

111TH CONGRESS  
2D SESSION

# S. 3993

To expand geothermal production, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2010

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

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## 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 2010”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

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

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

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

6           (A) noncompetitive geothermal leases to  
7       mining claim holders that have a valid oper-  
8       ating plan;

9           (B) direct use leases; and

10          (C) leases on parcels that do not sell at a  
11       competitive auction;

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

17          (5) developers of geothermal energy on Federal  
18       land that have invested substantial capital and made  
19       high risk investments should be allowed to secure a  
20       discovery of geothermal energy resources; and

21          (6) successful geothermal development on Fed-  
22       eral land will provide increased revenue to the Fed-  
23       eral Government, with the payment of production  
24       royalties over decades.

1 **SEC. 3. NONCOMPETITIVE LEASING OF ADJOINING AREAS**  
 2 **FOR DEVELOPMENT OF GEOTHERMAL RE-**  
 3 **SOURCES.**

4 Section 4(b) of the Geothermal Steam Act of 1970  
 5 (30 U.S.C. 1003(b)) is amended by adding at the end the  
 6 following:

7 “(4) ADJOINING LAND.—

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

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

13 “(I) except as provided in this  
 14 clause, shall be equal to the market  
 15 value per acre as determined by the  
 16 Secretary under regulations issued  
 17 under this paragraph;

18 “(II) shall be determined by the  
 19 Secretary with respect to a lease  
 20 under this paragraph, by not later  
 21 than the end of the 90-day period be-  
 22 ginning on the date the Secretary re-  
 23 ceives an application for the lease;  
 24 and

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

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

5                   “(bb) \$50.

6                   “(ii) INDUSTRY STANDARDS.—The  
7                   term ‘industry standards’ means the stand-  
8                   ards by which a qualified geothermal pro-  
9                   fessional assesses whether downhole or  
10                  flowing temperature measurements with  
11                  indications of permeability are sufficient to  
12                  produce energy from geothermal resources,  
13                  as determined through flow or injection  
14                  testing or measurement of lost circulation  
15                  while drilling.

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

20                  “(iv) QUALIFIED GEOTHERMAL PRO-  
21                  FESSIONAL.—The term ‘qualified geo-  
22                  thermal professional’ means an individual  
23                  who is an engineer or geoscientist in good  
24                  professional standing with at least 5 years

1 of experience in geothermal exploration,  
2 development, or project assessment.

3 “(v) QUALIFIED LESSEE.—The term  
4 ‘qualified lessee’ means a person that may  
5 hold a geothermal lease under part  
6 3202.10 of title 43, Code of Federal Regu-  
7 lations, as in effect on the date of enact-  
8 ment of the Geothermal Production Ex-  
9 pansion Act of 2010.

10 “(vi) VALID DISCOVERY.—The term  
11 ‘valid discovery’ means a discovery of a  
12 geothermal resource by a new or existing  
13 slim hole or production well, that exhibits  
14 downhole or flowing temperature measure-  
15 ments with indications of permeability that  
16 are sufficient to meet industry standards.

17 “(B) AUTHORITY.—An area of qualified  
18 Federal land that adjoins other land for which  
19 a qualified lessee holds a legal right to develop  
20 geothermal resources may be available for a  
21 noncompetitive lease under this section to the  
22 qualified lessee at the fair market value per  
23 acre, if—

24 “(i) the area of qualified Federal  
25 land—

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

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

7 “(ii) the qualified lessee has not pre-  
8 viously received a noncompetitive lease  
9 under this paragraph in connection with  
10 the valid discovery for which data has been  
11 submitted under clause (iii)(I); and

12 “(iii) sufficient geological and other  
13 technical data prepared by a qualified geo-  
14 thermal professional has been submitted by  
15 the qualified lessee to the applicable Fed-  
16 eral land management agency that would  
17 lead individuals who are experienced in the  
18 subject matter to believe that—

19 “(I) there is a valid discovery of  
20 geothermal resources on the land for  
21 which the qualified lessee holds the  
22 legal right to develop geothermal re-  
23 sources; and

24 “(II) that thermal feature ex-  
25 tends into the adjoining areas.

1                   “(C) DETERMINATION OF FAIR MARKET  
2                   VALUE.—

3                   “(i) IN GENERAL.—The Secretary  
4                   shall—

5                   “(I) publish a notice of any re-  
6                   quest to lease land under this para-  
7                   graph;

8                   “(II) determine fair market value  
9                   for purposes of this paragraph in ac-  
10                  cordance with procedures for making  
11                  those determinations that are estab-  
12                  lished by regulations issued by the  
13                  Secretary;

14                  “(III) provide to a qualified les-  
15                  see and publish any proposed deter-  
16                  mination under this subparagraph of  
17                  the fair market value of an area that  
18                  the qualified lessee seeks to lease  
19                  under this paragraph;

20                  “(IV) provide to the qualified les-  
21                  see the opportunity to appeal the pro-  
22                  posed determination during the 30-  
23                  day period beginning on the date that  
24                  the proposed determination is pro-  
25                  vided to the qualified lessee; and

1                   “(V) provide to any interested  
 2                   member of the public the opportunity  
 3                   to appeal the proposed determination  
 4                   in accordance with the process estab-  
 5                   lished under parts 4 and 1840, and  
 6                   section 3200.5, of title 43, Code of  
 7                   Federal Regulations (as in effect on  
 8                   the date of enactment of the Geo-  
 9                   thermal Production Expansion Act of  
 10                  2010) during the 30-day period begin-  
 11                  ning on the date that the proposed de-  
 12                  termination is published.

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

20                  “(D) REGULATIONS.—Not later than 180  
 21                  days after the date of enactment of the Geo-  
 22                  thermal Production Expansion Act of 2010, the  
 23                  Secretary shall issue regulations to carry out  
 24                  this paragraph.”.

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