

Calendar No. 315

112TH CONGRESS
2^D SESSION

S. 1149

[Report No. 112-146]

To expand geothermal production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2011

Mr. WYDEN (for himself, Mr. CRAPO, Mr. RISCH, Mr. MERKLEY, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

FEBRUARY 7, 2012

Reported by Mr. BINGAMAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To expand geothermal production, 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 “Geothermal Production
5 Expansion Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) it is in the best interest of the United
2 States to develop clean renewable geothermal energy;

3 (2) development of that energy should be pro-
4 moted on appropriate Federal land;

5 (3) under the Energy Policy Act of 2005 (42
6 U.S.C. 15801 et seq.), the Bureau of Land Manage-
7 ment is authorized to issue 3 different types of non-
8 competitive leases for production of geothermal en-
9 ergy on Federal land, including—

10 (A) noncompetitive geothermal leases to
11 mining claim holders that have a valid oper-
12 ating plan;

13 (B) direct use leases; and

14 (C) leases on parcels that do not sell at a
15 competitive auction;

16 (4) Federal geothermal energy leasing activity
17 should be directed toward persons seeking to develop
18 the land as opposed to persons seeking to speculate
19 on geothermal resources and artificially raising the
20 cost of legitimate geothermal energy development;

21 (5) developers of geothermal energy on Federal
22 land that have invested substantial capital and made
23 high risk investments should be allowed to secure a
24 discovery of geothermal energy resources; and

1 (6) successful geothermal development on Fed-
 2 eral land will provide increased revenue to the Fed-
 3 eral Government, with the payment of production
 4 royalties over decades.

5 **SEC. 32. NONCOMPETITIVE LEASING OF ADJOINING AREAS**
 6 **FOR DEVELOPMENT OF GEOTHERMAL RE-**
 7 **SOURCES.**

8 Section 4(b) of the Geothermal Steam Act of 1970
 9 (30 U.S.C. 1003(b)) is amended by adding at the end the
 10 following:

11 “(4) ADJOINING LAND.—

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

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

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

1 “(II) shall be determined by the
2 Secretary with respect to a lease
3 under this paragraph, by not later
4 than the end of the ~~90-day~~ *180-day*
5 period beginning on the date the Sec-
6 retary receives an application for the
7 lease; and

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

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

14 “(bb) \$50.

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

1 “(iii) QUALIFIED FEDERAL LAND.—

2 The term ‘qualified Federal land’ means
3 land that is otherwise available for leasing
4 under this Act.

5 “(iv) QUALIFIED GEOTHERMAL PRO-

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

12 “(v) QUALIFIED LESSEE.—The term

13 ‘qualified lessee’ means a person that may
14 hold a geothermal lease under this Act (in-
15 cluding applicable regulations).

16 “(vi) VALID DISCOVERY.—The term

17 ‘valid discovery’ means a discovery of a
18 geothermal resource by a new or existing
19 slim hole or production well, that exhibits
20 downhole or flowing temperature measure-
21 ments with indications of permeability that
22 are sufficient to meet industry standards.

23 “(B) AUTHORITY.—An area of qualified

24 Federal land that adjoins other land for which
25 a qualified lessee holds a legal right to develop

1 geothermal resources may be available for a
2 noncompetitive lease under this section to the
3 qualified lessee at the fair market value per
4 acre, if—

5 “(i) the area of qualified Federal
6 land—

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

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

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

18 “(iii) sufficient geological and other
19 technical data prepared by a qualified geo-
20 thermal professional has been submitted by
21 the qualified lessee to the applicable Fed-
22 eral land management agency that would
23 lead individuals who are experienced in the
24 subject matter to believe that—

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

6 “(II) that thermal feature ex-
7 tends into the adjoining areas.

8 “(C) DETERMINATION OF FAIR MARKET
9 VALUE.—

10 “(i) IN GENERAL.—The Secretary
11 shall—

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

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

21 “(III) provide to a qualified les-
22 see and publish, with an opportunity
23 for public comment for a period of 30
24 days, any proposed determination
25 under this subparagraph of the fair

1 market value of an area that the
2 qualified lessee seeks to lease under
3 this paragraph; and

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

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

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

23 “(D) REGULATIONS.—Not later than ~~180~~
24 *270* days after the date of enactment of the
25 Geothermal Production Expansion Act of 2011,

1 the Secretary shall issue regulations to carry
2 out this paragraph.”.

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