[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION
H. R. ______

To amend the Geothermal Steam Act of 1970 to promote timely exploration for geothermal resources under geothermal leases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LABRADOR introduced the following bill; which was referred to the Committee on

A BILL

To amend the Geothermal Steam Act of 1970 to promote timely exploration for geothermal resources under geothermal leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhancing Geothermal Production on Federal Lands Act”.

SEC. 2. GEOTHERMAL PRODUCTION ON FEDERAL LANDS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:
SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.

(a) Definition of Geothermal Exploration Test Project.—In this section, the term ‘geothermal exploration test project’ means the drilling of a well to test or explore for geothermal resources on lands for which the Secretary has issued a lease under this Act, that—

(1) is carried out by the holder of the lease;

(2) causes—

(A) less than 5 acres of soil or vegetation disruption at the location of each geothermal exploration well; and

(B) not more than an additional 5 acres of soil or vegetation disruption during access or egress to the test site;

(3) is developed—

(A) no deeper than 2,500 feet;

(B) less than 8 inches in diameter;

(C) in a manner that does not require off-road motorized access other than to and from the well site along an identified off-road route for which notice is provided to the Secretary under subsection (c);

(D) without construction of new roads other than upgrading of existing drainage crossings for safety purposes; and
“(E) with the use of rubber-tired digging or drilling equipment vehicles;

“(4) is completed in less than 45 days, including the removal of any surface infrastructure from the site; and

“(5) requires the restoration of the project site within 3 years to approximately the condition that existed at the time the project began, unless the site is subsequently used as part of energy development under the lease.

“(b) NEPA EXCLUSION.—

“(1) IN GENERAL.—Unless extraordinary circumstances exist, section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to a project that the Secretary determines under subsection (c) is a geothermal exploration test project.

“(2) EXTRAORDINARY CIRCUMSTANCES DEFINITION.—In this subsection, the term ‘extraordinary circumstances’ has the same meaning given such term in the Department of the Interior Departmental Manual, 516 DM 2.3A(3) and 516 DM 2, Appendix 2 (or successor provisions).

“(c) NOTICE OF INTENT; REVIEW AND DETERMINATION.—
“(1) Requirement to provide notice.—A leaseholder intending to carry out a geothermal exploration test project shall provide notice to the Secretary not later than 30 days prior to the start of drilling under the project.

“(2) Review of project.—Not later than 10 days after receipt of a notice of intent under paragraph (1) from a leaseholder, the Secretary shall—

“(A) review the project described in the notice and determine whether it is a geothermal exploration test project under subsection (a); and

“(B) notify the leaseholder—

“(i) that under subsection (b) of this section, section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) does not apply to the project; or

“(ii) that section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) applies to the project, including clear and detailed findings on any deficiencies in the project that preclude the application of subsection (b) of this section to the project.
“(3) Opportunity to remedy.—If the Secretary provides notice under paragraph (2)(B)(ii) that section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) applies to the project, the Secretary shall provide the leaseholder an opportunity to remedy the deficiencies described in the notice prior to the date the leaseholder intended to start drilling under the project.”.

SEC. 3. GEOTHERMAL LEASING PRIORITY AREAS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended by adding at the end the following:

“SEC. 31. GEOTHERMAL LEASING PRIORITY AREAS.

“(a) Designation of Geothermal Leasing Priority Areas.—The Secretary, in consultation with the Secretary of Energy, shall designate portions of covered land as geothermal leasing priority areas as soon as practicable, but not later than 5 years, after the date of the enactment of this section.

“(b) Criteria for Selection.—In determining which covered lands to designate as geothermal leasing priority areas under subsection (a), the Secretary, in consultation with the Secretary of Energy, shall consider if—

“(1) the covered land is preferable for geothermal leasing;
“(2) production of geothermal energy on such land is economically viable, including if such land has access to methods of energy transmission; and

“(3) the designation would be in compliance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), including subsection (c)(9) of that section.

“(c) Review and Modification.—Not less frequently than once every 10 years, the Secretary shall—

“(1) review covered land and, if appropriate, make additional designations of geothermal leasing priority areas; and

“(2) review each area designated as a geothermal leasing priority area under this section, and, if appropriate, remove such designation.

“(d) Programmatic Environmental Impact Statement.—

“(1) Initial designations.—Not later than [5 years] after the date of the enactment of this section, the Secretary shall prepare a supplement to the final programmatic environmental impact statement for geothermal leasing in the western United States that is the most recently approved such statement that contains each designation of a geothermal leasing priority area under subsection (a).
“(2) Subsequent Designations.—Each designation of a geothermal leasing priority area under subsection (c) shall be included in a programmatic environmental impact statement for geothermal leasing in the western United States or in a supplement to such statement.

“(3) Consultations.—In developing any programmatic environmental impact statement for geothermal leasing in the western United States or supplement to such statement under this section, the Secretary shall consult, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners and operators, developers, and other appropriate entities.

“(4) Procedure.—The Secretary may not delay issuing a permit or holding a lease sale under this Act because the supplement required under paragraph (1) has not been approved by the Secretary.

