

Testimony for S. 1149

Senate Subcommittee on Public Lands and Forests

August 3, 2011

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, which is a trade association composed of U.S. companies who support the expanded use of geothermal energy and 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, equipment suppliers, drilling companies, technical and financial service providers, in addition to developers like U.S. Geothermal. These companies are primarily focused on the exploration, development and generation of clean, base load electricity from our country's great geothermal resource base.

U.S. Geothermal and the Geothermal Energy Association strongly support Senate Bill 1149, the Geothermal Production Expansion Act of 2011. Very simply, Senate Bill 1149 allows a developer that has taken the high risk of exploration and invested significant capital in the discovery of a commercial geothermal resource, the ability to add up to 640 acres of critical adjoining federal resource so a power plant can be financed and built without exposing the project to the high cost of delay and speculation. We believe S. 1149 is an important, small policy adjustment to the geothermal leasing process that will promote the development of mixed ownership properties, help accelerate the development of our geothermal resources, create new jobs, and provide additional revenue for the United States treasury.

S. 1149 addresses a vexing problem as the private sector ramps up to develop this proven, renewable resource. A large portion of the potential geothermal resources in the United States are located on federally administered lands in the West. Oftentimes these federal resources are mixed with private and state land, which reduces a developer's interest in leasing and working to develop a geothermal resource.

The geothermal provisions in the Energy Policy Act of 2005 were intended to support and increase the production of geothermal energy in the United States. A provision of EPACT 2005 mandated a change in how geothermal leases are issued -- from an open leasing system to an auction based system. These changes were implemented with the first auction of geothermal leases in 2007.

The changes to the geothermal steam act made by the Energy Policy ACT 2005 have been beneficial for both the federal government and the geothermal industry. While the leasing provisions of EPACT 2005 have allowed a significant acreage of federal lands to be leased, a challenge was created by the new leasing rules when there are intermixed lands (public, private and state). This issue was first brought to light during the public forums held to discuss the proposed rules issued by the BLM in July 2006, but there is no specific provision in the statute that allowed for an exception to address the circumstances of intermixed land. Senate Bill 1149 will correct that oversight.

Under the current leasing provisions, the BLM is allowed to issue non-competitive leases under three specific circumstances; leases to mining claim holders that have a valid operating plan, direct use leases, and leases on parcels that do not sell at a competitive auction. The mining claim category is very similar to the situation addressed by the proposed language in S. 1149 as it allows a mining developer that already has a mineral discovery and has invested a significant amount of capital to secure the property.

S. 1149 would create a fourth category of non-competitive lease whereby the BLM would have the authority to issue a non-competitive geothermal lease for 640 acres or less of federal lands that adjoin a commercial geothermal discovery, but only if those federal lands are not already leased or nominated for lease under the auction system. The applicant must also demonstrate conclusively that the commercial geothermal discovery extends on to the adjoining federal lands. This bill provides a very specific, laser focused requirement for a geothermal developer to qualify for this proposed non-competitive lease.

This change would provide the following benefits:

- Developers that have invested substantial capital and made high risk investments would be allowed to secure a documented discovery.
- Development of the geothermal resource would accelerate the creation of jobs.
- The financing capabilities of geothermal projects would increase.

- All non-competitive leaseholders would be required to pay a market average “bonus” fee and thereby increase the short term fees paid to the federal government.
- Increased development will provide higher revenue to the federal government with the payment of production royalties over decades.

In addition, Senate Bill 1149 would provide for a more efficient and optimal development of a geothermal resource since it allows a developer to bring the resource in to a single land package. Fragmented ownership adds significant additional time and cost to the development of a geothermal project, can reduce overall power generation from a geothermal resource, and in some instances may stop development altogether.

We believe that it is appropriate for all leases issued under all of the non-competitive categories to pay a filing or bonus fee set at the fair market value per acre as determined by the Secretary of Interior. If a fair market value isn’t determined by the Secretary, then a fee equal to four times the median price paid at auction during the preceding year or \$50 per acre is due. This fee is fair and provides increased funding for the BLM leasing program. Recipients of non-competitive leases should be required to pay for the privilege of being granted a non-competitive lease.

While the early years of geothermal leasing caused much excitement and some speculators paid extremely high bonus bid amounts for tracts of land, experienced developers know that there is an economic limit to the amount of capital that can be recovered when you are selling electricity into a regulated market.

S. 1149 has been carefully vetted over the past 3 years, and is narrowly focused to provide a specific remedy for intermixed lands, so that when a commercial geothermal resource has been identified, it can be developed in a timely, cost effective manner. The United States leads the world in clean, base load power generation from geothermal resources, and we would like to see us retain that preeminent position.

Thank you for considering our comments on this important issue to the geothermal industry. I am happy to respond to any questions.