

**CHAFFEE COUNTY COLORADO  
RESOLUTION 2013-33**

**A RESOLUTION ADOPTING GUIDELINES AND REGULATIONS FOR THE  
ADMINISTRATION OF THE USE OF GEOTHERMAL RESOURCES  
FOR THE COMMERCIAL PRODUCTION OF ELECTRICITY  
(PREVIOUSLY DESIGNATED AS AN ACTIVITY OF STATE INTEREST)**

**BACKGROUND:**

- A. Chaffee County, Colorado (the "County") supports and encourages the full, orderly, and efficient development of geothermal resources while, at the same time preserving and enhancing agricultural, environmental, and recreational resources to the fullest extent practicable.
- B. The County wishes to facilitate the use of the geothermal resources for commercial production of electricity.
- C. The Board of County Commissioners of the County of Chaffee, Colorado (hereinafter "the Board") is authorized by, inter alia, C.R.S. § 24-65.1-101, et seq., C.R.S. § 29-20-101, et seq., and C.R.S. § 24-32-111 to adopt regulations for the protection of the public health, safety, and welfare of the inhabitants of Chaffee County.
- D. C.R.S. § 24-65.1-101, et seq. grants authority to local governments, including counties, acting by and through their boards of county commissioners to designate matters of state interest.
- E. The County has adopted regulations for areas and activities of state interest for the purpose of facilitating identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria of C.R.S. § 24-65.1-101, et seq. (the "County's 1041 Regulations").
- F. Pursuant to C.R.S. § 24-65.1-203(1)(j) the General Assembly has identified the use of geothermal resources for the commercial production of electricity as an activity of state interest. On April 2, 2013, the County has designated the use of geothermal resources for the commercial production of electricity as an activity of state interest pursuant to Resolution 2013-24.
- G. On May 21, 2013 (and continued to July 2, 2013, July 16, 2013, August 6, 2013, September 3, 2013 and October 1, 2013), the Board conducted a duly noticed public hearing pursuant to C.R.S. § 24-65.1-401 and the County's 1041 Regulations for the purpose of considering the guidelines and regulations concerning the use of geothermal resources for the commercial production of electricity as an activity of state interest.

H. During the hearing, various witnesses and exhibits were heard and presented for the Board's consideration, recommendations from the County's Planning Commission were considered and testimony was taken from the general public and any and all persons desiring to appear and give such testimony and present evidence.

## **FINDINGS AND RESOLUTION:**

The Board resolves as follows:

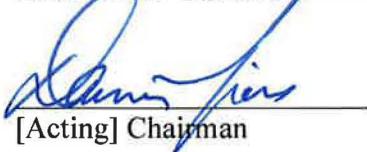
1. Findings. The Board, after considering testimony and evidence, makes the following findings:
  - 1.1. The notice and public hearing requirements of C.R.S. § 24-65.1-404 and the County's 1041 Regulations have been followed.
  - 1.2. Consideration has been given to the statutory guidelines and other applicable guidelines for adopting guidelines and regulations for activities of state interest.
  - 1.3. The proposed regulations reasonably protect against the detrimental effects of developing geothermal resources for commercial production of electricity in an uncontrolled manner and:
    - 1.3.1. Encourage the responsible production of electricity from the geothermal resources in the County;
    - 1.3.2. Ensure that development of geothermal resources for the commercial production of electricity does not have an unacceptable impact on private property rights;
    - 1.3.3. Ensure that development of geothermal resources for commercial production of electricity does not prevent development of geothermal resources for other purposes;
    - 1.3.4. Ensure that development of geothermal resources is undertaken in such a manner as to safeguard life, health, property, public welfare, and the environment.
  - 1.4. Adoption of the proposed regulations is necessary to protect the environment and the public health, safety, and welfare of the citizens of Chaffee County.'
2. Adoption. Chapter 10 (The Use of Geothermal Resources for Commercial Production of Electricity) of the County 1041 Regulations, as attached hereto, is hereby adopted.
3. Amendment of Existing Regulations.
  - 3.1. Section 1-101(1) of the County's 1041 Regulations shall be amended to reflect the addition of Chapter 10.

3.2. Section 1-308 of the County's 1041 Regulations shall be deleted in its entirety.

4. **Severability.** All provisions of this Resolution are intended to be severable. If a court or administrative body declares any provision or its application to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision of this Resolution or the attached guidelines and regulations. If a court or administrative body determines a provision or its application to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.
5. **Repealer.** All resolutions, or parts thereof, in conflict with this Resolution are hereby repealed, provided that this repealer shall not repeal the repealer clauses of such resolutions nor revive any resolution thereby. Specifically, all moratoriums on the development of the use of the geothermal resources for commercial production of electricity and other uses are hereby terminated.
6. **Effective Date.** This Resolution shall be in full force and effect immediately upon adoption by the Board.

ADOPTED AND APPROVED by the Chaffee County Board of County Commissioners on October 1, 2013

BOARD OF COUNTY COMMISSIONERS

  
[Acting] Chairman

The vote on the above Resolution was as follows:

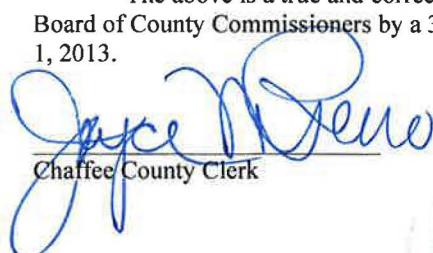
Commissioner Frank F. Holman  yes

Commissioner Dennis Giese  yes

Commissioner Dave Potts  yes

STATE OF COLORADO, CHAFFEE COUNTY  
ATTEST:

The above is a true and correct record of Resolution 2013-33 duly adopted by the Chaffee County Board of County Commissioners by a 3-0 vote at a regular meeting, properly noticed and held on October 1, 2013.

  
Chaffee County Clerk

## CHAPTER 10

### **GUIDELINES AND REGULATIONS FOR THE USE OF GEOTHERMAL RESOURCES FOR COMMERCIAL PRODUCTION OF ELECTRICITY**

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## **Article 1 General Provisions**

- 10-101 **Title and Citation.** These Regulations are entitled "Guidelines and Regulations for the Use of Geothermal Resources for Commercial Production of Electricity," or "Regulations."
- 10-102 **Applicability.** These Regulations shall apply to the use of geothermal resources for the commercial production of electricity ("Commercial Use of Geothermal Resources") on public or private lands, located wholly or partially within the unincorporated areas of Chaffee County.
- 10-103 **Permit or Statement of No Impact Required.**
- (1) No person may engage in Commercial Use of Geothermal Resources without first obtaining either a Permit or a Statement of No Impact under these Regulations. No person may engage in exploration for geothermal resources for commercial use without filing an Activity Notice under these Regulations.
  - (2) The County shall not issue any building permit or grant other approvals for Commercial Use of Geothermal Resources subject to these Regulations without the applicant having first obtained a Permit or a Statement of No Impact under these Regulations.
  - (3) The Commercial Use of Geothermal Resources may only be located in a zoning district where such use is allowed, including where allowed by a special land use permit, or by another review process identified in the Land Use Code. The application submittal and review procedures are contained in this Article unless specifically referenced.

