

## **NONCOMPETITIVE GEOTHERMAL LEASING**

### **Two-Year Window Noncompetitive Leasing (43 CFR 3204.5, .10, and .11)**

Lands that do not receive a bid at a competitive lease sale are available on a first-come, first-served basis for a two-year period beginning the day after the sale.

An Offer to Lease, Form 3200-24a (2008), must be properly completed and signed. **Note:** The lease form may be copied; however, the document's first two pages are required to be on one page, double-sided. If the form's first two pages are not on a double-sided single page, or if an obsolete lease form is used, the offer will be rejected.

A payment consisting of the filing fee, currently \$360 and updated annually as provided in 43 CFR 3000.12, and the advance first year rental of \$1 per acre (rounded up to the nearest acre) must be submitted with the Offer to Lease.

Multiple applications filed on the same parcel the day after the competitive lease sale will be considered simultaneously filed, and the winner will be picked at random at the close of business that day.

A parcel will maintain its integrity for a period of 30 days following the sale. After the 30-day period, the lands may be reconfigured provided they are reasonably compact.

### **Noncompetitive Leasing for Lands Subject to a Mining Claim (43 CFR 3204.12)**

A noncompetitive geothermal lease may be issued to a mining claimant who has a current approved plan of operations. Lands available are limited to those described in 43 CFR 3204.12, that is, lands "within" a mining claim. Lode claimants whose claims are described in metes-and-bounds may be asked to submit additional information, such as a plat map with information to tie monuments identified on the plat to the nearest surveyed corner or aliquot corner. The applicant must submit two executed copies of the lease application Form 3200-24a, the filing fee, first-year rental, documentation of mining claim ownership, and the current approved plan of operations for the mine. For this type of noncompetitive lease, there are no restrictions on utilization of the resource which may be used directly, sold to a purchaser, or used for the commercial generation of electricity.

### **Direct Use Leasing (43 CFR 3205)**

A direct use lease is a lease that is issued noncompetitively in an area that the Bureau of Land Management (BLM) determines is appropriate for exclusive direct use of the geothermal resources. The lease is for direct use operations, without sale of the resource or any resulting electricity, and is to be used for purposes other than commercial generation of electricity. Generation of electricity for use on the lease is permitted. The area of land applied for may not be greater than what is reasonably necessary for the proposed direct use.

The BLM may consider a noncompetitive direct use lease application regardless of whether the lands covered by the application are in an area that the BLM has already designated as appropriate for exclusive direct use. However, the BLM must ensure that all of the conditions listed at 43 CFR 3205.6 are met, in addition to confirming land use plan conformance and pre-leasing National Environmental Policy Act compliance, before the BLM may issue a direct use lease. These conditions include:

- The lands applied for are open for geothermal leasing;
- The BLM determines (after appropriate consultation if other surface management agencies are involved) that the lands are appropriate for exclusive direct use, without sale, for purposes other than commercial generation of electricity;
- The acreage does not exceed the quantity of acreage reasonably necessary for the proposed use;
- The BLM publishes a notice of the land proposed for a direct use for 90 days before issuing the lease;
- During the 90-day period beginning on the date of publication, BLM does not receive a nomination to include the land in a future competitive lease sale;
- The BLM determines there is no competitive interest in the resource; and
- The applicant is the first qualified applicant.

If the BLM has determined that the lands are appropriate for exclusive direct use and there is competitive interest, the lands may be offered at a competitive lease sale. The successful bidder will then be offered a competitive geothermal lease that is limited to direct use. Unlike a direct use lease, the resources may be sold, but the resource may not be used by the operator or a purchaser for the commercial generation of electricity. The acreage limitation for this type of lease is the same as a standard lease.

#### **Noncompetitive Lease Applications Pending on August 8, 2005 (43 CFR 3204.13)**

Noncompetitive lease applications pending on August 8, 2005, (grandfathered) will be processed under policies and procedures existing on that date unless the applicant notifies the BLM in writing that the applicant elects to convert the application to the competitive leasing process specified in the new regulations. This election will be considered a nomination for future competitive sale offerings. The \$75 fee previously submitted with the lease application will be retained by the BLM and no nomination fee will be required. Use action code AC103, Additional Info Rec'd, with an entry in action remarks, "conversion rqst recd."

Grandfathered lease applications may be issued using the lease Form 3200-024 (2001) and will be subject to the regulations in effect on August 8, 2005. A lessee whose lease was issued on or after August 8, 2005, but before June 1, 2007, may elect to convert the lease or royalty rate by

December 1, 2008 (see 43 CFR 3200.8). The election to convert for leases issued on or after June 1, 2007, must be made prior to lease issuance (see 43 CFR 3200.8).

**Note Regarding Oil and Gas Lessees:**

Oil and gas lessees must have a competitive geothermal lease in order to use geothermal resources unless the lease was issued under one of the above leasing provisions.