

Patua Project, LLC
Tax Abatement Hearing Transcript
September 24, 2012, 2PM
Carson City, Nevada

Present at Hearing:

Stacey Crowley, Director of Nevada State Office of Energy
Cassandra Joseph, Deputy District Attorney, State of Nevada
Suzanne Martens, Management Analyst II, Nevada State Office of Energy
Brent Keele, McDonald Carrano Wilson
Matthew Anderson, Gradient Resources
Mark H. Albert, Gradient Resources
Craig Mingay, Churchill County
Alan Kalt, Churchill County
Bernadette Poletti, Nevada Department of Taxation
Elizabeth Carter, Gradient Resources
Terry Rubald, Nevada Department of Taxation
Cindy Thomas, Nevada Department of Taxation

Director Crowley:

Good afternoon. I am Stacey Crowley, the Director of the Nevada State Office Energy. This is a hearing on the merits of the application for the partial abatement of property, and sales and use taxes originally filed by Patua Project, LLC, on July fifth, two thousand twelve, to which we have assigned Application Filing Number twelve dash zero four two six, G. This application is for the construction and operation of a binary cycle geothermal facility with a net capacity of thirty megawatts and eight miles of one hundred and twenty kilowatt transmission line and associated substation work that will be located on approximately four thousand, three hundred and nineteen acres of land located in Churchill and Lyon Counties, in Nevada. I will be the presiding officer for the hearing. With me is my Program Coordinator, Suzanne, and my Deputy Attorney General, Cassie Joseph, with the A.G.'s Office.

First we'll do public comment. Is there anybody who would like to make a public comment, outside of those who plan to speak today, at this time? Alright, there will also be an opportunity later in the hearing at the end to provide comment if you wish to do so.

As a preliminary matter, we have marked a packet here of documents as exhibit one. I will read through the subparts of this exhibit. First is the Notice of Public Hearing, dated August twenty ninth, two thousand and twelve. Exhibit B is the Patua Project, LLC Pre-Application filed with the Director on March tenth, two thousand eleven. Exhibit C is the Patua Project, LLC full Application, Redacted version, as filed with the Nevada State Office of Energy on July fifth, two thousand twelve. Exhibit D is Energy Related Tax Incentive Fiscal Note as required by NRS seven zero one, A, point three seven five dash one, A, by the Division of the State of Nevada Department of Administration, received on August twentieth, two thousand and twelve. Exhibit E is the Fiscal Impact Renewable Energy Partial Abatement of Property Tax required by NRS seven zero one, A, point three seven five dash one, B, by the Nevada Department of Taxation, received on August seventeenth, two thousand twelve. Exhibit F is Lyon County Board of Commissioners letter of approval dated September seventh, two thousand twelve. Exhibit G is the Churchill County Board of Commissioners letter of Approval dated July twenty third, two thousand twelve, from the Office of the District Attorney of Churchill County. Exhibit H is pre-filed testimony of Mr. Matthew Anderson of Patua Project, LLC. Exhibit I is pre-filed testimony of Mr. Mark H. Albert of Patua Project, LLC. I will admit this as exhibit one as evidence in this matter.

Would the representatives of the Patua Project please introduce themselves with your name and title for the record?

Mark H. Albert:

I'm Mark H. Albert. I'm Vice President of Development for Patua Project and for Gradient Resources.

Matthew P. Anderson:

I'm Matthew P. Anderson and I'm the Corporate Controller for Gradient Resources and for Pauta Project.

Brent Keele:

Brent Keele, Attorney at McDonald, Carrano, Wilson and working with Patua Project.

Director Crowley:

Ok, great. Would you like to make any opening statements at this time?

Brent Keele:

No.

Director Crowley:

Ok, great. Do you intend to call a witness this afternoon?

Brent Keele:

Yes, we have two witnesses. We have Matt Anderson and Mark Albert, and we filed testimony if you don't mind, and I'll go through each one of those.

Director Crowley:

We do have a swearing-in if you don't mind.

Brent Keele:

That's fine.

Director Crowley:

I'll just say both of you together. Do you swear or affirm, under penalty of perjury, to tell the truth, the whole truth and nothing but the truth?

Matthew P. Anderson and Mark H. Albert:

Yeah.

Director Crowley:

Ok. Thank you.

Brent Keele:

I'll do both of them together too if that's alright.

Director Crowley:

Ok. Good.

Brent Keele:

Mr. Anderson and Mr. Albert, you stated your name for the record already. Have you prepared and filed written testimony for this hearing?