10-104 **Exemptions from These Regulations**

- (1) **Statutory Exemptions.** These Regulations shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 17, 1974:
  - (a) The development or activity is covered by a current building permit issued by the appropriate local government; or
  - (b) The development or activity has been approved by the electorate; or

- (c) The development or activity is to be on land:
- i. Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or
  - ii. Which has been zoned by the appropriate local government for the use contemplated by such development or activity; or
  - iii. With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority.

- (2) **Other Exemptions.** These Regulations shall not apply to Commercial Use of Geothermal Resources approved by the County as of the effective date of these Regulations.

**10-105 Relationship to Other County, State and Federal Regulations**

- (1) **No County Land Use Change Permit Required.** No County Land Use Change Permit is required for the Commercial Use of Geothermal Resources for the Production of Energy subject to these Regulations.
- (2) **Transmission Lines not Subject to These Regulations.** The development of transmission lines associated with Commercial Use of Geothermal Resources is not subject to the requirements of these Regulations. The development of such transmission lines requires a County Land Use Change Permit.
- (3) **Inconsistencies or Conflict with Other Regulations and Requirements.** If any provision of these Regulations is found to be inconsistent or in conflict with other County standards or requirements, or the statutory criteria for administration of matters of state interest set forth in C.R.S. §§ 24-65.1-202 and 204, the more stringent standards or requirements shall control.
- (4) **Coordination of County Permit Process with Permit Processes of other Agencies.**
  - (a) **Coordinated Review.** The applicant may request that the County application and review process be coordinated with that of other agencies. The County

will attempt to eliminate redundant application submittal requirements and will coordinate its review of the application with other agencies, as appropriate.

- (b) **Coordinated Permit Conditions.** The County will coordinate its approval of the application, including the terms and conditions of such approval, with that of other agencies so that the applicant is not subjected to duplicative terms and conditions which address the same standard.
- (c) **No Intent to Conflict.** These Regulations shall not be applied to create an operational conflict with any state or federal laws or regulations.

10-106 **Intergovernmental Agreements.** Upon the request of the State of Colorado ("state") or a political subdivision of the state, as defined by C.R.S. § 29-1-202(1), proposing Commercial Use of Geothermal Resources, the requirement for a permit for Commercial Use of Geothermal Resources pursuant to these Regulations may be met by the approval of an intergovernmental agreement between the County and the state or political subdivision applicant. The County may, but shall be under no obligation to, approve such an intergovernmental agreement. In the event such an intergovernmental agreement is approved by the County, a permit for Commercial Use of Geothermal Resources shall not be required if all of the following conditions are met:

- (1) The state or political subdivision applicant and the County must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and C.R.S. §§ 29-1-201 et seq., § 29-20-105, and § 29-20-107 to enter into the agreement.
- (2) The findings set forth in section 10-201 of these Regulations must be satisfied by the terms of the agreement.
- (3) The Board shall conduct a public hearing on the proposed intergovernmental agreement in conformance with section 2-302 of Chapter 2, Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County. Prior to the hearing, the Board of County Commissioners shall approve the form of any proposed intergovernmental agreement, provided, however, that the final approval of the intergovernmental agreement shall take place at the conclusion of or subsequent to the public hearing. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have

been determined to be acceptable to the applicant and to the County.

- (4) Both the Board and the governing body of the state or political subdivision applicant must approve the intergovernmental agreement in the manner required for each entity by the Colorado Constitution, statutes and any applicable charter, ordinance or resolution.
- (5) Exercise of the provisions of this section 10-106 by the state or political subdivision applicant will not prevent that entity from electing at any time to pursue permit review under these Regulations. Additionally, any state or political subdivision applicant which has initiated permit review under these Regulations may at any time elect to proceed instead under this section 10-106.

10-107 **Severability.** If any section, subsection, sentence, clause or phrase of these Regulations is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these Regulations as a whole or any part other than the part declared invalid.

10-108 **Definition of Words and Terms Specific to This Chapter**

- (1) **Adverse** means unfavorable, harmful.
- (2) **Board of County Commissioners or Board** means Board of County Commissioners of the County of Chaffee.
- (3) **Use of Geothermal Resources for the Commercial Production of Electricity or Commercial Use of Geothermal Resources** means the siting, drilling, deepening, reworking, closure or abandonment of a geothermal well; siting of power production facilities and operations; and all construction, site preparation, reclamation and related activities associated with the development of geothermal resources for the commercial production of electricity. Transmission lines and related facilities are not included within this definition.
- (4) **Completed well** means a well that has been drilled to its total depth, has been cased, grouted, and pressure or flow tested as required, has been equipped with production equipment if needed, and is ready to be placed into service.
- (5) **Designation** means that legal procedure specified by C.R.S. §§ 24-65.1-401, 402 and 406 for designating Matters of

State Interest. It also includes the revocation and amendment of such designations.

- (6) **Development** means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.
- (7) **Development area** means those geographic areas within the County that will be developed or altered directly by construction or operation of the Project.
- (8) **Director** means the Development Director or his/her designee.
- (9) **Exploration** means any activity relating to the search for evidence and confirmation of geothermal resources. This activity requires physical presence on the land and may result in damage to surface lands or resources. Exploration includes, but is not limited to, geophysical operations such as surface or down-hole seismic, temperature gradient wells, exploratory wells, and subsequent flow testing.. It also includes related construction of roads and trails, and cross-country transit by vehicles over surface land. Exploration operations do not include the production or beneficial use of geothermal resources.
- (10) **Geothermal well** means a well that is constructed for the use of a geothermal resource for the commercial production of electricity, or reinjection of a geothermal fluid from such well.
- (11) **Impact area** means those geographic areas, including the development area, in which any impacts are likely to be caused by the Project.
- (12) **Mitigation** means an action that will have one or more of the following effects:
  - (a) Avoiding an impact by not taking a certain action or parts of an action.
  - (b) Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
  - (c) Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service.
  - (d) Reducing or eliminating the impact over time by

preservation and maintenance operations.

- (e) Compensating for the impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.
- (13) **Net effect** (relating to mitigation) means the impact of an action after mitigation.
- (14) **Permit** means a permit for use of geothermal resources for commercial production of electricity issued by the Board of County Commissioners pursuant to this Chapter 10.
- (15) **Permit Authority** means the Board of County Commissioners, or its designee.
- (16) **Production equipment** means any pump, fluid circulating system, or other device used or intended for extracting geothermal resources from a well. Production equipment includes well seals, well heads, control devices, and couplings appurtenant thereto.
- (17) **Production facilities** include, but are not limited to, power plants, extraction plants, and separators.
- (18) **Project** means the construction and operation of an activity proposed under these Regulations throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County.
- (19) **Reinjection** means reintroducing geothermal fluids through a well into the same reservoir from which they were produced, whether by pressure at the surface or by gravity flow.
- (20) **Significant** means deserving to be considered important; notable and not trifling.
- (21) **Significantly degrade** means to lower in grade or desirability to a significant, as opposed to trifling, degree
- (22) **Significantly deteriorate** means to make inferior in quality or value to a significant, as opposed to trivial, degree.

