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**STATE AGENCY GEOTHERMAL COORDINATION
IN CALIFORNIA**

November 30, 1978

Work Performed Under Contract No. ET-78-C-03-2121

JM Energy Consultants, Inc.
Los Angeles, California

U. S. DEPARTMENT OF ENERGY
Geothermal Energy

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STATE AGENCY GEOTHERMAL
COORDINATION IN CALIFORNIA

A Report To The Pacific Region Team
Division of Geothermal Energy (U.S.D.O.E.)

Pursuant To Contract No. ET-78-C-03-2121

November 30, 1978

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**INTRODUCTION: THE WHOLE IS ALWAYS GREATER
 THAN THE SUM OF ITS PARTS**

California's numerous state regulatory agencies, and the maze formed by their attendant permitting procedures, have attracted a great deal of attention from the geothermal industry over the past half-decade. Most of the industry-based comments, critiques and analyses have been overwhelmingly negative. This is not any surprise.

As is its wont, California has been a national leader in the preservation of natural values, in the protection and enhancement of its environment and, inevitably, in the multiplicity of its regulations. Due in part to both its large, diverse population and their sophistication in many areas of public policy and its own spectacular natural setting, the Nation's most populous state has become the Nation's most regulated business climate. The byzantine layer of permits, reports, studies and clearances that must be obtained before production may begin from a geothermal prospect that may have been discovered (if not proven) years earlier has ensnarled and often enraged the geothermal community.

The leading symbols of geothermal's California frustration are probably the three to four years that were required to obtain approval for the siting of P.G. and E.'s Geysers Units 12 through 15 by the Public Utilities Commission and Sonoma County, and the protracted administrative and judicial wranglings experienced by Magma, Union and others

while trying to obtain conditional use permits for exploratory wells in Lake County. One analyst has dubbed the sum of these requirements "The Paper Mountain"^{1/}.

A great deal of the problem lies in California's failure to provide ongoing policy coordination and integration for the multiplicity of single-purpose societal values expressed in its abundance of regulatory legislation and regulating agencies. Air quality, water quality, hazardous waste disposal, solid waste management, land use planning, wildlife preservation, recreational opportunities — all of these are sound and necessary components of a complex modern society. In many respects we are making up for nearly a century of neglect.

But the production and utilization of energy fuels is also a sound and necessary part of our lives. By promulgating a series of regulatory statutes, dispersing them to three separate tiers of government and failing to coordinate their administration with energy development in any meaningful fashion, the State of California, like many other jurisdictions, has hamstrung its energy producing and utilizing sectors.

As a result, many private producing entities have chosen to do business elsewhere. This is particularly true in geothermal, where there is no backlog of existing, instate

production areas to fall back on. Some firms, like Phillips Petroleum, have even moved their operations offices elsewhere. Others have simply focused their efforts to develop geothermal prospects on other states, while maintaining offices and land plays in California.

Fortunately, the situation seems to be looking up. Over the past two years the various agencies impacting geothermal development in the State have been taking a new look at their own regulatory policies and programs. The result has been the elimination of some and the tethering of others.

The first bright spot involved the late 1976 formation of the State Geothermal Resources Task Force and its work during the following year.

Then the Energy Commission, pressured by the Task Force, formed at the end of 1977, a Geothermal Policy Committee at the Commissioner level.

Lastly, all of the involved state actors have been active throughout 1978 in the area of policy review and coordination, utilizing the previously-dormant Technical Advisory Committee (TAC) to the State Geothermal Resources Board as their forum.

The purpose of this report is to focus on this still-nascent state-level policy coordination, particularly its main agency entities and their leading players, and examine

its impact on the activities of the Pacific Region Team and future geothermal development in California.

The first chapter will look at the performance of the State Geothermal Resources Board (G.R.B.), extant since 1965. The second will look at 1977's State Geothermal Resources Task Force and its influence on the present setting. The third will examine the G.R.B.'s Technical Advisory Committee (T.A.C.) and the agencies' use of it during the current year as a focal point of their geothermal policy efforts. Finally, this final chapter will also explore the possibility of California's forming a more formal mechanism for carrying out that vital concern.

1/

See McNamara, "The Regulatory Process Confronting Geothermal Development In California: Can We Burn The Paper Mountain?" 2 Geothermal Resources Council Transactions 431 (1978).

CHAPTER ONE: The State Geothermal Resources Board —
Regulation Alone Is Not Good Policy,
But It May Be A Legislative Policy.

The State of California was the Nation's pioneer in enacting geothermal resources legislation. In 1965 its Legislature passed the "Geothermal Energy and Associated Resources Act"^{1/}. It defined "geothermal energy" (amended in 1967 to "geothermal resources")^{2/} and had, as its purpose, the regulation of geothermal well drilling by the State Oil and Gas Supervisor in order to "safeguard life, health, property and the public welfare, and to encourage maximum economic recovery."^{3/}

The statute also established the State "Geothermal Energy Board"^{4/}. Unsurprisingly, given the modest aims of the statute, its scope was also quite narrow. The Board was composed of the Director of the Dept. of Conservation, and the head of that Department's two main Divisions -- Oil & Gas (the State Oil and Gas Supervisor) and Mines and Geology (the State Geologist)^{5/}. Its sole duties involved hearing appeals by operators from orders of district Oil & Gas officers issued pursuant to the new statute.^{6/}

The statute also specifically directed that "no funds shall be available for expenditure pursuant to . . . this chapter . . . , unless and until specifically appropriated therefore by the Legislature."^{7/} Just in case the Board got any grandiose ideas, that would certainly give them pause.

Nowhere in the 1965 statute was there any mention of

geothermal policy formulation or inter-agency coordination. Despite the fact that geothermal prospecting permits already existed on state land and that several power plants had already been approved at The Geysers by the P.U.C. (the first operative since 1960), neither the State Lands Commission or the Public Utilities Commission were mentioned in the legislation or represented on the Board.

The Legislature soon realized that more attention was due geothermal resources. It directed its Joint Committee on Tidelands (later called the Joint Committee on Public Domain), its Senate Permanent Factfinding Committee on Natural Resources and several administrative agencies to study geothermal and report back. During 1966 and 1967 these reports came under scrutiny by the Legislature. Significantly, it never asked the newly created Geothermal Board to undertake such a study, though virtually everyone else's opinion was sought.^{8/}

As a result of these report's and their recommendations, the Legislature passed the "Geothermal Resources Act of 1967".^{9/} In addition to creating a state lands leasing/prospecting permit program for geothermal resources,^{10/} the 1967 legislation amended the drilling regulatory program enacted two years earlier in several aspects.

