



# **Investigative Report of Destruction of Energy Bonds by the Bureau of Land Management**

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This is a version of the report prepared for public release.



## **SYNOPSIS**

On May 15, 2015, we opened an investigation after receiving a letter from the U.S. House of Representatives Committee on Natural Resources (Committee), alleging that bonding instruments for renewable energy projects “were reportedly removed from a safe and wrongfully shredded” by the Bureau of Land Management’s (BLM) Rawlins Field Office (RFO) in Wyoming. The Committee’s letter, dated May 1, 2015, was based on information in a draft U.S. Government Accountability Office (GAO) report.

We interviewed three staff members responsible for managing renewable energy projects at the RFO and reviewed the relevant renewable energy (RE) project files managed at RFO. We verified that RFO reviewed its 83 RE case files and related bonding instruments. RFO staff was unable to locate original documentation for 3 of the 21 RE bonds at RFO, however the files with missing bond documents were all from closed projects and an RFO staff member recreated these files by obtaining copies of the bond documents from the project developers. We found no evidence to support the allegation that bonds were removed from a safe and wrongfully shredded at RFO.

## **BACKGROUND**

In 2012, we evaluated BLM's RE program and assessed the program’s effectiveness, including RE bonding procedures (Report No. CR-EV-BLM-0004-2010). We found that BLM inconsistently managed RE bonds across the Nation and we made recommendations to BLM that would benefit its management of RE bonds.

During our audit, we learned that in 2006, the Bureau of Land Management (BLM) experienced a significant increase in wind and solar project applications, particularly in the western states. This sudden increase was fueled by Federal and State Governments’ renewable energy (RE) initiatives, available funding from the American Reinvestment and Recovery Act, U.S. Department of Energy loan guarantees, and tax incentives at both the Federal and State level. Because these initiatives came up quickly, BLM had a short time to plan and train employees on how to handle these wind and solar applications and the bonding mechanisms involved in the projects.

The changing technologies and financial commitment required for RE projects have created a high-risk business environment. This speculative, high-risk environment makes it critical to use bonds for RE projects on BLM lands. BLM uses these bonds to ensure compliance with rights-of-way stipulations and applicable Federal regulations, and to protect the U.S. Government against loss, damage, or injury to human health, the environment, or property. BLM requires that projects be bonded to cover three components: 1) environmental liabilities; 2) decommissioning, removal, and disposal of improvements and facilities; and 3) site reclamation, revegetation, and restoration.

Prior to 2006, the Rawlins Field Office (RFO) in Wyoming had not managed any RE projects. Between 2006 and 2012, however, 83 RE project applications were submitted to the realty specialists at RFO. Since 2012, no new applications have been submitted for RE projects.

The two types of RE bonds used at RFO—cash bonds and surety bonds—do not have any monetary face value. When using a cash bond, the project proponent (or a third party) provides cash or check to BLM. BLM submits the funds to the U.S. Department of the Treasury, and provides a receipt to the project proponent to document the bond. A copy of the cash bond receipt is then held at RFO.

When a project proponent chooses to use a surety bond, the proponent obtains the surety from an insurance company and pays the premium. The issuer then provides a certified surety document, in the amount of the bond, to BLM. The surety policy is valid for a specific term and must be renewed periodically, usually by paying a premium. The original surety documents are then held at RFO.

The U.S. House of Representatives Committee on Natural Resources (Committee) requested a U.S. Government Accountability Office (GAO) review regarding BLM's management of RE bonds. GAO conducted the review from January 2014 through May 2015, when it submitted a draft report to the Committee. The GAO analysts contacted the RFO realty staff via conference call and email, and learned that RE bonding instruments had possibly been destroyed at RFO during a recent office move.

### **DETAILS OF INVESTIGATION**

We initiated this investigation on May 15, 2015, after receiving a letter from the Committee detailing the allegation of shredded bonds from GAO's draft report. After interviewing three RFO employees responsible for RE bonds and reviewing the RE bonds held at RFO, we did not find evidence that any bonds were shredded at RFO.

During our interviews and document reviews, we learned that GAO analysts sent a preliminary email to RFO realty staff on October 10, 2014, as part of their review. In the email, the analysts requested information on the bonding of a particular RE project—the Foote Creek Wind project (WYWY-142464). During a conference call on October 20, 2014, RFO realty staff told the GAO analysts that they could not locate the surety bond document for the Foote Creek Wind project. During the call, a supervisory realty specialist suggested that they recalled hearing that some bond documents had possibly been destroyed during an office move several years ago.

On November 3, 2014, a GAO analyst sent a follow-up email requesting further information from the realty staff, including “the value of all the bonds that were shredded,” as reported during the conference call. On March 20, 2015, a realty specialist replied to the email stating, among other things: “I do not know the value of all bonds that were shredded.”

When we interviewed two realty specialists and the field office manager, we learned that a few years ago the office assigned temporary staff to consolidate files before an office move. As part of this project, the temporary staff went through the office files, including RE project files, and removed and destroyed duplicate documents. This was the incident that the supervisory realty specialist referred to during the GAO conference call.

The field office manager told us that they had conducted a thorough project file review on each of the 83 RE projects at RFO. Of these 83 RE project applications, only 18 progressed to a stage

requiring bonding. From these 18 projects, 21 total RE bonds were submitted to RFO. Of the 21 bonds, 10 have been closed and returned to the proponent without having been used. The remaining 11 bonds are still active.

One realty specialist told us that they were able to locate 18 of the 21 original bonding instruments during the file review. The three missing bond documents were all from closed projects. The realty specialist contacted the project proponents from these three files and obtained a copy of each of the missing bond documents to recreate the files. The two realty specialists and the field office manager could not explain what happened to the missing documents and one of the realty specialists speculated that someone may have mistakenly sent the original bond documents back to the proponent when the file was closed. The realty specialist told us that they were able to locate the bond documents for the Foote Creek wind project during the file review. The realty specialist said that the documents were in the file, just out of place on the day of the GAO conference call. We reviewed the files with the field office manager, and also verified all the bond documents were in the safe.

The two realty specialists told us that while attending a training conference with realty staff from other BLM offices in September 2014, they learned that other BLM offices stored bonding instruments in a locked safe. Prior to November 2014, RFO did not have a specific written procedure for storing RE bonding instruments. RFO realty staff routinely kept the bond documents in the project file until November 2014, when RFO staff purchased a safe for storing the bond documents. One of the realty specialists told us that when RFO staff inquired about how to define “secure storage” for RE bonding instruments, they were told by someone from the Wyoming State Office that a new proposed rule would, among other things, standardize bonding requirements for solar and wind projects, and how to store bond documents. When the final rule is published, RFO will then implement process improvements consistent with the new policy rule and GAO’s recommendations.

We discussed the findings of our investigation with GAO.

#### **SUBJECT**

None identified.

#### **DISPOSITION**

We provided a copy of this report to the House Committee on Natural Resources and BLM for information.