September 13, 2026

LakeCAP · Comments to the Lake County Board of Supervisors

ATTACHMENT 1 — EXECUTIVE SUMMARY

LakeCAP comments on the Draft Lake County Energy Strategy

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1. LakeCAP's recommendation

The draft Energy Strategy is serious and honest work, and its constraints analysis should be preserved. LakeCAP recommends that the Board **receive it as a work product and decline to adopt it** as the County's Energy Strategy, Energy Policy, or Energy Policy Framework, for three reasons:

- **It is a strategy, not a policy.** The Board charged the Ad Hoc Committee with developing an Energy Policy. The draft establishes a legal posture and a participation practice. It does not state what the County is trying to achieve, for whom, or by when.
- **It is incomplete in one decisive respect.** Across the Ad Hoc Committee's 20 presentation slides, the County's residents appear once — as an objection to two staff positions. There is no affordability measure, no resilience program, no ratepayer metric, and no target.
- **Two of its legal sections are stated more broadly than the law requires**, and if adopted as Board findings they would narrow the County's own negotiating position on the record.

LakeCAP submits:

- a complete draft Energy Policy (Attachment 2) as a starting point for the Committee's work, and a
- section-by-section response (see Attachments 3 and 4) to the County's two Energy Strategy documents (draft Strategy and Geothermal & Hydrogen Siting Guide).

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2. What the Strategy gets right, and should be kept

LakeCAP wishes to be specific about this, because the comments that follow are offered as improvements, not as an argument to start over.

The distribution-system acquisition analysis should end that discussion. Coverage of 0.37x at $690 million par, a maximum supportable price well below assessed value, no scenario clearing a marketable threshold, and no State wildfire-fund eligibility for a publicly owned utility. The sensitivity work is what makes it credible. The Board should bank this result and decline to relitigate it.

The discipline on formula payments is correct in direction. A published, output-indexed, generally applicable charge invites challenge, and the County would carry the burden of proof. Any County revenue framework must be built on negotiated agreements rather than schedules.

The fiscal-impact methodology is the sharpest idea in the document. Where a State agency must find net local benefit, the County that arrives with a published, pre-existing methodology controls the record on which that finding is made. It is listed seventh among near-term items and belongs first.

The community benefits agreement path is correctly identified as the County's principal remaining lever, together with the observation that the County itself may qualify as the counterparty.

Four concrete catches that no one else made: wind standards in the zoning ordinance that presently read "None," with an application in prospect; a development agreement ordinance written in 1988 on the assumption that every project needs a County permit; a development agreement fee still set as a 2017 Planning deposit that cannot bill Counsel or consultants; and the absence of a written State position on the regulatory classification of geologic hydrogen. Each is a real exposure with an inexpensive fix.

The timing insight is right and underweighted. A State scoping window can close in weeks while a County ordinance takes months. That insight should drive the sequence of the Strategy's next steps, and at present it does not.

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3. Four gaps

3.1 Residents are absent

The fastest, cheapest, and lowest-risk benefit available to this County is household and small-business affordability and resilience, and almost none of it requires new authority, County debt, or new staff. PACE and C-PACE are authorized by resolution using State-licensed administrators, with no County lending. Streamlined residential solar and storage permitting is a process change. Incentive navigation, aggregated purchasing, and resilience-center microgrids are grant- and partner-funded, and the

County's disadvantaged-community profile is precisely what makes it competitive for equity-tier funding.

The objection embedded in the Strategy is the hiring freeze. That objection does not reach most of this work, and the Strategy's own capacity principle — assign capital and risk to partners — argues in favor of it.

The Scotts Valley Advisory Council's letter of August 28, 2026 reaches the same conclusion independently. The Board should read that convergence as a signal about public expectation.

3.2 The governance-vehicle question is omitted

The Strategy proves that a general-law county cannot hold equity in merchant generation and has no market entry point, then treats that as the end of the analysis. Those are limits on one vehicle, not on the County's options. The slide observing that a supplier under State law is a utility, an Electric Service Provider, or a Community Choice Aggregator — and that counties are not on the list — is, read plainly, an argument for *considering* a community choice aggregator. Community choice aggregation does not appear anywhere in the document.

LakeCAP takes no position here on the answer. It recommends that the Strategy pose the question, state the evaluation standard, confirm the status of any existing County authorization, and carry a Board decision date.

