



GOVERNOR'S OFFICE OF ENERGY

MINUTES
Of the Renewable Energy Tax Abatement Hearing of the
GOVERNOR'S OFFICE OF ENERGY

AFN 16-0125G
ORNI 43, LLC (Ormat Tungsten)
Geothermal Project
March 15, 2016

The Governor's Office of Energy held a public meeting on March 15, 2016, beginning at 2:00 PM. at the following location:

Governor's Office of Energy, 755 North Roop Street, Suite 202, Carson City, Nevada

Present at the hearing:

Angela Dykema, Director of the Governor's Office of Energy
Suzanne Linfante, Governor's Office of Energy
Steve Henricksen, Deputy Director of the Governor's Office of Energy
Harry Ward, Deputy Attorney General for the Governor's Office of Energy
Stephanie Osborne, Tax Director – Ormat Technologies, representing ORNI 43, LLC
Barbara Allen, VP of Finance – Ormat Technologies Project, representing ORNI 43, LLC
Roman Borisov, Representative of Ormat Technologies, representing ORNI 43, LLC
Alan Kalt, Churchill County Chief Financial Officer

1. Call to order: The meeting was called to order at 2:00 PM by Deputy Director Steve Henricksen.

2. Deputy Director's comment: Deputy Director Henricksen stated that this was a hearing on the merits of the application for partial abatement of property taxes and sales and use taxes originally filed by ORNI 43, LLC/Ormat Nevada Inc., on January 25, 2016. The Application Filing Number 16-0125G. In full disclosure, the deputy director stated that he was employed by Ormat from July 2011 to December 2015 and was appointed the Deputy Director of the Governor's Office of Energy on December 7, 2015. He was not involved in the ORNI 43, LLC/Ormat project and therefore felt he could fairly preside in this matter and stated his previous employment with Ormat would not influence his decision. Deputy Director Henricksen asked whether anyone had an objection to him presiding in this matter, hearing none, the hearing proceeded. This application is for a 33.5 MW geothermal facility located in Churchill County, Nevada. The deputy director stated he will be the presiding officer for the hearing this afternoon. With him is the Program Coordinator, Suzanne Linfante.

3. Public comment and discussion (1st period): Deputy Director Henricksen asked if anyone from the public sought to make a comment on the matter. There was no public comment.

4. Presentation of Evidence and Testimony: The Deputy Director submitted Exhibit 1, a packet of documents consisting of: Exhibit A is a Notice of Public Hearing, dated February 23, 2016; Exhibit B is a redacted Application as filed with the Governor's Office of Energy on January 25, 2016; Exhibit C is the Fiscal Impact of the partial abatement of Property Tax as required by NRS 701A.375-1 by the Nevada Department of Taxation, received on February 22, 2016; Exhibit D is the Fiscal Impact of the partial abatement of Sales and Use Tax as required by NRS 701A.375-1 by the Nevada Department of Taxation received on February 5, 2016; Exhibit E is the Fiscal Impact of the partial abatement as provided by the Department of Administration, required by NRS 701A.375-1, received on February 8, 2016. Exhibit F is the Order of Recusal signed by Director Angie Dykema on January 29, 2016; Exhibit G is the pre-filed testimony of Stephanie Osborne of Ormat Nevada Inc. and ORNI 43 LLC.; Exhibit H is the Letter from Churchill County Commissioners dated March 2, 2016; Exhibit I is the Notice of Intent to Participate in the Hearing filed by Churchill County, a political subdivision of the State of Nevada.

The Deputy Director then admitted exhibit 1 into evidence.

The parties present introduced themselves as Stephanie Osborne, Tax Director for Ormat Technologies and Representative of ORNI 43 and Ormat Nevada Inc., Barbara Allen, VP of Finance for Ormat Technologies Project, and Roman Borisov, Representative of ORNI 43 LLC.

The applicant then made an opening statement, the application meets the statutory requirements and they think they qualify for the partial tax abatement as provided by NRS 701A. The facility will produce the adequate number of jobs with adequate wages that actually exceed the statutory minimum and total investment of 97 million dollars.

The Deputy Director asked if ORNI 43 LLC intend to call a witness this afternoon. The applicant then called Stephanie Osborne as a witness. The Deputy Director then administered the oath. Stephanie Osborne stated the testimony was prepared by her and under her control and she did not wish to make any changes to it.

