



## **Proposed Repeal and Replacement of State Land Office Rule Relating to Geothermal Resources Leases**

### **Frequently Asked Questions**

**Why is the State Land Office proposing a new geothermal leasing rule?** The existing rule governing State Land Office geothermal resources leases was promulgated in 1969, in accordance with the Geothermal Resources Act (the “Act”), NMSA 1978, Section 19-13-1 et seq. and amended from time to time through 1999. In 2013, the Legislature substantially amended the Act in a way that requires revisions to the rule. The State Land Office’s proposed rule addresses the 2013 amendments to the Act and establishes a more effective leasing process to harness geothermal resources on state lands.

**What are geothermal resources that can be leased from the State Land Office?** The Act and the existing rule define what constitutes “geothermal resources” for the purpose of State Land Office leasing under the Act. In 2013, the Legislature amended the definition to limit it to resources having a temperature in excess of 250° F. The full definition in the Act, as amended, is as follows:

“geothermal resources” means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, or the energy in whatever form below the surface of the earth present in, resulting from, created by or which may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam in whatever form found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system.

The proposed new rule contains additional clarifications of what constitutes a geothermal resource subject to leasing under the Act. In addition, the proposed rule allows for the State Land Office to issue (i) short-term leases (not to exceed a term of five years) to conduct due diligence/exploration in anticipation of a potential long-term lease allowing use and/or production of geothermal resources; and (ii) business leases for use of heat below 250° F not governed by the Act (leases for lower-temperature resources may be either short-term or long-term, with a competitive auction).

**What is the payment framework under the rule?** In the 2013 amendment to the Act, the Legislature substantially changed and added various required terms and conditions to be included in State Land Office geothermal resources leases. The required terms and conditions include lessee payment of (i) base lease rent based upon fair market value; (ii) a royalty or percentage rent as a percentage of gross revenue derived from the production, sale or use of geothermal resources or the energy produced therefrom, based on fair market value; and (iii) a royalty from the gross

revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids based on fair market value.

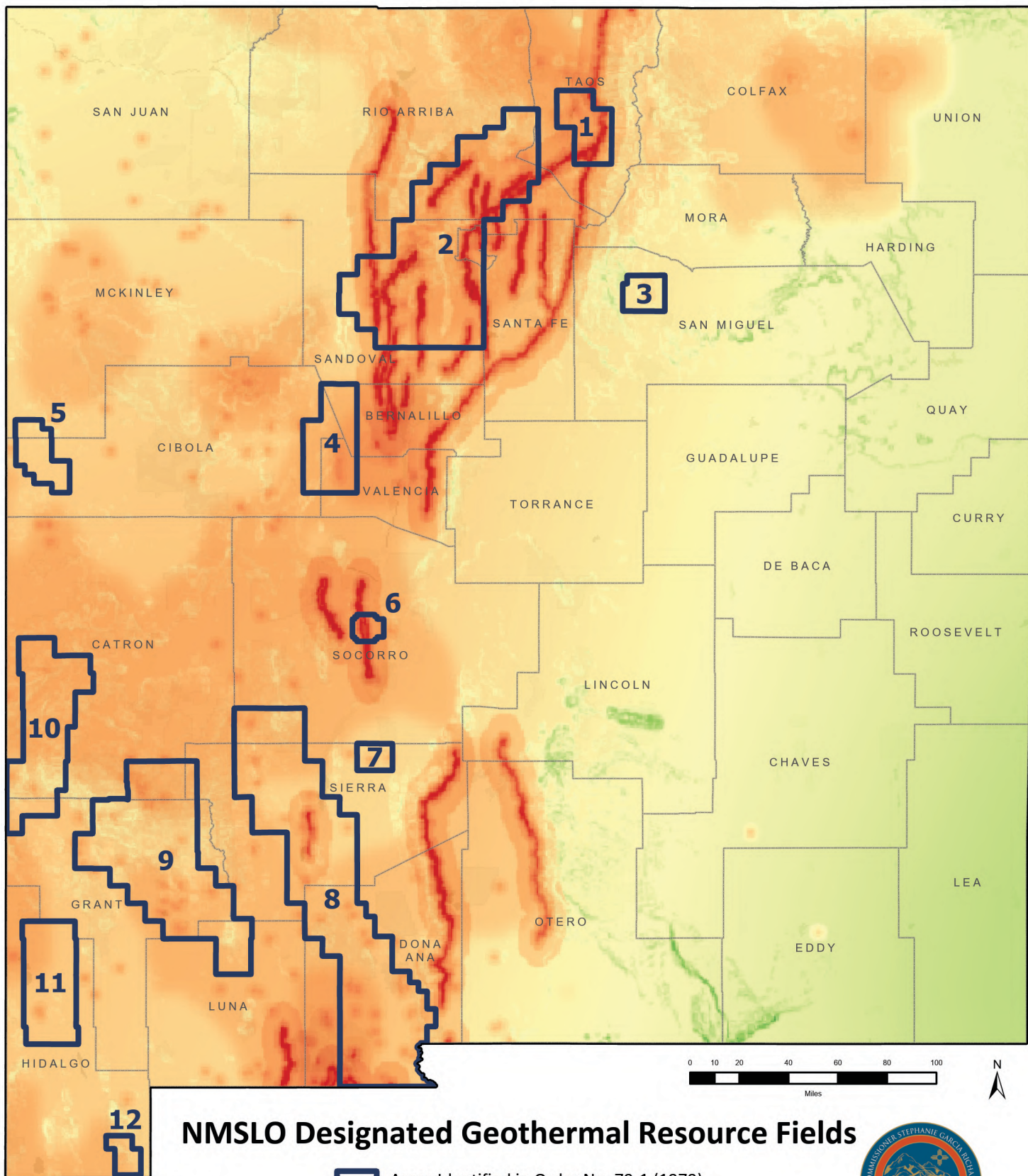
**Are there known geothermal resources fields, and if so, what effect does that have on State Land Office leasing?** The 2013 amendments to the Act require that leases be managed as a “renewable resource” and that a geothermal resource not be diminished beneath applicable natural seasonal fluctuations in the measurable quantity, quality or temperature of any area classified as a “known geothermal resources field.” The Act requires the Commissioner of Public Lands to consult with the director of the New Mexico Bureau of Geology and Mineral Resources and make a classification of known geothermal resources fields capable of producing geothermal resources in commercial quantities. In 1979, the then-Commissioner of Public Lands issued an order identifying various known geothermal resources fields (see attached map). That classification may be updated from time to time. Under the Act, a lease for use or extraction of geothermal resources in a known geothermal resources field may be issued only to the highest responsible qualified bidder in a lease sale conducted after a public notice soliciting competitive bids. As noted above, such leases for use of geothermal resources as a renewable energy resource must require that the geothermal resource not be diminished beneath applicable seasonal fluctuations. The proposed rule would create a presumption that this requirement is met where the lessee’s use of geothermal resources is conducted in accordance with a permit issued by the Energy Conservation and Management Division of the Energy, Minerals and Natural Resources Department upon a finding that the permitted activity will not impair correlative rights or result in the waste of the resources.

