

[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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. GEOTHERMAL PRODUCTION ON FEDERAL LANDS.**

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

1 **“SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.**

2 “(a) DEFINITION OF GEOTHERMAL EXPLORATION
3 TEST PROJECT.—In this section, the term ‘geothermal ex-
4 ploration test project’ means the drilling of a well to test
5 or explore for geothermal resources on lands for which the
6 Secretary has issued a lease under this Act, that—

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

8 “(2) causes—

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

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

15 “(3) is developed—

16 “(A) no deeper than 2,500 feet;

17 “(B) less than 8 inches in diameter;

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

23 “(D) without construction of new roads
24 other than upgrading of existing drainage cross-
25 ings for safety purposes; and

1 “(E) with the use of rubber-tired digging
2 or drilling equipment vehicles;

3 “(4) is completed in less than 45 days, includ-
4 ing the removal of any surface infrastructure from
5 the site; and

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

11 “(b) NEPA EXCLUSION.—

12 “(1) IN GENERAL.—Unless extraordinary cir-
13 cumstances exist, section 102(2)(C) of the National
14 Environmental Policy Act of 1969 (42 U.S.C.
15 4332(2)(C)) shall not apply with respect to a project
16 that the Secretary determines under subsection (c)
17 is a geothermal exploration test project.

18 “(2) EXTRAORDINARY CIRCUMSTANCES DEFINI-
19 TION.—In this subsection, the term ‘extraordinary
20 circumstances’ has the same meaning given such
21 term in the Department of the Interior Depart-
22 mental Manual, 516 DM 2.3A(3) and 516 DM 2,
23 Appendix 2 (or successor provisions).

24 “(c) NOTICE OF INTENT; REVIEW AND DETERMINA-
25 TION.—

1 “(1) REQUIREMENT TO PROVIDE NOTICE.—A
2 leaseholder intending to carry out a geothermal ex-
3 ploration test project shall provide notice to the Sec-
4 retary not later than 30 days prior to the start of
5 drilling under the project.

6 “(2) REVIEW OF PROJECT.—Not later than 10
7 days after receipt of a notice of intent under para-
8 graph (1) from a leaseholder, the Secretary shall—

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

13 “(B) notify the leaseholder—

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

19 “(ii) that section 102(2)(C) of the Na-
20 tional Environmental Policy Act of 1969
21 (42 U.S.C. 4332(2)(C)) applies to the
22 project, including clear and detailed find-
23 ings on any deficiencies in the project that
24 preclude the application of subsection (b)
25 of this section to the project.

1 “(3) OPPORTUNITY TO REMEDY.—If the Sec-
2 retary provides notice under paragraph (2)(B)(ii)
3 that section 102(2)(C) of the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C))
5 applies to the project, the Secretary shall provide the
6 leaseholder an opportunity to remedy the deficiencies
7 described in the notice prior to the date the lease-
8 holder intended to start drilling under the project.”.

9 **SEC. 3. GEOTHERMAL LEASING PRIORITY AREAS.**

10 The Geothermal Steam Act of 1970 (30 U.S.C. 1001
11 et seq.) is further amended by adding at the end the fol-
12 lowing:

13 **“SEC. 31. GEOTHERMAL LEASING PRIORITY AREAS.**

14 “(a) DESIGNATION OF GEOTHERMAL LEASING PRI-
15 ORITY AREAS.—The Secretary, in consultation with the
16 Secretary of Energy, shall designate portions of covered
17 land as geothermal leasing priority areas as soon as prac-
18 ticable, but not later than 5 years, after the date of the
19 enactment of this section.

20 “(b) CRITERIA FOR SELECTION.—In determining
21 which covered lands to designate as geothermal leasing
22 priority areas under subsection (a), the Secretary, in con-
23 sultation with the Secretary of Energy, shall consider if—

24 “(1) the covered land is preferable for geo-
25 thermal leasing;

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

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

8 “(c) REVIEW AND MODIFICATION.—Not less fre-
9 quently than once every 10 years, the Secretary shall—

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

13 “(2) review each area designated as a geo-
14 thermal leasing priority area under this section, and,
15 if appropriate, remove such designation.

16 “(d) PROGRAMMATIC ENVIRONMENTAL IMPACT
17 STATEMENT.—

18 “(1) INITIAL DESIGNATIONS.—Not later than
19 **[5 years]** after the date of the enactment of this
20 section, the Secretary shall prepare a supplement to
21 the final programmatic environmental impact state-
22 ment for geothermal leasing in the western United
23 States that is the most recently approved such state-
24 ment that contains each designation of a geothermal
25 leasing priority area under subsection (a).

1 “(2) SUBSEQUENT DESIGNATIONS.—Each des-
2 ignation of a geothermal leasing priority area under
3 subsection (c) shall be included in a programmatic
4 environmental impact statement for geothermal leas-
5 ing in the western United States or in a supplement
6 to such statement.

7 “(3) CONSULTATIONS.—In developing any pro-
8 grammatic environmental impact statement for geo-
9 thermal leasing in the western United States or sup-
10 plement to such statement under this section, the
11 Secretary shall consult, on an ongoing basis, with
12 appropriate State, Tribal, and local governments,
13 transmission infrastructure owners and operators,
14 developers, and other appropriate entities.

15 “(4) PROCEDURE.—The Secretary may not
16 delay issuing a permit or holding a lease sale under
17 this Act because the supplement required under
18 paragraph (1) has not been approved by the Sec-
19 retary.

