OVERVIEW OF FEDERAL GEOTHERMAL UNITS & UNIT AGREEMENT REGULATIONS

Geothermal Resource Council Workshop
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Presentation Topics

- Definitions
- Laws, Regulations & Policy
- Correlative Rights Doctrine
- Development of a Geothermal Unit
- Unit Agreements
- Unit Benefits
What is a Unit

- **Unit** – An **area** described in a unit agreement as constituting the land logically subject to development under such agreement.

(43 CFR 3280.2)
What is a Unit Agreement

- **Unit Agreement** - An agreement and plan of development for the production and utilization of separately owned interests in the geothermal resources made subject thereto as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement or plan.

(43 CFR 3280.2)
What or Who is a Unit Operator

- **Unit Operator** - The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct unit operations as specified in such agreement.

(43 CFR 3280.2)
Federal Geothermal Unit Laws & Policy

- **Geothermal Steam Act of 1970**

Federal units are authorized for geothermal resources under the act.
Federal Geothermal Unit Laws & Policy (cont.)

- Authority under Title 30 U.S.C. 1017
- Codified at 43 C.F.R. 3280
BLM’s Geothermal Regulations & Policy

- 43 CFR Part 3200
  - Is the location of the regulations used by the BLM to address geothermal leasing, exploration, operations, **unitization** & utilization.

- Other than the part 3200 regulations the BLM has **No** written policy for geothermal unitization. We rely primarily upon oil & gas concepts developed over a 80 year history of management and case law. The two regulations are different and the Model Forms used for unit agreements are very different.
“The purpose ... is to provide holders of Federal and non-Federal geothermal leases and owners of non-Federal mineral interests the opportunity to unite under a Federal geothermal unit agreement to explore for and develop geothermal resources in a manner that is necessary or advisable in the public interest.”

[43 CFR 3280.1(a)]
So why exactly do we need unit agreements and designated units?

Think back to the turn of the last century
Before Unitization we had the “Rule of Capture”

- “Whatever resource that I can produce from my well is mine!!”
Correlative Rights Doctrine

- In the 1930’s courts finally understood that they were dealing with multiple owners of a common oil and gas pool and that the “Rule of Capture” had limits.

- Deals with an opportunity to receive a fair and equitable share of the source of supply, not a guarantee to receive that fair and equitable share.

- An explicit part of most state conservation regulations in the form of pooling, unitization, spacing, or proration.
Concept of Unit Agreements

- Agreements are a tool used to support the “Correlative Rights Doctrine”
- To negate the effects of the “Rule of Capture”
- Operation of multiple leases as a single lease under a single operator (important)
So how does this all fit in the development of geothermal resources?

- **Geothermal Resource Development Process**
  - **Lease acquisition**
    - Nomination
    - Competitive auction
  - **Exploration activities**
    - Unitization
  - **Drilling** production & injection wells
  - **Utilization**
    - Indirect use - Power plants
    - Direct use facilities - Fish farms, green house heating, domestic heating
  - **Abandonment** of wells & facilities
  - **Reclamation** of surface
Unit Agreement

- Model Form at 43 CFR 3286.1
- Addresses all required information
- Format and content vetted through promulgation process
- Can add or remove articles to fit unusual circumstances (be careful)
- Unit proponent should justify changes during designation meeting
- Word version available
Unit Agreement Components

- Identify unit operator
- Size and location of the unit area
- How to revise the unit area or participating area
- How to amend the unit agreement
- Effective date and term of the unit
- Initial unit obligations
- BLM modification provision of the rate development

(43 CFR 3281.14)
Unit Agreement Components (continued)

- Periodic BLM review
- Agreement will be “void” if the minimum initial unit obligations are not met
- Plan of development
- Unit contraction provision
- Termination clause five years after its effective date unless
- The agreement may include any other provisions or terms that BLM and the unit operator agree are necessary for proper resource exploration and development, and management of the unit area.
Operating Agreement

- Required by model form (Art 9.2)
- Third-party document between working interest owners
- BLM is not a party
- Three executed copies filed with BLM
- Among other items, must address:
  - Sharing of benefits (Art 9.3)
  - Allocation of unitized substances (Art 13.3)
  - Relinquishment of leases (Art 14.1 & 14.3)
  - Operations on non-participating land (Art 16.2)
  - Subsequent joinders (Art 25.2 & 25.3)
Approval Process

- Designation
- Final Approval
Designation

- Unit Application includes:
  - Unit area geology
  - Unit target formation
  - Unitized formations
  - Unit boundary
  - Obligation well location

Draft Plan of Development
Changes from the standard form
Identifies Unit operator
Final Approval

- Applicant must show:
  - All parties within unit area have been invited to join the unit, and
  - 85% of acreage within the unit area is committed to the unit agreement (effective unit control)

- Note: Non-committed acreage does not receive any benefits of the unit
Unit Agreements

- BLM may initiate formation of a unit or require Federal lease to commit to unit
- Interest of conservation
- Size based on geology
- Logical unit area designation
- Leases segregated/extended
- Obligation well
- Paying well determination
- Participating Area approvals (or revisions)
- Plans of Development
- BLM has final approval
Benefits of Units?

- Environmental and Public Interest Benefits
  - Less Surface Disturbance (pads, roads, r/w’s)

- Geothermal Resource Benefits
  - Drill wells where needed (based on geology) with no regard for lease lines. Lengthens life of the resource and uses common facilities. Wells are balanced for maximum resource extraction over time.

- Lease Benefit
  - The reservoir is under control of a single unit operator. Operations anywhere within the unit benefits all committed leases, exempt from 52,800 statewide acreage limit. Leases can be extended without actual production. Leases get 2 year extension on termination.
BLM’s Overall Unit Responsibility

- Administering the Federal Unit involves:
  - Approval
  - Monitoring
  - Termination
Review of Topics

- Definitions
- Laws, Regulations & Policy
- Correlative Rights Doctrine
- Development of a Geothermal Unit
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Resources

- The CD that you have contains:
  - A copy of this Power Point presentation
  - Title 30 U.S.C.
  - 3280 Federal Unit regulations
  - Blank Model Unit agreement form
Questions