AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Board adoption of Geothermal Regulations and Fee Schedule

Fiscal Impact:

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 10/31/2014 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\khaase Discharge Date: 10/31/2014

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5 minutes

Agenda Date: 11/4/2014 Follow Up Agenda Date:

Revised April 2013

Gunnison County Community
Development Department
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

October 28, 2014

TO: **Board of County Commissioners**
Matthew Birnie, County Manager
David Baumgarten, County Attorney

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Geothermal Regulations - Resolutions**

Please find the attached BOCC Resolutions for the adoption of the *Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity* and Schedule of Fees. The fee schedule is the same as that adopted for the review of Oil and Gas applications. The rationale being that the impact review process/cost for Geothermal Generation Operation applications would be very similar to, if not the same, as Oil and Gas applications.

GUNNISON COUNTY, COLORADO

REGULATIONS FOR THE USE OF GEOTHERMAL RESOURCES FOR THE COMMERCIAL GENERATION OF ELECTRICITY

10-21-14

TABLE OF CONTENTS

SECTION 1-101: GENERAL PROVISIONS. 2
SECTION 1-102: DESIGNATION OF USE OF GEOTHERMAL RESOURCES FOR COMMERCIAL PRODUCTION OF ELECTRICITY TO BE AN ACTIVITY OF STATE INTEREST PURSUANT TO C.R.S. 24-65.1-101 ET SEQ. 3
SECTION 1-103: PERMITS. 3
SECTION 1-104: OPERATIONS EXEMPTED FROM SUBMITTAL AND REVIEW REQUIREMENTS. 4
SECTION 1-105: IMPACT CLASSIFICATION. 5
SECTION 1-106: SAGE-GROUSE PRE-APPLICATION CONFERENCE……4
SECTION 1-107: PRE-APPLICATION SUBMITTAL REQUIREMENTS. 6
SECTION 1-108: APPLICATION SUBMITTAL REQUIREMENTS. 7
SECTION 1-109: COORDINATION WITH STATE OR FEDERAL ACTIONS AND COUNTY PERMIT PROCESS. 18
SECTION 1-110: PERMIT REVIEW PROCEDURES FOR GEOTHERMAL ELECTRICAL GENERATION OPERATION. 18
SECTION 1-111: GEOTHERMAL ELECTRICAL GENERATION OPERATION STANDARDS. 23
SECTION 1-112: PUBLIC NOTICE. 25
SECTION 1-113: CONDUCT OF PUBLIC HEARING. 26
SECTION 1-114: ENFORCEMENT AND PENALTIES. 26
SECTION 1-115: COMMENCEMENT OF OPERATION. 27
SECTION 1-116: GUARANTY OF CONDITIONS OF APPROVAL. 27
SECTION 1-117: AMENDING THESE REGULATIONS. 28
SECTION 1-118: DEFINITIONS. 29

GUNNISON COUNTY, COLORADO
REGULATIONS FOR THE USE OF GEOTHERMAL RESOURCES
FOR THE COMMERCIAL GENERATION OF ELECTRICITY

SECTION 1-101: GENERAL PROVISIONS.

A. TITLE. These Regulations are titled the Gunnison County "Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity" and may be referred to as the "Geothermal Regulations."

B. PURPOSE. It is the intent of Gunnison County to foster the full, orderly and efficient development of geothermal resources for the commercial generation of electricity while protecting public health, safety and welfare, the environment and wildlife, and protecting public and private property rights.

C. APPLICABILITY. These Geothermal Regulations shall apply to all Geothermal Electrical Generation Operations on public or private lands, located wholly or partially, in the unincorporated areas of Gunnison County. Mapping activities and ordinary maintenance and repairs, that shall not result in surface disturbance or result in expansion of the Operation, are exempt from these Geothermal Regulations.

D. AUTHORITY. These *Regulations* are authorized by, *inter alia*, C.R.S. 24-65.1-101 through 24-65.1-502; 30-28-101, et seq.; 30-28-201, et seq.; and 29-20-101, et seq.

E. INTENT TO NOT DUPLICATE OTHER PERMIT PROCESSES OR REQUIREMENTS. The County intends to avoid duplicative permit processes or requirements. The applicant, may request that the Gunnison County application and review process be coordinated with that of other agencies. Gunnison County intends to eliminate redundant application submittal requirements and shall reasonably coordinate its review of the application with other agencies as appropriate.

F. RELATIONSHIP TO THE *GUNNISON COUNTY LAND USE RESOLUTION*. These Geothermal Regulations are intended to be a stand-alone document and are not an addenda to or a Section of the Gunnison County Land Use Resolution. These Geothermal Regulations, rather than the *Land Use Resolution*, shall apply to Geothermal Generation Operations, except as noted below.

G. RELATIONSHIP TO OTHER GUNNISON COUNTY REQUIREMENTS. All Geothermal Electrical Generation Operations or transmission lines shall require compliance with all applicable Gunnison County Regulations and requirements including the following Sections of the *Gunnison County Land Use Resolution*:

1. *Section 3-112: Notice of Public Hearing*
2. *Section 3-113: Conduct of Public Hearing*
3. *Section 11-103: Development in Areas Subject to Flood Hazards*
4. *Section 11-104: Development in Areas Subject to Geologic Hazards*
5. *Section 11-106: Protection of Wildlife Habitat Areas*
6. *Section 11-110: Development Beyond Snowplowed Access*
7. *Section 12-107: Fire Protection*
8. *Section 13-115: Reclamation and Noxious Weed Control*

9. *Section 13-119: Standards to Ensure Compatible Uses*; and
10. *Gunnison County Standards and Specifications for Road and Bridge Construction*; and
11. *Gunnison County Overweight Vehicle Permit Requirements*.

If any provision of these Geothermal 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, the more stringent standards or requirements shall control.

H. SEVERABILITY. If any section, subsection, clause or phrase of these Geothermal Regulations is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these Geothermal Regulations as a whole or any part other than the part declared invalid.

SECTION 1-102: DESIGNATION OF USE OF GEOTHERMAL RESOURCES FOR COMMERCIAL PRODUCTION OF ELECTRICITY TO BE AN ACTIVITY OF STATE INTEREST PURSUANT TO C.R.S. 24-65.1-101 ET SEQ.

A. FINDINGS. The Board of County Commissioners hereby finds that:

1. All applicable notice and public hearing requirements have been followed;
2. Designation of development of geothermal resources for the commercial production of electricity as an activity of state interest is necessary because of the current and foreseeable development pressures on and within the County;
3. 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; and
4. 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 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 for commercial production of electricity is undertaken in such a manner as to safeguard life, health, property, public welfare, and the environment.

B. DESIGNATION OF ACTIVITY OF STATE INTEREST. Based upon the findings in Section 1-102.A., the Board hereby designates the Use of Geothermal Resources for Commercial Production of Electricity to be an activity of state interest subject to the provisions of these Geothermal Regulations.

SECTION 1-103: PERMITS.

A. PERMIT REQUIRED. No person shall engage in, cause, allow or conduct any Geothermal Electrical Generation Operation prior to obtaining a Permit unless the Operation falls within the exemptions in *Section 1-104*.

B. PERMIT ISSUED UPON FINAL APPROVAL. A Geothermal Electrical Generation Operation Permit shall be issued by Gunnison County upon final approval of the application. The permit shall become effective only when:

1. DEVELOPMENT IMPROVEMENT AGREEMENT EXECUTED AND FUNDED. The Development Improvement Agreement has been executed and funded; and

2. APPROVAL DOCUMENT RECORDED. The Certificate of Approval of a Geothermal Electrical Generation Operation Permit application has been recorded in the Office of the Gunnison County Clerk and Recorder.

C. PERMITS RUN WITH LAND. All obligations under any Geothermal Electrical Generation Operation Permit issued under this *Resolution* shall run with the land, subject to the restrictions of *Transfer of Permit.*

D. TRANSFER OF PERMIT. A Geothermal Electrical Generation Operation Permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board. The Board shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Permit, and these Regulations that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can and will be made.

E. PERMIT IS NOT A SITE-SPECIFIC DEVELOPMENT PLAN. A Geothermal Electrical Generation Operation Permit issued pursuant to these Regulations is not a site-specific development plan, and no statutory vested rights shall inure to the permit.

F. TERM OF PERMIT.

1. PROJECT REQUIRED TO BEGIN WITHIN TWELVE MONTHS OF PERMIT ISSUANCE. The Applicant shall take substantial steps to initiate the permitted project within 12 months from the date of the permit. If the Applicant does not initiate the permitted project within twelve months of the date of the permit, the permit shall automatically expire.

2. PROJECT PERMIT INCLUDES CONDITIONS DEFINING INITIATION OF DEVELOPMENT OR ACTIVITY. The Permit shall define the conditions that constitute initiation of the permitted project.

3. DISCONTINUANCE OF PERMITTED USE. If a permitted project is substantially discontinued for a period of one year, renewal of development or operation of the permitted project shall not be initiated until a review by the Community Development Department has determined that the

renewed development or operation will be in full compliance with the Permit approval and will not pose a threat to public health or safety.

SECTION 1-104: OPERATIONS EXEMPTED FROM SUBMITTAL AND REVIEW REQUIREMENTS. The following Geothermal Electrical Generation Operations are exempt from these *Regulations*:

A. MAPPING OR EXPLORATION ACTIVITIES. Mapping or exploration activities that do not result in any surface disturbance.

B. MAINTENANCE. Ordinary repairs and maintenance that does not expand the scope or scale of an existing, permitted Operation.