- (23) **Significant adverse impact** means an impact of an action, after mitigation, which is considerable or substantial, and unfavorable or harmful.
- (24) **Zero discharge system** means a system that accesses the heat from a geothermal resource through water or other fluids, and returns the fluids to the source through re-injection, without discharging to or coming in any contact with surface waters or other groundwater aquifers.

**Article 2**      **Designation of Use of Geothermal Resource for Commercial Production of Electricity**

10-201 **Findings.** The Board of County Commissioners hereby finds that:

- (1) Developing geothermal resources for commercial production of electricity in an uncontrolled manner could result in detrimental effects to water resources and water supplies and detrimental effects on people, property, and the environment.
- (2) The advantages of developing geothermal resources for commercial production of electricity in a controlled manner include:
  - (a) To encourage the responsible production of electricity from the abundant geothermal resources in the County.
  - (b) To ensure that development of geothermal resources for the commercial production of electricity does not have an unacceptable impact on private property rights.
  - (c) To ensure that development of geothermal resources for commercial production of electricity does not prevent development of geothermal resources for other purposes.
  - (d) To ensure that development of geothermal resources is undertaken in such a manner as to safeguard life, health, property, public welfare, and the environment.

10-202 **Designation of Activity of State Interest.** Based upon the findings in section 10-201, the Board of County Commissioners hereby designates the use of geothermal resources for commercial production of electricity to be an activity of state interest subject to the provisions of this Chapter 10.

**Article 3**      **Exploration Activity Notice**

10-301 Activity Notice Required. Exploration activities shallower than 2500 feet below the earth's surface are not subject to the permit application and review requirements of these Regulations provided the operator files an Activity Notice for exploration and reclamation activities with the Director pursuant to Section 10-302 and 10-303 (no approval of such notice is required). Exploration activities deeper than 2500 feet below the earth's surface are not subject to the permit application and review requirements of these Regulations provided the operator files and receives approval of an Activity Notice for exploration and reclamation activities with the Director, as further described in this Article.

10-302 Activity Notice Submittal Requirements. An operator filing an Activity Notice shall submit the below information and materials to the Director. The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed exploration complies with the Activity Notice approval criteria in Section 10-304.

The exploration activities may be presented by the applicant and approved by the Director in an iterative manner or as a phased process as additional information is developed. Application materials submitted to other agencies may be submitted to satisfy one or more submittal requirements if the materials contain the information required under this section.

- (1) The name, address, and telephone number of the person proposing exploration activities.
- (2) The name, address, and telephone number of the person who will be present at and responsible for conducting the proposed exploration activities.
- (3) If the surface land comprising the proposed exploration area is owned by a person other than the person who intends to conduct exploration activities, the name and address of the owner of record of the surface land and a description of the basis upon which the person proposing exploration activities claims the right to enter the proposed exploration area.
- (4) A map, at a scale acceptable to the County, showing the proposed exploration area. The map shall specifically show:
  - (a) Location of all exploratory wells proposed to be drilled or altered;

- (b) Location of existing and proposed roads and the existing and proposed access routes;
  - (c) Earth or debris storage and disposal areas;
  - (d) Topographic and drainage features;
  - (e) Historic and cultural features;
  - (f) Existing bodies of surface water;
  - (g) Wildlife habitats and habitats of any endangered or threatened species;
  - (h) Areas of developed geothermal resources;
  - (i) Recreation areas; and
  - (j) Location of occupied dwellings.
- (5) An exploration and reclamation plan including:
- (a) **Description of Exploration Area.** A narrative description of the proposed exploration area, cross-referenced to the map required in section 10-302(4), that identifies surface topography, geology, drainage, surface water, and other physical features; vegetative cover; wildlife habitats and habitats of endangered or threatened species; and recreational, historical and archaeological resources located within the proposed exploration area.
  - (b) **Description of Proposed Exploration.** A narrative description of the proposed exploration, including maximum number and location of drill holes intended for the proposed exploration, cross referenced to the map required in Section 10-402(4), and their size and depth; a narrative description of the methods to be used to conduct exploration, including, but not limited to the type(s) of drilling, construction of access routes, and an estimated timetable for conducting and completing each phase of exploration and reclamation.
  - (c) **Description of Reclamation.** A narrative description of the methods to be used for reclamation of the

exploration area upon completion of each phase of exploration activities.

- (d) **Protection of Public Health and the Environment.** A narrative description of the practices proposed to be followed to ensure public health and safety and to protect the environment and wildlife habitats from adverse impacts as a result of the proposed exploration and reclamation activities.
- (e) **Permit(s) Issued by State Engineer.** A copy of the drilling permit(s) issued by the State Engineer for the proposed exploration.

10-303 **Confidential Information.** Upon request of the applicant, information submitted to the County pursuant to Section 10-302 concerning trade secrets, or privileged commercial or financial information that relates to the competitive rights of the person or entity intending to explore the described area shall be kept confidential and not be available for public examination. The applicant shall clearly mark such information as "confidential" and submit it in a separate packet.

10-304 **Approval Criteria for Activity Notice.** The following criteria shall apply to evaluate all requests for approval of an Activity Notice for exploration activities associated with Commercial Use of Geothermal Resources.

- (1) **Property Rights, Access Agreements, Permits and Approvals.** Prior to site disturbance associated with the proposed exploration activities the operator can and will obtain all property rights, access agreements, permits, and approvals necessary for the proposed exploration. If the applicant has not obtained all necessary property rights, access agreements, permits and approvals, the County may, at its discretion, defer making a final decision on the Activity Notice until outstanding property rights, access agreements, permits and approvals are obtained.
- (2) **Soils, Geologic, and Natural Hazards.** The proposed exploration activities are not subject to significant risk from soils, geologic, or natural hazards. Examples of factors the County may consider in determining risk include without limitation:
  - (a) Faults and fissures.
  - (b) Unstable slopes including landslides, rock slides and avalanche areas.

- (c) Expansive or collapsible soils and risk of subsidence.
  - (d) Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
  - (e) Exacerbation of seismic concerns and subsidence.
  - (f) Flood hazard.
  - (g) Wildfire hazard.
- (3) **Hazardous Materials and Drilling Byproducts or Waste.** The proposed exploration activities shall not result in significant risk of releases of hazardous materials and drilling byproducts or waste. Each drilling site shall be reclaimed upon completion of drilling activities.
- (4) **Disturbance to Surface Areas.** The proposed exploration activities shall be conducted in a manner that will minimize disturbance to surface areas.
- (5) **Recreation Opportunities and Experiences.** The proposed exploration activities shall not cause a significant degradation in the quality or quantity of recreational activities in the County.
- (6) **Areas of Paleontological, Historic, or Archaeological Importance.** The proposed exploration activities shall be conducted in a manner that will be compatible with the preservation of the resource and minimize damage to the resource, if applicable.
- (7) **No Significant Degradation of the Natural Environment.**
- (a) **Air Quality.** The proposed exploration activities shall not significantly degrade air quality.
  - (b) **Surface Water Quality.** The proposed exploration activities shall not significantly degrade surface water quality.
  - (c) **Groundwater Quality.** The proposed exploration activities shall not significantly degrade groundwater quality.