**What is the term of a geothermal resources lease?** A geothermal lease shall be for a primary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities. If the lessee fails to produce or utilize geothermal resources or to discover geothermal resources capable of being produced or utilized in commercial quantities from the lands during the initial five-year term, the lessee may continue the lease in full force and effect as to the portion held by the lessee for a secondary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands by continued payment each year, in advance, of rentals at the rate set by the lease. Provided that if for any reason beyond the control of the lessee production or utilization of geothermal resources in commercial quantities ceases or if the capability to so produce is temporarily lost after the secondary term has expired, the producing lessee may, with the written permission of the State Land Office, continue such lease as to the acreage held by the lessee in effect from year-to-year for an additional period not to exceed three years by continued payment of rentals as provided in the lease at the rate provided in the secondary term of the lease.


**What kind of lease is required or available to use or extract geothermal resources where the State Land Office owns only the mineral estate and not the surface estate or where there is an existing surface lease such as a grazing lease?** Since 1967, the Act has required that the Commissioner of Public Lands when leasing or selling state trust lands reserve to the State the right to execute leases for geothermal resource development and operation on the lands being leased or sold. Thus, in many instances where the State Land Office has sold the surface estate or

issued a grazing lease, a lease for extraction or use of the geothermal resources on those same lands may be available. However, the availability of a geothermal resources lease must be evaluated on a case-by-case basis by examining State Land Office records.

**How does an interested party obtain a geothermal resources lease?** Other than due diligence leases, a geothermal lease will be issued only to the highest qualified responsible bidder at a lease sale. A party seeking a State Land Office geothermal lease may submit an application to the Oil, Gas & Minerals Division (OGM) or nominate a tract of state trust land for lease auction.



## NMSLO Designated Geothermal Resource Fields

 Areas Identified in Order No. 79-1 (1979)

Geothermal opportunities as identified in  
*The Future of Geothermal in New Mexico*  
A Land of Geothermal Enchantment  
report prepared by  
Project InnerSpace, June 2025

- Power generation
- Potential power generation
- Direct use and direct heating
- Low-temp industrial heating/cooling
- Geothermal heating/cooling

<u>Area #1</u>	~207,315 Ac.	<u>Area #7</u>	~69,569 Ac.
<u>Area #2</u>	~1,683,504 Ac.	<u>Area #8</u>	~2,187,661 Ac.
<u>Area #3</u>	~101,867 Ac.	<u>Area #9</u>	~1,380,735 Ac.
<u>Area #4</u>	~368,176 Ac.	<u>Area #10</u>	~721,376 Ac.
<u>Area #5</u>	~178,505 Ac.	<u>Area #11</u>	~484,259 Ac.
<u>Area #6</u>	~53,576 Ac.	<u>Area #12</u>	~78,046 Ac.



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