Deputy Director Henricksen then asked if there is any additional information that the applicant would like to admit as evidence in this matter. No further evidence was provided by the applicant for this matter. The Deputy Director asked if, beside the applicant, any other person would like to be heard in the matter. There was no further evidence to submit.

Churchill County filed a notice of intent to speak. Alan Kalt, Chief Financial Officer for Churchill County was then sworn in. Ormat Representative Borisov then stated that Churchill County did not file a pre-filed testimony, so there was no prior opportunity to examine what testimony the county may use, without knowing the context. Alan Kalt stated that the letter was provided to the Governor's Office of Energy and posted on the website as well as copied and provided to Ormat at the same time that they forwarded it electronically to the Governor's Office of Energy. Deputy Attorney General, Harry Ward verified that the district attorney's office copied Ormat with their

notice of intent as well. The substance of Mr. Kalt's testimony was mostly the same as what was provided to Ormat and the Governor's Office of Energy with just one minor alteration.

Alan Kalt then proceeded with his testimony, I will start off with an overview of Ormat technology. Their website states, "With over five decades of experience, Ormat Technologies, Inc. is a leading geothermal company with the only vertically integrated company engaged in geothermal and recovered energy generation (REG), with the objective of becoming a leading global provider of renewable energy. The company owns, operates, designs, manufactures and sells geothermal and REG power plants primarily based on the Ormat Energy Converter – a power generation unit that converts low, medium and high-temperature heat into electricity. With 72 U.S. patents, Ormat's power solutions have been refined and perfected under the most grueling environmental conditions. Ormat's flexible, modular solutions for geothermal power and REG are ideal for the vast range of resource characteristics. The company has engineered, manufactured and constructed power plants, which it currently owns or has installed with utilities and developers worldwide, totaling over 2,000 MW of gross capacity. Ormat's current 697 MW generating portfolio is spread globally in the U.S., Guatemala and Kenya." That's straight from their website, and we're proud that they have facilities located in Churchill County. As noted in the application, Ormat is seeking to invest \$94,400,000 to build a power generating plant that is expected to deliver a generating capacity of 24 MW at design conditions with the geothermal resource located in Edwards Creek Valley in Churchill County. In exchange for making this investment and using a geothermal resource at a site specific location in Churchill County, Ormat is seeking sales and use tax and property tax abatement for the next 20 years as allowed in the Nevada Revised Statutes. Churchill County has reviewed the application and supports Ormat's abatement request as it appears to satisfy all the current statutory requirements. In doing so, however, express concern over the policy of this state in providing such substantial tax incentives for this industry. The amount of the requested abatement for this project is significant. Based on an analysis by the Department of Taxation, the sales and use tax abatement is projected at \$2,587,000 for the first year of construction. The Department's estimate of the property tax abatement for the 20 year period is \$9,247,377 for a total abatement of \$11,834,377 for this project. Based on the information submitted by Ormat, the construction of the Tungsten Project will create 66 FTE jobs during the one year construction period and 5 permanent jobs during the 20 year abatement period. The estimated Nevada construction wages are \$2,765,000, out of state construction wages are \$2,900,000. The 5 permanent employees will be paid a total estimated amount of \$349,440 per year or \$6,988,800 in Nevada wages over the 20 year period. Thus, a total of \$9,753,800 wages will be paid in Nevadans over the 20 year period of this plant. This compares to the total abatement amount of \$11,834,377 leaving an excess of abatement over wages in the estimated amount of \$2,366,875. However, the capital investment of over \$51,740,000 in taxable sales exceeds the total abatement amount requested in the application. Churchill County is supportive of green energy. Geothermal power is a great baseload power that can provide low cost energy with a 90%+ capacity factor in a clean, safe and efficient manner. Our local geothermal industry is mature with several plants operating since the 1980's. Currently, we have seven plants generating renewable power that does not create any greenhouse gases, is combustion free and has limited impacts on the environment. We generate more green energy in our county than we use which gives us a new perspective to our High School mascot "Fallon GREENwave". Churchill County and the related taxing entities will financially benefit from the Tungsten Project. When the abatement is approved, local governments will collect 45% of the property taxes over the next

