



September 13, 2026

LakeCAP · Comments to the Lake County Board of Supervisors

ATTACHMENT 4

Section-by-section response to the Geothermal and Hydrogen Siting Guide

I. Executive overview

LakeCAP reviewed the proposed Geothermal and Hydrogen Siting Guide and appreciates the work of the Energy Policy Ad Hoc Committee and staff in researching the complex jurisdictional and permitting issues surrounding geothermal and geologic hydrogen development. The analysis contains substantial and useful information, particularly in identifying the respective roles of the County, the California Energy Commission (CEC), CalGEM, and other regulatory agencies, and in examining how recent legislation has changed the County's permitting authority.

LakeCAP recommends, however, that the Board **not adopt the document in its present form as a "Geothermal and Hydrogen Siting Guide."** As presently written it is more accurately characterized as a **Geothermal Permitting and Jurisdiction Guide**. Before adoption, several portions should be corrected or clarified to reflect current law following AB 531 and SB 254, to distinguish settled law from unresolved jurisdictional questions, to reconcile apparent inconsistencies with the companion Energy Strategy, and to clarify the still-unresolved regulatory treatment of geologic hydrogen.

LakeCAP recommends retaining and refining the jurisdictional analysis under the corrected title, while developing a **separate, genuine siting guide** that establishes where and under what conditions Lake County believes geothermal and geologic hydrogen development is appropriate. That guide should address wildfire and evacuation risk, road capacity, water availability, seismic and geologic hazards, proximity to communities, environmental and cultural resources, transmission access, cumulative impacts, and compatibility with surrounding land uses. The draft Energy Policy at Attachment 3 directs the preparation of exactly that document at Policy 5.10.

Most importantly: **where State law has reduced County authority, the County should identify and preserve every remaining lawful regulatory, environmental, fiscal, infrastructure, and negotiating tool. Uncertainty regarding the limits of County authority should not itself become a reason for the County to relinquish authority prematurely.**

Comments below are organized as corrections required, additions recommended, matters of title and scope, and provisions to retain, with a consolidated recommendation list at Section VI. Cross-references to the draft Energy Policy at Attachment 3 appear as (*Policy x.x*); cross-references to Appendix A appear as (*A § ...*).

II. Corrections and reconciliations required

II.1 — The treatment of the Geothermal Setback Area conflicts with the companion Energy Strategy

Page 3 of the Guide states that the LORS finding is an important source of County leverage and describes the Geothermal Setback Area as “the strongest LORS the County holds,” and that the CEC must find compliance or make an alternative finding permitting departure from the County requirement. Pages 8–9 similarly state that the County’s General Plan and zoning designations are LORS the CEC must analyze, and that the setback must either be complied with or expressly overridden.

Page 7 of the companion Energy Strategy states that SB 254 repealed the LORS conformity finding and the associated override under the opt-in process.

Both statements cannot be correct, and the County cannot submit both documents to the Board or to a State agency in this condition.

Recommendation. County Counsel should reconcile these statements before either document is adopted, and should issue a short citation memorandum identifying the amended statutory sections and their practical effect. The final Guide should then explain the effect of County ordinances **separately under each pathway** — exploratory, below-threshold County permitting, the Small Power Plant Exemption, traditional certification, and AB 531 opt-in — because the answer may not be identical under each. (*A § Slides 7, 17; Policies 4.6, 5.3; Attachment 3, Part F, Tier 1, item 9.*)

II.2 — Unresolved jurisdictional questions should be labeled as unresolved

Page 4 appropriately recognizes that no decided geothermal opt-in case has determined how far the term “related facility” reaches into geothermal field infrastructure. That qualification is important and easily lost.

Recommendation. Label issues of this kind expressly as “**Unsettled / Unresolved Legal Question.**” The County should not interpret uncertainty automatically in favor

of maximum State preemption. Until the CEC, the Legislature, the Attorney General, or a court establishes the boundary, Lake County should preserve every reasonable claim to its remaining jurisdiction. (*Finding B.6; Policy 5.11.*)

II.3 — The distinction between the powerplant and the geothermal field is the most consequential passage in the document and is underdeveloped

Pages 3–4 explain that geothermal production and injection wells, well pads, inter-well pipelines, and other field-development infrastructure may remain outside the CEC-certified powerplant and within County and CalGEM jurisdiction, stating that field development work is County jurisdiction regardless of eventual plant size. This is potentially the most important area of remaining County authority, and it is presented as a technical aside.