SECTION 1-105: IMPACT CLASSIFICATION.

A. GEOTHERMAL EXPLORATION ACTIVITES THAT CREATE SURFACE DISTURBANCE. Geothermal exploration activities that create surface disturbance shall be reviewed as a Minor Impact Project, pursuant to *Section1-110: Permit Review Procedures for Geothermal Electrical Generation Operation,* 2. *Minor Impact Project Review - Geothermal Electrical Generation Operation Located on a Site 5-Acres or Less or Exploration Activities that Create Surface Disturbance.*

B. GEOTHERMAL ELECTRICAL GENERATION OPERATION LOCATED ON A SITE 5-ACRES OR LESS. A Geothermal Electrical Generation Operation located on a site five acres or less shall be reviewed as a Minor Impact Project, pursuant to *Section1-110: Permit Review Procedures for Geothermal Electrical Generation Operation,* 2.*Minor Impact Project Review - Geothermal Electrical Generation Operation Located on a Site 5-Acres or Less or Exploration Activities that Create Surface Disturbance*

C. GEOTHERMAL ELECTRICAL GENERATION OPERATION LOCATED ON A SITE GREATER THAN 5-ACRES. A Geothermal Electrical Generation Operation located on a site greater than five acres shall be reviewed as a Major Impact Project, pursuant to *Section 1-110: Permit Review Procedures for Geothermal Electrical Generation Operation.* 3. *Major Impact Project Review - Geothermal Electrical Generation Operation Located on a Site Larger than 5-Acres.*

SECTION 1-106: GUNNISON SAGE-GROUSE PRE-APPLICATION CONFERENCE.

A. OPERATIONS LOCATED ON A PARCEL WHOLLY OR PARTIALLY WITHIN GUNNISON SAGE-GROUSE HABITAT. A Gunnison Sage-Grouse Pre-application Conference shall be required for any Geothermal Electrical Generation Operation located wholly or partially on a parcel within occupied Gunnison Sage-grouse habitat, as shown on Gunnison County Maps. Such conference must occur prior to the Project preapplication meeting with the Community Development Department

B. GUNNISON SAGE-GROUSE PRE-APPLICATION CONFERENCE REQUIRED. The applicant shall request, by application form provided, a Gunnison Sage-grouse Pre-application Conference. The application shall be submitted to the Gunnison County Wildlife Conservation Coordinator. The Pre-application Conference request application shall provide the following information, at minimum:

1. Location of proposed project.
2. Areas of proposed surface disturbance.
3. Proposed locations of permanent facilities.
4. Proposed access routes.
5. Locations of any other proposed activities or facilities that may disturb Gunnison Sage-grouse or their habitats.

C. GUNNISON COUNTY WILDLIFE CONSERVATION COORDINATOR AND ON-SITE CONSULTATION. The Gunnison County Wildlife Conservation Coordinator shall determine the Gunnison Sage-grouse habitat type and whether an on-site consultation is required. If an on-site consultation is required the Gunnison County Wildlife Conservation Coordinator shall coordinate and schedule an on-site consultation with the applicant and/or applicant's representative, the Community Development Department, Public Works Department, and a representative from the Division of Parks and Wildlife. If the Operation is on federal lands representatives from the Bureau of Land Management or Forest Service may attend, as applicable. The purpose of the on-site consultation shall include location of any habitat, identification of site-specific data to inform the review process, and identification of potential mitigation of Sage-grouse related issues.

SECTION 1-107: PRE-APPLICATION SUBMITTAL REQUIREMENTS.

A. PURPOSE. The purpose of the Pre-Application process is for the County to formally discuss among the applicant, the Community Development Director, and as appropriate, other County staff, representatives from other agencies and the County's consultants, to discuss application submittal requirements, the review process and standards of these Regulations.

B. INFORMAL CONSULTATION ENCOURAGED. Applicants are encouraged to consult informally with the Department regarding the Proposed Project and the requirements under these Regulations before initiating the Pre-Application review process.

C. SUBMITTAL OF PRE-APPLICATION.

1. **INITIATING PRE-APPLICATION REVIEW PROCESS.** To initiate the Pre-Application review process, the applicant shall submit the Pre-Application to the Community Development Department.

2. **PRE-APPLICATION MAY BE USED TO SATISFY APPLICATION SUBMITTAL.** Pre-Application submittal materials may be utilized to satisfy application submittal requirements wherever appropriate.

D. PRE-APPLICATION SUBMITTAL REQUIREMENTS. A Pre-Application shall comprise the following submittal materials in both digital and hard-copy formats.

1. **GENERAL INFORMATION IN NARRATIVE.** A narrative description of the Proposed Project shall be prepared in detail sufficient to convey the concept of the Proposed Project, and shall include the following information, in the order listed. The narrative shall also identify maps and illustrative materials that will be included in the Pre-Application; and any materials that have been prepared for other federal, state and local permits required for the Proposed Project, which are proposed to satisfy one or more submittal requirements of these Regulations. The narrative shall be submitted in a stapled or otherwise bound document, on consecutively numbered pages, including a Table of Contents, and signed by the preparer(s).

   a. **APPLICANT AND REPRESENTATIVE INFORMATION**.

(1.) **APPLICANT.** The name, address, telephone and fax numbers, and e-mail address for the applicant, or if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.

(2.) **APPLICANT IS NOT THE OWNER.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a notarized letter signed by the owner consenting to the submittal. Consent of the owner for submittal shall imply consent by the owner for the County to complete the review process pursuant to these *Regulations*.

(3.) **APPLICANT IS NOT THE SOLE OWNER**. If the applicant is not the sole owner of the land, the applicant shall submit a notarized letter(s) signed by all other owners, and/or by an association or corporation representing the owners, consenting to, or joining in, the application.

2. **INFORMATION DESCRIBING THE PROPOSED PROJECT.** A detailed description of the Proposed Project, including:

a. **TYPE OF DEVELOPMENT.** Type of development.

b. **DEVELOPMENT SIZE AND LOCATION.** Size and location of the development, including legal descriptions.

c. **CAPITAL EXPENDITURE**. Estimated capital expenditure of the Proposed Project.

d. **PLAN OF OPERATIONS.** Plan of operations.

e. **PRODUCTION OR OUTPUT.** Estimated electrical production or output of the development.

f. **SCHEDULES**. Schedules for permitting, construction and operation of the Proposed Project.

g. **FEDERAL STATE AND LOCAL PERMITS REQUIRED FOR THE PROPOSED PROJECT.** List of all other federal, state, and local permits that will be required for the Proposed Project.

h. **IMPACTS RESULTING FROM PROPOSED PROJECT.** Brief description of all environmental and cumulative impacts related to the Proposed Project.

i. **CERTIFICATION OF TAXES PAID.** Copy of certification from the Gunnison County Treasurer's Office indicating that all real property taxes applicable to the subject parcel on which the project is proposed have been paid up to the year in which approval is under consideration. Copy of certification from the Gunnison County Treasurer's Office indicating that all real property taxes applicable to the subject parcel on which the Proposed Project is proposed have been paid up to the year in which approval is under consideration.

j. **MAPS.** The Pre-Application submittal shall include maps at an easily readable scale showing the boundaries of the Proposed Project: relationship of the Proposed Project to surrounding topographic features, water bodies, and hydrologic features; existing roads, structures and infrastructure; and existing and proposed transmission lines.

SECTION 1-108: APPLICATION SUBMITTAL REQUIREMENTS. An applicant seeking a Permit for a Geothermal Electrical Generation Operation shall submit an application to the Community Development Department containing the information in this Section. An applicant may provide a copy of an application submitted to the Bureau of Land Management or other applicable Federal Agency for a federal Environmental Assessment (EA) or Environmental Impact Statement (EIS) as documentation for

one or more of the following submittal requirements if it contains information sufficient to demonstrate compliance with these regulations and that information is highlighted.

A. PERMIT SUBMITTAL REQUIREMENTS FOR GEOTHERMAL ELECTRICAL GENERATION OPERATION. An applicant for a permit to conduct a Geothermal Electrical Generation Operation shall submit the following information:

1. **GENERAL INFORMATION IN NARRATIVE**. A narrative description of the Proposed Project shall be prepared in detail sufficient to demonstrate the concept of the Proposed Project and the Proposed Project's compliance with all applicable approval standards.

   a. **IDENTIFICATION OF MAPS AND ILLUSTRATIVE MATERIALS.** Narrative shall identify maps and illustrative materials included in the application submittal materials.

   b. **IDENTIFICATION OF MATERIALS PREPARED FOR OTHER PERMITS.** Narrative shall identify all materials that have been prepared for other federal, state and local permits required for the Proposed Project, which have been included to satisfy one or more submittal requirements of these *Regulations*.

   c. **DATE OF PREPARATION.** Narrative shall include the date the application was prepared.

   d. **STAPLED OR BOUND NARRATIVE.** Narrative shall be submitted in a stapled or otherwise bound document, on consecutively numbered pages, including a Table of Contents, and signed by the preparer(s).

   e. **PLAN OF OPERATION WHEN SUBJECT OF STATE AND/OR FEDERAL PERMITS.** If the Proposed Project is subject to state or federal permit requirements, narrative description shall include a plan of operation for the Proposed Project as detailed as is required by the state or federal agency.