twenty years. This amounts to an estimated \$7,566,036 over 20 years or an average of \$378,300 annually. Furthermore, they will employ 5 employees who will live locally in our community earning above average wages. Historically, our geothermal companies are socially responsible employers and their employees actively engage in our community and enjoy the rural lifestyle Churchill County has to offer. Churchill County has concerns with the current public policy authorizing such a high level of tax abatements for an industry that must locate where the geothermal resource is located. We engaged Mr. Jeremy Aguero and Applied Analysis to perform an Economic and Fiscal Impact Analysis on the Geothermal Industry in September 2012. The report concluded that the Net Fiscal Benefit per Employee is \$56,000 over a twenty year period of time for a 20 MW plant. Furthermore, the report indicated that the geothermal industry is relatively established in Churchill County. Geothermal energy is site-specific, and employees hired by a new project may not be from Churchill County. The new geothermal power may be exported out of state, thus Nevada's natural resource may be exported. This will add nothing to the in-state energy supply-even as the state provides significant tax abatements to encourage production. With continued abatements of major revenue resources, Churchill County's fiscal structure will be impacted. Lastly, given that some large geothermal operators are reporting stable profits, the concept of whether the abatements are necessary to ensure their existence in the state should be considered-especially given the site dependency of the industry. We believe this Economic and Fiscal Analysis should be evaluated to determine the appropriate levels of tax abatements necessary for the geothermal industry. In reviewing information on the Governor's Office of Energy website, Ormat has received over \$60,546,813 in tax abatements for five geothermal projects in the State of Nevada since 2012. These projects have been built and have been contributing to Ormat's successful operations. During their February 24, 2016 Earnings Call with financial analysts, Ormat Technologies, Inc. reports all-time record annual revenues of \$595 million and adjusted EBITDA of \$291 Million for the calendar year 2015. Their gross margin increased to 36.7% in 2015 compared to 36.4% in 2014 while operating income grew 14.3% to \$164.1 million in 2015 as their total book equity exceeded \$1 billion. Ormat stock closed at \$35.21 a share on the day the tax abatement application was signed and filed on January 11, 2016. As of close of market two months later on March 11th the stock closed trading at \$40.91. Up \$5.70 or 16.19% in this two month period increasing their market value based on 49.11M shares outstanding grew by \$279.9 million within two months. Furthermore, while the company is seeking an abatement of \$11,834,377 from the State of Nevada, it is paying out \$15,224,100 in dividends to shareholders of record as of March 11th with the distribution today, March 15th, the day you approve their abatement. These numbers beg the question "Does this industry or company really need these substantial tax abatements to expand projects in the State of Nevada?" We believe this policy question needs to be evaluated by the State of Nevada in the very near future. Local government continue to struggle to balance their budgets by reducing programs, services and are looking to residents/voters to raise new taxes on residents to maintain service levels, facilities, schools and roads while big corporations receive tax abatements of existing taxes. The State of Nevada, Churchill County and other four local governments fiscally impacted by this abatement will be required to disclose this \$11.8 million tax abatement in our FYE 6-30-2016 financial statements as we are required to implement the Governmental Accounting Standards Board Statement disclosure about the agreement, the gross dollar amount of taxes abated during the period and commitments made by a government, other than to abate taxes, as part of a tax abatement agreement. This required transparency causes concerns to our local elected officials as the residents and public becomes more aware of these abatements. Churchill County has a long and successful partnership with Ormat as they operate

their Brady Hot Springs and Desert Peak I & II geothermal plants in Churchill County. We are excited and supportive of their proposed Tungsten and Dixie Meadows Plants as they will be beneficial to all parties as they are developed over the next two years in Churchill County. Thank you for allowing us to participate in this process. I would be happy to answer any questions you may have.

The Deputy Director asked if there is anyone else who would like to be heard in this matter. No one else wanted to be heard outside of the applicant. The Deputy Director asked if the applicant or anyone else would like to make a closing statement.

Ormat Representative Borisov thanked Churchill County for supporting the application. He indicated that the application meets all the requirements and statutes.

The Deputy Director stated that the evidentiary portion of this hearing will be considered closed. A break was taken to consider the testimony and evidence.

5. The Deputy Director stated his findings and conclusions based upon the substantial, reliable, and credible evidence presented in the exhibits and testimony.

