

AMENDMENT NO. _____

Calendar No. _____

Purpose: To extend funding for the Geothermal Steam Act of 1970 and to promote the development of renewable energy on public land.

1-28-16
10:02a
MS SS

IN THE SENATE OF THE UNITED STATES—114th Cong.. 2d Sess.

AMENDMENT N^o 3043

To By Heller of _____

To: Amdt. No. 2953

Refer _____ and _____

21

Page(s)

GPO: 2014 91-623 (mac)

AMENDMENTS intended to be proposed by ~~Mr. HELLER~~ (for himself, Mr. HEINRICH, Mr. RISCH, Mr. WYDEN, Mr. Udall, Mr. TESTER, Mr. BENNET, Mr. DAINES, and Mr. GARDNER) to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Viz:

- 1 On page 244, between lines 13 and 14, insert the fol-
- 2 lowing:

1 **Subpart B—Development of Geothermal, Solar, and**
2 **Wind Energy on Public Land**

3 **CHAPTER 1—EXTENSION OF FUNDING**
4 **FOR GEOTHERMAL STEAM ACT OF 1970**

5 **SEC. 3011A. EXTENSION OF FUNDING FOR IMPLEMENTA-**
6 **TION OF GEOTHERMAL STEAM ACT OF 1970.**

7 (a) IN GENERAL.—Section 234(a) of the Energy Pol-
8 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-
9 ing “in the first 5 fiscal years beginning after the date
10 of enactment of this Act” and inserting “through fiscal
11 year 2020”.

12 (b) AUTHORIZATION.—Section 234(b) of the Energy
13 Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—

14 (1) by striking “Amounts” and inserting the
15 following:

16 “(1) IN GENERAL.—Amounts”; and

17 (2) by adding at the end the following:

18 “(2) AUTHORIZATION.—Effective for fiscal year
19 2017 and each fiscal year thereafter, amounts de-
20 posited under subsection (a) shall be available to the
21 Secretary of the Interior for expenditure, subject to
22 appropriation and without fiscal year limitation, to
23 implement the Geothermal Steam Act of 1970 (30
24 U.S.C. 1001 et seq.) and this Act.”.

1 **CHAPTER 2—DEVELOPMENT OF GEO-**
2 **THERMAL, SOLAR, AND WIND ENERGY**
3 **ON PUBLIC LAND**

4 **Subchapter A—Environmental Reviews and**
5 **Permitting**

6 **SEC. 3011B. DEFINITIONS.**

7 In this subchapter:

8 (1) **COVERED LAND.**—The term “covered land”
9 means land that is—

10 (A) public land administered by the Sec-
11 retary; and

12 (B) not excluded from the development of
13 geothermal, solar, or wind energy under—

14 (i) a land use plan established under
15 the Federal Land Policy and Management
16 Act of 1976 (43 U.S.C. 1701 et seq.); or

17 (ii) other Federal law.

18 (2) **DIRECTOR.**—The term “Director” means
19 the Director of the Bureau of Land Management.

20 (3) **EXCLUSION AREA.**—The term “exclusion
21 area” means covered land that is identified by the
22 Bureau of Land Management as not suitable for de-
23 velopment of renewable energy projects.

24 (4) **PRIORITY AREA.**—The term “priority area”
25 means covered land identified by the land use plan-

1 ning process of the Bureau of Land Management as
2 being a preferred location for a renewable energy
3 project.

4 (5) RENEWABLE ENERGY PROJECT.—The term
5 “renewable energy project” means a project carried
6 out on covered land that uses wind, solar, or geo-
7 thermal energy to generate energy.

8 (6) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (7) VARIANCE AREA.—The term “variance
11 area” means covered land that is—

12 (A) not an exclusion area; and

13 (B) not a priority area.

14 **SEC. 3011C. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
15 **GRAMMATIC ENVIRONMENTAL IMPACT**
16 **STATEMENTS.**

17 (a) PRIORITY AREAS.—

18 (1) IN GENERAL.—The Director, in consulta-
19 tion with the Secretary of Energy, shall establish
20 variance areas on covered land for geothermal, solar,
21 and wind energy projects.

22 (2) DEADLINE.—

23 (A) GEOTHERMAL ENERGY.—For geo-
24 thermal energy, the Director shall establish pri-
25 ority areas as soon as practicable, but not later

1 than 5 years, after the date of enactment of
2 this Act.

3 (B) SOLAR ENERGY.—For solar energy,
4 the 2012 western solar plan of the Bureau of
5 Land Management shall be considered to estab-
6 lish priority areas for solar energy projects.

