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AMENDMENT TO H.R. 2454

OFFERED BY MR. HELLER OF NEVADA

At the end of the bill, add the following new title:

TITLE V—RENEWABLE ENERGY PERMITTING

SEC. 501. SHORT TITLE.

This title may be cited as the "Renewable Energy Permitting Act of 2009".

SEC. 502. DEFINITIONS.

In this title:

(1) PILOT PROJECT.—The term "Pilot Project" means the pilot project to improve Federal renewable energy permit coordination established under section 503(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 503. PILOT PROJECT TO IMPROVE FEDERAL RENEWABLE ENERGY PERMIT COORDINATION.

(a) ESTABLISHMENT.—During the period of fiscal years 2009 through 2018, the Secretary shall establish and carry out a pilot project to improve Federal renewable energy permit coordination.

(b) MEMORANDUM OF UNDERSTANDING.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Secretary
3 shall enter into a memorandum of understanding for
4 purposes of this section with—
5 (A) the Secretary of Agriculture;
6 (B) the Administrator of the Environ-
7 mental Protection Agency; and
8 (C) the Chief of Engineers.
9 (2) STATE PARTICIPATION.—The Secretary
10 may request that the Governors of the States of Ari-
11 zona, California, Nevada, and Wyoming be signato-
12 ries to the memorandum of understanding described
13 in paragraph (1).
14 (c) DESIGNATION OF QUALIFIED STAFF.—
15 (1) IN GENERAL.—Not later than 30 days after
16 the date on which the memorandum of under-
17 standing under subsection (b) is signed, all Federal
18 signatory parties shall, if appropriate, assign to each
19 of the field offices specified in subsection (d) an em-
20 ployee who has expertise in the regulatory issues re-
21 lating to the office in which the employee is em-
22 ployed, including, as applicable, particular expertise
23 in—
24 (A) the consultations and the preparation
25 of biological opinions under section 7 of the En-

1 dangered Species Act of 1973 (16 U.S.C.
2 1536);
3 (B) permits under section 404 of Federal
4 Water Pollution Control Act (33 U.S.C. 1344);
5 (C) regulatory matters under the Clean Air
6 Act (42 U.S.C. 7401 et seq.);
7 (D) planning under section 14 of the Na-
8 tional Forest Management Act of 1976 (16
9 U.S.C. 472a); and
10 (E) the preparation of analyses under the
11 National Environmental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.).
13 (2) DUTIES.—Each employee assigned under
14 paragraph (1) shall—
15 (A) not later than 90 days after the date
16 of assignment, report to field managers of the
17 Bureau of Land Management in the office to
18 which the employee is assigned;
19 (B) be responsible for all issues relating to
20 the jurisdiction of the home office or agency of
21 the employee; and
22 (C) participate as part of the team of per-
23 sonnel working on proposed energy projects,
24 planning, and environmental analyses.

1 (d) FIELD OFFICES.—The field offices referred to in
2 subsection (c)(1) shall include offices in, at a minimum,
3 the States of Arizona, California, Nevada, and Wyoming.
4 (e) ADDITIONAL PERSONNEL.—The Secretary shall
5 assign to each field office specified in subsection (d) any
6 additional personnel that are necessary to ensure the ef-
7 fective implementation of—
8 (1) the Pilot Project; and
9 (2) other programs administered by the field of-
10 fices, including inspection and enforcement relating
11 to renewable energy development on Federal land, in
12 accordance with the multiple use mandate of the
13 Federal Land Policy and Management Act of 1976
14 (43 U.S.C. 1701 et seq.).
15 (f) DISTRIBUTION OF SOLAR AND WIND ENERGY
16 RENTAL INCOME.—
17 (1) IN GENERAL.—Subject to paragraphs (2)
18 through (5) and notwithstanding any other provision
19 of law, for fiscal year 2009 and each fiscal year
20 thereafter, of the amount of solar and wind energy
21 rental income collected by the Bureau of Land Man-
22 agement (in lieu of depositing all of the income into
23 the general fund of the Treasury)—
24 (A) 50 percent shall be paid by the Sec-
25 retary of the Treasury to the 1 or more States

1 within the boundaries of which the income is
2 derived;
3 (B) 25 percent shall be paid by the Sec-
4 retary of the Treasury to the 1 or more coun-
5 ties within which the income is derived;
6 (C)(i) in the case of each of fiscal years
7 2009 through 2018, 20 percent or $5,000,000,
8 whichever is less, shall be deposited in a special
9 fund in the Treasury, to be known as the "Re-
10 newable Energy Permit Processing Improve-
11 ment Fund"; and
12 (ii) in the case of fiscal year 2019 and
13 each fiscal year thereafter, 20 percent shall re-
14 main in the general fund of the Treasury; and
15 (D) 5 percent shall be deposited in a spe-
16 cial fund in the Treasury, to be known as the
17 "Solar Energy Land Reclamation, Restoration,
18 and Mitigation Fund".
19 (2) VALUATION.—To determine the value of
20 public land for the purpose of determining rental in-
21 come described in paragraph (1)—
22 (A) the value of the public land used for
23 solar energy projects shall be determined by the
24 Bureau of Land Management based on statis-