- (d) **Wetlands and Riparian Areas.** The proposed exploration activities shall not significantly degrade wetlands and riparian areas.
  - (e) **Wildlife and Wildlife Habitat.** The proposed exploration activities will not significantly degrade wildlife or sensitive wildlife habitat.
- (8) **Exploration Activities Will Not Cause a Nuisance.** The proposed exploration activities will not cause excessive noise and vibration levels, dust, fumes, glare, exterior artificial light, and odor.

10-305 Decision on Activity Notice by Director

- (1) **Director's Decision.** Not more than thirty (30) working days after receipt of a complete Activity Notice, the Director shall approve, deny, or conditionally approve the exploration activity, based upon whether the proposed exploration satisfies the approval criteria in Section 10-304.
- (2) **Consultant and Referral Agency Review.** The Director may refer the Activity Notice to consultants and other state or federal agencies to assist with review of the Activity Notice.
- (3) **Filing Fees.** The Activity Notice shall be accompanied by appropriate fees. A schedule of fees adopted by the Board is available through the Planning Department.
  - (a) **Applicant Responsible for Cost of Review.** The applicant is responsible for the costs of reviewing and processing the Activity Notice including costs of copying, labor and overhead.
  - (b) **Applicant Responsible for Referral Agency and Consultant Fees.** The applicant is responsible for the costs of referral agency and consultant review of the Activity Notice.
- (4) **Call-up or Request for Reconsideration of Activity Notice Decision.**
  - (a) The Board may, at its discretion, review and amend the Director's Activity Notice decision at the next regularly scheduled meeting of the Board for which proper notice can be accomplished in accordance with the Land Use Code.

- (b) Within seven (7) calendar days of the date of written notice of the Director's Activity Notice decision, the applicant or any adjacent property owner may request in writing that the Board reconsider the Director's Activity Notice decision at the next regularly scheduled meeting for which notice can be accomplished in accordance with the Land Use Code.

## Article 4 Application Review and Action

### 10-401 Application Review Procedure

- (1) **Pre-Application Conference.** Any person proposing to engage in Commercial Use of Geothermal Resources shall first request a pre-application conference with the Director. The conference will be held within ten (10) working days of the request.
- (a) **Purpose.** The purposes of the pre-application conference include, without limitation:
- i. To discuss the location and nature of the proposed Project and site specific considerations that bear on the proposed Project;
  - ii. To discuss whether the proposed Project is eligible for a Statement of No Impact or whether a Permit is required;
  - iii. To explain Permit application submittal requirements and the nature of materials that will be responsive to those requirements;
  - iv. To identify materials that may have been submitted to other state or federal agencies that the project proponent may propose to use in the County application process;
  - v. To discuss federal and state terms and conditions that may have been imposed on the proposed Project;
  - vi. To discuss projected impacts and potential mitigation;
  - vii. To discuss the standards that must be satisfied for permit approval; and

viii. To identify potential operational conflicts, or waivers of standards based on technical infeasibility or environmental protection that the applicant intends to raise.

(b) **Materials.** At or before the pre-application conference, the project proponent shall submit the following materials:

i. The proponent's name, address and phone number. If the applicant is not the owner of the property where the proposed Project will occur, applicant shall also provide the name, address and phone number of the property owner and documentation that the property owner consents to the proposed Project.

ii. Map prepared at an easily readable scale showing:

- 1) Boundary of the proposed Project.
- 2) Relationship of the proposed Project to surrounding topographic and cultural features such as roads, streams and existing structures.
- 3) Proposed building(s), improvements and infrastructure.
- 4) Topographic information in intervals not less than forty (40) feet.

iii. Written summary of the Project.

iv. Why the Project is eligible for a Statement of No Impact under Section 10-401(2)(c) if the proponent is seeking a Statement of No Impact.

(c) **Participation by County Staff and Consultants.** The Director may include staff from other departments and agencies, and outside consultants in the pre-application conference.

(d) **Comments Are Preliminary.** Any comments made by County staff and consultants during the pre-application

conference are preliminary in nature and not binding.

(2) **Application Submittal, Determination of Completeness, and Determination of Whether the Proposed Project Is Eligible for a Statement of No Impact.**

- (a) **Application Submittal.** Following a pre-application conference with the Director, an applicant shall submit an application to the Director. See section 10-402 of these Regulations for the content of the application.
- (b) **Determination of Completeness of Application.** Not more than ten (10) working days after receipt of the application materials, or twenty (20) working days if outside consultants or staff other than Planning Department assist the County with completeness determination, the Director shall determine whether the application is complete.
- i. **Application Is Not Complete.** If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.
- ii. **Application Is Complete.** If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.
- iii. **Completeness Is Not a Determination of Compliance.** A determination that an application is complete shall not constitute a determination that it complies with the approval criteria of these Regulations.
- (c) **Determination of Whether the Proposed Project is Eligible for a Statement of No Impact.** As part of the completeness determination, the Director shall determine whether the proposed Project is eligible for a

Statement of No Impact or if the proposed Project requires a Permit.

- i. **Statement of No Impact.** Director may make a finding of no impact, and a Permit under these Regulations will not be necessary, if the proposed Project without mitigation in its proposed location is unlikely to have any significant adverse impact to the County. The Director's decision shall take into consideration the approval criteria set forth in section 10-404 of these Regulations.
- ii. **Subject to Permit Review.** If the Director determines that the proposed Project is not eligible for a Statement of No Impact, then the proposed Project shall be subject to permit review set forth in section 10-403 of these Regulations.
- iii. **Notice of Statement of No Impact or Determination that the Proposed Project is Subject to Permit Review.** Within five (5) calendar days of the Statement of No Impact or the determination that the proposed Project is subject to permit review, the Director shall notify the applicant, the Board, and adjacent property owners in writing of its decision. The notice shall include a description of the proposed Project and the procedure for requesting reconsideration of the Statement of No Impact or determination that the proposed Project is subject to permit review.
- iv. **Reconsideration of Director's Statement of No Impact or Determination that the Proposed Project Is Subject to Permit Review.**
  - 1) **Call-up by the Board.** The Board may, at its discretion, review and amend the Director's Statement of No Impact or determination that the proposed Project is subject to permit review at the next regularly scheduled meeting of the Board for which proper notice can be accomplished in accordance with the County Land Use Code, following the date of written notice of determination.

- 2) **Request for Reconsideration.** The applicant or adjacent property owners may request that the Board reconsider the Director's Statement of No Impact or determination that the proposed Project is subject to permit review at the next regularly scheduled meeting for which proper notice can be accomplished in accordance with the County Land Use Code, following the request. The request shall be in writing, within seven (7) calendar days following the date of written notice of determination.

