to review the bonds; and some said the computer system had not alerted them when it was time to review the bonds.

The excuses were, number one, "I do not know."

Number two, "I was too busy."

Number three, "The computer system did not remind me."

Ms. FENNELL. Yes, that is correct. Those were the reasons that were cited, which led to the basis for one of our recommendations, which is to adjust the LR2000 System to establish a code that would allow for a triggering mechanism to remind the staff that reviews are to be conducted.

Mrs. RADEWAGEN. Thank you, Ms. Fennell.

Mr. Ellis, do you think it is acceptable for BLM officials to not do their jobs because they do not know what their job is, they are too busy to do their job, or because the computer did not remind them to do their job?

Mr. ELLIS. Congresswoman, first of all, the GAO report flagged this issue of the alert system; we think that is a great idea, and we do plan to implement that.

As indicated about the 5-day time frame, oftentimes a realty specialist will go to the field on a Monday, and they might be out of the office for 5 days. They may not even be back in until the following Monday, and so we think it is important that this work be done. Don't get me wrong. It is important that this information be entered. Anything that we can do, such as an alert system to help remind employees, telling supervisors that this is something that has to be done in a timely manner, these are processes and steps that we intend to implement. We are taking this recommendation very seriously from GAO.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back.

Mr. GOHMERT. The gentlelady yields back.

I just have a couple of quick questions for Ms. Fennell, and I am looking at page 30 of your report, not your testimony, Ms. Fennell. You had indicated specifically in the conclusions that BLM has no policies in place to ensure that wind and solar bond instruments are properly handled and stored.

Do you still stand by that statement in your report, Ms. Fennell?

Ms. FENNELL. Yes, that is correct.

Mr. GOHMERT. And you indicated earlier that 20 percent of the bonds were in project files and not in a secure place. Eighty percent were not available.

Do you have an explanation as how there are bonds now that are representing those 80 percent that were missing?

Ms. FENNELL. I do not have an explanation at this time. What we were told is that bonds, when they are missing, can be replaced.

Mr. GOHMERT. So, I take it your opinion is they were probably replaced?

Ms. FENNELL. I believe that the BLM replied to our report indicating that they had now accounted for the documents; so I would assume that they had been replaced based on the conversations that they had when we asked them what would happen when bonds were missing.

Mr. GOHMERT. So you do not know whether they were replaced or found, and obviously Mr. Ellis does not know either. You do not know of your own volition, your own knowledge?

Ms. FENNELL. We do not know. We spoke with these individuals at the BLM field offices. What we found was that this was illustrative of the issue that there was no guidance in place in terms of how to properly store, secure, and handle wind and solar bonds, which then became the basis of our recommendation, Mr. Chairman.

Mr. GOHMERT. All right. Thank you.

Do you care for any follow-up?

Mr. HUFFMAN. I have no questions.

Mr. GOHMERT. All right. At this time we appreciate all of the participants in the hearing today. If anyone wishes to ask additional questions in writing, they have up to 5 business days in which they can be included in the record. That would also include any other Members who wish to submit additional information. They will have up to 5 business days in which they can be submitted.

Members of the committee, thank you for your participation.

I need to introduce into the record a letter dated June 3, 2015, from Steven A. Ellis, Deputy Director of Operations, U.S. Department of the Interior to the Honorable Rob Bishop, Chairman. I also ask unanimous consent to include as part of the record, a letter to the Honorable Neil Kornze, Director of BLM from Chairman Bishop and me, dated May 1, 2015. Also, an e-mail of March 20, 2015, from De Shann Schinkel to Jessica Lewis, and below that is a November 3, 2014 e-mail from Jessica Lewis to Ms. Schinkel, so that there is no question about what they said. I ask unanimous consent that those be submitted as part of the record.

Hearing no objection, so ordered.

[The letters dated May 1, 2015 and June 3, 2015, and e-mails dated March 20, 2015 and November 3, 2014 follow:]

SUBMISSIONS FOR THE RECORD FROM CHAIRMAN GOHMERT

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
WASHINGTON, DC 20515,
MAY 1, 2015.

Hon. Neil Kornze, Director,
Bureau of Land Management,
U.S. Department of the Interior,
1849 C Street NW, Room 5665,
Washington, D.C. 20240.