Matthew P. Anderson and Mark H. Albert:
Yes.

Brent Keele:
Have you had an opportunity to review that testimony prior to the hearing?

Matthew P. Anderson and Mark H. Albert:
Yes.

Brent Keele:
Has anything changed in that testimony?

Matthew P. Anderson and Mark H. Albert:
No. Nope.

Brent Keele:
Is sure and accurate to the best of your knowledge?

Matthew P. Anderson and Mark H. Albert:
Yes.

Brent Keele:
Thank you.

Director Crowley:
Ok. I'll ask if there is any additional information that the applicant would like to admit as evidence in this matter.

Brent Keele:
I understand you would like a letter for the file just clarifying the pre-application that was filed they referenced a sixty megawatt facility and that was including two phases, but the actual application they filed was only a thirty net, thirty megawatt net, facility.

Director Crowley:
Ok.

Brent Keele:
Here's a letter for the file.

Director Crowley:
Great, I think that will be good for the file.

Brent Keele:
You requested an updated redacted version with some more items unredacted like some of the wages and capital investment goes to the updated version. It's all reflected in their testimony as well.

Director Crowley:
Thank you. I appreciate that clarification. I did read the numbers in the testimony, but there was some question about some of the basic information about jobs and investment. So what we'll do is we'll consider this exhibit two and there will be subparts A, which is the letter stating a notification of

significant change, and subpart B will be the revised redacted version of the application which the information included in here is also located in the pre-filed testimony by the two witnesses. So that will be exhibit two. Alright, would any other persons like to be heard in this matter?

Craig Mingay, Deputy District Attorney for Churchill County:
We would.

Director Crowley
Ok.

Craig Mingay:
My name is Craig Mingay. I'm a Deputy District Attorney for Churchill County and with me is Alan Kalt, our Comptroller and once again as stated in my letter, we do support the application for the abatement. We don't have an objection to the abatement itself. We would just like to make a statement for the record as far as the critical impact of the abatements in general. We do support this application.

Director Crowley:
Ok. Appreciate it.

Alan Kalt, Churchill County Comptroller:
Thank you Madam Chair. For the record my name is Alan Kalt, I'm the Churchill County Comptroller. I'd like to thank the committee and Gradient Resources for allowing me to speak at this hearing. We're pleased to speak on behalf of Gradient Resources. As quickly stated this is a thirty megawatt facility over two hundred, seventy five million dollars of investment that will take place in Churchill and Lyon County. The construction jobs as the packet indicates is eighty-nine jobs of which at least thirty percent of those will be Nevadans, so we're really excited about that opportunity. The hourly wage is forty one dollars and thirty five cents per hour. On the construction side anticipated to be eighteen months and if you do a FEE equivalent it's about one hundred and eleven full-time equivalent jobs for a one year period of time. Permanent jobs, Mr. Anderson, the Corporate Controller, indicated in his sworn testimony twenty-nine jobs. In the packet there was a spot that referenced twenty-two jobs, but in any event we're pleased that job opportunities in Churchill and Lyon counties; twenty-two or twenty-nine. Vulcan Power previously, that's one of the companies, was Vulcan, that prior to this, the county supported a sales and use tax abatement previously for equipment over about seventy five million dollars. They had an agreement with Churchill County so we have a history going back to being very supportive of this project. We feel that Vulcan slash Gradient Resources, Patua, is a responsible corporate partner in our community. They have offices in Fallon, they have employees, they are supportive of our local businesses, local charities and one of the things we're proud of is they partnered with our local community college on a drilling program many years ago to help train local residents how to become drillers and develop within this industry. In fairness we need to disclose that there is an agreement on phase two, three, and four relative to any future expansion. In the packet of information provided, quickly go over the sales and use tax abatement. The total purchase is subject to the abatement date from the information in the packet is one hundred, seventeen million, nine-hundred, fifty-eight thousand, eight hundred and fourteen dollars. They would be paying sales and use tax to the great state of Nevada of three million, sixty six thousand, nine hundred and twenty nine. The amount that is going to be abated according to all of the documentation developed by the department of taxation as well as the department of administration is five point eight million dollars. Ok, so if we look at the sales and use tax that's being abated what we see is for twenty-nine jobs, they are going to be granted an abatement of two hundred, three thousand, three hundred and seventy-seven dollars per job created on the purchases that are made. So we take that, and we take the wages that those twenty nine permanent people are going to make which is twenty-nine dollars and forty-four cents an hour as indicated in the sworn testimony, the payback period is three point

three two years. The abatement is the equivalent, providing wages for those folks for three point three two years on the sales and use tax.