Most notably, for our purposes, it enlarged the member-

ship of the "Geothermal Resources Board" from the three Department of Conservation members to seven agencies, adding State Lands, the P.U.C., the State Water Resources Control Board and the State Department of Water Resources.^{11/} The presence of the latter two agencies reflected a concern that widespread development of geothermal resources in the state might somehow affect groundwater aquifers in either quality or quantity.^{12/}

While they added four new agencies to the G.R.B., the Legislature, perhaps significantly, gave it only minimal new duties. None of them involved policy-making. The Board could now require the submission of "drilling logs, descriptions of cores and samples, and drilling histories . . .".^{13/} It was also empowered to issue a "Certificate of primary purpose" to geothermal operators, attesting to the fact that they were drilling for geothermal resources and "not for the purpose of producing water usable for domestic and irrigation purposes."^{14/} This administrative finding would establish a rebuttable presumption that the operator had "absolute title to the geothermal resources reduced to his possession from such wells."^{15/} Obviously the potential problem of geothermal's possible impact on rights to the state's groundwater supplies was again paramount here.

For our purposes, it is noteworthy that the G.R.B. was

not given a policy-making or policy-coordinating role by the 1967 statute. Nor was it consulted prior to enactment. It was a pattern that was to repeat itself.

As interest in geothermal picked up in the late 60's -- both in California and in Congress, the Legislature began to realize that several additional policy dilemmas would arise -- including but not limited to those of ownership between groundwater appropriators and geothermal well drillers.^{16/}

They also began to realize, partially in the wake of investigations by the U.S. Geological Survey and U.C. Riverside in Imperial County, that the potential of the state's geothermal resources was not limited to the dry steam field at The Geysers.^{17/}

They therefore switched gears and for the first and only time asked the G.R.B.'s opinion. Senate Resolution 331, passed in August 1970, directed the G.R.B. to "prepare a report of its findings and recommendations . . . for appropriate legislative action . . .".^{18/} Even more amazingly, it further directed the G.R.B. to "undertake an active program of full cooperation with federal agencies, local government, the Mexican government and private interests to ensure that development of geothermal power and water resources is consistent with statewide geothermal resource policy".^{19/}

At a stroke, a heretofore limited, regulatory appeal

board had become, for a while, the guardian of "statewide geothermal resource policy." The G.R.B. complied with the Legislature's request, submitting its report on January, 1971.^{20/} Perhaps due to the heavily regulatory make up of the Board or the cautious bent of its members, it actually contained very little in the way of substantive policy recommendations.^{21/} Part of the problem may have lain in the Board's lack of expert staff support. After submitting its report to the Legislature, the G.R.B. formed a "Technical Advisory Committee" (TAC) to give it this expertise. It came too late. The recommendations that it had made were not acted upon by the Legislature. That body reverted to its prior style, which might be called "do-it-yourself".

The Joint Legislative Committee on Public Domain created a Subcommittee on Geothermal Resources in 1972, charging it with the responsibility of "monitoring development, use and sale of geothermal resources" on state lands.^{22/} This subcommittee held hearings, issued several reports,^{23/} and became, for three years, the focal point for geothermal policy recommendations in California. Eventually, several minor legislative actions were taken, but the major problems (tax, permitting delays, etc.) were left untouched.

The Legislature's downplaying of a fairly half hearted set of policy recommendations by the G.R.B. is noteworthy for

two reasons: it undercut any incentive that the agencies represented on the G.R.B. had for ongoing policy formulation and coordination from 1972 on; and it emphasized a longstanding and still ongoing duality in California's geothermal policy arena between the executive and legislative branches.

A partial explanation of the latter can be found in the fact that, during the period from 1966 through 1974, there was a conservative Republican governor (Ronald Reagan) and a liberal Democratic legislature. Notwithstanding this premise, however, the duality has persevered into the present Brown Administration, which shares the liberal Democratic political affiliation of the Legislature. It has resulted in a virtual replay of the early 70's scenario.

To wit, the Legislature directs various administrative agencies, but not the G.R.B., to come up with geothermal policy recommendations. It then ignores their work and serves up, in a minor key, some solutions of its own. These fail to meet the problem, and the cycle begins anew. As we examine the second act in this play — the role of the State Geothermal Resources Task Force — it may serve us well to keep in mind that the Legislature, despite a fairly demonstrable lack of geothermal expertise, has consistently kept unto itself the role of state geothermal policy maker. It has also done a rather spectacular job of not fulfilling that role.

Footnotes

- 1/ Stats. 1965, c. 1483, p. 3451, §1 (CAL. PUB. RES. CODE, §3700 et. seq.).
- 2/ CAL. PUB. RES. CODE §3701.
- 3/ CAL. PUB. RES. CODE §3700.
- 4/ CAL. PUB. RES. CODE §3742. Its name was also amended in 1967 to the now familiar "Geothermal Resources Board".
- 5/ id.
- 6/ id.
- 7/ Stats. 1965, c. 1483, p. 3466, §2 (not codified).
- 8/ See "California's Geothermal Resources", Jt. Comm. on Tidelands (1967); Geothermal Resources: Foundation For a Potentially Significant New Industry In California", Senate Factfinding Comm. (1967); "Geothermal Power in California", Dept. of Water Resources (Dec. 1966) (in response to Senate Resolution No. 138, relating to possible use of geothermal-based power to pump water over Tehachapi Mts.); "Geothermal Resources In Calif.: A Status Report" (J. Koenig, Calif. Div. of Mines & Geology Mineral Information Service, Vol. 19, No. 6 (June 1966)); and "Investigation of Geothermal Waters In The Long Valley Area, Mono County", Dept. of Water Resources (July 1967).
- 9/ Stats. 1967, c. 1398, p. 3267, §1.
- 10/ CAL. PUB. RES. CODE, §6902 et. seq..
- 11/ CAL PUB. RES. CODE §3742, as amended by Stats. 1967, c. 1398, p. 3272, §23.