2. **APPLICANT AND REPRESENTATIVE INFORMATION.** An application for a Special Development Project Permit shall be submitted by the owner an authorized agent, or any other person having a recognized interest in the subject property for which the permit is requested. The application shall include the following:

   a. **APPLICANT.** The name, address, telephone and fax numbers, and e-mail address(es) for the applicant, or if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent. If the Applicant and/or owner changes during the review process, the Applicant shall submit information describing the change.

   b. **APPLICANT IS NOT THE OWNER.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a notarized letter signed by the owner consenting to the submittal. Consent of the owner for submittal shall imply consent by the owner for the County to complete the review process pursuant to these *Regulations*.

   c. **APPLICANT IS NOT THE SOLE OWNER.** If the applicant is not the sole owner of the land, the applicant shall submit a notarized letter(s) signed by all other owners, and/or by an association or corporation representing the owners, consenting to, or joining in, the application.

   d. **APPLICANT'S FINANCIAL CAPABILITY TO ACCOMPLISH PROJECT.** Documentation of the Applicant's demonstrated financial capability to construct and operate the Proposed Project in compliance with County requirements.

e. **APPLICANT'S TECHNICAL CAPABILITY TO ACCOMPLISH PROJECT.** Documentation of the Applicant's demonstrated technical capability to construct and operate the Proposed Project in compliance with County requirements.

3. **INFORMATION DESCRIBING THE PROPOSED PROJECT.** The description of the Proposed Project shall address the construction and operation of the project throughout its life cycle, including all ancillary structures, facilities, improvements, and activities and all integrated components thereof, and any Proposed Project directly related to such project.

a. **PLANS AND SPECIFICATIONS**. Detailed plans and specifications of the Proposed Project.

b. **MAPS**. Detailed map(s) showing the location of existing and proposed parcels, transmission lines, structures, public facilities and improvements for the entire Proposed Project, and land uses within a one-half mile radius of the Proposed Project.

(1.) **VICINITY MAP**. Vicinity map that includes the following information:

(a.) **LOCATION ON U.S.G.S. QUADRANGLE MAP**. Location of the Proposed Project on a United States Geological Survey quadrangle map, or on a recorded plat if the proposed development is within an approved subdivision, highlighted so that it is easy to see.

(b.) **LOCATION(S) OF PARCELS AND/OR CORRIDORS**. Location(s) of all parcels and/or or corridors in the Proposed Project area and the total number acres under consideration.

(c.) **LOCATIONS OF EXISTING LAND USES.** Location, boundaries, size and existing land use of each parcel comprising the subject property and the adjacent properties within a one-half mile of the Proposed Project.

(2.) **SITE PLAN.** Maps and site plans shall be prepared at a minimum scale of 1"=100'. Sheet size shall not exceed 24 inches by 36 inches. The site plan shall include the following information:

(a.) **ALL PROPERTY PROPOSED FOR DEVELOPMENT**. Include all land proposed for immediate and anticipated for future development. This can be a simple, hand-drawn layout, but it must be legible, clearly marked, drawn to scale, and signed and dated by the person who drew it.

(b.) **PHASING.** Any proposed phases of the development, and their timing.

(c.) **TOTAL ACREAGE OF CONTIGUOUS PROPERTY OWNED BY THE APPLICANT.** Total acreage and location of all contiguous property owned by the applicant.

(d.) **TOTAL ACREAGE IN PROPOSED PROJECT AREA**. Total acreage of the site on which the applicant wants to obtain approval for the Proposed Project.

(e.) **ADJACENT LOT SIZES.** Lot size(s) of properties adjacent to and in the impact area of the site proposed for Proposed Project.

(f.) **ADJACENT LAND OWNERS.** Names and actual land uses of adjacent landowners (including federal, State of Colorado and other publicly owned lands), to the site (in addition to the separate narrative listing). This includes properties that may be across a road, stream or river from the applicant's property.

(g.) **UTILITY LOCATIONS**. Location of all existing utilities on the property or in the immediate area (electric, gas, telephone, cable lines or electric transmission lines) that will serve the property.

(h.) **TOPOGRAPHIC FEATURES**. Streams, lakes, ponds, wetlands, contour lines and elevations, any prominent ridgelines, and any other significant visual resource areas on the property.

(i.) **LIVESTOCK DRIVES AND FENCELINES**. Historic or recorded stock drive easements crossing or adjoining the development property, including the location of any existing fences along property lines, and the location of new fences or other obstacles proposed to be built across any such stock drive.

(j.) **IRRIGATION DITCHES**. The location(s), and name(s), of any irrigation ditch crossing or adjoining the development property, as available from the Colorado Division of Water Resources, or ditch commissioner's records.

(k.) **DRAINAGE**. Drainage patterns, on and adjacent to the Project property.

(l.) **DRIVEWAYS AND PARKING**. Driveways/parking areas, both existing and proposed.

(m.) **EXISTING STRUCTURES**. Locations and sizes of existing structures.

(n.) **PROPOSED STRUCTURES**. Locations and sizes of proposed structures.

(o.) **BOUNDARIES.** Boundaries and related measurements.

c. CONNECTION TO POWER GRID OR NEW TRANMISSION LINES. When the Proposed Project will connect to the existing power grid, all agreements or permissions of the Utility; description of existing and proposed infrastructure, including easements, ancillary structures, facilities, improvements, and activities and all integrated components thereof. When the Proposed Project will require new transmission lines, all agreements or permissions of the Utility; easements, and description of infrastructure, including ancillary structures, facilities, improvements, and activities and all integrated components thereof.

d. SCHEDULE/PHASING FOR PROPOSED PROJECT. Schedules for designing, permitting, constructing and operating the Proposed Project, including any phases and the estimated life of the Proposed Project.

4. PROPERTY RIGHTS, PERMITS AND OTHER APPROVALS.

a. RIGHTS NECESSARY FOR, OR AFFECTED BY PROPOSED PROJECT. Description of property rights that are necessary for or that will be affected by the Proposed Project, and documentation establishing property rights, easements and right-of-way agreements needed to develop the Proposed Project.

b. OTHER FEDERAL, STATE AND LOCAL PERMITS REQUIRED FOR PROPOSED PROJECT. 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.

(1). ELECTRICAL FACILITIES. For electrical facilities, documentation that the public utility or power authority has applied for or obtained a certificate of public convenience and necessity from the Public Utilities Commission, pursuant to Sections 40-4-102 and 29-20-108, C.R.S.

c. **WATER RIGHTS.** Description of the water and geothermal water rights to be used by the Proposed Project and alternatives, 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.

d. **FEDERAL AND STATE CONSULTATION DOCUMENTS.** Copies of all official federal and state consultation documents prepared for the Proposed Project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statement required for the Proposed Project by a federal agency.

e. **CURRENT PROPERTY, MINERAL AND WATER RIGHTS OWNERS.** List of all current property owners, mineral rights and water rights owners within the area affected by the Proposed Project, as determined from current records of the Gunnison County Clerk and Recorder's Office. Such list shall be updated by the applicant when the public hearing is required to be noticed and the notice published and distributed.

5. **WORKING FLUIDS OR HAZARDOUS MATERIALS DESCRIPTION**. A description of all working fluids, including any hazardous, toxic, and explosive materials to be used, stored, transported, disturbed or produced in connection with the Proposed Project, including the type and amount of such substances, their location, documented effects of such substances on human health and safety and on wildlife, and the practices and procedures to be implemented to avoid accidental release and exposure. An inventory of all chemicals anticipated to be used for the Geothermal Electrical Generation Operation. The inventory of Chemical Products shall include:

   a. The known potential to affect human health, property or the environment, based on scientific evidence (i.e. not the proponent's anecdotal beliefs); and

   b. The expected concentrations, process solution volumes, and fate of designated chemicals to be used in the Operation, based on the best information available at the time of submittal of the application; and

   c. The material safety data sheets for the chemicals, if any; and

   d. Chemical Abstract Service Registry Numbers for every chemical used in the Operation, whether or not such chemicals are used in a Chemical Product that is considered a Trade Secret by the vendor or service provider.

6. **EMERGENCY RESPONSE PLAN**. A detailed plan including procedures for emergency response:

   a. **DESCRIPTION OF EMERGENCY PROCEDURES**. Description of emergency procedures to be used in the event of fire, explosion or other event which may endanger public health, safety, welfare or the environment that will result from the Proposed Project.

   b. **FIRE PROTECTION PLAN**. Fire protection plan designed pursuant to the *Land Use Resolution* Section 12-107: *Fire Protection* that shall be reviewed and approved by the County in consultation with the applicable fire protection district. Fire protection plans shall include documentation of types of construction for all structures on the site and full disclosure of all

types of chemicals to be used or stored on site, their locations, and information regarding safe exposure levels, fire risks, and treatment and suppression techniques.

7. **SITE LOCATION BEYOND SNOWPLOWED ACCESS**. Determination as to whether the site of the Proposed Project is beyond snowplowed access and whether if the applicant intends to request approval to privately snowplow County or other public roads, pursuant to *Land Use Resolution* Section 11-110: Development of Land Beyond Snowplowed Access.

8. **TRANSPORTATION ANALYSIS**.

   a. **EXISTING AND PROPOSED TRAFFIC ROUTES AND TRANSPORTATION MODES.** Description of existing and proposed traffic routes and modes of transportation that will be used to support the Proposed Project.

   b. **TRAFFIC VOLUMES**. Description of the traffic volumes on the road system affected by the Proposed Project.

   c. **TRANSPORTATION ACCESS**. All transportation access information as required by Colorado Department of Transportation.

   d. **IMPACTS AND NET EFFECT OF PROPOSED PROJECT.** Description of the impacts and net effect of the Proposed Project on roads and other modes of transportation.