If we move now to property tax abatement, as you are aware and as the documentation reflects, they will receive fifty-five percent property tax abatement for a period of twenty years. In round numbers they are going to get nineteen point six million dollars of property tax abated over this twenty year window. If you divide that by the twenty years on a straight-line basis, which clearly it's not because of the depreciation, but if we were to do that, it would average would be nine hundred and eighty-two thousand dollars per year that's abated. If you look at the portion that's in Churchill, of that nineteen point six million, seven point nine is in Churchill County. Lyon County is eleven point seven million dollars of property taxes that will be abated during the twenty year period as allowed for in statute. Looking at the glass being half full, the state of Nevada benefits by the state's renewable energy office will make seven point two million dollars over a twenty year period or three hundred and sixty one thousand, five hundred and seventy per year assuming a straight-line which clearly we know is not the case, but it just gives you an idea in round numbers. Churchill County will get approximately six point four million or three hundred twenty three thousand per year in taxes and our friends in Lyon County will get nine point six million or four hundred and seventy-nine thousand dollars per property tax per year based on the data provided within in the packet. So if we want to look at the overall impact you have sales and use tax abatement of five point eight million dollars, you have property tax abatement of nineteen point six million for a total abatement twenty five million, five hundred and thirty eight thousand, eight twenty seven as provided for in the data, you divide that by twenty-nine jobs, what that equals is eight hundred and eighty thousand, six hundred and forty nine dollars of tax subsidy or corporate welfare for each job created on this project. If it's only twenty-two jobs, the abatement will be one point one million dollars per job created. I would just want the record to reflect the amount of the abatement so that it is quite clear to the public. You know historically the county has issues with granting of abatements. We are in support of this based on our agreement, but we question in a philosophical viewpoint and obviously this is not the venue, but granting one point one million dollars per job of abatement, per job created, for the state of Nevada for mining of a resource that will generate power that will be sold out of state. Again, I want to make it quite clear, Churchill County we do support this project, we support Gradient Resources and we'd be happy to answer any questions. If you want the calculations, I have put them in a different format than what's included in this packet. I would be happy to provide those and that concludes my comments.

Director Crowley:

Thank you. Do you have any comment (directed to the Applicant)? Ok. Does anybody else have any comments? I appreciate the calculations. They look at things in a little bit different way than we calculate them to just make sure the project is complying with the statute, but it's always helpful to understand the impact from an economic perspective. Thank you.

Alan Kalt:

You're welcome.

Director Crowley:

Thank you for your testimony. Would the applicant or anyone else like to make a closing statement? Ok.

For the purposes of the record, and based on the evidence supplied in this matter, I'll state the findings and conclusions based upon the substantial and credible evidence presented to me in the exhibits and testimony presented this afternoon, including the additional exhibit and the testimony. As to each of the statutory requirements of this application, I am going to go through the list and it's basically per the statute to make sure that the findings are all included here so it's a bit lengthy.

As to NRS seven zero one, A, point three six zero sub one, I find that the applicant intends to locate within this State as a facility for the generation of Geothermal renewable energy, thus meeting the intent of the statute. As to NRS seven zero one, A, point three six zero sub two, I find that the facility is not owned, operated, leased, or controlled by a government agency, thus meeting the requirement of the statute. As to NRS seven zero one, A, point three six five, sub one, A, one this has been met by the renewable energy project, as the facility is expected to continue in operation in this State for a period of at least ten years and is expected to continue to meet the eligibility requirements for the abatement. As to NRS seven zero one, A, point three six five, sub one, B, the applicant has provided information supporting testimony that all the necessary state and local permits and licenses to construct and operate, thus meeting the requirement of the statute. As to NRS seven zero one, A, point three six five, sub one, C, the applicant has provided testimony that no funding for the facility is or will be provided by any governmental entity in this State for the acquisition, design, or construction of the facility or the acquisition of any land therefore meeting the requirement of the statute. As to NRS seven zero one, A, point three six five, sub one, D, one, the testimony states that the construction of the facility will employ eighty nine full-time employees during the second quarter of construction of which at least thirty percent will be Nevada residents. This meets the requirement of this statute. As to NRS seven zero one, A, point three six five, sub one, D, two, based on pre-filed testimony the total capital investment in the facility is estimated to be two hundred, seventy five million two hundred thousand dollars and that the capital investment in this state in particular is estimated to be thirteen million, seven hundred and sixty thousand dollars thus exceeding the three million dollar capital investment required by the statute. As to NRS seven zero one, A, point three six five, sub one, D, three, I find that this statute is met as the testimony states that the average hourly wage that will be paid by the facility to its employees during operation in this state, excluding management and administrative employees, is approximately twenty nine dollars and forty-four cents, which is at least a hundred and ten percent of the average statewide hourly wage set by DETR, fiscal year twelve numbers show twenty two dollars and fourteen cents. As to NRS seven zero one, A, three six five, sub one, D, four, I find that this statute is met as testimony states the average hourly wage that will be paid by the facility to all of its construction employees working on the facility, excluding management and administrative employees, will be approximately forty one dollars and thirty five cents, which is at least one hundred and fifty percent of the average statewide hourly wage set again by DETR. Fiscal Year twelve numbers, thirty dollars and twenty cents. As to NRS seven zero one, A, three six five, sub one, D, four, roman numerals one and two, the testimony states that the health insurance provided to the construction employees on the facility allows for the coverage of dependents and the employees and will meet or exceed the standards established by the Director, thus meeting the requirement of the statute. As to seven zero one, A, three six five, sub one, F, I find that the benefits that will result to this state from the employment by the facility of the residents of this state and from capital investments made by the facility in this state exceeds the loss of tax revenue that will result from the abatement, thus meeting the requirement of the statute.