- 12/ Cross-references in the codebook itself repeatedly refer to "Waters and Water Courses."
- 13/ CAL. PUB. RES. CODE §3742.1, added by Stats. 1967, c. 1398, p. 3272, §24.
- 14/ CAL. PUB. RES. CODE §3742.2, added by Stats. 1967, c. 1398, p. 3272, §25.
- 15/ id.
- 16/ See, e.g., John W. Brooks, Jr., "Legal Problems of The Geothermal Industry", 6 Natural Resources Journal 511 (1966).
- 17/ See, e.g., Donald E. White, "Geothermal Energy", USGS Circ. 519 (1965) and Robert W. Rex "Investigation of Geothermal Potential on The Imperial Valley" (U.C. Riverside 1970).
- 18/ Senate Resolution 331 (as amended) (August 20, 1970).
- 19/ id.
- 20/ "The Economic Potential of Geothermal Resources In California", California Resources Agency, Geothermal Resources Board (Jan. 1971).
- 21/ See, e.g., "It may be necessary . . . to enact . . . legislation [assuring] compatibility with the . . . Steam Act" and "Action may be required to resolve problems of the legal nature of geothermal resources." Both *ibid*, p. 9 (emphasis added, of course).
- 22/ "Geothermal Resources In California: Much Heat and Some Light", A Report of The Subcommittee on Geothermal Resources (Nov. 20, 1974), at p. 1.
- 23/ Id., and "Geothermal Resources In California: The Problems and The Potential", A Report of The Subcommittee on Geothermal Resources (Dec. 1973).

**CHAPTER TWO: The 1977 State Geothermal Resources
Task Force — Inter-agency Coordination
Undergoes A Trial**

The Subcommittee on Geothermal Resources of the Joint Legislative Committee on the Public Domain passed away with the entrance of the 1975 Legislative Session. Perhaps the Legislature believed that its newest creation — the Energy Resources Conservation and Development Commission^{1/} — which came into being in January, 1975, would handle all the geothermal-related "problems." After all, they had given it a mandate "to develop and coordinate a program of research and development . . . [giving] priority to . . . accelerated development of alternative sources of energy, including geothermal."^{2/} Unfortunately, the Commission was both occupied by its own growing pains and embroiled in larger, seemingly more important duties involving, principally, the controversy over the future of nuclear-based generation in California. As a result, the staff of the Geothermal Fuels Office (in the Commission's Alternatives Implementation Division) was left largely to its own devices, given scant budget and, crucially, no policy direction from the five original Commissioners. The Siting Division was not even staffed to handle geothermal. As a result, no geothermal plant siting regulations existed.

Under constant pressure from industry to rid it of the constant snarl of red tape, the Legislature once again ignored the Geothermal Resources Board and created an ad hoc task force to come up with specific answers to a host of policy and

policy-related questions. Assembly bill 3590,^{3/} authored by Lawrence Kapiloff (whose district included the Imperial Valley) also expressed the Legislature's now-traditional view of geothermal policy as their purview by including two state senators and two assembly persons in its 19 member "State Geothermal Resources Task Force". It also included three public members^{4/} and no less than twelve state agencies. The latter included all eight members^{5/} of the G.R.B., as well as the Energy Commission, Air Resources Board, Office of Planning and Research and Solid Waste Management Board. Priscilla C. Grew, Director of the Department of Conservation and thus, de jure, Chairperson of the G.R.B., was to chair the Task Force as well. Her personal influence, the fact that she, the Governor who appointed her and the bill's author shared similar political philosophies, account for that chairperson designation, as well as the presence of all existing G.R.B. members on the Geothermal Resources Task Force. In effect, she had achieved a union of the G.R.B. and the Legislature, augmented by three public members. This was no mean feat.

Perhaps significantly, however, the Director of the Governor's Office of Planning and Research and the Secretary for Resources were responsible for the Final Report and its recommendations.^{6/} The Legislature's penurious posture towards the G.R.B. was also carried over. It appropriated only \$5,000.00

for Task Force activities.^{7/} Fortunately, its achievements far exceeded the meagreness of its appropriation.

The Task Force held an extensive series of hearings and meetings.^{8/} The latter, in particular, were the scene of lively deliberations among its members.

Building on an excellent study of permitting delays done by O.P.R. in 1976,^{9/} the Task Force devoted the largest portion of its time to a sticky problem — unique to geothermal — the redundant (in a land use sense) permitting and siting decisions involved in progressing a prospect from exploration through development to the level of production necessary to support a power plant.

First of all, there was a seeming duplication involved in well permitting. Each county issues an individual "conditional use permit" for each proposed well. The State Division of Oil & Gas must also issue a permit for all wells on non-federal land.^{10/} Operators were particularly rankled at the county procedures, which invariably required public hearings on each application.^{11/} They felt the D.O.G. permit procedure had pre-empted the local requirements. Unfortunately, an opinion of the State Attorney General found that no such pre-emption had taken place.^{12/} At least with respect to "land use control and environmental protection, the state has not fully occupied the field, and more stringent, supplemental

regulation by cities and counties is valid . . .".^{13/} To make matters worse, the counties had also been designated as "lead agencies" for purposes of preparing the "environmental impact report" (EIR) or "negative declaration" on each well in order to comply with California's Environmental Quality Act (CEQA).^{14/}

Thus it was the counties, understaffed and inadequately budgeted, upon whom the burden of EIR documentation fell. For this, and other reasons,^{15/} well permitting became an agonizingly slow process, frustrating both developers and development.

While the Task Force felt strongly in favor of local (or "home") rule (and realized the political realities of taking on California's powerful counties), they were also determined to eliminate this duplication of effort. Unfortunately, the only substantive proposal for doing so was promulgated by the Energy Commission staff, which insisted that they should permit all wells due to their statutory grant of authority over "facilities appurtenant . . ." to all geothermal power plants.^{16/} To a person, the other agency members opposed this measure. An opinion of the State Attorney-General was requested by the Task Force, in order to clarify the matter.^{17/} More importantly, an "Us vs. Them" type of situation had begun to emerge on the Task Force, with the Energy Commission's geothermal staff representative holding

down the former role.

This frame of reference carried over to the Task Force's deliberations concerning the second prong of the redundancy -- Energy Commission authority to site a geothermal power plant within a county despite (theoretically) the opposition of that county and/or its Air Pollution Control District (A.P.C.D.). Energy Commission geothermal staff, as noted, had no representatives in the Siting Division. The question of the Commission's regulatory posture towards geothermal plant siting had not even been discussed. Their Geothermal Fuels Office put together a set of seven "policy options" ranging from full takeover/pre-emption to abdication. They presented it to the Task Force in June, 1977 and received such heavily negative feedback that a planned presentation to the Commissioners themselves was permanently shelved. This also served to harden the feelings of all the agencies. It thus came as no surprise when Senator Stull presented a proposal to divest the Commission of all geothermal regulatory authority and give that authority back to the P.U.C..^{18/} Yet another proposal would have exempted from Commission jurisdiction all geothermal power plants "of less than 150 MWe capacity."^{19/} (Effectively all geothermal power plants, since the largest is only 135 megawatts).