7 (C) WIND ENERGY.—For wind energy, the
8 Director shall establish priority areas as soon
9 as practicable, but not later than 3 years, after
10 the date of enactment of this Act.

11 (3) REVIEW AND MODIFICATION.—Not less fre-
12 quently than once every 10 years, the Director
13 shall—

14 (A) review the adequacy of land allocations
15 for geothermal, solar, and wind energy priority
16 and variance areas for the purpose of encour-
17 aging new renewable energy development oppor-
18 tunities; and

19 (B) based on the review carried out under
20 subparagraph (A), add, modify, or eliminate
21 priority, variance, and exclusion areas.

22 (b) COMPLIANCE WITH THE NATIONAL ENVIRON-
23 MENTAL POLICY ACT.—For purposes of this section, com-
24 pliance with the National Environmental Policy Act of
25 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

1 (1) for geothermal energy, by supplementing
2 the October 2008 final programmatic environmental
3 impact statement for geothermal leasing in the west-
4 ern United States;

5 (2) for solar energy, by supplementing the July
6 2012 final programmatic environmental impact
7 statement for solar energy projects; and

8 (3) for wind energy, by supplementing the July
9 2005 final programmatic environmental impact
10 statement for wind energy projects.

11 (c) NO EFFECT ON PROCESSING APPLICATIONS.—A
12 requirement to prepare a supplement to a programmatic
13 environmental impact statement under this section shall
14 not result in any delay in processing an application for
15 a renewable energy project.

16 (d) COORDINATION.—In developing a supplement re-
17 quired by this section, the Secretary shall coordinate, on
18 an ongoing basis, with appropriate State, tribal, and local
19 governments, transmission infrastructure owners and op-
20 erators, developers, and other appropriate entities to en-
21 sure that priority areas identified by the Secretary are—

22 (1) economically viable (including having access
23 to transmission);

1 (2) likely to avoid or minimize conflict with
2 habitat for animals and plants, recreation, and other
3 uses of covered land; and

4 (3) consistent with local planning efforts.

5 (e) REMOVAL FROM CLASSIFICATION.—In carrying
6 out subsections (a), (b), and (c), if the Secretary deter-
7 mines an area previously suited for development should
8 be removed from priority or variance classification, not
9 later than 90 days after the date of the determination,
10 the Secretary shall submit to Congress a report on the
11 determination.

12 **SEC. 3011D. ENVIRONMENTAL REVIEW ON COVERED LAND.**

13 (a) IN GENERAL.—If the Director determines that a
14 proposed renewable energy project has been sufficiently
15 analyzed by a programmatic environmental impact state-
16 ment conducted under section 3011C(b), the head of the
17 applicable Federal agency shall not require any additional
18 review under the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.).

20 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
21 Director determines that additional environmental review
22 under the National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.) is necessary for a proposed renewable
24 energy project, the head of the applicable Federal agency
25 shall rely on the analysis in the programmatic environ-

1 mental impact statement conducted under section
2 3011C(b), to the maximum extent practicable when ana-
3 lyzing the potential impacts of the project.

4 **SEC. 3011E. PROGRAM TO IMPROVE RENEWABLE ENERGY**
5 **PROJECT PERMIT COORDINATION.**

6 (a) ESTABLISHMENT.—The Secretary shall establish
7 a program to improve Federal permit coordination with
8 respect to renewable energy projects on covered land.

9 (b) MEMORANDUM OF UNDERSTANDING.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of enactment of this Act, the Secretary
12 shall enter into a memorandum of understanding for
13 purposes of this section with—

14 (A) the Secretary of Agriculture;

15 (B) the Administrator of the Environ-
16 mental Protection Agency; and

17 (C) the Chief of Engineers.

18 (2) STATE PARTICIPATION.—The Secretary
19 may request the Governor of any interested State to
20 be a signatory to the memorandum of understanding
21 under paragraph (1).

22 (c) INTRADEPARTMENTAL COORDINATION.—The
23 Secretary shall establish an ombudsperson in the Office
24 of the Secretary, who shall be responsible for resolving

1 intradepartmental disputes between 2 or more of the fol-
2 lowing agencies:

3 (1) The United States Fish and Wildlife Serv-
4 ice.

5 (2) The National Park Service.

6 (3) The Bureau of Land Management.