(3) **Permit Review Process.**

(a) **Public Notice.**

- i. **Notice by Publication.** Not later than thirty (30) calendar days after determination that the application is complete under section 10-401(2)(b), the Director shall publish a notice of public hearing on the application. The notice shall be published in a newspaper of general circulation in the area where the proposed Project is located, not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing. The applicant shall be responsible for the cost of publication.
- ii. **Written Notice to Adjacent Property Owners.** Not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to the owners of record of all adjacent property by certified mail, return receipt requested.
  - 1) **List of Property Owners.** The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.
  - 2) **Validity of Notice.** The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith

efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

- iii. **Sign Posting.** Not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing, the applicant shall post a sign, provided by the County at the site. The sign shall include information related to the application and the public hearing notice.

- (b) **Review by Planning Commission.** The Director shall submit a copy of the complete application to and seek review comments from the Planning Commission. The Planning Commission shall consider the application at a properly noticed regular meeting or Commission work session. No public hearing by the Commission is required. The Planning Commission shall submit review comments to the Board no later than twenty (20) working days from the date that the application is determined to be complete.
- (c) **Consultant Review.** The Director may submit the complete application for review and recommendation by consultants retained by the County with the necessary expertise to review the application. The costs of consultant review are the responsibility of the applicant as set forth in section 10-402(2) of these Regulations.
- (d) **Referral Agency Review.** The Director may submit the application for review and recommendation to other County departments, and municipal, state, or federal agencies having an interest in or authority over all or part of the proposed Project. The referral review and comment period shall be twenty (20) working days from the date that the application is determined to be complete. Comments not received from referral agencies within the comment period may, but need not be considered by the Director. The costs of referral agency review are the responsibility of the applicant as set forth in section 10-402(2) of these Regulations.
- (e) **Application Review and Staff Report by Director.** The Director shall review the application to determine if the proposed Project satisfies the approval criteria set

forth in section 10-404 of these Regulations. The Director shall prepare a report taking into account the application, Planning Commission review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state and federal agencies, and any other available information on the record.

i. **Contents of Staff Report.** The report shall:

- 1) Briefly describe the proposed Project and highlight issues raised by the Planning Commission, consultants, and referral agencies.
- 2) Discuss state or federal requirements that may have been imposed on the proposed Project and the extent to which any of the terms, conditions, and requirements satisfy County standards applicable to the proposed Project.
- 3) Discuss the impacts of the proposed Project, the proposed mitigation, and whether it appears that each standard has been satisfied.
- 4) Recommend conditions of approval for any standard that appears not to have been fully satisfied, or recommend denial.
- 5) Include additional information that would be relevant to the decision of the Board.

ii. **Distribution of Staff Report.** No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board. A copy of the staff report shall also be available for public review prior to the hearing.

10-402 **Application Submittal Requirements.** The applicant shall include the following materials in the application. The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed project complies with the approval criteria in section 10-404.

- (1) **Authorized Applicant.** Completed application forms and

accompanying materials shall be submitted to the Director by the owner, or any agent acting through written authorization of the owner.

- (a) **Authorized Agent.** If the applicant is not the owner of the land or geothermal resource, or is a contract purchaser of the land or geothermal resource, the applicant shall submit a letter signed by the owner consenting to the submission of the application.
- (b) **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land or geothermal resource, the applicant shall submit a letter signed by all other owners or an association representing all the owners, by which all owners consent to or join in the application.

(2) **Application Form and Fees.**

- (a) **Application Fee Set by the Board.** The application shall be accompanied by appropriate fees. A schedule of fees adopted by the Board is available through the Planning Department.
  - (b) **Applicant Responsible for Cost of Review.** The applicant is responsible for the costs of reviewing and processing the application including costs of copying, mailings, publications, labor and overhead, and all hearings and meetings on the application.
  - (c) **Applicant Responsible for Referral Agency and Consultant Fees.** The applicant is responsible for the costs of referral agency and consultant review of the application including reviews associated with the pre-application conference and completeness determination.
  - (d) **Deposit.** An application shall be accompanied by a deposit set forth in the schedule of fees adopted by the Board. The deposit shall be applied toward the costs of the pre-application meeting, referral agency review, and consultant fees. The County shall initially pay the costs of referral agency review and outside consultants retained by the County to review the application from this fund.
- i. **Balance.** Throughout the application process, the

applicant shall maintain a minimum fee deposit balance established by the Board. The amount of the deposit and the minimum balance required may be reduced upon a finding by the Director that the application processing and review costs are likely to be less than the minimum amount set herein.

- ii. **Suspend Processing.** The County may suspend processing the application pending receipt of additional installments required to bring the fee deposit balance to at least the minimum balance. The County will take no action on the application until all fees and expenses related to the application review process have been paid. Suspension shall toll all deadlines imposed on the County by these Regulations.
- iii. **Refund.** Within thirty (30) calendar days after a Statement of No Impact is issued or the decision on the Permit is made, the County shall refund any balance of the deposit not expended.

### (3) **Information Describing the Applicant.**

- (a) The names, addresses, email address, phone number, organization form, and business of the applicant and, if different, the owner of the proposed Project.
- (b) Authorization of the application by the owner of the proposed Project, if different than the applicant.
- (c) Written qualifications of those preparing reports and providing certifications required by these Regulations.

### (4) **Information Describing the Project.**

- (a) Detailed plans and specifications of the proposed Project.
- (b) Amount and type of energy (KW, MW) and/or products to be produced by the proposed Project.
- (c) Detailed map(s) showing the location of all existing and proposed structures and appurtenant facilities.

- (d) Description of the surface water and groundwater to be used by the proposed Project including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees, and application for decrees; proposed points of diversion and changes in the points of diversion; and the existing uses of the water. If an augmentation plan for the proposed Project has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.
- (e) Discussion of the alternatives to the proposed Project that were considered and rejected by the applicant, including the general degree of feasibility of each alternative and reasons why alternatives were rejected.
- (f) Schedules for construction and operation of the proposed Project, including the estimated life of the proposed Project.

**(5) Property Rights, Permits and Other Approvals.**

- (a) Description of property rights that are necessary for or that will be affected by the proposed Project, and documentation establishing property rights and easement and right-of-way agreements connected with the property.
  - (b) A list and copies of all other federal, state, and local permits and approvals that have been or will be required for the proposed Project, together with any proposal for coordinating these approvals with the County's permitting process.
  - (c) A description of all mitigation required by federal, state and local authorities and copies of any draft or final environmental assessment or environmental impact statement required for the proposed Project.
- (6) Socioeconomic Impact Analysis.** An analysis of the socioeconomic impact of the proposed Project. The analysis shall include a description of how the applicant will comply with the applicable approval criteria set forth in section 10-404 of these Regulations.

**(a) Land Use.**

- i. Description of existing land uses within and adjacent to the proposed Project.
- ii. Description of provisions from comprehensive plans, master plans, and intergovernmental agreements that are applicable to the proposed Project, and an assessment of whether the proposed Project will be consistent with or further the objectives of those provisions.
- iii. Description of impacts to land use patterns and net effect that the proposed Project would have on existing and future land use patterns.