Finally, the Task Force recommended that the Commission

abolish the bifurcated, NOI/AFC permit process for geothermal plants, replacing it with "a single, nine-month review process . . .".^{20/} They also requested that this be done on an urgency basis," . . . prior to July 1, 1978".^{21/} The other Task Force members were more than a bit upset by the Commission's posture during deliberations, particularly in light of their statute's expressed preferences for geothermal resources.^{22/}

The Commission staff's response to the Task Force's recommendations did nothing to ease the strain that was building. As stated by Executive Director, they felt that the report "doesn't seem to get to the heart of the geothermal problem . . . [because it] gives the impression that the regulatory and institutional constraints are the key barriers to . . . geothermal resource development . . .".^{23/} Their staff felt that the "timely" construction of "demonstration plants"^{24/} was more at the "heart" of the problem. It was a conclusion not shared by the Task Force, or industry, which all but talked DOE out of building such a plant at Heber a few months later.

Fortunately, an opening came up on the Commission at this same time, and C. Suzanne Reed, formerly of O.P.R. and with extensive Capitol Hill legislative experience, was appointed to fill it, and also chair the Commission's new

"Geothermal Policy Committee". In short order, she turned out a Report to the full Commission^{24/} which, in essence, validated in large measure the recommendations of the other agencies as represented by the Task Force's final report. It set up a unitary, 12 month siting process, opposed exercising siting jurisdiction over geothermal wells, and pledged full cooperation with the counties.^{25/}

The breach between the Commission and the other agencies had been closed, if not completely healed.

The Legislature's reaction to the Task Force's recommendations^{26/} was mixed, to say the least. Part of the problem lay in a temporary breakdown of the reapproachment established early in 1978 by Priscilla Grew, Chairperson of the G.R.B., and Commissioner Suzanne Reed.

In brief, the Task Force recommendations to the Legislature, as incorporated in the proposed "Geothermal Resources Development Act of 1978", were the following:

1. Several policy recitals declaring a state policy in favor of accelerated development of environmentally-sound uses of geothermal resources and area-wide planning for orderly development of same.
2. The Act would expand the membership and responsibilities of the Geothermal Resources

Board. The Board would serve as the State body responsible for coordinating programs developed and implemented by State agencies to insure their consistency with State policy, for coordinating State programs and activities with those of Federal and local agencies, for identifying and prioritizing areas in which immediate State and local planning activities should be concentrated, and for supervising, in conjunction with the Office of Planning and Research, the local planning activities mandated by the Act.

3. The Act would mandate local preparation of "geothermal resources programs" pursuant to timetables established in the Act. Each "geothermal resources program" would (a) identify the locations of known and potential geothermal resource and "designate activities for their use," (b) designate (i) areas where geothermal development should be expedited, (ii) areas that should be reserved for future geothermal development, and (iii) areas that should be protected against further geothermal development. The "geothermal resources

programs" would be implemented through:

(a) amendments to a county's general plan, the adoption of a distinct geothermal element, or the adoption of a specific area plan for those areas within the county containing geothermal resources; (b) appropriate amendments to the county's zoning ordinances; (c) appropriate amendments to the county's land division ordinances; (d) appropriate amendments to county ordinances governing well drilling, grading, etc.. The Office of Planning and Research would, in consultation with the Energy Commission and the GRB, promulgate standards and criteria to guide counties in their efforts to comply with the statute. The legislation would require counties to find that any permit or license issued prior to the adoption of a geothermal element or its equivalent would not preclude the development of any potential or known geothermal resource.

4. The legislation would require the Resources Secretary, after public hearings, to designate hot springs with particular statewide cultural,

religious, or other significance. Such designated hot springs would then be protected from further development by the establishment of a one-mile buffer zone.

5. The Energy Commission's geothermal power plant siting procedure would become a single-phased, 12-month process. The legislation would expressly state that geothermal wells are not included within the meaning of "related and appurtenant facilities", and are thus not subject to Energy Commission jurisdiction.
6. State lands with geothermal potential would be available for leasing by governmental entities as well as by private industry.
7. Bonding requirements for shallow, low-temperature wells would be reduced substantially.
8. The Public Utilities Commission would be authorized to order "wheeling" of electricity produced from geothermal resources for "public agencies" (i.e., municipal utility interests).

At about the same time, Assemblyman Goggin, Chairman of the Assembly Subcommittee on Energy, introduced what was

believed to be an-industry-backed bill-A.B. 2644. It gave to the counties full responsibility for geothermal plant siting, as long as they had prepared a Geothermal Element to their General Plan.^{27/} It also made Division of Oil & Gas (D.O.G.) the "lead agency" for "exploratory projects" (limited to no more than four wells), limiting the time for their attendant EIE preparation to 135 days.^{28/} Other provisions would have made D.O.G.'s permit procedure the "functional equivalent" of CEQA,^{29/} for "full field developmental projects", thus negating the need for any EIR on said projects.

As the year waned on, and pressure from industry and the Governor (who needed alternatives to the Sundesert Nuclear Plant, which the Energy Commission had halted) for action increased, the involved state agencies could not present a united front to the relevant Legislative committees. In the end, as a direct result of that failure, the bulk of A.B. 3707 was dropped, and A.B. 2644 passed in a form that virtually all the agencies found unacceptable.^{30/} To understand why these events transpired, it is necessary to examine the recent work of the Technical Advisory Committee (TAC). It was this body, ostensibly the G.R.B.'s staff level support since its inception in 1971, which has become the focal point of inter-agency geothermal activity in California, as well as the state's interface with the involved federal agencies. It is the TAC which is the best, perhaps last, hope for such efforts in the future.

Footnotes

- 1/ The Warren-Alquist Act, Stats. 1974, c. 276, p. 501, operative Jan. 7, 1975.
- 2/ CAL. PUB. RES. CODE §25600 (c).
- 3/ Stats. 1976, c. 958.
- 4/ Mary Jadiker of the Lake County Energy Council, Paul Kruger of Stanford Univ. and Jack McNamara, then Fellow in Law & Energy Policy at USC Law Center and Chief Counsel to the Law Center's Geothermal Energy and The Law Project.
- 5/ Dept. of Fish & Game having been added in 1975 (Stats. 1975, c. 773, §1).
- 6/ A.B. 3590, §
- 7/ A.B. 3590, §
- 8/ See Report of The State Geothermal Resources Task Force, State of Calif. (June 1978), at Appendix I.I for a full listing of its activities.
- 9/ "State and Local Permit Study: An Analysis of Administrative Factors Affecting Geothermal Development at The Geysers", O.P.R. (February 1976).
- 10/ This program was initiated by the 1965 legislation discussed in Ch. 1, above.
- 11/ For an excellent example, one dealing with procedures in one Geysers county (Napa), See Trower, "An Overview of The California Permitting Process", in 11 Land and Water L. Rev. (Dec. 1977), reprinted from Geothermal Resources Development Institute, Rocky Mtn. Min. L. Frd. (Jan. 1977).