7 (d) VARIANCE AREAS.—

8 (1) IN GENERAL.—In carrying out subsections
9 (b) and (c), the heads of the Federal agencies de-
10 scribed in those subsections shall consider entering
11 into agreements and memoranda of understanding
12 to expedite the environmental analysis of applica-
13 tions for projects proposed on covered land deter-
14 mined by the Secretary to be a variance area under
15 section 3011C.

16 (2) AVAILABILITY FOR RENEWABLE ENERGY
17 PROJECT DEVELOPMENT.—To the maximum extent
18 practicable, the variance areas described in para-
19 graph (1) shall be made available for renewable en-
20 ergy project development, after completion of an en-
21 vironmental impact statement or similar analysis re-
22 quired under the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4321 et seq.), including an envi-
24 ronmental assessment or finding of no significant
25 impact under that Act, and subject to the policies

1 and procedures set forth by the Secretary for evalu-
2 ating variance applications in the programmatic en-
3 vironmental impact statement described in section
4 3011C(b).

5 (e) DESIGNATION OF QUALIFIED STAFF.—

6 (1) IN GENERAL.—Not later than 30 days after
7 the date on which the memorandum of under-
8 standing under subsection (b) is executed, all Fed-
9 eral signatories, as appropriate, shall assign to each
10 of the field offices described in subsection (f) an em-
11 ployee who has expertise in the regulatory issues re-
12 lating to the office in which the employee is em-
13 ployed, including, as applicable, particular expertise
14 in—

15 (A) consultation regarding, and prepara-
16 tion of, biological opinions under section 7 of
17 the Endangered Species Act of 1973 (16 U.S.C.
18 1536);

19 (B) permits under section 404 of Federal
20 Water Pollution Control Act (33 U.S.C. 1344);

21 (C) regulatory matters under the Clean Air
22 Act (42 U.S.C. 7401 et seq.);

23 (D) planning under section 14 of the Na-
24 tional Forest Management Act of 1976 (16
25 U.S.C. 472a);

1 (E) the Federal Land Policy and Manage-
2 ment Act of 1976 (43 U.S.C. 1701 et seq.);

3 (F) the Migratory Bird Treaty Act (16
4 U.S.C. 703 et seq.); and

5 (G) the preparation of analyses under the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.).

8 (2) DUTIES.—Each employee assigned under
9 paragraph (1) shall—

10 (A) not later than 90 days after the date
11 of assignment, report to field managers of the
12 Bureau of Land Management in the office to
13 which the employee is assigned;

14 (B) be responsible for addressing all issues
15 relating to the jurisdiction of the home office or
16 agency of the employee; and

17 (C) participate as part of the team of per-
18 sonnel working on proposed energy projects,
19 planning, monitoring, inspection, enforcement,
20 and environmental analyses.

21 (f) FIELD OFFICES.—The field offices referred to in
22 subsection (e)(1) shall include field offices of the Bureau
23 of Land Management in, at a minimum, the States of Ari-
24 zona, California, Colorado, Idaho, Montana, Nevada, New
25 Mexico, Oregon, Utah, Washington, and Wyoming.

1 (g) ADDITIONAL PERSONNEL.—The Secretary shall
2 assign to each field office described in subsection (f) such
3 additional personnel as are necessary to ensure the effec-
4 tive implementation of any programs administered by the
5 field offices, including inspection and enforcement relating
6 to renewable energy project development on covered land,
7 in accordance with the multiple use mandate of the Fed-
8 eral Land Policy and Management Act of 1976 (43 U.S.C.
9 1701 et seq.).

10 (h) REPORT TO CONGRESS.—

11 (1) IN GENERAL.—Not later than February 1
12 of the first fiscal year beginning after the date of en-
13 actment of this Act, and each February 1 thereafter,
14 the Secretary shall submit to the Chairperson and
15 Ranking Member of the Committee on Energy and
16 Natural Resources of the Senate and the Committee
17 on Natural Resources of the House of Representa-
18 tives a report describing the progress made pursuant
19 to the program under this chapter during the pre-
20 ceding year.

21 (2) INCLUSIONS.—Each report under this sub-
22 section shall include—

23 (A) projections for renewable energy pro-
24 duction and capacity installations; and

1 (B) a description of any problems relating
2 to leasing, permitting, siting, or production.

3 **Subchapter B—Revenues and Enforcement**

4 **SEC. 3011F. DEFINITIONS.**

5 In this subchapter:

6 (1) COVERED LAND.—The term “covered land”
7 means land that is—

8 (A)(i) public land administered by the Sec-
9 retary; or

10 (ii) National Forest System land ad-
11 ministered by the Secretary of Agriculture;
12 and

13 (B) not excluded from the development of
14 solar or wind energy under—

15 (i) a final land use plan established
16 under the Federal Land Policy and Man-
17 agement Act of 1976 (43 U.S.C. 1701 et
18 seq.);

19 (ii) a final land use plan established
20 under the National Forest Management
21 Act of 1976 (16 U.S.C. 1600 et seq.); or

22 (iii) other Federal law.