Recommendation. Expand this discussion and add a simple diagram showing wellfield → gathering pipelines → powerplant → gen-tie → interconnection point, identifying which agency controls each component under each permitting pathway. Pair the diagram with the qualification required by § II.2. (*Policy 5.11.*)

II.4 — “What Lake County Retains” should be its own prominent section, not a passage near the end

Page 8 identifies wellfield and field-infrastructure permitting, the property tax base, federal geothermal lease revenues, development agreements, and General Plan and zoning considerations among the County’s continuing interests and tools. From a County-policy standpoint this may matter more than the discussion of what authority has been lost, and it should not be buried at the end of a technical jurisdiction document. The companion Energy Strategy has the same structural problem, addressed at Appendix A.

Recommendation. Create a prominent early section titled “**What Lake County Retains.**” It should include, at minimum: retained field and wellfield permitting; discretionary approvals, zoning, and the General Plan; CEQA lead- and responsible-agency roles; development, community benefits, and cooperation agreements; County property, roads, rights-of-way, and franchise interests; the property tax base and federal geothermal lease revenue; applicant-funded cost recovery; formal participation in State proceedings; and the County’s role as the evidentiary source on local conditions. (*A § Slide 10; Attachment 3, Part C.2.*)

III. Additions recommended

III.1 — Add a section titled “County Influence Where County Permitting Authority Is Preempted”

Even where a State certificate legally supersedes a County permit, that does not mean County land-use policy, hazard information, evacuation constraints, water limitations, road conditions, cultural resources, community impacts, or other local

evidence become irrelevant to the State’s environmental and public-benefit determinations. The companion Energy Strategy depends on precisely this point when it recommends that the County become the CEC’s principal source of information on hazard and fire mapping, evacuation constraints, haul routes, and water supply.

The distinction the Guide should draw, and presently does not, is between **preemption and irrelevance**.

Recommendation. Add a section identifying every remaining opportunity for formal participation, environmental comment, proposed mitigation, fiscal analysis, property and franchise terms, development agreements, and community benefit negotiation, with the applicable deadline for each. (*Policy 4.8.*)

III.2 — Give the CEQA segmentation concern greater emphasis

Page 6 recognizes the problem created when the powerplant and the geothermal field are reviewed through separate State and County environmental processes even though they are functionally parts of one project. The concern is correct and is treated more strongly in the companion Energy Strategy.

Recommendation. Incorporate the Energy Strategy’s stronger position: environmental review should address the whole of the action, including the wellfield, pipelines, transmission connection, and haul routes, and should require disclosure of reasonably foreseeable full buildout. Where the State is lead agency, the County should request the same scope at scoping. (*A § Slide 15; Policies 5.4, 4.7.*)

III.3 — Development agreements deserve substantially more attention

Page 8 correctly states that a development agreement under Government Code § 65864 is a negotiated contract rather than a land-use permit, and identifies it as potentially available even where the CEC controls plant siting. The companion Energy Strategy likewise recommends modernizing Article 69 so that development and community benefit agreements can be used with State-certified projects.

This is potentially the principal mechanism by which County resources and cooperation become tangible public benefit, and it receives a single paragraph.

Recommendation. Explain when such an agreement can be negotiated, what consideration supports it, what subjects can lawfully be negotiated, when negotiations should begin, and what County authority must already be in place for the County to sign. Note expressly that the authority must exist **before** a State proceeding concludes. (*A § Slide 14; Policies 3.1–3.3, 8.1, 8.2.*)

III.4 — Develop the statutory local economic benefit requirement into a County methodology

Page 3 recognizes that CEC opt-in certification requires an overall net positive economic benefit to the local government that would otherwise have had permitting

authority, and identifies employment, housing, infrastructure, and local tax revenue as relevant considerations. This is a County opportunity, not merely another procedural requirement — and where that finding operates as a rebuttable presumption, the County that arrives with a published methodology controls the record.

Recommendation. Develop a **Lake County Fiscal and Community Impact Methodology** before the first opt-in application arrives, establishing how the County measures infrastructure and road demand, emergency services, housing, workforce effects, water, environmental burdens, tax revenues, and other costs and benefits. (*A § Slide 13; Policy 4.5.*)

III.5 — Add a “County Action / Opportunity” column to the agency jurisdiction tables

Pages 7–8 identify the roles of the CEC, CalGEM, State Lands, the Water Board, CDFW, the CPUC, CAISO, the County, the Air Quality Management District, Environmental Health, Public Works, fire agencies, BLM, USFS, and EPA. The tables tell the reader who holds authority. They do not tell County staff what to do about it.

Recommendation. Keep the tables and add a final column — participate, comment, negotiate, require cost recovery, impose conditions within retained jurisdiction, provide technical evidence, or coordinate with the responsible agency — with the responsible County department named. (*Policies 4.2, 4.4, 4.8.*)

III.6 — Convert the CEQA role discussion into an operational staff checklist

Pages 4–6 explain the distinction among lead, responsible, and trustee agencies and identify the County’s different CEQA roles by pathway. Particularly useful is the observation that under a Small Power Plant Exemption the CEC prepares the environmental document even though the County ultimately issues its own use permit, which makes early County participation in CEC scoping especially important.