- 12/ Opinion No. SO 76-32 (Aug. 24, 1976), 59 Ops. Atty. Gen. 461 (1976).
- 13/ *ibid.*, at p. 461.
- 14/ CAL. PUB. RES. CODE §21000 et. seq..
- 15/ For a fuller discussion, see McNamara, op. cit. in Introduction and Trower, op. cit..
- 16/ CAL. PUB. RES. CODE, §25600.
- 17/ It held that the Commission had no jurisdiction over geothermal wells. See Op. SO 78- (March 17, 1978) 61 Ops. Atty. Gen. (1978)
- 18/ See Aug. 5, 1977 Proposal of Sen. Stull to Task Force, submitted by Lance Montank of the Senator's staff.
- 19/ See August 5, 1977 Proposal by J. McNamara to Task Force.
- 20/ "Executive Summary & Recommendations", State Task Force (Dec. 1977), at p. 21.
- 21/ *id.*
- 22/ See language cited at fn. 2, op. cit., and also CAL. PUB. RES. CODE §2540, (only one geothermal site need be put forward in NOI, as opposed to three for other fuels and an eighteen month process, as opposed to 36 months for other fuels).
- 23/ Energy Commission staff Dissent, Appendix I to Task Force Report, op. cit., at fn. 8, at pg. 1 (Dec. 21, 1977).

24/ Recommendations For A Geothermal Resource Development and Power Plant Siting Program: Geothermal Policy Report, Commissioners Reed & Pasternak (adopted by the Commission on March 22, 1978).

25/ ibid., pp. 26-42.

26/ As expressed in A.B. 3707 (Kapiloff), the "Geothermal Resources Development Act of 1978."

27/ A.B. 2644, at §4.

28/ ibid., at §3.

29/ CAL. PUB. RES. CODE §

30/ A copy of both pieces of legislation, as enacted, are attached as Appendix A.

**CHAPTER THREE: Can An "Advisory" Committee Make
Policy on Its Own? The G.R.B.'s
Technical Advisory Committee (TAC)
Fills The Breach And Charts The
Future**

As noted earlier,^{1/} the Geothermal Resources Board had moved to shore up its sagging expertise quotient in 1971 by creating a Technical Advisory Committee (TAC). TAC was composed of staff level personnel from the G.R.B.'s various constituent agencies, which at that time numbered seven.^{2/} TAC's early history was characterized by consistently lively and usually very topical agenda items and, more often than not, an equally consistent failure of the G.R.B. to act on their recommendations.^{3/} There were several reasons for this.

The G.R.B.'s membership, you will recall, was very high level — department or commission chairpersons. Most if not all were therefore political appointees whose interest and longevity were both limited.

The staff people sitting on TAC, by contrast, were more long term in both their tenure and outlook. They had day to day contact with industry. They therefore knew more about the problems faced by geothermal because they were, literally, often their problems. Their level of interest in solutions was correspondingly high. But very little, if any leadership was asserted by the then — GRB chairman in getting the parent body to act. As a result, the Legislature, as noted, took geothermal policy to its bosom, relegating the Board to a fairly meaningless role and the TAC members to frustration.

When Kapiloff's A.B. 3590 created the State Geothermal

Resources Task Force in 1976, it included the then-eight G.R.B. members among its 19 member study group. Whether by design or another display of their interest, virtually all of the agencies were represented on The Task Force by their TAC, or staff level representatives. Some of these individuals, including Don Everitts (State Lands), Forrest Bacon (Mines & Geology), Alvin Franks (Water Quality Control Board) and Dick Forrester (Fish & Game) had been on the TAC since its inception in 1971. With the addition of staff-level OPR personnel and several legislative staff (representing the four legislators on the Task Force), the Task Force became, in fact, an expanded TAC. It was as if the Legislature had gone to the long-ignored TAC for its advice. The TAC - Task Force members responded with a superb effort and an effective output, forcing the Energy Commission, ARB and other agencies into an active geothermal policy posture. It was a triumph they had never achieved as "advisers" to the G.R.B..

When the Task Force concluded its work in December, 1977, the TAC members, spurred by their successes on the Task Force, decided to rejuvenate the TAC itself. Beginning in February, 1978, they met on a regular monthly basis to deal with a wide assortment of state geothermal policy matters. This included regular quarterly meetings with

federal agencies active in the California geothermal picture. Though the Energy Commission, ARB, OPR, Solid Waste Board and Department of Parks and Recreation were still not on the G.R.B., they, too, sent representatives to sit on TAC. Three public members were elected by the TAC as well, to broaden its input.

The problem of implementing TAC positions by "policy level" higher ups was also solved. Priscilla Grew, G.R.B. Chairperson, and Suzanne Reed, Chairperson of the Energy Commission's Geothermal Policy Committee, were asked by the TAC to form an ad hoc alliance at that level, to represent California's geothermal-impacting agencies. This was also a logical move in terms of expertise, as well as institutional structure. The Department of Conservation and Energy Commission probably had the largest responsibilities in the geothermal area, and perhaps the greatest interest. They were the logical "spearheads" for the state effort. Under their aegis, and with constant input and review from TAC, a great number of important policy and programmatic elements have been successfully dealt with on an integrated, multi-agency basis.

There have been problems, however. The recently-enacted state geothermal legislation is far from satisfactory in the view of almost all the TAC member agencies. Unfortunately, they were unable to come to a unified position on

either the Goggin^{4/} or Kapiloff^{5/} bills, as well as a controversial bill to protect hot springs by banning geothermal development near them.^{6/} The latter was narrowly defeated in committee.

Included in the non-enacted portions of the Kapiloff bill was a restructuring of the G.R.B. to include public members, the Energy Commission, O.R.R. and others. Thus the ad hoc TAC approach continued into the fall and winter. Feeling the need for a more viable institutional structure in order to carry out its coordinative role over the long term, TAC delegated the task of coming up with an acceptable blueprint to a special subcommittee on Policy.^{7/} The Final Report of that group will be handed to the TAC at its December 6th meeting. It is expected to recommend the formation of an administrative/MOU-created coordinating council, similar to the federal I.G.C.C., to carry out the functions of statewide policy coordination, federal agency interface and state legislative response that have been so usefully performed for the past two years, first by the Task Force (1977) and then by the TAC (1978).

Inter-agency geothermal policy coordination in California must be a permanent fixture in the future geothermal resource development of that state, as well as the future plans and programs of the U.S. Department of Energy.

