

Senate Committee on Energy
July 29, 2014
Submitted by Scott Nichols, Manager of Permitting & Lands
For
U.S. Geothermal Inc.

Regarding
Obstacles in Permitting Energy Projects on Federal lands
S.279, the Public Land Renewable Energy Development Act of 2013
S.2440, the BLM Permit Processing Improvement Act of 2014

Mr. Chairman and members of the Subcommittee, my name is Scott Nichols and I am here today representing U.S. Geothermal Inc. U.S. Geothermal is a publicly traded company that explores for, develops, builds and operates utility scale geothermal power plants. We are a member of the board of directors of the Geothermal Energy Association, a trade association composed of U.S. companies who support the expanded use of geothermal energy and who are developing geothermal resources worldwide for electrical power generation and direct-heat uses. The membership of the Geothermal Energy Association includes large utilities and Independent Power Producers like U.S. Geothermal, equipment suppliers, drilling companies, technical and financial service providers. These companies are primarily focused on the exploration, development and generation of clean, base load electricity from our country's geothermal resource base.

Professionally, I have 28 years of environmental management experience at the state management level, as a consultant and as a corporate environmental and regulatory compliance manager.

My comments are focused on the BLM and USFS (Agencies's) evolving approach in administering the National Environmental Policy Act (NEPA), the geothermal industry's evolving approach to environmental management, and support for action requiring agencies to rigidly defined NEPA implementation and federal regulations.

The NEPA was enacted and implemented as a planning and decision making tool to involve the public in **planning and decisions regarding major federal actions** significantly affecting the quality of the human environment.¹

¹ 42 USC § 4331 SEC. 102

The environmental protection industry learned to utilize the judicial system to expand the scope of the NEPA to include any federal action and decision.

At this time all industries and proposals driven by the NEPA process not environmental performance. More paperwork is generated by staff, checklists are completed, and consultants are hired by proponents. Better science is not implemented, requirements are not streamlined, and state efforts are duplicated. Experienced agency field staff with local knowledge and understanding of natural resources are required to document NEPA compliance. Their expertise is replaced by contracted consultants paid for by industry. Agency resources are overloaded by misused environmental policy and process requirements, not by the volume of new industry proposals. This position is supported by the work of state engineers and environmental regulators who can respond to a dynamic development process.

The geothermal industry is using environmental baseline evaluations proactively to determine whether an area is suitable for development and to avoid resource conflicts. Unfortunately proactive environmental evaluations and avoidance policy cannot circumvent processes mandated by NEPA. Support for specific exclusions and more defined regulations is found under two existing sections of the BLM's CFR's. 43CFR §3201.11 requires that the BLM will not issue leases for Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation of public lands and resources. 43CFR §3261.12 requires an applicant's operating plan to include the items specified and "you must submit any other information that BLM may require."

Our overwhelming experience is that management decisions are now driven by lawsuits, attorneys and the Office of General Counsel combined with a need for more data and longer evaluation periods. Documentation has become more important than good science. Environmental protection along with healthy plant and animal communities, clean water and air are the basis of our need for renewable energy. In order to accomplish that goal in a reasonable time and under reasonable costs it is incumbent upon our elected leadership to mandate the regulatory changes that will to provide flexibility for renewable energy developments that also provide streamlined, measureable, performance based requirements for our federal resource managers to work within.