3.3 Two legal sections are overstated

County roads and rights-of-way. A State certificate issues in lieu of County permits. It does not convey property rights in County roads or grant condemnation authority over them. The County's road interest is proprietary, not regulatory. The genuine constraint is narrower: the County may not use a proprietary approval to extract what it could not lawfully require by regulation. It may charge for the value of what it conveys and requires protection, restoration, insurance, indemnity, and security. The Strategy's own "holds up" column and its recommended road impact and use agreement say exactly this, which makes the categorical slide an internal contradiction as well as a concession the County need not make.

Revenue participation. The Strategy collapses three distinct instruments into one conclusion. *Jacks v. City of Santa Barbara* is cited only for its cap; it also holds affirmatively that a charge reflecting the value of what a public entity conveys is not a tax. *Sheetz* expressly left open whether its analysis reaches generally applicable fees. A development agreement is a contract, and its benefits are consideration for vested rights rather than an exaction. A Mello-Roos special tax is not a Proposition 26 fee at all — the Strategy's real and correct objection is that such a district cannot be formed over the landowner's objection. The operative variable throughout is **consent**, not characterization, and stated that way the Strategy's conclusion holds and becomes far more useful.

3.4 The Strategy does not follow its own rule

The Strategy states plainly that every commitment must carry a named owner and an identified funding source. Its next-steps list then sets out fourteen actions with departments but no dates, no cost estimates, and no funding sources — including a siting map and program-level environmental document flagged at $2–4 million and assigned to no one. By the document's own logic, that list will not be executed.

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4. Also missing

- **Agriculture.** Frost protection imposes large, weather-driven nighttime load on grapes, pears, and walnuts. An energy policy for an agricultural county that does not address the shape of agricultural load does not serve its economy.
- **Existing revenue.** Geothermal royalty and impact-mitigation receipts are mentioned once in passing. Whether the County is capturing its full statutory share costs an audit to answer and may pay for itself.
- **Hydrogen terms.** Obtaining a written State classification and amending the zoning articles are good steps, but they are not a policy. The County's terms should be set before a discovery is proven, not after.
- **Tribal participation**, as distinct from statutory consultation.
- **Metrics.** There is no measure in the document by which the Board could later determine whether the Strategy worked.
- **A reconciled factual base.** County documents presently state inconsistent figures for the resource itself. The County should publish one authoritative dataset and use it everywhere.

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5. Internal inconsistency between the two County documents

The Geothermal and Hydrogen Siting Guide describes the Geothermal Setback Area as the strongest Laws, Ordinances, Regulations and Standards provision the County holds, and states that the Energy Commission must find compliance or expressly override it. The Energy Strategy states that SB 254 repealed the conformity finding and the override that went with it.

Both documents cannot be right. County Counsel should reconcile them, and the reconciliation should distinguish the effect of County ordinances under each permitting pathway separately, because the answer may not be identical under all of them. This is treated in detail at Appendix B.

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6. How LakeCAP recommends the Board proceed

1. Receive both documents; adopt neither in present form.

2. Direct County Counsel to issue a short citation memorandum supporting each stated legal limit, and to restate each as applying to the County *in its present form*.
3. Direct that a residents section be added before any adoption.
4. Direct that the governance-vehicle question be posed with an evaluation standard and a decision date.
5. Direct that the four time-critical authorities — development agreement ordinance amendment, community benefits agreement authority, fee schedule update, and wind standards — be calendared against the first expected filing rather than listed.
6. Direct that every commitment carry a responsible department, a funding source, and a date before adoption.
7. Schedule a workshop at which this can be discussed properly.

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7. The test

A credible County energy policy should be able to answer five questions in plain language on the day it is adopted:

1. **What does a resident get, and when?**
2. **Through what vehicle does the County act?**
3. **What does the County ask of a project, and what does it offer in return?**
4. **Who owns each commitment, by when, paid for how?**
5. **How will the Board know whether it is working?**

The draft before the Board is a careful and honest inventory of what the County cannot do, and it should be preserved for that. But a document whose organizing claim is that most of what has been proposed fails on a legal or financial limit incurs an obligation to say what does not fail — with the same specificity, the same page count, and the same rigor.

Attachment 2, a draft Energy Policy, is offered as one attempt to do that.