(b) **Local Government Services.**

- i. Description of existing capacity of and demand for local government services including roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure or other County services necessary to accommodate the proposed Project.
- ii. A map that identifies the access route to, and within the subject property, and an analysis of the impacts of the proposed Project on the public roadway system.
- iii. Description of the impacts and net effect of the proposed Project on the capability of local government to provide services, and proposed mitigation.

(c) **Local Economy.**

- i. Description of the local economy, including revenues generated by the different economic sectors and the value or productivity of different lands.
- ii. Description of impacts and net effect of the proposed Project on the local economy, and proposed mitigation.

(d) **Recreational Opportunities.**

- i. Description of present and potential recreational uses in the area where the proposed Project will be located.
- ii. Description of the impacts and net effect of the proposed Project on present and potential recreational opportunities and revenues to the local economy derived from those uses, and proposed mitigation.

**(7) Areas of Paleontological, Historic or Archaeological Importance.**

- (a) Map and description of all sites of paleontological, historic or archaeological interest, if applicable.
- (b) Description of the impacts and net effect of the proposed Project on sites of paleontological, historic or archaeological interest, and proposed mitigation, if applicable.

**(8) Environmental Impact Analysis.**

- (a) **Air Quality.** Descriptions of the impacts and net effect that the proposed Project would have on air quality during both construction and operation, and proposed mitigation.
- (b) **Visual Quality.**
  - i. Map and description of ground cover and vegetation, forest canopies, waterfalls and streams, viewsheds, scenic vistas, unique landscapes and land formations or other natural features of visual importance.
  - ii. Descriptions of the impacts and net effect that the proposed Project would have on visual quality, and proposed mitigation.

**(c) Surface Water Quality and Quantity.**

- i. Map and description of all surface waters that will be affected by the proposed Project, including description of applicable state water quality

standards for water bodies that will be affected by the proposed Project.

- ii. Map and description of existing points of diversion for municipal, agricultural, industrial, and recreational uses of water within the County.
- iii. Descriptions of the immediate and long-term impact and net effects that the proposed Project would have on the quantity and quality of surface water, and proposed mitigation.

**(d) Groundwater Quality and Quantity.**

- i. Map and description of all groundwater, including any aquifers that will be affected by the proposed Project, including:
  - 1) Seasonal water levels in each subdivision of the aquifer affected by the proposed Project.
  - 2) Artesian pressure in aquifers and a description of how the proposed Project may affect adjacent communities and users on wells.
  - 3) Groundwater flow directions and levels.
  - 4) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
  - 5) Existing groundwater quality and classification.
  - 6) Location of all water wells and their uses.
- ii. Description of the impacts and net effect of the proposed Project on groundwater, and proposed mitigation.

**(e) Drinking Water Supplies.**

- i. An inventory and location of all water bodies and domestic water wells within one mile of the proposed Project.

- ii. Identification of all intakes for any municipal water supplies downstream from the proposed Project.
- iii. A description of impacts to drinking water supplies associated with the proposed Project, and proposed mitigation.

(f) **Wetlands and Riparian Areas.**

- i. Map and description of all wetlands, and riparian areas that will be affected by the proposed Project, including a description of each type of wetlands, species composition, and biomass.
- ii. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
- iii. Description of the impacts and net effect that the proposed Project would have on wetlands and riparian areas, and proposed mitigation.

(g) **Wildlife and Wildlife Habitat.**

- i. An analysis of existing wildlife and wildlife habitat.
- ii. A detailed map indicating the location of summer and winter ranges, critical habitat, migration routes, calving grounds, mating grounds, and nesting grounds in relationship to the proposed structures and appurtenant facilities.
- iii. Description of the impacts and net effect that the proposed Project would have on wildlife and wildlife habitat, and proposed mitigation.

(h) **Identification of Other Geothermal Resources Affected by the Proposed Project.** Description and map of the impacts and net effect that the proposed Project would have on geothermal resources and proposed mitigation.

(9) **Soils, Geologic Conditions, and Natural Hazards.**

- (a) Map and description of soils, geologic conditions, and natural hazards, including soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
  - (b) Descriptions of the risks to the proposed Project from natural hazards, and proposed mitigation.
  - (c) Descriptions of the impact and net effect of the proposed Project on soil and geologic conditions in the area, and proposed mitigation.
- (10) **Nuisance.** Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the proposed Project, and proposed mitigation.
- (11) **Balance Between Benefits and Losses.**
- (a) Description of foreseeable benefits to the county created by the proposed Project.
  - (b) Description of foreseeable losses of natural, agricultural, recreational, or industrial resources within the County and loss of opportunities to develop those resources in the future.
- (12) **Drainage and Erosion Control Plan.** A detailed plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the proposed Project.
- (13) **Weed Management Plan.** A plan for the management and prevention of noxious weeds on the site.
- (14) **Emergency Response Plan.** A plan that addresses events including, but not limited to blow-outs, major fluid spills, earthquakes, fires, floods and other emergencies, including: proof of adequate personnel, equipment, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations. The plan shall include a notification list of response agencies. The plan shall include a provision for the owner or operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

- (15) **Reclamation Plan.** A detailed plan showing proposed reclamation including: schedules; finish contours, grading, sloping; types, placement, and amount of vegetation; subsequent land use plans; and any other proposed elements.
- (16) **Spill Prevention, Storage and Control Plan.** A detailed plan that describes spill prevention, containment, control, storage, countermeasure and clean-up procedures and protocols.
- (17) **Monitoring and Mitigation Plan.**
  - (a) Description of all mitigation for the proposed Project.
    - i. Description of how and when mitigation will be implemented and financed.
    - ii. Description of impacts that are unavoidable and cannot be mitigated.
    - iii. Description of methodology used to measure impacts of the proposed Project and effectiveness of proposed mitigation measures.
  - (b) Description, location, and intervals of proposed monitoring to ensure that mitigation will be effective.
  - (c) The Board may at its discretion require the applicant to prepare a revised monitoring and mitigation plan for review and approval by the County as a condition of permit approval.
- (18) **Additional Information May Be Necessary.** The Director may request that the applicant supply additional information related to the proposed Project as may be necessary for the Board to make a determination on whether the proposed Project satisfies approval criteria.

#### 10-403 Action on Permit Application by Board

- (1) **Permit Hearing.** The Permit Hearing shall be conducted in accordance with Article 3, *Permit Hearing*, and Article 4, *Issuance, Revocation or Suspension of Permits* of Chapter 2, Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County.
- (2) **Application of Approval Criteria.**

- (a) The Board shall apply the approval criteria in 10-404 to determine whether a permit should be issued.
- (b) In determining whether the proposed Project satisfies the approval criteria, the Board shall take into consideration the construction, operation and cumulative impacts of the proposed Project. A project cannot be segmented to avoid the requirements of these Regulations. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or elements of the development must be considered together when determining whether the proposed Project satisfies the approval criteria.