20 “(e) COMPLIANCE WITH NEPA.—If the Secretary
21 determines that the designation of a geothermal leasing
22 priority area has been sufficiently analyzed by a pro-
23 grammatic environmental impact statement, the Secretary
24 shall not prepare any additional environmental impact
25 statement under the National Environmental Policy Act

1 of 1969 (42 U.S.C. 4321 et seq.) with respect to geo-
2 thermal lease sales for such geothermal leasing priority
3 area.

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

6 “(1) Federal land; and

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

9 “(A) a land use plan established under the
10 Federal Land Policy and Management Act of
11 1976 (43 U.S.C. 1701 et seq.); or

12 “(B) any other Federal law.”.

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

15 Section 4(b) of the Geothermal Steam Act of 1970
16 (30 U.S.C. 1003(b)) is amended by adding at the end the
17 following:

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

19 Land under an oil and gas lease issued pursuant to
20 the Mineral Leasing Act (30 U.S.C. 181 et seq.) or
21 the Mineral Leasing Act for Acquired Lands (30
22 U.S.C. 351 et seq.) that is subject to an approved
23 application for permit to drill and from which oil
24 and gas production is occurring may be available for

1 noncompetitive leasing under subsection (c) by the
2 holder of the oil and gas lease—

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

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

8 **SEC. 5. NONCOMPETITIVE LEASING OF ADJOINING AREAS**
9 **FOR DEVELOPMENT OF GEOTHERMAL RE-**
10 **SOURCES.**

11 Section 4(b) of the Geothermal Steam Act of 1970
12 (30 U.S.C. 1003(b)) is further amended by adding at the
13 end the following:

14 “(5) ADJOINING LAND.—

15 “(A) DEFINITIONS.—In this paragraph:

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

20 “(I) except as provided in this
21 clause, shall be equal to the market
22 value per acre (taking into account
23 the determination under subparagraph
24 (B)(iii) regarding a valid discovery on
25 the adjoining land) as determined by

1 the Secretary under regulations issued
2 under this paragraph;

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

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

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

16 “(bb) \$50.

17 “(ii) INDUSTRY STANDARDS.—The
18 term ‘industry standards’ means the stand-
19 ards by which a qualified geothermal pro-
20 fessional assesses whether downhole or
21 flowing temperature measurements with
22 indications of permeability are sufficient to
23 produce energy from geothermal resources,
24 as determined through flow or injection

1 testing or measurement of lost circulation
2 while drilling.

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

7 “(iv) QUALIFIED GEOTHERMAL PRO-
8 FESSIONAL.—The term ‘qualified geo-
9 thermal professional’ means an individual
10 who is an engineer or geoscientist in good
11 professional standing with at least 5 years
12 of experience in geothermal exploration,
13 development, or project assessment.

14 “(v) QUALIFIED LESSEE.—The term
15 ‘qualified lessee’ means a person that may
16 hold a geothermal lease under this Act (in-
17 cluding applicable regulations).

18 “(vi) VALID DISCOVERY.—The term
19 ‘valid discovery’ means a discovery of a
20 geothermal resource by a new or existing
21 slim hole or production well, that exhibits
22 downhole or flowing temperature measure-
23 ments with indications of permeability that
24 are sufficient to meet industry standards.

1 “(B) AUTHORITY.—An area of qualified
2 Federal land that adjoins other land for which
3 a qualified lessee holds a legal right to develop
4 geothermal resources may be available for a
5 noncompetitive lease under this section to the
6 qualified lessee at the fair market value per
7 acre, if—

8 “(i) the area of qualified Federal
9 land—

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

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

16 “(ii) the qualified lessee has not pre-
17 viously received a noncompetitive lease
18 under this paragraph in connection with
19 the valid discovery for which data has been
20 submitted under clause (iii)(I); and

21 “(iii) sufficient geological and other
22 technical data prepared by a qualified geo-
23 thermal professional has been submitted by
24 the qualified lessee to the applicable Fed-
25 eral land management agency that would

1 lead individuals who are experienced in the
2 subject matter to believe that—

3 “(I) there is a valid discovery of
4 geothermal resources on the land for
5 which the qualified lessee holds the
6 legal right to develop geothermal re-
7 sources; and

8 “(II) that thermal feature ex-
9 tends into the adjoining areas.

10 “(C) DETERMINATION OF FAIR MARKET
11 VALUE.—

12 “(i) IN GENERAL.—The Secretary
13 shall—

14 “(I) publish a notice of any re-
15 quest to lease land under this para-
16 graph;

17 “(II) determine fair market value
18 for purposes of this paragraph in ac-
19 cordance with procedures for making
20 those determinations that are estab-
21 lished by regulations issued by the
22 Secretary;

23 “(III) provide to a qualified les-
24 see and publish, with an opportunity
25 for public comment for a period of 30

1 days, any proposed determination
2 under this subparagraph of the fair
3 market value of an area that the
4 qualified lessee seeks to lease under
5 this paragraph; and

6 “(IV) provide to the qualified les-
7 see and any adversely affected party
8 the opportunity to appeal the final de-
9 termination of fair market value in an
10 administrative proceeding before the
11 applicable Federal land management
12 agency, in accordance with applicable
13 law (including regulations).

14 “(ii) LIMITATION ON NOMINATION.—
15 After publication of a notice of request to
16 lease land under this paragraph, the Sec-
17 retary may not accept under subsection (a)
18 any nomination of the land for leasing un-
19 less the request has been denied or with-
20 drawn.

21 “(iii) ANNUAL RENTAL.—For pur-
22 poses of section 5(a)(3), a lease awarded
23 under this paragraph shall be considered a
24 lease awarded in a competitive lease sale.

1 “(D) REGULATIONS.—Not later than 270
2 days after the date of enactment of this para-
3 graph, the Secretary shall issue regulations to
4 carry out this paragraph.”.