9. **DOCUMENTATION OF ADEQUATE WATER SUPPLY**. The following documentation of water supply shall be provided unless otherwise determined by the County:

   a. **ENGINEER'S WATER SUPPLY ESTIMATES REPORT**. Description of the estimated water supply requirements for the Proposed Project, in a report prepared by a registered professional engineer or water supply expert acceptable to the County. The report shall include:

      (1.) PHYSICAL SOURCE OF WATER. Description of the physical source of water supply that will be used.

      (2.) ESTIMATED WATER YIELD. Estimate of the amount of water yield projected from the proposed water supply.

      (3.) WATER CONSERVATION MEASURES. Description of water conservation measures to be implemented.

      (4.) WATER DEMAND MANAGEMENT MEASURES. Description of water demand management measures to be implemented.

   b. **LETTER FROM STATE ENGINEER.** Letter from the Colorado State Engineer commenting on the water supply.

10. **EXISTING ENVIRONMENT AND ENVIRONMENTAL IMPACTS ANALYSIS.** Description of the existing natural environment and an analysis of the impacts of the Proposed Project to the natural environment including the following information.

    a. **TOPOGRAPHIC FEATURES**. A map showing existing topography of the subject property and areas within 100' of the subject property boundaries, at no greater than 20-foot contour intervals. The map shall indicate the subject property boundaries, existing and proposed slopes having gradients greater than 15 percent but less than 30 percent grade and existing and proposed slopes having gradients equal to or greater than 30 percent grade.

b. AERIAL PHOTOGRAPHS. Aerial photographs that reasonably portray the current condition of the area affected by the Proposed Project. The area affected by the Proposed Project shall be outlined on the aerial photograph.

c. SURFACE WATER. A map and description of all surface waters in the area affected by the Proposed Project to be impacted including:

(1.) STREAM, LAKE AND RESERVOIR FEATURES. Description of physical stream, lake and reservoir features, including dimensions, capacities, and functions; headwaters and public drinking water supply areas, including permeability, volume, recharge capacity, and depth of aquifers, including the following:

d. CHEMICAL AND BIOLOGICAL QUALITY. Description of the existing chemical and biological quality including water quality parameters as defined in the Colorado Water Quality Control Commission *Basic Standards and Methodologies,* including pH, conductivity, temperature, dissolved oxygen, nutrients, ions, metals, hardness and total alkalinity, and suspended sediment; and the fishery community, including macroinvertebrates, phytoplankton and zooplankton and a description of the benthic habitat.

e. SURFACE WATER USES, CLASSIFICATIONS AND DESIGNATIONS. Description of the present uses and use classifications and designations of the surface waters, including, as applicable, identification and characteristics of headwaters (defined by elevation, gradient, stream order), existing land cover, by sub-basin.

(1.) INSTREAM FLOW REQUIREMENTS. As applicable, a description of all instream flow requirements that apply to the surface waters, including all instream flow filings by the Colorado Water Conservation Board and all minimum bypass requirements of the U.S. Forest Service.

f. GROUND WATER. Map, description and hydrologic analysis of all groundwater, including any aquifers that will be affected by the Proposed Project prepared by a professional hydrologist, including:

(1.) AQUIFER CHARACTERISTICS. Description of the permeability, thickness, volume, and depth of the aquifers.

(2.) AQUIFER RECHARGE AREAS. Description of the aquifer recharge areas.

(3.) STRATA GEOLOGY. Description of the geology of strata overlying the aquifers (e.g., percolation rates and travel time).

(4.) SEASONAL WATER TABLE LEVELS. Description of the seasonal levels of the water table in unconfined aquifers, and of the artesian pressure in confined aquifers.

(5.) WATER WELL LOCATIONS AND USES. Location of all water wells and their uses.

(6.) CHEMICAL AND BIOLOGICAL QUALITY. Description of the chemical, physical, and biological water quality of the aquifers, including water quality parameters as defined in the Colorado Water Quality Control Commission Basic Standards and Methodologies including pH, conductivity, temperature, dissolved oxygen, nutrients, ions, metals, hardness and total alkalinity, and suspended sediment.

11. FLOODPLAINS, WETLANDS, AND RIPARIAN AREAS.

a. MAP OF AREAS AFFECTED BY PROPOSED PROJECT. Map and description of all floodplains, wetlands, and riparian areas that will be affected by the Proposed Project and

identification of the present structural and functional values including species composition, diversity, biomass, productivity, filtering and nutrient uptake capacities of these wetlands and riparian areas. The map and description shall specifically delineate the area affected by the Proposed Project and indicate the existence of any unique, rare, delicate or irreplaceable wetlands and riparian areas.

b. **FLOOD HAZARD INFORMATION REQUIRED BY LUR.** When a development is proposed within a designated floodplain or floodway, the application shall include each of the submittal requirements pursuant to Section 4-305:A.: *Additional Submittal Requirements for Development in Areas Subject to Flood Hazard Areas.*

12. AIR QUALITY.

a. **MAP AND DESCRIPTION OF AMBIENT AIR QUALITY.** Map and description of the ambient air quality of the air sheds that will be affected by the Proposed Project, including particulate matter and aerosols, radionuclides, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.

b. **PARTICULATE AND RADIONUCLIDE EMISSIONS**. Description of particulate and radionuclide emissions for the Proposed Project.

c. **AIR QUALITY.** Description of the effect of the Proposed Project on air quality.

13. TERRESTRIAL ANIMAL LIFE AND HABITAT.

a. **MAP AND DESCRIPTION OF TERRESTRIAL ANIMALS.** Map and description of terrestrial animals that will be affected by the Proposed Project including the status of game and non-game wildlife, livestock and other animals.

b. **MAP AND DESCRIPTION OF IMPORTANT TERRESTRIAL WILDLIFE HABITAT.** Map and description of important wildlife habitat that will be affected by the Proposed Project including breeding, nesting and brood rearing areas, migration routes, calving areas, summer and winter range.

c. **MAP AND DESCRIPTION OF LIVESTOCK RANGE AND ADJACENT AGRICULTURAL OPERATIONS.** Map and description of livestock range that will be affected by the Proposed Project.

14. AQUATIC ANIMAL LIFE AND HABITAT.

a. **MAP AND DESCRIPTION OF AQUATIC ANIMALS.** Map and description of aquatic animals that will be affected by the Proposed Project including the status of game and non-game animals.

b. **MAP AND DESCRIPTION OF GOLD MEDAL AND WILD TROUT WATERS.** A map and description of any gold medal and wild trout waters, or other waters receiving special designation by the Colorado Parks and Wildlife and/or the U.S. Fish and Wildlife Service.

c. **MAP AND DESCRIPTION OF IMPORTANT AQUATIC HABITAT.** Map and description of animal habitat that will be affected by the Proposed Project including migration routes and spawning beds.

d. **DESCRIPTION OF FLOWS AND LEVELS TO PROTECT AQUATIC ENVIRONMENT**. Description of stream flows and lake levels needed to protect the aquatic environment.

15. TERRESTRIAL AND AQUATIC PLANTS.

a. **MAP AND DESCRIPTION OF TERRESTRIAL PLANT LIFE.** Map and description of terrestrial plant life that will be affected by the Proposed Project including the type and density.

b. **MAP AND DESCRIPTION OF AQUATIC PLANT LIFE.** Map and description of aquatic plant life that will be affected by the Proposed Project including the type and density.

16. VISUAL QUALITY. Analyses and illustrations of visual qualities shall be submitted as storyboards or similarly graphic, digitally-generated accurate depictions of viewshed characteristics.

a. **MAP AND DESCRIPTION OF NATURAL FEATURES**. 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.

b. **MAP AND DESCRIPTION OF EXISTING AND PROPOSED STRUCTURES, CUTS AND FILLS.** Map and description of existing and proposed buildings, including structure design and materials to be used for the Proposed Project and description of any excavations and embankments that will be visible as a result of this project.

c. **MAP AND DESCRIPTION OF DARK SKIES**. Map and description of existing dark sky characteristics, and changes to them resulting from the Proposed Project.

d. **MAP OF TRAVEL ROUTES AND RECREATIONAL USES VISUALLY AFFECTED BY PROJECT.** . Map of all access and travel routes, public areas, recreational trails and residential, resort or other recreational facilities and areas that would have a view of the Proposed Project.

17. NOISE, VIBRATION AND ODORS.

a. **MAP OF NOISE, VIBRATION AND ODOR LEVELS AFFECTED BY PROJECT.** Map showing contours of the current levels of noise, vibration and odors which will be affected by the Proposed Project.

b. **MAP OF NOISE, VIBRATION AND ODOR LEVELS CAUSED BY PROJECT.** Map showing contours of levels of noise, vibration and odors caused by the Proposed Project.

18. GEOLOGIC HAZARD AREA. A report including the following:

a. **LOCATION OF PROPOSED PROJECT WITHIN GEOLOGIC HAZARD AREA**. As applicable, a Proposed Project located in a geologic hazard area may be required to submit a geotechnical report that evaluates and predicts the impact of specific geologic conditions on the Proposed Project and measures to mitigate these hazards, pursuant to *Land Use Resolution Section 11-104: Development in Areas Subject to Geologic Hazards.*

19. WILDFIRE HAZARDS.

a. **LOCATION OF PROPOSED PROJECT WITHIN WILDFIRE HAZARD AREA**. As applicable, a Proposed Project located within a wildfire hazard area, pursuant to Section 11-105: *Development in Areas Subject to Wildfire Hazards.*

b. **WILDFIRE MITIGATION PLAN.** A wildfire mitigation plan addressing wildland urban interface design and land maintenance shall be required when a parcel is located within any wildfire hazard area as mapped by the Colorado State Forest Service (CSFS), and shall incorporate applicable methods of fire prevention as recommended within publications of the CSFS.