Footnotes

- 1/ See Chapter 1.
- 2/ The Dept. of Conservation, its Divisions of Oil & Gas and Mines and Geology, the P.U.C., State Lands Commission, State Water Quality Control Board, and the Dept. of Water Resources.
- 3/ See, e.g., Minutes of G.R.B. Meetings of July 16, 1974, Aug. 9, 1974, Oct. 2, 1974 and Oct. 28, 1974. There, substantive TAC recommendations on streamlining well permitting, etc., were never approved.
- 4/ A.B. 2644.
- 5/ A.B. 3707.
- 6/ A.B. 5009 (Keene).
- 7/ Jack McNamara (Public Member) was Chairman. The Subcommittee included Nancy Deller (Energy Commission), Don Everitts (State Lands), Michael Gersick (Dept. of Conservation), Kathryn Tobias (OPR) and Judy Warburg (Dept. of Water Resources).

Appendix A

Assembly Bill No. 2644

CHAPTER 1271

An act to add Section 65928.5 to, and to add Article 6 (commencing with Section 65960) to Chapter 4.5 of Division 1 of Title 7 of, the Government Code, and to amend Sections 25101, 25102, 25120, and 25540 of, and to add Sections 3715.5, 21065.5, 21090.1, 25115, 25133, 25540.1, 25540.2, 25540.3, 25540.4, and 25540.5 to, the Public Resources Code, and to amend Section 2802 of, and to add Section 7032 to, the Public Utilities Code, relating to energy.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 28, 1978.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2644, Coggin. Energy resources: development projects: geothermal powerplants, certification: energy producers.

(1) Existing law generally requires any public agency that has the principal responsibility for approving a development project to approve or disapprove the project within one year from the date on which an application requesting approval has been received and accepted as complete and any other public agency which has responsibility for approving the project to approve or disapprove the project within specified time limits.

This bill would define "geothermal field development project" for such purposes and provide that only one permit from the lead agency and one permit from each responsible agency shall be required with respect to an application for approval of such project for all drilling, construction, operation, and maintenance activities. The bill would permit such lead agency and each such responsible agency to approve permits for less than full field development and would require such permits to include a monitoring program capable of assuring the permittee's conformance with permit conditions and stipulations.

(2) Under the California Environmental Quality Act, all public agencies, state and local, are generally required to prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project, as defined, they propose to carry out or approve which may result in a substantial, or potentially substantial, adverse change in the environment.

This bill would define "geothermal exploratory project" for such purposes, and provide that such project shall be deemed to be separate and distinct from any subsequent geothermal field development project. The bill would designate the Division of Oil and Gas of the Department of Conservation as the lead agency for such purposes, with specified exclusions, require the division to complete its responsibilities under such act, including public and agency review and

approval or disapproval of the project, within 135 days of the receipt of the application for such project, and further provide that the division may delegate its lead agency responsibility to a county which has adopted a geothermal element for its general plan.

(3) The Warren-Alquist State Energy Resources Conservation and Development Act provides for, among other things, site certification of thermal powerplants and related facilities of certain designated generating capacities, by the State Energy Resources Conservation and Development Commission. Prior to the certification of any thermal powerplant and related facilities, including any geothermal powerplant, an applicant is required to file, with the commission, a notice of intent to file an application for certification and an application for certification of a powerplant and related facilities.

This bill would revise the procedure and time schedules in the processing and approval of notice of intent and application for certification of any geothermal powerplant and related facilities. It would authorize the commission to approve an equivalent certification program, as defined, which would delegate to a county, which has adopted a geothermal element, as defined, for its general plan, full authority for the certification of all geothermal powerplants within such county, and that would replace and supersede the procedures for certification of all geothermal powerplants, as specified, to be located within such county.

(4) Under the existing law the Public Utilities Commission, generally, regulates the operations of electrical corporations.

This bill would allow the commission, upon a complaint by a geothermal energy producer, to prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest. It would also redefine "private energy producer" and would specify that such producer is not a public utility subject to the general jurisdiction of the commission for specified purposes.

The people of the State of California do enact as follows:

SECTION 1. Section 65928.5 is added to the Government Code, to read:

65928.5. "Geothermal field development project" means a development project as defined in Section 65928 which is composed of geothermal wells, resource transportation lines, production equipment, roads, and other facilities which are necessary to supply geothermal energy to any particular heat utilization equipment for its productive life, all within an area delineated by the applicant.

SEC. 2. Article 6 (commencing with Section 65960) is added to Chapter 4.5 of Division 1 of Title 7 of the Government Code, to read:

Article 6. Development Permits for Classes of Projects

65960. Notwithstanding any other provision of law, if any person applies for approval of a geothermal field development project, then only one permit from the lead agency and one permit from each responsible agency shall be required for all drilling, construction, operation, and maintenance activities required during the course of the productive life of the project, including, but not limited to, the drilling of makeup wells, redrills, well cleanouts, pipeline hookups, or any other activity necessary to the continued supply of geothermal steam to a powerplant. The lead agency and each responsible agency may approve such permits for less than full field development if the applicant submits such an application. Such permits shall include (1) any conditions or stipulations deemed necessary by the lead or responsible agency, including appropriate mitigation measures within the statutory jurisdiction of such agency, and (2) a monitoring program capable of assuring the permittee's conformance with all such conditions or stipulations. This section shall not apply to any permit whose issuance is a ministerial act by the permitting agency.

SEC. 3. Section 3715.5 is added to the Public Resources Code, to read:

3715.5. For the purposes of the California Environmental Quality Act (commencing with Section 21000), the division shall be the lead agency as defined in Section 21067 for all geothermal exploratory projects as defined in Section 21065.5. The division shall complete all its responsibilities pursuant to the California Environmental Quality Act, including public and agency review and approval or disapproval of the project, within 135 days of the receipt of the application for such project. The division may delegate its lead agency responsibility under this section to a county which has adopted a geothermal element, as defined in Section 25133, for its general plan. Any such delegation shall provide that the county complete its lead agency responsibility under this section within 135 days of the receipt of the application for such project. The provisions of this section shall not apply to geothermal exploratory projects as defined in Section 21065.5 where, prior to January 1, 1979, preparation of an environmental impact report for such project has begun or an application for such project which will require preparation of an environmental impact report has been filed.

SEC. 4. Section 21065.5 is added to the Public Resources Code, to read:

21065.5. "Geothermal exploratory project" means a project as defined in Section 21065 composed of not more than six wells and associated drilling and testing equipment; whose chief and original purpose is to evaluate the presence and characteristics of geothermal resources prior to commencement of a geothermal field development project as defined in Section 65928.5 of the Government Code. Wells included within a geothermal exploratory

project must be located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities.