As to NRS 701A.360 (1), the Deputy Director finds that the applicant intends to locate within this State a facility for the generation of solar renewable energy, thus meeting the intent of the statute. As to NRS 701A.360(2), the Deputy Director finds that the facility is not owned, operated, leased, or controlled by a government agency, thus meeting the requirement of the statute. As to NRS 701A.365(1)(a)(1), the Deputy Director finds that this statute has been met by this renewable energy project, as the facility is expected to continue in operation in this State for a period of at least 10 years and is expected to continue to meet the eligibility requirements for the abatement. As to NRS 701A.365(1)(b), the applicant has provided information that all the necessary state and local permits and licenses to construct and operate will be received, thus meeting the requirement of the statute. As to NRS 701A.365(1)(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 for the acquisition of any land therefore, thus meeting the requirement of the statute. As to NRS 701A.365(1)(d)(1), the application states that the construction of the facility will employ 50 **full-time employees** during the second quarter of construction of which at least 50% will be Nevada residents. This meets the requirement of this statute. As to NRS 701A.365(1)(d)(2), the Deputy Director finds that the total capital investment in the facility to be approximately \$94,400,000 thus exceeding the \$3,000,000 capital investment required by the statute. As to NRS 701A.365(1)(d)(3), the Deputy Director finds that this statute is met as the application states that the average hourly wage that will be paid by the facility to its employees in this State, excluding management and administrative employees, is approximately \$30.00 an hour, which is at least 110% of the fiscal year average statewide hourly currently posted by the Department of Employment Training and Rehabilitation. As to NRS 701A.365 (1)(d)(4), the Deputy Director finds that this statute is met as the application states that the average hourly wage paid by the facility to all of its construction employees working on the facility, excluding management and administrative employees, will be approximately \$41.05 which is at least 175% of the fiscal year average statewide hourly wage currently posted by the Department of Employment Training and Rehabilitation. As to NRS 701A.365(1)(d)(4)(I) and (II), the application states that the health insurance provided to the construction employees on the facility allows for the coverage of

the dependents of the employees and will meet or exceed the standards established by the Director, thus meeting the requirement of the statute. As to NRS 701A.365(1)(f), the Deputy Director finds that the benefits that will result to this State from the employment by the facility of the residents of this State and from capital investment 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, I find the evidence presented in this matter shows that the financial benefits to the state of Nevada include the following amounts:

Financial Benefits

The Deputy Director states that Capital Investment approximately \$94,400,000

The Deputy Director states that Construction Payroll employees at 69 employees at \$41.05/hr x 2,080 hours, which is approximately 12 months is around \$5,891,496 in benefits.

The Deputy Director states that Operational Payroll will be \$30.00/hr x 2,080 hours per year x 19 years equals \$4,742,400

The Deputy Director states that the total benefits to Nevada over the abatement periods equal \$105,033,896

Amounts Abated

20 year Property Taxes Abatement \$9,247,377

Three year Sales and Use Tax Abatement \$2,587,000

TOTAL AMOUNT ABATED OVER ABATEMENT PERIODS \$11,834,377

As to NRS 701A.370(1)(a)(3), the Deputy Director finds that the abatement will not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722. As to NRS 701A.370(1)(b)(1)(III), the Deputy Director finds that the abatement 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.

6. Approval of Application. Deputy Director Henricksen approved the application for the partial abatement of property taxes and sales and use taxes to ORNI 43 LLC.

7. Explanation of Process: Deputy Director Henricksen explained that after today's hearing, this office will produce a written Findings of Fact, Conclusions of Law, and Order. Once the Order is issued, I or my representative, representatives from the Nevada Department of Taxation, and appropriate representatives of your company may meet to go over the terms and conditions of the Abatement Agreement prior to executing Abatement Agreement.

The Deputy Director states as a reminder, pursuant to NRS 701A.380, a partial abatement approved by the Director or her representative will terminate upon any determination by the Director or her representative that the facility has ceased to meet any eligibility requirements for the abatement.

The Deputy Director provided time for any questions.

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8. Public comment and discussion (2nd period): Deputy Director Henricksen asked if anyone had any public comment to which there was no response.

7. Adjournment: 2:40 PM.