

BEFORE THE NEVADA ENERGY DIRECTOR

NEVADA STATE OFFICE OF ENERGY

In the Matter of the Application of  
AFN: 11-061411TR Nevada Power  
Company d/b/a/ NV Energy and  
Sierra Pacific Power  
One Nevada Transmission Line Project

October 19, 2011

NOTICE OF INTENT TO PARTICIPATE

PLEASE TAKE NOTICE that Lincoln County intends to participate as a party in the public hearing to be held before the Nevada Energy Director ("Director") regarding the above application on Friday, October 21, 2011 at 1:00 p.m.

Pursuant to Section 23 of the applicable but as yet uncodified regulations (presently known as LCB File No. R094-10), various members of Lincoln County may participate in this hearing as a party because Lincoln County is the county in which the project or facility will be located. The members of the Board of County Commissioners; the County Assessor; and/or the County Treasurer will speak at the hearing.

Lincoln County intends to oppose the entire application. The application and proposed project violates NRS 701A.365 (1)(f),(2).

First, the financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will NOT exceed the loss of tax revenue that will result from the abatement.

Second, the Commissioner should not approve this application for a partial abatement because the application was never approved pursuant to this subsection 2 of NRS 701A.365. The board of county commissioners of Lincoln County never approved the application. Thirty days have passed without approval and the application should now be deemed denied.

Lincoln County intends to call George "Tommy" Rowe (County Commissioner), Paul Matthews (County Commissioner), Kevin Phillips (County Commissioner), Ed Higbee (County Commissioner), Paul Donahue (County Commissioner), Kathy Hiatt (County Treasurer), and/or Melanie McBride (County Assessor).

By the Lincoln County District Attorney,

*Daniel M. Hooge*

Daniel M. Hooge

NYE COUNTY DISTRICT ATTORNEY  
P.O. BOX 39  
PAHRUMP, NEVADA 89041  
(775) 751-7080

1 BRIAN T. KUNZI  
District Attorney  
2 CIVIL DIVISION  
State Bar No. 2173  
3 By: TIMOTHY B. SUTTON  
Deputy District Attorney  
4 State Bar No. 11724  
1520 East Basin Road, Suite 107  
5 Pahrump, Nevada 89060  
(775) 751-7080  
6 *Attorneys for Nye County*

7 **BEFORE THE NEVADA ENERGY DIRECTOR**

8 **NEVADA STATE OFFICE OF ENERGY**

9 In the Matter of the Application of:

10 Nevada Power Company  
11 d/b/a/ NV Energy and Sierra Pacific Power  
One Nevada Transmission Line Project

**AFN: 11-061411TR**

12 **NOTICE OF INTENT TO PARTICIPATE**

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14  
15 **COMES NOW, THE COUNTY OF NYE**, by and through its attorney, BRIAN T.  
16 KUNZI, District Attorney within and for the County of Nye, State of Nevada, and  
17 hereby files its Notice of Intent to Participate in this matter pursuant to LCB File No.  
18 R094-10(23).

19 **I. STATEMENT OF INTENT**

20 The County of Nye intends to oppose the tax abatement application filed by  
21 Nevada Power Company d/b/a/ NV Energy and Sierra Pacific Power.

22 **II. GENERAL OPPOSITION**

23 The County of Nye hereby files its statement of general opposition to the tax  
24 abatement program set forth under NRS 701A.360 *et seq.* and other similar programs.

1 As is the case with most rural counties, Nye County has been financially crippled by  
2 the current fiscal crisis. The surplus of substantially devalued residential property and  
3 the accompanying downturn in the construction industry has dramatically reduced the  
4 County's operating budget. Consequently, the County has eviscerated the budgets of  
5 even the most essential programs such as fire, police, and emergency health services.  
6 The Nye County School District has also suffered devastating financial losses resulting  
7 in teacher and staff reductions and increased class sizes. In order to provide a basic  
8 level of comfort and security to its citizens, Nye County must support and pursue all  
9 reasonable measures that bring revenue into the County and oppose programs and  
10 policies that do not. State-sponsored tax abatement programs such as the one  
11 proffered under NRS 701A.360 *et seq.* substantially reduce the tax revenue that the  
12 County would have enjoyed but for the abatement.

### 13 III. LEGAL POSITION

14 Pursuant to NRS 701A.365(2)(b), the Applicant must obtain all required State  
15 and County permits in order to qualify for a tax abatement. Additionally, at the  
16 September 6, 2011 meeting of the Nye County Board of Commissioners, Applicants  
17 conducted a public presentation of the OnLine project. At the meeting, Applicants  
18 assured the Board that they would apply for and obtain all necessary permits. To  
19 date, the following permits are still required:

#### 20 Flood Hazard Permit

21 Pursuant to Nye County Code (NCC) 15.12.140, a developer must apply for a  
22 flood hazard prior to construction or other development to determine if the proposed  
23 site is in an area of special flood hazard. If the area is determined to be within a  
24

1 hazard area, the developer must comply with the provisions of the NCC section 15.  
2 To date, Applicants have not applied for or obtained a flood hazard permit.

3 Encroachment Permit

4 Pursuant to NCC 12.08.010, "no "public road" [...], may be disturbed, dug up,  
5 excavated, crossed, encroached upon or otherwise used for the laying or re-laying of  
6 pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways  
7 or for any other purpose or encroachment, without a written permit[.]" Applicants have  
8 recently obtained an encroachment permit; however, this permit was not acquired prior  
9 to the start of construction. Additionally, in conjunction with the encroachment permit,  
10 Applicants were also obligated to execute a road maintenance agreement with the  
11 County. To date, Applicants have not executed a road maintenance agreement.

12 Applicants should be required to comply with all permit requirements prior to  
13 approval of their application.

14 **IV. IDENTIFICATION OF WITNESSES**

15 Nye County Commissioner Joni Eastley will appear personally, and on behalf of  
16 the County of Nye.

17 **V. RESERVATION OF RIGHTS**

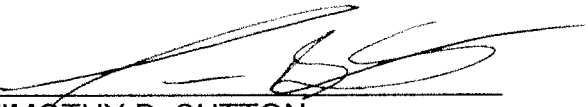
18 In light of the bifurcated nature of the proceedings, the County of Nye reserves  
19 its right to advance the above arguments and any others at the future hearing on  
20 Applicant's request for partial abatement of property taxes.

21  
22 Respectfully Submitted,

23 BRIAN T. KUNZI,  
24 NYE COUNTY DISTRICT ATTORNEY

NYE COUNTY DISTRICT ATTORNEY  
P.O. BOX 39  
PAHRUMP, NEVADA 89041  
(775) 751-7080

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By   
TIMOTHY B. SUTTON  
DEPUTY DISTRICT ATTORNEY,  
CIVIL DIVISION

Pursuant to NRS 239B.030 this document does not  
contain the social security number of any person.