

**Statement of
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**Energy & Natural Resources Committee
Subcommittee on Public Lands and Forests
United States Senate**

S. 1149, Geothermal Production Expansion Act

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Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department of the Interior on S. 1149, the Geothermal Production Expansion Act. S. 1149 would amend the Geothermal Steam Act of 1970 to allow non-competitive leasing of Federal geothermal energy resources when a valid geothermal discovery is made on adjoining lands. The Bureau of Land Management (BLM) supports the goal of enhancing geothermal exploration and development by ensuring that valid discoveries can be responsibly developed. Accordingly, the BLM generally supports S. 1149, and believes that the bill's provision that the Secretary of the Interior establish regulatory procedures for determining fair market values of adjoining lands is the most effective way to ensure a fair return to American taxpayers. The BLM has concerns with a few provisions in the legislation and would like to work with the Committee to address them.

Background

Geothermal energy resources on Federal lands are leased and managed in accordance with the Geothermal Steam Act of 1970 (GSA), which was amended by the Energy Policy Act of 2005 (EPAAct). The EPAAct made extensive changes to the law governing geothermal leasing and royalty policies. The changes were designed to encourage geothermal energy development and simplify the royalty structure, while ensuring a fair return for the use of Federal lands and geothermal resources. The GSA, as amended, provides the BLM with the authority for leasing and managing geothermal resources on the public lands, and the delegated authority for leasing geothermal resources on lands managed by the U.S. Forest Service (FS). In 2008, the BLM and FS jointly prepared and issued a Programmatic Environmental Impact Statement (PEIS) that analyzed the potential for geothermal leasing on their respective lands. Based on this analysis, the BLM and FS have opened 192 million acres to potential geothermal leasing.

Federal geothermal resources have the potential to make an important contribution toward the President's goal of increasing energy production from clean, renewable sources. To date, the BLM has issued 818 geothermal leases that cover 1.2 million acres of Federal lands. Approximately 59 leases have reached producing status with a generating capacity of nearly 1,300 megawatts (MW). These producing leases account for more than 40 percent of current

U.S. geothermal capacity. Despite this progress, the development of geothermal energy is just beginning, and its future role and importance is expected to increase significantly, from the current level to 12,200 MW by 2025, according to estimates in the 2008 PEIS. Notably, this is often baseload power that does not have the variable qualities of some other renewable sources and may pair well with them.

The BLM's geothermal leasing program is administered under regulations (43 CFR 3200 and 3280) issued in 2007 to reflect the 2005 EPLA's amendments to the GSA. Under these regulations, most leases for geothermal development on Federal lands are offered initially through competitive oral auctions, which are held about twice per year. Typically, the parcels offered at auction are nominated for lease by industry, but may also be nominated by the public, or by Federal, state, and local governments. Since competitive auctions began in 2007, a total of 366 geothermal leases have been sold, generating more than \$74 million in revenue. In addition to the price paid at auction, geothermal lease holders pay annual per-acre rental fees until production begins. Thereafter, lease holders pay royalties or fees on production.

Lease parcels that do not receive a bid at auction are made available for noncompetitive lease for a period of 2 years, at a price of \$1.00 per acre. In addition, noncompetitive geothermal leases may be offered under certain conditions for direct, on-site energy uses, which include the use of geothermal steam and hot water in greenhouses and aquaculture. Noncompetitive leases are also offered to qualified mining claim holders.

S. 1149

S. 1149 seeks to focus Federal geothermal energy leasing activities toward entities that intend to develop geothermal resources rather than toward those who may intend to obtain leases for parcels with geothermal resources for speculative purposes. More specifically, the bill aims to address a practice whereby speculators purchase at auction Federal geothermal leases for parcels that are located adjacent to parcels of Federal or private land with existing geothermal leases or developments. This practice is viewed by some as an effort to capitalize upon another company's geothermal exploration efforts, and is a disincentive for future geothermal investment and development. Because the geothermal competitive leasing program is open to all qualified bidders, the potential exists for such speculative activity.

To address this concern, the legislation authorizes non-competitive leasing of adjoining Federal geothermal resources when a valid discovery of geothermal resources is made, and the geothermal resources are shown to extend into unleased Federal land. Under the bill, a Federal non-competitive lease would be available only for areas not exceeding 640 acres that have not already been leased or nominated to be leased competitively. Only one noncompetitive lease could be issued for each valid geothermal discovery.

To qualify for a noncompetitive lease under this legislation, an applicant would have to demonstrate, consistent with industry standards, a valid discovery of a geothermal resource. An applicant also would have to present sufficient geological and technical data showing that the geothermal resource extends into adjoining Federal lands.

Section 3 of S. 1149 would amend Section 4(b) of the GSA to define fair market value per acre for the non-competitive lease. Under the provisions of Section 3, the lessee would pay fair market value for the non-competitive lease in accordance with regulations issued by the Secretary of the Interior. The bill would set a minimum price on how much the Secretary may determine the fair market value to be at not less than the greater of \$50 per acre, or four times the median amount paid per acre for all land leased during the preceding year.

This legislation would make proposed fair market value determinations open for public comment for a period of 30 days and would allow a qualified lessee and any affected party to appeal a fair market value determination. Further, the lease awarded non-competitively would be assessed the annual rental rate of leases awarded competitively.

The BLM supports the objective of S. 1149 to enhance geothermal development by increasing investor confidence that geothermal discoveries could be fully developed. Additionally, BLM supports a requirement that regulations be promulgated to establish procedures for determining the fair market value of leases on adjoining lands.

The BLM is concerned, however, about the provision of S. 1149 that sets a minimum price on how much the Secretary may determine the fair market value to be. Though the minimum price set forth in the bill may provide some assurance of a return to American taxpayers, the price may not reflect a fair market value. The BLM believes that the provision is unnecessary, because under the bill, the Secretary would be required to establish procedures for determining fair market values of these leases. With these procedures, the BLM would consider a number of factors, including available information on the known resources and the value of other leases within the local market, in determining a price that is fair for that lease. Thus, the BLM recommends that the provision that sets a minimum price be removed from the bill.

The BLM also has concerns with the timeframes included in the legislation. Specifically, the promulgation of regulations issued by the Secretary typically requires more than 180 days. The 90 days provided in the bill for determining the fair market value of a lease may not be adequate to conduct such an evaluation.

Conclusion

The BLM supports efforts to enhance geothermal exploration and development in the United States in a manner that is fair to geothermal developers and other participants in the competitive leasing process. We must ensure those efforts result in a fair return to the American taxpayers. Thank you for the opportunity to testify and I would be happy to answer any questions.