Recommendation. Convert this into a checklist staff can actually run: project proposed → identify pathway → identify County approvals → determine CEQA role → identify comment deadlines → identify responsible departments → report to Board and public. (*Policies 4.2, 5.4.*)

IV. Title, hydrogen, and the document the County still needs

IV.1 — The hydrogen title is premature

The Guide does not establish a distinct hydrogen permitting or siting framework. More importantly, the companion Energy Strategy states that CalGEM currently treats geologic hydrogen as geothermal only informally, and recommends obtaining that interpretation in writing before an application arrives.

Recommendation. Until that jurisdictional question is resolved, either retitle the document **“Geothermal Permitting and Jurisdiction Guide,”** or retain a hydrogen section clearly labeled **“Preliminary — Regulatory Jurisdiction Pending Written State Determination.”** Obtain the written determination as a Tier 1 action. (*Policy 5.2; Attachment 3, Part F, Tier 1, item 8.*)

IV.2 — This is not yet a siting guide

The document does not tell a resident, a developer, a Supervisor, or a planner **where Lake County believes development should and should not occur.** It explains who issues permits. By contrast, page 16 of the Energy Strategy proposes an eventual County siting map considering disturbed ground, resource quality, leasehold, interconnection, haul routes, and environmental sensitivity — an item flagged at \$2–4 million, requiring outside funding, and presently assigned to no one.

The County should not wait for the map to state the criteria. Criteria are a policy act and cost little; the map is a technical product and costs a great deal. Adopting the criteria first also gives the County something to say in a State proceeding that begins before the map exists.

Recommendation. Prepare a genuine siting guide establishing objective criteria addressing, at minimum: wildfire risk; evacuation capacity; road adequacy and haul routes; proximity to residences, schools, and communities; water demand and availability; seismic and geologic hazards; environmental sensitivity and habitat; tribal and cultural resources; existing disturbance and resource quality; leasehold; transmission and interconnection access; cumulative impacts; and compatibility with existing land uses. Adopt the criteria on County staff time; fund the map and any program-level environmental document from outside sources. (*A § Slide 16; Policies 5.6, 5.10; Attachment 3, Part F, Tier 2 item 23 and Tier 3 item 25.*)

V. Provisions to retain

Pages	Provision	LakeCAP position
1–2	Permitting-pathway tables for exploratory projects, projects below 50 MW, the Small Power Plant Exemption pathway, traditional CEC certification, and geothermal opt-in	Retain. AB 531 changed the practical significance of the 50 MW threshold, and the Guide correctly identifies the consequence — a 20 MW or 40 MW geothermal project may now elect the State pathway. Retitle this portion “Permitting and Jurisdiction Pathways”; it is an excellent reference table and is not a siting policy.
3–4	Distinction between the certified powerplant and geothermal field infrastructure	Retain and expand per § II.3

Pages	Provision	LakeCAP position
4	Acknowledgment that the reach of “related facilities” is undecided	Retain and label per § II.2
4–6	Lead, responsible, and trustee agency roles; the County’s CEQA role by pathway	Retain; convert to a checklist per § III.6
6	CEQA segmentation concern	Retain and strengthen per § III.2
7–8	Agency jurisdiction tables	Retain; add the action column per § III.5
8	County interests surviving State plant certification	Retain; elevate per § II.4
8	Development agreement as a negotiated contract	Retain; expand per § III.3
3	Net positive local economic benefit requirement	Retain; develop into a methodology per § III.4

VI. Summary of recommendations on the Siting Guide

1. Do not adopt the document as a siting guide; retitle it a **Geothermal Permitting and Jurisdiction Guide**.
2. Reconcile the LORS and setback treatment with the companion Energy Strategy under County Counsel’s direction, and explain the effect of County ordinances separately under each permitting pathway.
3. Label unresolved jurisdictional questions as unresolved, and do not concede authority whose boundary is unsettled.
4. Expand the powerplant / field-infrastructure distinction and add a component-by-agency diagram.
5. Create a prominent early section titled **“What Lake County Retains.”**
6. Add a section on **County influence where County permitting authority is preempted**.
7. Strengthen the CEQA segmentation discussion to whole-of-the-action review and full buildout disclosure.
8. Expand the treatment of development and community benefits agreements, including the timing of County authority.
9. Develop a **Lake County Fiscal and Community Impact Methodology** before the first opt-in application.
10. Add a “County Action / Opportunity” column to the agency tables and a CEQA operational checklist for staff.
11. Obtain the written State determination on geologic hydrogen classification, and label the hydrogen material preliminary until it arrives.
12. Adopt objective County siting criteria now, on staff time, and fund the siting map and any program-level environmental document from outside sources.