SEC. 5. Section 21090.1 is added to the Public Resources Code, to read:

21090.1. For all purposes of this division, a geothermal exploratory project shall be deemed to be separate and distinct from any subsequent geothermal field development project as defined in Section 65928.5 of the Government Code.

SEC. 6. Section 25101 of the Public Resources Code is amended to read:

25101. "Applicant" means any person who submits an application for certification pursuant to the provisions of this division, including, but not limited to, any person who explores for or develops geothermal resources.

SEC. 7. Section 25102 of the Public Resources Code is amended to read:

25102. "Application" means any request for certification of any site and related facility filed in accordance with the procedures established pursuant to this division. An applicant for a geothermal powerplant and related facilities may propose more than one site and related geothermal facilities in the same application.

SEC. 8. Section 25115 is added to the Public Resources Code, to read:

25115. "Equivalent certification program" means a program, as further defined in Section 25340.5, administered by a county and approved by the commission, which may substitute for the site and related facility certification procedures established pursuant to this division.

SEC. 8.5. Section 25120 of the Public Resources Code is amended to read:

25120. "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

SEC. 9. Section 25133 is added to the Public Resources Code, to read:

25133. "Geothermal element" means an element of a county general plan consisting of a statement of geothermal development policies, including a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a discussion of environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas, adopted pursuant to Section 65303

of the Government Code.

SEC. 10. Section 25540 of the Public Resources Code is amended to read:

25540. If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the commission shall not require three alternative sites and related facilities to be proposed in the application. Notwithstanding the provisions of Section 25519, an application for a geothermal powerplant and related facilities shall be filed with the commission not later than 12 months before any construction is to commence. Additional facilities at a potential multiple facility site subject to Section 25540.4 shall be exempt from such 12-month requirement.

SEC. 11. Section 25540.1 is added to the Public Resources Code, to read:

25540.1. The commission shall be deemed to have accepted an application for a geothermal powerplant and related facilities on the original filing date, unless the commission shall, within 30 calendar days after the receipt of such application, have notified the applicant in writing that the application is not complete. If the application is determined not to be complete, the commission's determination shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. Upon the applicant's filing with the commission such additional information requested by the commission to make the application complete, such application shall be deemed accepted by the commission on the date of such subsequent filing.

SEC. 12. Section 25540.2 is added to the Public Resources Code, to read:

25540.2. Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of the application for certification of such facility, or at such later time as is mutually agreed by the commission and the applicant.

(b) If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, that person may submit to the commission a notice of intention to file an application for certification of such site and related facility or facilities. The commission shall not require three alternative sites and related facilities to be proposed in the notice. The commission shall issue its decision, pursuant to Section 25523, within nine months from the date of filing of an application for certification of a geothermal powerplant site and related facility or facilities for which the commission has approved a notice of intention pursuant to 25516.

(c) Upon receipt of an application for certification of a geothermal

powerplant and related facilities, the commission shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

SEC. 13. Section 25540.3 is added to the Public Resources Code, to read:

25540.3. (a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, such application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(2) The projected installation schedule for each unit.

(3) The impact of the site, when fully developed, on the environment and public health and safety.

(4) The amount and sources of cooling water needed at the fully developed site.

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilities, switchyards, and cooling ponds, lakes, or towers.

(6) Such other information relating to the design, operation, and siting of the facility as the commission may by regulation require.

(b) If an application is filed pursuant to subdivision (a) which proposes a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the commission may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If the decision includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The commission may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to ensure that future additional facilities will not exceed the limitations of the site.

SEC. 14. Section 25540.4 is added to the Public Resources Code, to read:

25540.4. Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at

such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

SEC. 15. Section 25540.5 is added to the Public Resources Code, to read:

25540.5. The commission may, at the petition of a county which has adopted a geothermal element for its general plan, approve an equivalent certification program which delegates to that county full authority for the certification of all geothermal powerplants within such county. Once approved by the commission, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within such county. The commission may, after public hearings, revoke the approved equivalent certification program of such county if the commission finds that the program does not comply with current commission certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the commission.

(d) Appeal procedures, including appeals to the commission on substantive issues. In any such appeal on a substantive issue, the commission shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The commission shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

SEC. 16. Section 782 is added to the Public Utilities Code, to read: 782. In order to encourage the development of geothermal

resources in the State of California, the commission may, upon a complaint by a geothermal energy producer, prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest.

SEC. 17. Section 2802 of the Public Utilities Code is amended to read:

2802. "Private energy producer" includes every person, corporation, city, county, district, and public agency of the state generating or producing electricity not generated from conventional sources or natural gas for energy either directly or as a byproduct solely for his or its own use or the use of his or its tenants; or generating or producing electricity, or owning the means thereof, to or for any electrical corporation, heat corporation, state agency, city, county, district, or an association thereof, but not to or for the public for any other purpose. Notwithstanding any other provision of law, a private energy producer shall not be found to be a public utility subject to the general jurisdiction of the commission solely because of conducting any activity authorized by this chapter.

Assembly Bill No. 3707

CHAPTER 1270

An act to amend Section 66732 of the Government Code, to amend Section 25143 of the Health and Safety Code, to amend Sections 3725, 3725.5, 3728.5, and 25120 of the Public Resources Code, to amend Section 2802 of, and to add Section 782 to, the Public Utilities Code, relating to geothermal resources.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 28, 1978.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3707, Kapiloff. Geothermal resources: powerplants and appurtenant facilities: wells.

(1) The Warren-Alquist State Energy Resources Conservation and Development Act generally provides for site certification of thermal powerplants and related facilities, including geothermal powerplants and appurtenant facilities, of certain designated generating capacities, by the State Energy Resources Conservation and Development Commission.

This bill would provide that exploratory, development, and production wells used in connection with geothermal resources development are not appurtenant facilities for purposes of the act.

(2) The present law requires any person engaged in drilling, re-drilling, deepening, maintaining, or abandoning of any low-temperature well to file an indemnity bond, or a cash bond, with the State Oil and Gas Supervisor in a prescribed amount depending on its depth.

This bill would revise the amount of such a bond for any such well depending on its depth.

(3) The bill would exempt any person from any provision of, or ruling under, the Nejedly-Z'berg-Dills Solid Waste Management and Resource Act of 1972 when disposing of solid or liquid waste from drilling for geothermal resources in sumps of 2 acre-feet or less if the disposal is controlled by regional water quality control board waste discharge requirements. The bill would also exempt drilling for geothermal resources from State Department of Health Services requirements on hazardous wastes.

(4) Under the existing law the Public Utilities Commission, generally, regulates the operations of electrical corporations.