20. **WILDLIFE.**

   a. **WILDLIFE AND WILDLIFE HABITAT.** When the Proposed Project is located in a wildlife habitat area as delineated on Wildlife Habitat Maps referenced by the County, an analysis of existing wildlife and sensitive wildlife habitat and an evaluation of the impacts of the Proposed Project on wildlife and sensitive wildlife habitat, and proposed avoidance, minimization and/or mitigation.

21. **DRAINAGE, EROSION AND SEDIMENT CONTROL PLAN.** A proposed drainage, erosion and sediment control plan, pursuant to *Land Use Resolution* Section 13-117: *Drainage, Construction and Post-Construction Storm Water Runoff*, including the following elements:

   a. **SITE MAP**. Site map of the development area showing locations of any existing structures, water bodies and/or hydrologic features on the site, including intermittent water features, wetlands and the 100-year flood plain boundaries.

   b. **LOCATIONS OF DRAINAGE STRUCTURES AND FEATURES**. Locations of existing and proposed drainage structures or natural drainage features (including street gutters, storm sewers, drainage channels and other water conveyance structures, and wetlands or other water bodies receiving storm runoff from the site) affecting site drainage on the parcel and within 300 feet of the boundary of the Proposed Project.

   c. **PRELIMINARY ENGINEERING DESIGN.** Preliminary engineering design and construction features for proposed drainage structures.

   d. **GRADING PLAN.** Grading plan showing elevations, dimensions, locations, extent and gradient of all clearing, grading and fills at no greater than 20-foot contour intervals proposed for the development site, including any building sites and driveway grades.

   e. **STOCKPILE LOCATIONS**. Proposed locations of any stockpiles of soil, gravel, snow or other materials.

   f. **STORAGE AREA LOCATIONS**. Location(s) of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill and wastewater containment structures to be used on-site.

22. **AREAS OF PALEONTOLOGICAL, HISTORIC OR ARCHAEOLOGICAL IMPORTANCE.**

   a. **MAP AND DESCRIPTION OF ALL KNOWN SITES.** Map and description of all known sites of paleontological, historic or archaeological interest.

   b. **STATE HISTORICAL SITE SURVEY.** State historical site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all historic resources affected by the Proposed Project.

   c. **NOTIFICATION PLANS.** Plans and procedures for notification to the Colorado State Historical Society and State Archaeologist upon discovery of historical or archaeological resources.

23. **WEED MANAGEMENT PLAN.** A plan for the management and prevention for noxious weeds, including an assessment of existing noxious weeds on the site, implementation of actions to achieve weed management objectives, and monitoring of performance.

24. **WASTE MANAGEMENT PLAN.** A Waste Management Plan that describes the handling and storage, transportation, treatment, recycling and disposal of solid waste generated by the Proposed Project.

25. **WATER/WASTEWATER MANAGEMENT PLAN.** A Water/Wastewater Management Plan that describes the disposal or reuse of any produced waters, including reinjection or surface discharge and any permits required by other agencies and a plan for mitigation.

26. **VISUAL QUALITY.** Map and description of ground cover and vegetation, forest canopies, streams, viewsheds, scenic vistas, unique landscapes and land formations or other natural features of visual importance and an assessment of the impacts and net effect that the Proposed Project would have on visual quality, and proposed mitigation.

27. **OPERATIONAL CONFLICT.** Documentation of the basis for any operational conflict waiver from the Geothermal Electrical Generation Operation Standards that the applicant may request pursuant to *Section 1-111: Geothermal Electrical Generation Operation Standards* of these *Regulations*.

28. **TECHNICAL INFEASIBILITY.** Documentation of the basis for any technical infeasibility waiver from the Geothermal Electrical Generation Operation Standards that the applicant may request pursuant to *Section 1-111: Geothermal Electrical Generation Operation Standards* of these *Regulations*.

B. APPLICATION FEES AND DEPOSIT. The application shall be accompanied by the appropriate fees and deposit based on a schedule of fees adopted by the Board. A schedule of fees adopted by the Board is available through the Department.

1. **Applicant Responsible for cost of Reviewing and Processing the Application**. The applicant is responsible for the County's costs of reviewing and processing the application including costs of copying, mailings, publications, labor and overhead, and all hearings and meetings on the application.

2. **Applicant Responsible for Referral Agency and Consultant Fees**. The applicant is responsible for the costs of referral agency, counsel and consultant review of the application including reviews associated with the pre-application conference, completeness determination, and all hearings and meetings on the application.

   a. **Deposit**. The deposit shall be applied toward the costs of the pre-application meeting, referral agency review, and consultant fees. The applicant shall pay the costs of referral agency review and outside consultants retained by the County to review the application from this fund.

   b. **Minimum 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 County that the application processing and review costs are likely to be less than the minimum amount set herein.

   c. **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.

d. Refund. Within thirty (30) calendar days after the decision on the Permit is made, the County shall refund any balance of the deposit not expended.

SECTION 1-109: COORDINATION WITH STATE OR FEDERAL ACTIONS AND COUNTY PERMIT PROCESS.

Final action by the County on Geothermal Electrical Generation Operation Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

SECTION 1-110: PERMIT REVIEW PROCEDURES FOR GEOTHERMAL ELECTRICAL GENERATION OPERATION.

Review of the application shall be conducted by the Community Development Department and consultants retained by the County with the necessary expertise to review the application. The applicant shall be responsible for all costs of technical and legal consultants, set forth in *Section* 1-108: Application Submittal Requirements, B. Application Fees and Deposit.

A. PREAPPLICATION.

1. PREAPPLICATION SUBMITTAL AND MEETING. Before submitting an application to the County, any person applying for a Geothermal Electrical Generation Operation shall request a preapplication meeting with the Community Development Department.

a. PURPOSE. The purposes of the pre-application meeting include, without limitation:

(1.) To discuss the location and nature of the proposed Operation;

(2.) To explain the application submittal requirements and the nature of materials that will be responsive to those requirements;

(3.) To identify materials that may have been submitted to other state or federal agencies that the applicant may propose to use.

(4.) To discuss federal and state terms and conditions that may have been imposed on the proposed Operation;

(5.) To identify site-specific concerns and issues that bear on the proposed Operation;

(6.) To discuss projected impacts and potential mitigation;

(7.) To discuss the standards that must be satisfied for Permit approval;

(8.) To consider the County permit process and level of permit review; and

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

(10.) To discuss the findings of the Gunnison Sage-grouse Pre-application Conference.

b. PREAPPLICATION SUBMITTAL MATERIALS. Prior to the preapplication meeting, the applicant shall submit the preapplication materials identified in *Section 1-107: Preapplication Submittal Requirements*.

c. PARTICIPATION BY COUNTY STAFF AND CONSULTANTS. The Community Development Department 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.

B. GEOTHERMAL ELECTRICAL GENERATION OPERATION PERMIT APPLICATION REVIEW.

1. REVIEW BY COMMUNITY DEVELOPMENT DEPARTMENT.

a. DETERMINATION OF COMPLETENESS BY COMMUNITY DEVELOPMENT DEPARTMENT. The Community Development Department shall determine whether the application is complete and includes all of the required information. The Community Development Department shall, within (thirty) 30 days of receiving the application, notify the applicant in writing that the application is either complete or incomplete, or shall indicate a date by which such determination shall reasonably be made.

(1.) APPLICATION IS NOT COMPLETE. If the application is not complete, the Community Development Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

(a). FAILURE TO CORRECT CONSTITUTES WITHDRAWAL. If the applicant fails to correct the deficiencies within 60 days of the postmarked or certified date of the mailing of the notification of incompleteness, the application shall be considered withdrawn.

(2.) APPLICATION IS COMPLETE. If the application is complete, the Community Development Department shall certify it as complete, and if required, assign the application an agenda date with the applicable review body on the next available agenda, and provide notification of the meeting date to the applicant.

(a). COMPLETENESS IS NOT A DETERMINATION OF COMPLIANCE. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these *Regulations*.

b. TOTAL NUMBER OF COPIES REQUIRED. Once the Community Development Department has determined the submittal to be complete, it shall determine the number of copies of the

Preliminary Plan application that are necessary for review and action by the Planning Commission and/or Board, and other review agencies or County departments, and shall notify the applicant of the number of copies of the complete plan that are required to be submitted. The Department shall, as applicable, forward the application and any relevant comments to the Planning Commission and/or Board.

c. REVIEW BY REFERRAL AGENCIES. Upon determination that the application is complete, the Community Development Department may require the application materials or any portion thereof to be submitted to a referral entity for review and comment pursuant to *Section 1-107*.

d. APPLICANT'S REVIEW OF AND RESPONSE TO AGENCY COMMENTS. The applicant shall have the right to review the comments and recommendations received, and to submit additional information and to make changes in the development proposal to meet the objections or comments of the review agencies; provided, however, that if such a change is substantial or if it significantly alters the nature, character or extent of the development, such change shall be considered to be an amendment of the Preliminary Plan application and shall require another agency review period.

e. REVIEW BY COUNTY CONSULTANT. Upon determination that the application is complete, the Community Development Department may submit the application for review and recommendation by such technical and legal consultants retained by the County with the necessary expertise to review the application.

f. COMMUNITY DEVELOPMENT DEPARTMENT REPORT. The Community Development Department shall prepare a report for the Planning Commission that identifies whether the Geothermal Electrical Generation Operation, based on review of the application and input from referral agencies, appears to comply with the Geothermal Electrical Generation Operation Standards set forth in *Section 1-108* of these *Regulations*. The staff report may also recommend additional mitigation or conditions that might be necessary.