Dear Director Kornze:

The Subcommittee on Oversight and Investigations ("Subcommittee") recently learned that a number of reclamation bonds for renewable energy projects on federal lands managed by the Bureau of Land Management's ("BLM") Rawlins Field Office were removed from a safe and shredded. The wrongful destruction of these bonds, which are intended to cover the removal costs of improvements and facilities, as well as re-vegetation, restoration, and soil stabilization of the project area, is deeply concerning and raises questions about gross mismanagement on the part of BLM.

In order for the Subcommittee to better understand the circumstances surrounding the destruction of these bonds, and the policies, procedures, and safeguards BLM has in place to ensure the safekeeping of sensitive financial instruments, the following information and documents are necessary and required to be furnished:

- (1) Please answer the following questions regarding the destroyed bonding instruments stored at the Rawlins Field Office:
 - a. On what date were the bonds shredded?
 - b. Who removed the bonds from the safe?
 - c. Who destroyed the bonds?
 - d. Are the individuals responsible for removing and destroying the bonds currently employed by BLM?
 - e. Who had access to the safe?
 - f. Why were the bonds removed from the safe?
 - g. Were the entire contents of the safe removed at the time the bonds were removed?
 - h. Were the entire contents of the safe destroyed at the time the bonds were destroyed?
 - i. When did the Rawlins Field Office notify the State Office that the bonds had been destroyed? How was notification provided? Who provided the notification?
 - j. When was the Washington, D.C. BLM Office, the Department of the Interior, the Department of Justice, or any other federal agency notified that the bonds had been destroyed? How was notification provided? Who provided the notification?
 - k. At the time the bonds were removed and destroyed, were valuables or cash kept in the Rawlins Field Office safe? What is the total actual or estimated value of any such valuables or cash that were maintained in the safe?
- (2) Please describe how BLM determined which bonds were kept in the safe and which were not.
- (3) Please describe how BLM identified which bonds were destroyed.

- (4) Please describe any policies in effect at the time the bonds were destroyed governing access to the safe in the Rawlins Field Office (e.g., who has the combination, what documents are to be kept there, destruction of documents kept in the safe, etc.) and provide copies of any such policies.
- (5) Please describe any policies in effect at the time the bonds were destroyed governing the proper receipt and storage of bonds for renewable energy right-of-ways and provide copies of any such policies.
- (6) Please provide a list of the bonds that were destroyed, including:
 - a. The amount of the bond;
 - b. The type of bond instrument (e.g., letter of credit, surety bond, U.S. treasury securities, etc.);
 - c. The right-of-way holder who provided the bond;
 - d. The project or site covered by the bond; and
 - e. The issuer of the bond, if applicable.
- (7) Please confirm that a number of bonds kept in the Rawlins Field Office were not secured in the safe and were not destroyed. Please provide a list of any such bonds, including:
 - a. The amount of the bond;
 - b. The type of bond instrument (e.g., letter of credit, surety bond, U.S. treasury securities, etc.);
 - c. The right-of-way holder who provided the bond;
 - d. The project or site covered by the bond; and
 - e. The issuer of the bond, if applicable.
- (8) Please provide copies of the LR2000 and B&SS records for each renewable energy bond kept by the Rawlins Field Office since January 2012.
- (9) Please confirm the current bonding status for each right-of-way for which a bond was destroyed, and describe any steps BLM has taken to replace the bonds.
- (10) Please confirm that BLM halted operations on sites for which the applicable bond was destroyed, until such time as BLM obtained a replacement bond.
- (11) Please provide all emails and communications between the Rawlins Field Office, the Wyoming State Office, and the Washington, D.C. BLM Office concerning the destruction of the bond instruments. For all individuals involved in such communications, please identify their titles and contact information.
- (12) Please provide all emails between BLM and the Department of the Interior or its bureaus, the Department of Justice, or other federal agencies concerning the destruction of the bond instruments. For all individuals involved in such communications, please identify their titles and contact information.
- (13) Please provide all emails and communications concerning the destruction of the bonds between BLM officials or staff and the right-of-way holders whose bonds were shredded.

It is expected that all requested documents and information will be provided to the Committee by May 15, 2015. Instructions for complying with this request are attached.

Sincerely,

ROB BISHOP, *Chairman,*
Committee on Natural Resources.

LOUIE GOHMERT, *Chairman,*
Subcommittee on Oversight & Investigations.

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
WASHINGTON, D.C. 20240,
JUNE 3, 2015.

Hon. ROB BISHOP, *Chairman,*
Committee on Natural Resources,
Washington, DC 20515.