“(e) Compliance With NEPA.—If the Secretary determines that the designation of a geothermal leasing priority area has been sufficiently analyzed by a programmatic environmental impact statement, the Secretary shall not prepare any additional environmental impact statement under the National Environmental Policy Act.
of 1969 (42 U.S.C. 4321 et seq.) with respect to geo-
thermal lease sales for such geothermal leasing priority
area.

“(f) DEFINITION OF COVERED LAND.—In this sec-
tion, the term ‘covered land’ means land that is—

“(1) Federal land; and

“(2) not excluded from the development of geo-
thermal energy under—

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

“(B) any other Federal law.”.

SEC. 4. FACILITATION OF COPRODUCTION OF GEO-
THERMAL ENERGY ON OIL AND GAS LEASES.

Section 4(b) of the Geothermal Steam Act of 1970
(30 U.S.C. 1003(b)) is amended by adding at the end the
following:

“(4) LAND SUBJECT TO OIL AND GAS LEASE.—

Land under an oil and gas lease issued pursuant to
the Mineral Leasing Act (30 U.S.C. 181 et seq.) or
the Mineral Leasing Act for Acquired Lands (30
U.S.C. 351 et seq.) that is subject to an approved
application for permit to drill and from which oil
and gas production is occurring may be available for
noncompetitive leasing under subsection (e) by the 
holder of the oil and gas lease—

“(A) on a determination that geothermal 
energy will be produced from a well producing 
or capable of producing oil and gas; and 

“(B) in order to provide for the coproduc-
tion of geothermal energy with oil and gas.”.

SEC. 5. NONCOMPETITIVE LEASING OF ADJOINING AREAS
FOR DEVELOPMENT OF GEOTHERMAL RE-
SOURCES.

Section 4(b) of the Geothermal Steam Act of 1970 
(30 U.S.C. 1003(b)) is further amended by adding at the 
end the following:

“(5) ADJOINING LAND.—

“(A) DEFINITIONS.—In this paragraph:

“(i) FAIR MARKET VALUE PER 
ACRE.—The term ‘fair market value per 
acre’ means a dollar amount per acre 
that—

“(I) except as provided in this 
clause, shall be equal to the market 
value per acre (taking into account 
the determination under subparagraph 
(B)(iii) regarding a valid discovery on 
the adjoining land) as determined by
the Secretary under regulations issued under this paragraph;

“(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later than the end of the 180-day period beginning on the date the Secretary receives an application for the lease; and

“(III) shall be not less than the greater of—

“(aa) 4 times the median amount paid per acre for all land leased under this Act during the preceding year; or

“(bb) $50.

“(ii) INDUSTRY STANDARDS.—The term ‘industry standards’ means the standards by which a qualified geothermal professional assesses whether downhole or flowing temperature measurements with indications of permeability are sufficient to produce energy from geothermal resources, as determined through flow or injection
(ii) TESTING—The term ‘testing’ means an analysis or measurement of lost circulation while drilling.

(iii) QUALIFIED FEDERAL LAND.—The term ‘qualified Federal land’ means land that is otherwise available for leasing under this Act.

(iv) QUALIFIED GEOTHERMAL PROFESSIONAL.—The term ‘qualified geothermal professional’ means an individual who is an engineer or geoscientist in good professional standing with at least 5 years of experience in geothermal exploration, development, or project assessment.

(v) QUALIFIED LESSEE.—The term ‘qualified lessee’ means a person that may hold a geothermal lease under this Act (including applicable regulations).

(vi) VALID DISCOVERY.—The term ‘valid discovery’ means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability that are sufficient to meet industry standards.
“(B) AUTHORITY.—An area of qualified Federal land that adjoins other land for which a qualified lessee holds a legal right to develop geothermal resources may be available for a noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—

“(i) the area of qualified Federal land—

“(I) consists of not less than 1 acre and not more than 640 acres; and

“(II) is not already leased under this Act or nominated to be leased under subsection (a);

“(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under clause (iii)(I); and

“(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the applicable Federal land management agency that would
lead individuals who are experienced in the subject matter to believe that—

“(I) there is a valid discovery of geothermal resources on the land for which the qualified lessee holds the legal right to develop geothermal resources; and

“(II) that thermal feature extends into the adjoining areas.

“(C) Determination of fair market value.—

“(i) In general.—The Secretary shall—

“(I) publish a notice of any request to lease land under this paragraph;

“(II) determine fair market value for purposes of this paragraph in accordance with procedures for making those determinations that are established by regulations issued by the Secretary;

“(III) provide to a qualified lessee and publish, with an opportunity for public comment for a period of 30
days, any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph; and

“(IV) provide to the qualified lessee and any adversely affected party the opportunity to appeal the final determination of fair market value in an administrative proceeding before the applicable Federal land management agency, in accordance with applicable law (including regulations).

“(ii) LIMITATION ON NOMINATION.—After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.

“(iii) ANNUAL RENTAL.—For purposes of section 5(a)(3), a lease awarded under this paragraph shall be considered a lease awarded in a competitive lease sale.
“(D) REGULATIONS.—Not later than 270 days after the date of enactment of this paragraph, the Secretary shall issue regulations to carry out this paragraph.”.