1 tics of the National Agricultural Statistical
2 Service;
3 (B) the value of the public land used for
4 wind energy projects shall be determined in ac-
5 cordance with the rental schedule established by
6 the Secretary, acting through the Bureau of
7 Land Management, in effect as of the date of
8 enactment of this Act; and
9 (C) the value of the public land used for
10 geothermal energy projects shall be determined
11 in accordance with the Energy Policy Act of
12 2005 (42 U.S.C. 15801 et seq.).
13 (3) RENEWABLE ENERGY PERMIT PROCESSING
14 IMPROVEMENT FUND.—Amounts in the Renewable
15 Energy Permit Processing Improvement Fund estab-
16 lished under paragraph (1)(C)(i) shall be available to
17 the Secretary for the coordination and processing of
18 renewable energy permits required for renewable en-
19 ergy projects on Federal public land.
20 (4) SOLAR ENERGY LAND RECLAMATION, RES-
21 TORATION, AND MITIGATION FUND.—
22 (A) IN GENERAL.—Amounts in the Solar
23 Energy Land Reclamation, Restoration, and
24 Mitigation Fund under paragraph (1)(D) shall

1 be available to the Secretary for the purpose
2 of—
3 (i) reclaiming and restoring public
4 land used for the production of solar en-
5 ergy, including land used for ancillary fa-
6 cilities; and
7 (ii) mitigating impacts on public land,
8 including protecting other sensitive public
9 land if the land used for solar or wind
10 power generation cannot be adequately re-
11 stored without the use of funds made avail-
12 able under this paragraph, as determined
13 by the Secretary.
14 (B) MAXIMUM AMOUNT.—
15 (i) IN GENERAL.—The total amount
16 of funds deposited in the Solar Energy
17 Land Reclamation, Restoration, and Miti-
18 gation Fund under paragraph (1)(D) shall
19 not exceed $50,000,000.
20 (ii) SURPLUS AMOUNTS.—If the total
21 amount of funds deposited in the Solar
22 Energy Land Reclamation, Restoration,
23 and Mitigation Fund under paragraph
24 (1)(D) is $50,000,000, any additional
25 amounts that would otherwise be deposited

1 in the Fund under paragraph (1)(D) shall
2 remain in the general fund of the Treas-
3 ury.
4 (5) AVAILABILITY OF FUNDS.—Amounts under
5 this subsection shall be available for expenditure in
6 accordance with this subsection, without further ap-
7 propriation and without fiscal year limitation.
8 (g) TRANSFER OF FUNDS.—For the purposes of co-
9 ordination and processing of renewable energy permits re-
10 quired for renewable energy projects on Federal public
11 land under the administration of the Pilot Project offices
12 specified in subsection (d), the Secretary may authorize
13 the expenditure or transfer of such funds as are necessary
14 to—
15 (1) the United States Fish and Wildlife Service;
16 (2) the Bureau of Indian Affairs;
17 (3) the Forest Service;
18 (4) the Environmental Protection Agency;
19 (5) the Corps of Engineers; and
20 (6) the States of Arizona, California, Nevada,
21 and Wyoming (for costs incurred by the States relat-
22 ing to the permitting process).
23 (h) FEES.—During the period in which the Pilot
24 Project is authorized, the Secretary shall not implement
25 any regulation or initiate any rulemaking to enable an in-

1 crease in fees to recover additional costs relating to renew-
2 able energy permits required for renewable energy projects
3 on Federal public land.

4 (i) EFFECT ON OTHER AUTHORITY.—Nothing in this
5 section affects—

6 (1) the operation of any Federal or State law;
7 or

8 (2) any delegation of authority made by the
9 head of a Federal agency the employees of which are
10 participating in the Pilot Project.

11 (j) LENGTH OF LEASES FOR RENEWABLE ENERGY
12 PROJECTS ON PUBLIC LAND.—The length of leases for
13 renewable energy projects on public land carried out under
14 this title shall be determined in accordance with the Fed-
15 eral Land Policy and Management Act of 1976 (43 U.S.C.
16 1701 et seq.).

17 (k) REPORTS.—Not later than 3 years after the date
18 of enactment of this Act, the Secretary shall submit to
19 Congress a report that—

20 (1) describes the results of the Pilot Project as
21 of the date of the report; and

22 (2) makes a recommendation to the President
23 regarding whether the Pilot Project should be imple-
24 mented throughout the United States.

1 (l) DEPOSIT AND USE OF GEOTHERMAL LEAVE REV-
2 ENUES.—Section 234 of the Energy Policy Act of 2005
3 (42 U.S.C. 15873) is amended—
4 (1) in the section heading, by striking "**FOR 5**
5 **FISCAL YEARS**"; and
6 (2) in subsection (a), by striking "in the first
7 5 fiscal years beginning after the date of enactment
8 of this Act".