This bill would allow the commission, upon a complaint by a geothermal energy producer, to prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest. It would also redefine "private energy producer" for the purposes of

the provisions regulating operations of electrical corporations and would specify that such producer is not a public utility subject to the general jurisdiction of the commission for specified purposes.

The people of the State of California do enact as follows:

SECTION 1. Section 66732 of the Government Code is amended to read:

66732. No provision of this title or any ruling made pursuant thereto is a limitation on any of the following:

(a) The power of a city, county, city and county, or district to adopt and enforce regulations, not in conflict therewith, imposing conditions, restrictions, or limitations with respect to the handling or disposal of solid wastes.

(b) The power of any city, county, city and county, or district to declare, prohibit, and abate nuisances.

(c) The power of the Attorney General, on the request of the board, the department, the State Water Resources Control Board, a California regional water quality control board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

(d) The power of any state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including the exercise by the State Water Resources Control Board or the California regional water quality control boards of any of their powers and duties pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(e) The right of any person to commence and maintain at any time any appropriate action for relief against a nuisance as defined in the Civil Code.

(f) The right of any person to dispose of inert, nontoxic and inorganic solid waste as land fill on his own property.

(g) The right of any person to dispose of organic and toxic waste materials on his own property in evaporation ponds from which there is no drainage or seepage.

(h) The right to operate a disposal site found by the State Water Resources Control Board to be adequately regulated by another governmental agency under subdivision (b) of Section 14020 of the Water Code.

(i) The right of any person to dispose of solid or liquid waste from drilling for geothermal resources, to sumps receiving waste for one year or less with a total sump storage volume of two acre-feet or less, when such disposal is controlled by water discharge requirements of a California regional water quality control board, issued after consultation with the State Solid Waste Management Board.

SEC. 2. Section 25143 of the Health and Safety Code is amended to read:

25143. Pursuant to regulations adopted by the department, the provisions of this chapter may be waived by the department for any waste which the department determines is insignificant or unimportant as a potential hazard to human health, domestic livestock, or wildlife or the handling, processing, or disposal of which is adequately regulated by another governmental agency. Any drilling for geothermal resources shall be exempt from the requirements of this chapter because the disposal of geothermal wastes is regulated by the regional water quality control boards.

SEC. 3. Section 3725 of the Public Resources Code is amended to read:

3725. Every person who engages in the drilling, redrilling, deepening, maintaining, or abandoning of any well, except a low-temperature geothermal well, shall file with the supervisor an individual indemnity bond in the sum of twenty-five thousand dollars (\$25,000) for each well drilled, redrilled, deepened, maintained, or abandoned. The bond shall be filed with the supervisor at the time of the filing of the notice of intention to drill, redrill, deepen, maintain, or abandon, as provided in Section 3724 or 3724.1. The bond shall be executed by such person, as principal, and by an authorized surety company, as surety, conditioned that the principal named in the bond shall faithfully comply with all the provisions of this chapter, in drilling, redrilling, deepening, maintaining, or abandoning any well or wells covered by the bond, and shall secure the state against all losses, charges, and expenses incurred by it to obtain such compliance by the principal named in the bond.

The conditions of the bond shall be stated in substantially the following language:

"If said _____, the above bounden principal, shall well and truly comply with all the provisions of Chapter 4 (commencing with Section 3700) of Division 3 of the Public Resources Code and shall obey all lawful orders of the State Oil and Gas Supervisor, or his district deputy or deputies, if not appealed as provided in that chapter, or upon affirmance thereof by the Geothermal Resources Board, if appealed thereto, and shall pay all charges, costs, and expenses incurred by the supervisor or his district deputy or deputies in respect of such well or wells or the property or properties of said principal, or assessed against such well or wells or the property or properties of such principal, in pursuance of the provisions of said chapter, then this obligation shall be void; otherwise, it shall remain in full force and effect."

SEC. 4. Section 3725.5 of the Public Resources Code is amended to read:

3725.5. Any person who engages in the drilling, redrilling, deepening, maintaining, or abandoning of any low-temperature well, as defined in Section 3703.1, shall file with the supervisor an individual indemnity bond in the sum of two thousand dollars

(\$2,000) for each well less than 2,000 feet deep, ten thousand dollars (\$10,000) for each well 2,000 feet deep or deeper, but less than 5,000 feet deep, fifteen thousand dollars (\$15,000) for each well 5,000 but less than 10,000 feet deep, or twenty-five thousand dollars (\$25,000) for each well 10,000 or more feet deep. The bond shall be filed with the supervisor at the time of the filing of the notice of intention to drill, redrill, deepen, maintain, or abandon, as provided in Section 3724 or 3724.1. The bond shall be executed by such person, as principal, and by an authorized surety company, as surety, and shall be in substantially the same language and upon the same conditions as provided in Section 3725, except as to the difference in the amount.

SEC. 5. Section 3728.5 of the Public Resources Code is amended to read:

3728.5. In lieu of the bond required by Sections 3723.5, 3725, 3725.5, and 3726, a person may, with the written approval of the supervisor, file a cash bond in the applicable amount, together with evidence of the deposit of such amount in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the applicable amount issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, or bonds issued by the United States or the State of California in the principal amounts of two thousand four hundred dollars (\$2,400), twelve thousand dollars (\$12,000), eighteen thousand dollars (\$18,000), thirty thousand dollars (\$30,000) or one hundred twenty thousand dollars (\$120,000) whichever is applicable, with the State Treasurer. Such bond, or security filed in lieu thereof, shall be subject to all conditions set forth in Sections 3723.5, 3725, 3725.5, and 3726.

SEC. 6. Section 25120 of the Public Resources Code is amended to read:

25120. "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with the generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells used in connection with geothermal resources development are not appurtenant facilities for purposes of this division.

SEC. 7. Section 782 is added to the Public Utilities Code, to read:

782. In order to encourage the development of geothermal resources in the State of California, the commission may, upon a complaint by a geothermal energy producer, prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest.

SEC. 8. Section 2802 of the Public Utilities Code is amended to

read:

2802. "Private energy producer" includes every person, corporation, city, county, district, and public agency of the state generating or producing electricity not generated from conventional sources or natural gas for energy either directly or as a byproduct solely for his or its own use or the use of his or its tenants and not for sale to others; or generating or producing electricity, or owning the means thereof, to or for any electrical corporation, heat corporation, state agency, city, county, district, or an association thereof, but not to or for the public for any other purpose. Notwithstanding any other provision of law, a private energy producer shall not be found to be a public utility subject to the general jurisdiction of the commission solely because of conducting any activity authorized by this chapter.

O