2. MINOR IMPACT PROJECT REVIEW - GEOTHERMAL ELECTRICAL GENERATION OPERATION LOCATED ON A SITE 5-ACRES OR LESS OR EXPLORATION ACTIVITIES THAT CREATE SURFACE DISTURBANCE. The application for a Geothermal Electrical Generation Operation located on a site five acres or less or geothermal exploration activities that create surface disturbance shall be reviewed by the Planning Commission. The Planning Commission is the decision making body.

a. WORK SESSIONS. The Planning Commission shall conduct one or more work sessions to identify and consider any issues related to the application. The Planning Commission may conduct additional work sessions during the review as they deem necessary to afford sufficient time to review the application materials and to identify and consider any issues related to the application.

b. SITE VISIT. The Planning Commission shall conduct a site visit of the proposed Project site if they determine that such a site visit will provide information useful to their review of the proposal. If the Planning Commission chooses to conduct a site visit, it shall do so before taking action on the project. Review of the application may be delayed for a reasonable period if inclement weather or snow or mud conditions prohibit a productive site visit.

c. **DETERMINATION OF READINESS FOR HEARING**. The Planning Commission shall determine whether the application is complete, and sufficient to provide information for public review, and if it is shall schedule a public hearing.

1. **PUBLIC HEARING.** The Planning Commission shall conduct a public hearing to consider the application.
2. **SCHEDULING OF HEARING**. The Planning Commission shall identify a hearing date and time at which a public hearing, conducted the Planning Commission shall be scheduled.
3. **HEARING NOTICE**. Public notice that the Planning Commission will conduct a public hearing to consider the application shall be accomplished pursuant to *Section 1-112: Public Notice*.
4. **CONDUCT OF HEARING.** The chairperson of the Planning Commission will preside over the hearing, which will be conducted pursuant to *Section 1-113: Conduct of a Public Hearing*.
5. **PLANNING COMMISSION DECISION.** It is the goal but not the requirement (as scheduling may be affected by limited access, inclement weather, or other unforeseen circumstances) that within 60 days following the closure of the public hearing, the Planning Commission shall consider the relevant materials and testimony and the compliance of the application with the applicable standards and approve, approve with conditions, or deny the application.

3. **MAJOR IMPACT PROJECT REVIEW - GEOTHERMAL ELECTRICAL GENERATION OPERATION LOCATED ON A SITE LARGER THAN 5-ACRES.** The application for a Geothermal Electrical Generation Operation Permit located on a site larger than 5-acres shall be reviewed by the Planning Commission, with a recommendation to the Board of County Commissioners. The Board of County Commissioners is the decision making body.

a. **WORK SESSIONS**. The Planning Commission shall conduct one or more work sessions to identify and consider any issues related to the application. Both the Board and the Planning Commission may conduct additional work sessions during the review as they deem necessary to afford sufficient time to review the application materials and to identify and consider any issues related to the application.

b. **SITE VISIT.** The Board and/or Planning Commission may conduct joint or separate site visits of the proposed Project site if they determine that such a site visit will provide information useful to their review of the proposal. If the Planning Commission chooses to conduct a site visit, it shall do so before taking action on a recommendation to the Board on the application. Review of the application may be delayed for a reasonable period if inclement weather or snow or mud conditions prohibit a productive site visit.

c. **DETERMINATION OF READINESS FOR HEARING**. The Planning Commission shall determine whether the application is complete, and sufficient to provide information for public review, and if it is, shall so notify the Board and schedule a joint public hearing.

1. **PUBLIC HEARING.** The Planning Commission and Board shall jointly conduct a public hearing to consider the application.
2. **SCHEDULING OF HEARING**. The Planning Commission shall identify a hearing date and time at which a public hearing, jointly conducted by the Board and the Planning Commission shall be scheduled. Notice of the date of the hearing and a complete copy of the application shall be forwarded to the Board, together with a copy of the Community Development Department's report.

3. **HEARING NOTICE**. Public notice that the Board and Planning Commission will jointly conduct a public hearing to consider the application shall be accomplished pursuant to *Section 1-112: Public Notice*.

4. **CONDUCT OF HEARING.** The chairperson of the Planning Commission will preside over the hearing, which will be conducted pursuant to *Section 1-112*: *Conduct of a Public Hearing*.

5. **PLANNING COMMISSION RECOMMENDATION.** It is the goal but not the requirement (as scheduling may be affected by limited access, inclement weather, or other unforeseen circumstances) that within 60 days following the closure of the public hearing, the Planning Commission shall consider the relevant materials and testimony and the compliance of the application with the applicable standards and recommend approval, approval with conditions, or denial of the application.

6. **RECOMMENDATION FORWARDED TO BOARD**. Within 15 days of the Planning Commission's action on the recommendation, the Community Development Department shall forward the recommendation to the Board.

7. **BOARD DECISION ON OPTIONAL BOARD PUBLIC HEARING**. The Board shall have the option of conducting another public hearing to consider the Preliminary Plan application and the Planning Commission's recommendation. Within 20 days of receipt of the Planning Commission's recommendation, the Board shall determine whether to conduct a public hearing. A decision to conduct or not to conduct such a hearing shall be based on the Board's determination of whether it is in the public interest to do so, and considering among other factors the following:

   a. **LEVEL OF PUBLIC INTEREST**. There has or has not been substantial public interest in the proposal; or

   b. **IDENTIFICATION OF NEW ISSUES**. Whether it is reasonably probable that new issues related to the Preliminary Plan application of the Proposed Project will be identified; or

   c. **IDENTIFICATION OF NEW INFORMATION**. Whether it is reasonably probable that new information related to the Proposed Project will be provided.

8. **BOARD PUBLIC HEARING**. If the Board chooses to conduct a public hearing, public notice shall be provided pursuant to *Section 1-112: Notice of Public Hearing,* and the hearing shall be conducted pursuant to *Section 1-110: Conduct of a Public Hearing.*

   a. **COST FOR PUBLIC HEARING NOTICE(S)**. The applicant shall be billed and shall be responsible for paying for the actual cost of publication of all applicable public hearing notices as required pursuant to *Section 1-113: Notice of Public Hearing*.

9. **BOARD ACTION**. Within 35 days after receipt of the Planning Commission recommendation, if the Board did not conduct another public hearing, or within 35 days after closure of the hearing if the Board conducted another public hearing, the Board shall approve, approve with conditions, or deny the Preliminary Plan. The Board's decision shall be entered into the official minutes of the meeting and shall contain the necessary findings of fact and reasons to support the decision. If the Board does not make separate findings of fact, it shall be presumed to have adopted the findings and recommendations of the Planning Commission.

   a. **DELAY OF ACTION**. Before it takes action on the application, the Board may refer the application back to the Planning Commission for further consideration and recommendations if at least one of the following circumstances is present:

(1.) **NEW INFORMATION SUBMITTED**. There has been information submitted that was not available for consideration by the Commission before its recommendation; or

(2.) **INSUFFICIENT EVALUATION**. There are substantive issues or requirements that were not sufficiently evaluated in the Commission's recommendations; or

(3.) **SUBSTANTIVE ALTERATION**. There has been a substantive alteration to the plan subsequent to the Commission's recommendation; or

(4.) **NEED FOR CLARIFICATION**. There is an element of the Planning Commission's recommendation that requires clarification.

b. **OFFICIAL RECORD**. The Board's decision shall be entered into the official minutes of the meeting.

SECTION 1-111: GEOTHERMAL ELECTRICAL GENERATION OPERATION STANDARDS.

For purposes of determining if a Geothermal Electrical Generation Operation satisfies these standards, all proposed activities of the Operator within unincorporated Gunnison County shall be taken into consideration. A Geothermal Electrical Generation Operation shall comply with the following standards and criteria unless an Operational Conflict or a Technical Infeasibility Waiver is granted.

A. **DRAINAGE AND EROSION CONTROL.** The Geothermal Electrical Generation Operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.

B. **ACCESS ROADS.** All public access roads under the jurisdiction of Gunnison County shall be constructed and maintained in compliance with the *Gunnison County Standard Specifications for Road and Bridge Construction*, as necessary to accommodate the traffic and equipment related to the Geothermal Electrical Generation Operation and emergency vehicles.

C. **PUBLIC ROADWAY AND TRAFFIC IMPACTS**.

1. **INGRESS AND EGRESS.** Ingress and egress points to public 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.

2. **MAINTENANCE AGREEMENT OR FINANCIAL ASSURANCE.** If the projected use of the public roads resulting from the Geothermal Electrical Generation Operation will result in a need for an increase in roadway maintenance or snow removal, the County shall require the Operator to: i) enter into an agreement with the County whereby the Operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or ii) provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impacts to the roads.

D. **WILDLIFE AND WILDLIFE HABITAT.** The Geothermal Electrical Generation Operation shall comply with the standards of *Section 11-106: Protection of Wildlife Habitat Areas* of the *Land Use Resolution*.

E. **LIVESTOCK AND LIVESTOCK GRAZING**. The Geothermal Electrical Generation Operation shall not cause impact to livestock, agricultural water resources, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the Geothermal Electrical Generation Operator may be used to satisfy this requirement.

