

**Statement of Marcilynn Burke
Deputy Director
Bureau of Land Management
U.S. Department of the Interior**

**House Natural Resources Committee
Subcommittee on Energy and Mineral Resources
H.R. 3709, Geothermal Production Expansion Act
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Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on H.R. 3709, the Geothermal Production Expansion Act. H.R. 3709 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 H.R. 3709, but would like to work with the committee and Congressman Inslee, the bill's sponsor, to make sure that taxpayers receive fair market value for any non-competitive leases that may be authorized under new legislation.

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 (EPAct). The EPAct 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 669 geothermal leases that cover 1.2 million acres of Federal lands. Approximately 58 leases have reached producing status with a generating capacity of 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 only just beginning, and its future role and importance is expected to increase significantly, from the current level of 1,300 MW 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 EPAct'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 466 geothermal leases have been sold, generating more than \$70 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.

H.R. 3709

H.R. 3709 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 as 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, H.R. 3709 would authorize non-competitive leasing of Federal geothermal resources when a valid discovery of geothermal resources is made on adjoining lands, 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 H.R. 3709, 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. The lessee would pay fair market value for the non-competitive lease, as determined by the Secretary of the Interior, up to a cap of \$200 per acre (plus annual inflation adjustments). This legislation would apply to applications for non-competitive leases received within 15 years of the date of enactment of this legislation.

The BLM generally supports the objective of H.R. 3709 to enhance geothermal development by increasing investor confidence that valid geothermal discoveries could be fully developed. Additionally, BLM supports a requirement that lessees pay fair market value for the lease.

The BLM is concerned, however, about the provision of H.R. 3709 that places a limit on how much the Secretary may determine the fair market value to be. Section 3 (b)(iv) of the bill sets a maximum price of \$200 per acre for non-competitive leases. At auctions since 2007, winning bidders have paid an average price of \$181 per acre, and a median price of \$14 per acre, for 466 geothermal leases. However, 31 of those leases sold for more than \$200 per acre, including 4 leases that sold for more than \$1,000 per acre. These 31 leases sold for a total of \$50.5 million, but they would have generated only \$15.8 million if they had been subject to a price cap of \$200 per acre, forgoing \$34.7 million. This data indicates that the cap on fair market value could significantly limit returns to taxpayers under some circumstances. Thus, the BLM recommends that this provision be removed from the bill.

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.