23 (2) FEDERAL LAND.—The term “Federal land”
24 means—

1 (A) land of the National Forest System (as
2 defined in section 11(a) of the Forest and
3 Rangeland Renewable Resources Planning Act
4 of 1974 (16 U.S.C. 1609(a))); or

5 (B) public land.

6 (3) FUND.—The term “Fund” means the Re-
7 newable Energy Resource Conservation Fund estab-
8 lished by section 3011G(c)(1).

9 (4) PUBLIC LAND.—The term “public land”
10 has the meaning given the term “public lands” in
11 section 103 of the Federal Land Policy and Manage-
12 ment Act of 1976 (43 U.S.C. 1702).

13 (5) SECRETARIES.—The term “Secretaries”
14 means—

15 (A) in the case of public land administered
16 by the Secretary, the Secretary; and

17 (B) in the case of National Forest System
18 land administered by the Secretary of Agri-
19 culture, the Secretary of Agriculture.

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 **SEC. 3011G. DISPOSITION OF REVENUES.**

23 (a) DISPOSITION OF REVENUES.—Beginning on Jan-
24 uary 1, 2017, subject to the availability of appropriations,
25 and without fiscal year limitation, of the amounts collected

1 as bonus bids, rentals, fees, or other payments under a
2 right-of-way, permit, lease, or other authorization (other
3 than under section 504(g) of the Federal Land Policy and
4 Management Act of 1976 (43 U.S.C. 1764(g))) for the
5 development of wind or solar energy on covered land—

6 (1) 25 percent shall be paid by the Secretary of
7 the Treasury to the State within the boundaries of
8 which the revenue is derived;

9 (2) 25 percent shall be paid by the Secretary of
10 the Treasury to the 1 or more counties within the
11 boundaries of which the revenue is derived, to be al-
12 located among the counties based on the percentage
13 of land from which the revenue is derived;

14 (3) to be deposited in the Treasury and be
15 made available to the Secretary to carry out the pro-
16 gram established by section 3011E, including the
17 transfer of the funds by the Bureau of Land Man-
18 agement to other Federal agencies and State agen-
19 cies to facilitate the processing of renewable energy
20 permits on Federal land, with priority given to using
21 the amounts, to the maximum extent practicable, to
22 reducing the backlog of renewable energy permits
23 that have not been processed in the State from
24 which the revenues are derived—

1 (A) 25 percent for each of fiscal years
2 2016 through 2030;

3 (B) 22 percent for fiscal year 2031;

4 (C) 19 percent for fiscal year 2032;

5 (D) 16 percent for fiscal year 2033;

6 (E) 13 percent for fiscal year 2034; and

7 (F) 10 percent for fiscal year 2035 and
8 each fiscal year thereafter; and

9 (4) to be deposited in the Renewable Energy
10 Resource Conservation Fund established by sub-
11 section (c)—

12 (A) 25 percent for each of fiscal years
13 2016 through 2030;

14 (B) 28 percent for fiscal year 2031;

15 (C) 31 percent for fiscal year 2032;

16 (D) 34 percent for fiscal year 2033;

17 (E) 37 percent for fiscal year 2034; and

18 (F) 40 percent for fiscal year 2035 and
19 each fiscal year thereafter.

20 (b) PAYMENTS TO STATES AND COUNTIES.—

21 (1) IN GENERAL.—Amounts paid to States and
22 counties under subsection (a) shall be used con-
23 sistent with section 35 of the Mineral Leasing Act
24 (30 U.S.C. 191).

1 (2) PAYMENTS IN LIEU OF TAXES.—A payment
2 to a county under paragraph (1) shall be in addition
3 to a payment in lieu of taxes received by the county
4 under chapter 69 of title 31, United States Code.