F. **RECREATION IMPACTS.** The Geothermal Electrical Generation Operation shall not cause a significant degradation in the quality or quantity of recreational activities in the County such as hunting, hiking, skiing or other recreational activities.

G. **WATER BODY QUALITY**. All components of a Geothermal Electrical Generation Operation, including roads, shall be no closer than 150 feet of any water body, EXCEPT for necessary crossings of water bodies. Leak detection, secondary containment, or other mitigation, as appropriate, shall be incorporated into pipelines that cross water bodies. The Geothermal Electrical Generation Operation shall not cause significant degradation of water quality of affected water bodies. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

1. Applicable narrative and numeric water quality standards.

2. Changes in point and nonpoint source pollution loads.

3. Increase in erosion and sediment loads.

4. Changes in stream channel or shoreline stability.

5. Changes in stormwater runoff flows.

6. Changes in quality of ground water.

H. **WELLS AND PUBLIC WATER SUPPLY WATER QUALITY.**

1. **WATER WELLS.** The Geothermal Electrical Generation Operation shall not cause significant degradation of the water quality or water pressure of any public or private water wells.

2. **PUBLIC WATER SUPPLY.** The Geothermal Electrical Generation Operation shall not cause significant degradation of the water quality of any public water supply.

I. **MANAGEMENT OF HAZARDOUS MATERIALS.** All Geothermal Electrical Generation Operations shall meet the following requirements for management of hazardous materials:

1. **COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.** At a minimum, all hazardous materials shall be stored and used pursuant to applicable state and federal hazardous materials regulations.

2. **STORAGE NEAR WATER BODIES RESTRICTED.** Except for hazardous materials currently being used as an integral component of drilling or operation of a well, hazardous materials shall not be stored within 300 feet of any water body.

3. **SPILL PREVENTION.** Measures shall be designed and implemented to prevent spilled fuels, lubricants or other hazardous materials from entering a water body, including ground water, during construction or operation of equipment and/or a facility.

4. **MACHINE MAINTENANCE.** Routine field maintenance of vehicles or mobile machinery shall not be performed within 300 feet of any water body.

5. **FUEL STORAGE AREAS.** Containment measures shall be provided for all fuel storage areas to prevent release to any water body. Inventory management or leak detection may be required.

6. **HAZARDOUS MATERIALS STORAGE AREAS.** Containment measures shall be provided for all hazardous materials storage areas to prevent release to any water body. Inventory management or leak detection may be required.

J. **CULTURAL AND HISTORIC RESOURCES.** The Geothermal Electrical Generation Operation shall not cause significant degradation of cultural or historic resources.

K. **WILDFIRE HAZARD.** The Geothermal Electrical Generation Operation shall not cause a significant risk of wildfire hazard.

L. **GEOLOGIC HAZARDS.** The Geothermal Electrical Generation Operation shall not cause a significant risk of geologic hazards.

M. **STANDARDS FOR ELECTRIC TRANMISSION LINES.** [reserved]

N. **IMPACT MITIGATION COSTS.** The Operator shall bear the proportionate cost of mitigating the impacts caused by the Geothermal Electrical Generation Operation.

O. **EMERGENCY RESPONSE.** The Geothermal Electrical Generation Operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material vehicle accidents or spills.

SECTION 1-112: PUBLIC NOTICE.

A. **PUBLIC NOTICE REQUIREMENTS.** Public hearings shall be noticed in compliance with *Section 3-112: Notice of Public Hearing, Gunnison County Land Use Resolution*.

SECTION 1-113: CONDUCT OF PUBLIC HEARING.

A. **CONDUCT OF PUBLIC HEARING.** Public hearings shall be conducted in accordance with *Section 3-113: Conduct of Public Hearing, Gunnison County Land Use Resolution*.

SECTION 1-114: ENFORCEMENT AND PENALTIES.

A. **GEOTHERMAL ELECTRICAL GENERATION OPERATION IN VIOLATION OF THESE REGULATIONS.**

1. **OPERATORS THAT HAVE NOT OBTAINED A PERMIT IN COMPLIANCE WITH THESE REGULATIONS OR DO NOT COMPLY WITH PERMIT REQUIREMENTS.** Any Operator engaging in a Geothermal Electrical Generation Operation who does not obtain a Permit pursuant to these *Regulations*, who does not comply with the Permit requirements, or who acts outside the jurisdiction of the Permit may be enjoined by the County from engaging in such Geothermal Electrical Generation Operation and may be subject to such other criminal or civil liability as may be prescribed by law. In addition, if the County prevails in whole or part in any action, the Operator shall pay all reasonable attorney fees and expert costs incurred by the County.

2. **SUSPENSION OF PERMIT.** If the County determines at any time that there is a violation of the conditions of the Permit or that there are material changes in a Geothermal Electrical Generation Operation as approved by the permit, the Community Development Director or designee may, for good cause temporarily suspend the Permit. In such case, upon oral or written notification by the Community Development Director or designee, the Operator shall cease operations immediately. The Community Development Director or designee shall forthwith provide the Operator with written notice of the violation or identification of the changed condition(s). The Operator shall have a maximum of fifteen (15) days to correct the violation. If the violation is not timely corrected, the Permit may be further suspended pending a revocation hearing. The Operator may request an immediate hearing before the Board regarding the suspension. The Board shall hold the hearing within ten (10) days of the Operator's written request.

3. **REVOCATION OF PERMIT.** The County may, following notice and hearing, revoke a Permit granted pursuant to these *Regulations* if any of the activities conducted by the Operator violate the conditions of the Permit or these *Regulations*, or constitute material changes in the Geothermal Electrical Generation Operation approved by the County. The County shall provide written notice to the Operator of the violation or the material changes, and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the County shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days prior to the hearing. Following the hearing, the County may revoke the Permit or may specify a time by which action shall be taken to correct any violations of the Permit to avoid revocation.

B. INSPECTION. The County may enter and inspect any property subject to these *Regulations* at reasonable hours for the purpose of determining whether a Geothermal Electrical Generation Operation is in violation of the provisions of these *Regulations*.

C. JUDICIAL REVIEW. Any action seeking judicial review of a final decision of the County shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County of Gunnison, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

D. NO REVIEW OR APPROVAL FOR PERSONS SUBJECT TO ENFORCEMENT ACTION. No permit application shall be processed or approved pursuant to these *Regulations* for an Operator, or for property that is subject to an ongoing enforcement action.

SECTION 1-115: COMMENCEMENT OF OPERATION.

The Operation shall be commenced within one year of the issuance of a Permit under these *Regulations*, or as specifically identified in the Permit or the Permit shall terminate.

SECTION 1-116: GUARANTY OF CONDITIONS OF APPROVAL.

The Operator shall enter into a Security Agreement with the County to guaranty compliance with any conditions of approval consistent with the following:

A. DEVELOPMENT IMPROVEMENT AGREEMENT SHALL BE REQUIRED. When mitigation is a required component of a Permit, the Board shall require as a condition of permit approval that the Operator execute and fund with Gunnison County a Development Improvement Agreement acceptable to Gunnison County in form and substance, and amount and type of security. The Development Improvement Agreement shall constitute the Operator's agreement to perform all conditions, identified as requirements of Permit approval. The Development Improvement Agreement shall specifically identify such requirements including plans, drawings and schedules for completion and shall be substantially in the form referenced in Appendix A, attached hereto and incorporated herein.

B. FINANCIAL SECURITY. The Development Improvement Agreement shall require the Operator to provide to the County a guarantee of financial security, acceptable to the County, in an amount established by the Board based on no less than 125 percent of the estimated cost of the conditions to be performed, and payable on demand to the County. The purpose of the guarantee of financial security is to assure that the conditions identified as requirements of Permit approval are timely and fully completed, that all mitigation requirements and permit conditions are timely and fully performed, and that all impacted areas are timely and fully reclaimed.

C. ENSURED COMPLETION OF CONDITIONS. The Development Improvement Agreement shall provide that if the Board determines that any of the required conditions are not performed as provided in the Agreement, including reasonable requirements for the correction of deficiencies upon notice thereof, the Board may draw upon the financial security as may be necessary to complete the improvements in accordance with the specifications included in the Agreement and the Board may exercise any or all of the other remedies available to it pursuant to the Agreement and these *Regulations*.

D. CERTIFICATION OF COMPLETION AND RELEASE OF SECURITY. The Development Improvement Agreement may include requirements for certification of completion, partial releases of the security, hold-over of security to ensure repairs or replacement, demonstrated performance of required facilities, substitution of security, and other requirements deemed appropriate by the Board.

E. FORM OF AGREEMENT. A general form of the Development Improvement Agreement may be obtained from the County Attorney's office. This form of agreement may be modified from time to time by the County at its discretion without formal amendment to these Regulations.

SECTION 1-117: AMENDING THESE REGULATIONS.

A. PURPOSE. The purpose of this Section is to provide a process by which the Board may, from time to time, amend, supplement or repeal these Regulations.

B. INITIATION. An amendment to these Regulations may be initiated by the Board, or by the Planning Commission.

C. PROCESS. The following process shall apply to an application for an amendment to these Regulations:

1. **BOARD MOTION.** The Board may initiate an amendment by motion directing the Community Development Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.

2. **PLANNING COMMISSION INITIATIVE.** The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board. If the Board chooses to go forward with the Planning Commission initiative the Board shall direct the Community Development Director to submit a report to the Planning Commission for review and further action pursuant to this Section.

3. **REVIEW BY PLANNING COMMISSION.** The Planning Commission shall review the report of the Community Development Director. The Planning Commission shall consider the Standards below and shall make a recommendation to the Board to approve, approve with modification, table for further study or deny the proposed amendment.