#### 10-404 Approval Criteria

##### **(1) Performance Criteria.**

- (a) **Property Rights, Permits and Approvals.** Prior to site disturbance associated with the proposed Project, the applicant can and will obtain all property rights, permits, and approvals necessary for the proposed Project. If the applicant has not obtained all necessary property rights, permits and approvals, the County may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
- (b) **Property Rights.** The proposed Project shall not significantly degrade property rights held by others.
- (c) **No Significant Impact to Geothermal Resource.** The proposed Project shall not significantly impact geothermal resources used by others. Examples of factors the County may consider in determining impacts include the following:
  - i. temperature
  - ii. chemistry
  - iii. volume
- (d) **Hazardous Materials.** The proposed Project shall not result in significant risk of releases of hazardous materials. Examples of factors the County may consider in determining risk include without limitation:

- i. Adequacy of spill prevention and response plans.
- ii. Likelihood of hazardous materials or wastes being moved off the site by natural causes or forces.

(e) **Soils, Geologic, or Natural Hazards.** The proposed Project is not subject to significant risk from soils, geologic, or natural hazards. Examples of factors the County may consider in determining risk include without limitation:

- i. Faults and fissures.
- ii. Unstable slopes including landslides, rock slides and avalanche areas.
- iii. Expansive or evaporative soils and risk of subsidence.
- iv. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
- v. Exacerbation of seismic concerns and subsidence.
- vi. Flood hazard.
- vii. Wildfire hazard.

(f) **Local Government Services.** The proposed Project shall not significantly degrade the capability of local government to provide services, or exceed the capacity of service delivery systems within the County. Examples of factors the County may consider in determining impacts to local government services include without limitation:

- i. **Public Roadways.** Current and projected capacity of roads and the impact of the proposed Project upon the current and projected capacity.
  - 1) All public access roads under the jurisdiction of the County shall be constructed and maintained in compliance with the Chaffee County Road Standards as necessary to

accommodate the traffic and equipment related to Project operations and emergency vehicles.

- 2) Ingress and egress points to County roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
  - 3) If the projected use of County roads resulting from the proposed Project will result in a need for an increase in roadway maintenance or snow removal, the County shall require the applicant to: 1) enter into an agreement with the County whereby the applicant provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or 2) provide a bond or other financial assurance; and/or 3) pay impact fees in an amount acceptable to the County to cover the costs of impacts to the roads.
- ii. **Water Supply.** Change in the amount of water available to the County for future water supply.
  - iii. **Water Treatment.** Changes in the current and future capacity of water treatment services.
  - iv. **Wastewater Treatment.** Change in current and future capacity of wastewater treatment services.
  - v. **Emergency Services.** Change in current and future capacity for provision of emergency services.
- (g) **No Significant Degradation of the Economy.** The proposed Project shall not significantly degrade any current or foreseeable future sector of the local economy. Examples of factors the County may consider in determining impacts to the economy include without limitation:
- i. Changes to projected revenues generated from each economic sector.

ii. Changes in the value or productivity of any lands.

iii. Changes in opportunities for economic diversification.

(h) **Recreation Opportunities and Experiences.** The proposed Project shall not cause a significant degradation in the quality or quantity of recreational activities in the County. Examples of factors the County may consider in determining impacts to recreation include without limitation:

i. Changes to existing and projected visitor days.

ii. Changes in access to recreational resources.

iii. Changes to quality and quantity of hiking and biking trails.

iv. Changes to the wilderness experience or other opportunity for solitude in the natural environment.

v. Changes to hunting.

(i) **Areas of Paleontological, Historic, or Archaeological Importance.** The proposed Project shall be conducted in a manner that will be compatible with the preservation of the resource and minimize damage to the resource, if applicable.

(j) **No Significant Degradation of Agricultural Lands.** The proposed Project shall be designed to retain the maximum amount of usable agricultural land and not interfere with existing irrigation and drainage patterns.

(k) **The Proposed Project Will Not Significantly Degrade the Natural Environment.**

i. **Air Quality.** The proposed Project shall not significantly degrade air quality. Examples of factors the County may consider in determining impacts to air quality include without limitation:

1) Changes to seasonal ambient air quality.

2) Changes in visibility.

3) Changes to microclimates.

4) Applicable air quality standards.

ii. **Visual Quality.** The proposed Project shall not significantly degrade visual quality. Examples of factors the County may consider in determining impacts to visual quality include without limitation:

- 1) Visual changes to ground cover and vegetation, streams or any other natural feature, or interference with view sheds and scenic vistas and ridgelines.
- 2) Visual changes resulting from construction activities and from the existence and operation of the proposed Project.
- 3) Changes to unique or fragile areas, including geological formations, forested areas, critical view sheds or water bodies.
- 4) Compatibility of proposed facility and appurtenant structures with surrounding land uses.

iii. **Surface Water Quality.** The proposed Project shall not significantly degrade surface water quality. Examples of factors the County may consider in determining impacts to surface water quality include without limitation:

- 1) Applicable narrative and numeric water quality standards.
- 2) Changes in point and nonpoint source pollution loads.
- 3) Increase in erosion and sediment loads. The proposed project shall be conducted in accordance with the drainage and erosion control plan.
- 4) Changes in stream channel or shoreline stability.

5) Changes in storm water runoff flows.

iv. **Groundwater Quality.** The proposed Project shall not significantly degrade groundwater quality. Examples of factors the County may consider in determining impacts to groundwater quality include without limitation:

- 1) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- 2) Changes in capacity and function of wells within the impact area.
- 3) Changes in quality of well water within the impact area.

v. **Wetlands and Riparian Areas.** The proposed Project shall not significantly degrade wetlands and riparian areas. Examples of factors the County may consider in determining impacts to wetlands and riparian areas include without limitation:

- 1) Changes in the structure and function of wetlands and riparian areas.
- 2) Changes to the filtering and pollutant uptake and storage capacities of wetlands and riparian areas.
- 3) Changes to aerial extent of wetlands and riparian areas.
- 4) Changes in species characteristics and diversity.
- 5) Transition from wetland to upland species.
- 6) Introduction of exotic, nuisance, or invasive species into wetland and riparian areas.

vi. **Designated Floodplains.** The proposed Project

complies with the County's applicable floodplain regulations.

- vii. **Wildlife and Wildlife Habitat.** The proposed Project will not significantly degrade wildlife or sensitive wildlife habitat. These criterion are in lieu of those contained in Chapter 9 of the Chaffee County 1041 Regulations and apply to all geothermal projects. Examples of factors the County may consider in determining impacts to wildlife and wildlife habitat include without limitation:
- 1) Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any wildlife, taking into account:
    - a. Human related activities that will disrupt necessary life cycle functions of wildlife.
    - b. Elimination, reduction and/or fragmentation of wildlife habitat.
    - c. Disruption of necessary migration or movement patterns, preventing wildlife from using their entire habitat.
    - d. Displacement of wildlife species into areas that cannot support or sustain the species over the long term.
    - e. Fragmentation of large areas of native vegetation and habitat by existing development and the proposed Project.
    - f. Protection of rare landscape elements such as locally rare vegetation, unique rock formations, sheltered draws or drainage ways.
    - g. Maintenance of connections among wildlife habitats and provisions to identify and protect corridors for

movement.