DEAR CHAIRMAN BISHOP:

Thank you for your letter dated May 1, 2015, to Director Neil Kornze regarding reclamation bonds for renewable energy projects in the Bureau of Land Management (BLM) Rawlins Field Office (RFO) in Wyoming. Director Kornze asked that I respond to you on his behalf.

You stated that the Committee's belief is "that a number of reclamation bonds for renewable energy projects on Federal lands managed by [BLM RFO] were removed from a safe and shredded." The BLM takes seriously its responsibility as steward of America's public lands and is committed to sustaining the health, diversity, and productivity of those lands. Adequate bonding to ensure full reclamation of projects on Federal lands is important to the BLM fulfilling its mission. A preliminary review of the bonds for the renewable energy projects within the RFO indicates that all bonds are appropriately documented and that Federal assets are fully protected. As of this writing, we have not found evidence that bonds were shredded. We understand that the Inspector General is conducting an inquiry into this matter and we stand ready to cooperate fully with those efforts.

As a general matter, the BLM authorizes renewable energy projects on public lands under its management using a right-of-way grant under Title V of the Federal Land Policy and Management Act. The BLM requires project developers to submit bonds to the agency to cover the potential cost of reclamation should the developer be unable or unwilling to conduct those activities itself. A bond is released when reclamation is satisfactorily completed, or when a project is cancelled or discontinued after preliminary survey work and reclamation is not required.

For the RFO, the BLM has processed 18 renewable energy projects that required bonds, with some of those projects requiring more than one bond to cover different aspects of the development. As a result, the RFO entered into 21 bond agreements worth a total of \$170,000. The BLM has confirmed that the documentation for all 21 bonds is currently in compliance with BLM policy for holding bond instruments.

The BLM is committed to ensuring appropriate bonding for all energy development on public lands. In fact, the BLM recently worked with the Government Accountability Office (GAO) to identify areas of improvement in the processing and recordkeeping of wind and solar project bonds. The BLM has issued a proposed rule that would, among other things, standardize bonding requirements for solar and wind projects. The BLM intends to proceed to a final rule in the coming months and will implement process improvements consistent with the GAO's recommendations.

In addition to the renewable energy arena, the BLM is also working to ensure appropriate bonding of other types of development on public lands. In response to a GAO report on oil and gas projects, and as part of a broader conversation about oil and gas reform, the BLM has solicited public input on bonding for oil and gas projects on public lands. The BLM looks forward to working with Congress as we continue to address that important aspect of bonding on public lands.

We appreciate your interest in this matter. If you or your staff has additional questions, please feel free to contact me. A similar letter is being sent to Representative Louie Gohmert, Chairman of the Subcommittee on Oversight and Investigations, who cosigned your letter.

Sincerely,

STEVEN A. ELLIS,
Deputy Director for Operations.

From: Schinkel, De Shann
Sent: Friday, March 20, 2015 3:36 PM
To: Lewis, Jessica M
Subject: Re: Foote Creek Wind documents

Hello Jessica,

I was working on Foote Creek casefile this week and could not find where I followed up on your e-mail. Please excuse my tardiness in getting this information for you, and find below the followup.

If you have any questions please let me know . . . Thanks!

1. Bond Acceptance Letter is attached.
2. POD date: August 17, 1995
3. I do not know the value of all bonds that were shredded.

De Shann B. Schinkel
 Realty Specialist
 Bureau of Land Management
 Rawlins Field Office
 1300 N Third Street/P.O. Box 2407
 Rawlins, Wyoming 82301

* * * *

On Mon, Nov 3, 2014 at 1:54 PM, Lewis, Jessica M wrote:
 Hi Ms. Schinkel,

I just wanted to follow up with you regarding the Foote Creek Wind (ROW#: WYWY-142464) project documents that were discussed during the conversation with GAO a couple weeks ago. Do you have the bond acceptance letter for this project and can you send it to me electronically? Also, did you find a date for the plan of development for the project? Lastly, do you know the value of all the bonds that were shredded?

Thank you for your assistance and please let me know if you have any questions.

Jessica M. Lewis
 Analyst, Natural Resources and Environment Team
 Government Accountability Office
 441 G Street NW
 Washington, DC 20548

Mr. GOHMERT. And if there is nothing further, then this hearing is adjourned.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

GAO-15-520. U.S. Government Accountability Office Report, June 2015. RENEWABLE ENERGY—BLM Has Limited Assurance That Wind and Solar Projects Are Adequately Bonded