4. **BOARD PUBLIC HEARING.** The Planning Commission's recommendation shall be forwarded to the Board, together with a complete copy of the Community Development Director's report and the Board shall conduct a public hearing in compliance with *Section 1-112: Public Notice* and *Section 1-113: Conduct of Public Hearing*.

5. **BOARD REVIEW AND ACTION.** The Board shall consider the proposed language, any relevant support materials, the Community Development Director's report, the Planning Commission's recommendation, the public testimony and evidence given at the public hearing, and compliance of the language with standards below. Following closure of the public hearing, the Board may, by written resolution, adopt the amendment, adopt the amendment with modifications, table for further study or deny the amendment. Such resolution shall include findings that address the review standards below.

D. FACTORS TO CONSIDER. The decision to amend the text of these *Regulations* is at the legislative discretion of the Board and is not controlled by any one factor. The Board shall consider the following in determining whether to adopt a proposed amendment, adopt a proposed amendment with modifications, table it for further study or deny it.

1. **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY.** Consistency of the proposed amendment with any comprehensive plan that may be adopted by Gunnison County;

2. **CHANGED CONDITIONS.** Changed conditions, including the economy of Gunnison County;

3. **EFFECT ON THE NATURAL ENVIRONMENT.** Effect of the proposed amendment on the natural environment;

4. **COMMUNITY NEEDS**. Community needs;

5. **DEVELOPMENT PATTERN**. Development pattern;

6. **CHANGES IN OR CLARIFICATION TO APPLICABLE LAW.** Changes in or clarification to applicable law;

7. **PUBLIC HEALTH, SAFETY AND WELFARE.** Public health, safety and welfare;

8. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY**. Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

SECTION 1-118: DEFINITIONS.

Where a term used in these *Regulations* is not defined, the definitions in Article 2 of the *Gunnison County Land Use Resolution* shall apply.

Aggrieved Party means the applicant, the owner of the subject property, or any person, or member of the public.

Aquifer means a water-bearing stratum of permeable sand, rock, or gravel.

Board means the Board of County Commissioners of Gunnison County, Colorado.

Brine means a geothermal solution containing appreciable amounts of sodium chloride or other salts.

Compatible. Consistent with, harmonious with, similar and complementary to, the use and/ or function of natural systems and/or existing land uses in an area.

County means Gunnison County, Colorado, its officers, employees and agents.

Degradation means lowering in grade or desirability; lessening in quality.

Commercial Production of Electricity means the process of generating electrical power from other sources of primary energy.

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.

Development means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

Development area means those geographic areas within the County which will be developed or altered directly by construction or operation of the Operation.

Exploration means any activity relating to the search for evidence and confirmation of geothermal resources.

Geothermal well means a well that is constructed for the purpose of exploration, use of a geothermal resource, or reinjection of a geothermal fluid.

Geothermal Electrical Generation Operation 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 included within this definition.

Geothermal Fluid means the naturally occurring groundwater, brines, vapor and steam associated with a geothermal resource.

Geothermal Resource means the natural heat, hot water and steam from within the earth, including the energy that might be extracted from the natural heat, the material medium used to extract the energy from a geothermal resource, and geothermal by-products.

Groundwater means the subsurface waters in a zone of saturation, including the geothermal fluid.

Impact Area (Operation) means those geographic areas, including the development area, in which any impacts are likely to be caused by the Operation.

Injection means the process of returning spent geothermal fluids to the subsurface. Sometimes referred to as reinjection.

Land Use Resolution means the *Gunnison County Land Use Resolution***.**

Matter of State Interest means an area of or an activity of state interest or both as listed in §§ 24-65.1-201(1) and 203(1), C.R.S.

Material injury means diminution or alteration of quantity, temperature, or quality of a geothermal or water right.

Maximum Extent Feasible means that all practical efforts to comply with the regulations or minimize potential harm or adverse impacts have been undertaken and that no feasible and prudent alternative exists. Economic factors may be taken into account but shall not be the overriding or dispositive factor in determining whether no feasible and practical alternative exists in a particular situation.

Minor Impact Project means the classification of the review process for a Geothermal Electrical Generation Operation that is located on a site 5 acres or less, excluding transmission lines. And exploration activities for a Geothermal Electrical Generation Operation that creates surface disturbance.

Major Impact Project means the classification of the review process for a Geothermal Electrical Generation Operation that is located on a site larger than 5 acres, excluding transmission lines.

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.

Net effect (relating to mitigation) means the impact of an action after mitigation.

Operation means a Geothermal Electrical Generation Operation.

Plugged well means a well that has been plugged to prevent entry of fluids into the well and to isolate subsurface fluids to the formations in which they are encountered in the well.

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.

Production facilities include, but are not limited to, power plants, extraction plants, and separators.

Regulations means the “Guidelines and Regulations for the Use of Geothermal Resources for Commercial Production of Electricity,” or “Geothermal Regulations.”

Reinjection means reintroducing geothermal fluids through a well into the same or different reservoir from which they were produced, whether by pressure at the surface or by gravity flow.

Significant means deserving to be considered; important; notable and not trifling.

Significantly degrade means to lower in grade or desirability to a significant, as opposed to trifling, degree

Significantly deteriorate means to make inferior in quality or value to a significant, as opposed to trivial, degree.

Operation means Geothermal Electrical Generation Facility.

Operator means the applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

Parcel means a tract or lot of land upon which the Operation will occur.

Person means any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the State or Federal governments, and any of their political subdivisions, agencies, or instrumentalities.

Planning Commission means the Gunnison County Planning Commission.

Referral Agency means an agency, organization, or technical consultant deemed appropriate and necessary, by the County, to review an application and provide professional analysis and recommendations, including without limitation other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the application or permit and legal consultants.

Regulation(s) means these Regulations for Geothermal Electrical Generation Operation.

Sensitive Wildlife Habitat means a natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leks, migration corridors, calving and fawning grounds for big game; critical winter range for big game and for sage grouse.

Significant means of considerable or substantial consequence.

Site means an area one mile in radius around an existing or proposed well pad.

Significant Adverse Effect/Impact means an impact of an action, after mitigation that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

Water Body means a water body is any surface or subsurface waters which are contained in or flow in or through Gunnison County, but does not include ephemeral streams, roadway ditches, water in sewage systems, waters in treatment works of disposal systems, water in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 14-___

A RESOLUTION ADOPTING A SCHEDULE OF FEES
FOR GEOTHERMAL ELECTRICAL GENERATION OPERATION APPLICATIONS

WHEREAS, the Board of County Commissioners adopted the *Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity* on November 7, 2014; and

WHEREAS, *Section 1-105: Impact Classification, Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity* identifies the level of County review for Geothermal Electrical Generation Operation applications; and

WHEREAS, the Gunnison County Community Development Department charges fees to defray the cost of processing and reviewing applications by the County; and

WHEREAS, the Board of County Commissioners is informed of the costs associated with the review of Geothermal Electrical Generation Operation applications;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado:

1. The Gunnison County Community Development Department Schedule of Fees for Geothermal Electrical Generation Operation applications is hereby adopted as identified in Exhibit A (attached).

2. The Gunnison County Community Development Department Schedule of Fees for Geothermal Electrical Generation Operation becomes effective upon the recordation of this Resolution with the Office of the Gunnison County Clerk and Recorder.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this 4th day of November, 2014.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

_____
Paula Swenson, Chairperson

_____
Jonathan Houck, Commissioner

_____
Phil Chamberland, Commissioner

Attest:

_____
Deputy County Clerk

EXHIBIT A

GUNNISON COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
SCHEDULE OF FEES FOR GEOTHERMAL ELECTRICAL GENERATION OPERATION APPLICATION

Impact Classification	Application Fee
Minor Impact - Geothermal Electrical Generation Operation	$ 2,500.00
Major Impact - Geothermal Electrical Generation Operation	$ 4,500.00

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 14-___

A RESOLUTION ADOPTING THE
GUNNISON COUNTY, COLORADO REGULATIONS
FOR THE USE OF GEOTHERMAL RESOURCES
FOR THE COMMERCIAL GENERATION OF ELECTRICITY

WHEREAS, it is the goal of the Board of County Commissioners of Gunnison County to foster the full, orderly and efficient development of geothermal resources for the commercial generation of electricity while protecting public health, safety and welfare, the environment and wildlife, and protecting public and private property rights; and

WHEREAS, these *Regulations* are authorized by, *inter alia*, C.R.S. 24-65.1-101 through 24-65.1-502; 30-28-101, et seq.; 30-28-201, et seq.; and 29-20-101, et seq.; and

WHEREAS, the Gunnison County Planning Commission did, on October 17, 2014 forward a recommendation of unanimous approval of the *Regulations* to the Board of County Commissioners; and

WHEREAS, the Board of Commissioners did, receive and review the Planning Commission's recommendation and on October 21, 2014 held a properly noticed public hearing to hear public testimony on the *Regulations*;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado:

1. The *Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity* are hereby adopted as identified in Exhibit A (attached).

2. The *Gunnison County, Colorado Regulations for the Use of Geothermal Resources for the Commercial Generation of Electricity* become effective upon the recordation of this Resolution with the Office of the Gunnison County Clerk and Recorder.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this 4th day of November, 2014.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

_____
Paula Swenson, Chairperson

_____
Jonathan Houck, Commissioner

_____
Phil Chamberland, Commissioner

Attest:

_____
Deputy County Clerk

EXHIBIT A