- 2) Changes in threatened or endangered species.
- 3) Changes to habitat and critical habitat conditions necessary for the protection and propagation of aquatic species.

(l) **Benefits Outweigh the Loss of Resources.** The benefits accruing to the County and its citizens from the proposed Project outweigh the losses of any natural, agricultural, recreational, grazing or commercial resources within the County, or the losses of opportunities to develop such resources.

(m) **Best Alternative.** The proposed Project represents the alternative that best complies with these Regulations.

(2) **Siting and Operational Criteria.**

(a) **Project Located to Minimize Disturbance to Surface Areas.**

- i. Project production facilities shall, to the extent practicable, be located to minimize impacts to residential and commercial land uses.
- ii. All off-site collection and injection pipelines shall, to the extent practicable, share existing dedicated rights-of-way. All surface pipelines shall be painted and/or landscaped to blend with the environment. For pipelines to be installed adjacent to public roads, applicant shall consult with the Chaffee County Road and Bridge Department in order to minimize impacts on existing and future road needs.
- iii. Project drill sites shall be accessed by existing roads to the extent practicable.

(b) **Setback Requirements.** Unless other mitigation techniques would justify a lesser setback, the following setbacks shall apply to structures and wells appurtenant to the proposed Project. Where state, federal, and County setback requirements differ, the most stringent setback requirements shall control.

Property Boundary	100'
Public Roads	100'
Residence	1320'
School	1320'
Hospital	1320'
Any Other Permanent Structure/Development	300'

Structures appurtenant to the proposed Project shall have a wildlife buffer setback to the maximum extent practicable.

- (c) **Removal and Disposal of Drilling Wastes upon Completion of Drilling.** Within sixty (60) calendar days after completion of the drilling of a well, all drilling wastes must be removed from the drilling site and disposed of in accordance with applicable federal and state regulations.
- (d) **Zero Discharge System.** The geothermal facility shall utilize a zero discharge system.
- (e) **The Project Will Not Cause a Nuisance.** The proposed Project will not cause excessive noise and vibration levels, dust, fumes, glare, exterior artificial light, and odor. The following prescriptive standards also shall apply:
  - i. All vehicles and construction equipment will be properly maintained to minimize exhaust emissions and will be properly muffled to minimize noise.
  - ii. All work in preparation of the site for drilling shall be done between the hours of 7 a.m. and 7 p.m.
  - iii. Drill pipes shall be racked and/or made up between the hours of 7 a.m. to 7 p.m. unless soundproofing is provided.
  - iv. Well venting and testing shall be accompanied by the use of an effective muffling device or "silencer."

- v. Impulse noises such as sudden steam venting shall be controlled by discharge through a muffler or other sound attenuating system, as appropriate.
  - vi. Lights should be directed or shielded to confine direct rays to the project site.
  - vii. If the geothermal system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The abandoned system shall be removed by the owner, at the owner's expense, and the impact area restored to be compatible with surrounding uses and as agreed to by the County.
- (f) **Leak Detection and Spill Protection.** All production equipment shall be maintained in a manner that prevents leaking and spilling.
- (g) **Impact Area Shall Be Reclaimed Upon Cessation of Project Operation.** When the operation of the permitted Project has ceased, all facilities and appurtenances shall be dismantled and removed, and the impact area shall be restored as requested by the landowner and agreed to by the County in the approved reclamation plan.
- (h) **Signage.** All Project well sites shall have a durable sign bearing the current name and number of the well; emergency telephone number; and name and/or insignia of the operator and the owner. The sign shall be displayed at all times from the commencement of drilling operations until the well has been abandoned.
- (3) **Waiver of Criteria for Operational Conflict.** The County may waive one or more of the approval criteria set forth in this section 10-404 for operational conflict in accordance with the following procedure:
- (a) **State and Federal Operational Conflict Defined.**
- i. **Definition of State Operational Conflict.** A state operational conflict exists if the application of the County approval criterion to the conduct of the Commercial Use of Geothermal Resources would:

- 1) Conflict with a state statute, regulation or other requirement; and
  - 2) Materially impede or destroy the state's interest in Commercial Use of Geothermal Resources.
- ii. **Definition of Federal Operational Conflict.** A federal operational conflict exists if compliance with both a federal statute, regulation or other requirement and the County approval criterion is a physical impossibility, or when the application of the County approval criterion to the Commercial Use of Geothermal Resources would stand as an obstacle to the accomplishment of the full purposes and objectives of Congress expressed in the federal statute, regulation or other requirement.

- (b) **Request for Operational Conflict Waiver.** The applicant may make a written request to the Director to waive a criterion for Operational Conflict Waiver at any time during the Permit application review process, but no later than fourteen (14) calendar days following a final decision on the Permit.
- i. The Director shall schedule a public hearing by the Board at the next regularly scheduled meeting for which proper notice can be accomplished following receipt of the Request for Operational Conflict Waiver.
  - ii. Notice of Public Hearing.
    - 1) Not less than fourteen (14) calendar days prior to the hearing, the Director shall publish a notice of public hearing in a newspaper of general circulation in the area where the proposed Project is located. The applicant shall be responsible for the cost of publication.
    - 2) Not less than fourteen (14) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public

hearing to the owners of record of all adjacent property by certified mail, return receipt requested.

- 3) The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.
  - 4) The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.
- (c) **Determination on Request for Operation Conflict Waiver.** If the Board determines that the applicant has met its burden of proof with a preponderance of evidence that application of the approval criterion to the proposed Project will result in an operational conflict with a state or federal statute, regulation, or other requirement, the Board may waive the approval criterion to the extent necessary to avoid the operational conflict. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.
- (4) **Waiver of Criteria for Technical Infeasibility or Enhanced Protection.** The County may waive one or more of the approval criteria for technical infeasibility or enhanced protection set forth in this section 10-404 in accordance with the following procedures:
- (a) **Definition of Technical Infeasibility.**
    - i **No Economical Technology.** There is no economical technology commercially available to conduct the Commercial Use of Geothermal Resources in compliance with the approval criterion; and
    - ii **Protection of Public Health, Safety, Welfare and the Environment.** The conduct of

Commercial Use of Geothermal Resources, if the approval criterion is waived will be protective of public health, safety, welfare and the environment.

- (b) **Definition of Enhanced Protection.** The waiver of one or more criteria allows implementation of an alternate approach that enhances protection of public health, safety, welfare and the environment.
- (c) **Request for Waiver of Standards for Technical Infeasibility or Environmental Protection.** The applicant may make a written request to the Director for waiver of one or more approval criteria for technical infeasibility or enhanced protection at any time during the application process.
- (d) **Determination on Request for Waiver.** The Board shall consider a request for waiver during its review and final decision on the proposed Project. If the Board determines that the applicant has met its burden of proof with a preponderance of evidence that application of the approval criterion to the proposed Project is technically infeasible or that protection of public health, safety, welfare and the environment will be enhanced by a proposed alternate approach, the Board may waive the approval criterion. The Board may impose conditions on the waiver that are necessary to minimize any negative impacts.

**FLOWCHART****Section 10-401 - Application Procedure**