In particular, the evidence presented in this matter shows that the benefits to the state include the following amounts based on the applicant information and fiscal notes. So the benefits follow me if you can. If you include the estimated capital investment in Nevada and we calculate it both the total capital investment as well as the Nevada specific investment, I'll go over the first which is Nevada alone; its thirteen million, seven hundred and sixty thousand dollars. The total school support tax received over the three abatement period per the sales and use tax fiscal notes is three million, fifty thousand, four hundred and thirty four dollars and fifty cents. The total property taxes to the local government and renewable energy fund over the abatement period, for Churchill County totals six million, five hundred and eighty two thousand, six hundred and fourteen. The total property taxes to local government and renewable energy fund over the abatement period in Lyon County totals ten million, four hundred eighty nine thousand, four hundred forty five. If you add the construction payroll at eighty nine employees times three thousand, one hundred and twenty hours which is eighteen months at forty one, thirty five an hour totals eleven million, four hundred, eight two thousand, sixty eight. Include the operational employees at twenty

nine employees at twenty nine dollars and forty four cents an hour times twenty years you get thirty five million, five hundred and sixteen thousand, four hundred and sixteen dollars. The total benefit to Nevada over the abatement period would be eighty million, eight hundred and eighty thousand, nine hundred seventy seven dollars. If you calculate the amounts abatement, total sales and use tax abated, over three years it's five million, eight hundred ninety seven thousand, nine hundred forty dollars. Total property taxes abated to Churchill County over twenty years is seven million, nine hundred and thirteen, one seventy five and total property taxes abated for Lyon County, eleven million, seven hundred and twenty seven thousand, seven hundred and ten dollars. Total abatement about is twenty five million, five hundred and thirty eight thousand, eight hundred twenty five dollars. Just to reiterate the total abated is less than the total benefit that Nevada sees.

As to NRS seven zero one, A, point three seven zero, sub one, A, three, the abatement granted by this order will not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter three sixty one of NRS, other than any partial abatement provided pursuant to NRS three six one, point four seven two two. As to NRS seven zero one, A, point three seven zero, sub one, B, one, roman numeral three, I find that the abatement granted by this order will not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes, thus meeting the requirement of the statute.

Based upon the previously mentioned findings, the Patua Project facility that is the subject of application number twelve dash zero four two six, G, satisfies or exceeds all of the applicable statutory requirements. Therefore, I grant the Patua Project, LLC partial abatements of sales and use tax and property taxes pursuant to the authority granted me in NRS seven zero one, A, point three zero zero through seven zero one, A, point three nine zero. Congratulations.

After today's hearing, I'll produce a Findings of Fact, Conclusions of Law, and Order based upon today's hearing. Once the Order is issued, I, representatives from the Nevada Department of Taxation, and appropriate representatives from your company will meet face-to-face to go over the terms and conditions of the Abatement Agreement and after that meeting, we will execute the Abatement Agreement.

As a reminder, pursuant to NRS seven zero one, A, point three eight zero, a partial abatement approved by the Director will terminate upon any determination by the Director that the facility has ceased to meet any eligibility requirements for the abatement. Are there any questions?

At this point we'll take public comment. Would anybody like to make a public comment at this time? Ok. The hearing is concluded. Thank you so much.