5 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
6 FUND.—

7 (1) IN GENERAL.—There is established in the
8 Treasury a fund, to be known as the “Renewable
9 Energy Resource Conservation Fund”, to be admin-
10 istered by the Secretary, in consultation with the
11 Secretary of Agriculture, who may make funds avail-
12 able to Secretary of Agriculture, Federal or State
13 agencies, or qualified third parties, to be distributed
14 in a region in which a renewable energy project is
15 located on Federal land, for the purposes of—

16 (A) restoring and protecting—

17 (i) fish and wildlife habitat for af-
18 fected species;

19 (ii) fish and wildlife corridors for af-
20 fected species; and

21 (iii) water resources in areas affected
22 by wind or solar energy development; and

23 (B) preserving and improving recreational
24 access to Federal land and water in an affected
25 region through an easement, right-of-way, or

1 other instrument from willing landowners for
2 the purpose of enhancing public access to exist-
3 ing Federal land and water that is inaccessible
4 or significantly restricted.

5 (2) INVESTMENT OF FUND.—

6 (A) IN GENERAL.—Any amounts deposited
7 in the Fund shall earn interest in an amount
8 determined by the Secretary of the Treasury on
9 the basis of the current average market yield on
10 outstanding marketable obligations of the
11 United States of comparable maturities.

12 (B) USE.—Any interest earned under sub-
13 paragraph (A) may be expended in accordance
14 with this subsection.

15 (3) INTENT OF CONGRESS.—It is the intent of
16 Congress that the revenues deposited and used in
17 the Fund shall supplement and not supplant annual
18 appropriations for conservation activities described
19 in subparagraphs (A) and (B) of paragraph (1).

20 **SEC. 3011H. REPORT TO CONGRESS.**

21 (a) IN GENERAL.—Not later than 10 years after the
22 date of enactment of this Act and every 10 years there-
23 after, the Secretary, in consultation with the Secretary of
24 Agriculture, shall—

1 (1) complete a review of collections and impacts
2 of the rents and fees provided under this subchapter;
3 and

4 (2) submit to the Committees on Energy and
5 Natural Resources and Agriculture, Nutrition, and
6 Forestry of the Senate and the Committees on Nat-
7 ural Resources and Agriculture of the House of Rep-
8 resentatives a report describing the results of the re-
9 view.

10 (b) TOPICS.—The report shall address—

11 (1) the total revenues received (by category) on
12 an annual basis as rents from wind, solar, and geo-
13 thermal development and production (specified by
14 energy source) on covered land;

15 (2) whether the revenues received for the devel-
16 opment of wind, solar, and geothermal develop-
17 ment—

18 (A) ensure a fair return to the public com-
19 parable to the revenues received for similar de-
20 velopment on State and private land;

21 (B) encourage production of solar or wind
22 energy; and

23 (C) encourage the maximum energy gen-
24 eration while disturbing the least quantity of

1 covered land and other natural resources, in-
2 cluding water;

3 (3) any impact on the development of wind,
4 solar, and geothermal development and production
5 on covered land as a result of the rents; and

6 (4) any recommendations with respect to
7 changes in Federal law (including regulations) relat-
8 ing to the amount or method of collection (including
9 auditing, compliance, and enforcement) of the rents.

10 **SEC. 3011I. ENFORCEMENT OF PAYMENT PROVISIONS.**

11 (a) DUTIES OF THE SECRETARY.—The Secretary
12 shall establish a comprehensive inspection, collection, fis-
13 cal, and production accounting and auditing system—

14 (1) to accurately determine rents, interest,
15 fines, penalties, fees, deposits, and other payments
16 owed under this subchapter; and

17 (2) to collect and account for the payments in
18 a timely manner.

19 (b) ENFORCEMENT.—

20 (1) IN GENERAL.—Sections 302(c) and 303 of
21 the Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1732(c), 1733) shall apply to ac-
23 tivities conducted on covered land under this sub-
24 chapter.

1 (2) APPLICABILITY OF OTHER ENFORCEMENT
2 PROVISIONS.—Nothing in this subchapter reduces or
3 limits the enforcement authority vested in the Sec-
4 retary or the Attorney General by any other law.

5 **SEC. 3011J. SEGREGATION FROM APPROPRIATION UNDER**
6 **MINING AND FEDERAL LAND LAWS.**

7 (a) IN GENERAL.—On covered land identified by the
8 Secretary or the Secretary of Agriculture for the develop-
9 ment of renewable energy projects under this subchapter
10 or other applicable law, the Secretary or the Secretary of
11 Agriculture may temporarily segregate the identified land
12 from appropriation under the mining and public land laws.

13 (b) ADMINISTRATION.—Segregation of covered land
14 under this section—

15 (1) may only be made for a period not to exceed
16 10 years; and

17 (2) shall be subject to valid existing rights as
18 of the date of the segregation.

19 On page 244, line 14, strike “**Subpart B**” and in-
20 sert “**Subpart C**”.