

**BEFORE THE NEVADA ENERGY DIRECTOR  
GOVERNOR'S OFFICE OF ENERGY**

**In the Matter of the Application of:**            )  
  )  
**K ROAD MOAPA SOLAR, LLC**                     )  
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**Application Filing No. 12-1120PV**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

A hearing was held before the Director of the Governor's Office of Energy (Office) on April 18, 2013 regarding Application Filing Number 12-1120PV. At the hearing, applicant K Road Moapa Solar, LLC, (K Road) was represented by Sean Gallagher of K Road and Josh Hicks of Brownstein Hyatt Farber Schreck, LLP. Based upon the K Road application, and evidence presented at the hearing, the Director makes the following findings of fact, conclusions of law, and order in this matter.

**FINDINGS OF FACT**

1. At the hearing of the matter, K Road presented the testimony of Sean Gallagher. The Office Director admitted into evidence as Exhibit 1 a packet that contained eight subparts: (A) Notice of Public Hearing, March 27, 2013 (B) K Road Pre-Application filed with the Office on November 19, 2012; (C) K Road Application (redacted) for the K Road project as filed with the Office on February 19, 2013 (D) Energy Related Tax Incentive Fiscal Note as required by NRS 701A.375-1(a) by the Budget Division of the State of Nevada Department of Administration, received on March 25, 2013; (E) Fiscal Impact Renewable Energy Partial Abatement of Sales/Use Taxes as required by NRS 701A.375-1(b) by the State of Nevada Department of Taxation, received on February 28, 2013; (F) Pre-filed Testimony of Sean Gallagher; (G) Letter of Support from the Clark County Board of Commissioners dated March 14, 2013; (H) K Road financial benefits and abatement worksheet of future financial benefit scenarios dated April 17,

2013. At the hearing, all of the subparts of Exhibit 1 were admitted into evidence. Additional evidence was submitted by K Road at the hearing which consisted of: Exhibit 2, an updated financial benefits and abatement worksheet providing additional financial benefit and abatement scenarios; Exhibit 3, a copy of the Moapa Band of Paiute Indians Tribal Tax Code; and Exhibit 4, a letter from the Nevada State Department of Taxation to the taxpayer regarding current Nevada tax code as it relates to purchases on tribal land. Exhibit 4 was marked confidential. Based upon the testimony of the witness and the evidence presented, the Director finds the following to be the facts in this matter:

2. K Road is a limited liability company with a current Nevada State Business License from the Nevada Secretary of State.

3. K Road submitted its Pre-application in this matter on November 19, 2012.

4. On February 5, 2013, K Road submitted its Application, which was accepted by the Office on February 19, 2013, seeking partial abatement of sales and use taxes for the construction and operation of a facility for the generation of solar renewable energy ("Facility") that would be located on approximately 2000 acres of land located in Clark County, Nevada, Clark County Assessor's Parcel Number 067-00-001-019 et al, Application Filing Number (AFN) 12-1120PV. The Application described a solar photovoltaic electric generating facility that would generate 250 (MW) that would be sold to Los Angeles Department of Water and Power for a period of 25 years pursuant to a power purchase agreement.

5. Pre-filed testimony from Sean Gallagher supported that K Road was properly licensed and qualified to do business in Nevada; that K Road had obtained all required discretionary state and local licenses and permits, with the remaining permits to be obtained prior to start of construction, expected June, 2013, and intended to maintain all of the required licenses and permits for the Facility; that K Road had all necessary approvals for the Facility; that the Facility

would have an AC nameplate rating of 250 MW and was anticipated to produce 250 MW net; that K Road had entered into a 25-year power purchase agreement with Los Angeles Department of Water and Power; that the Facility was anticipated to be at least partially operational sometime during the third quarter of 2014; that the total capital investment of the Facility will be approximately \$420,000,000; that the Facility would create approximately four full-time operational jobs which would pay an average of approximately \$40.87 per hour; and that the Facility would create approximately 450 full-time construction jobs over the course of construction which would pay an average hourly wage of \$32.81 per hour.

6. The Director took notice that the statewide average hourly rate as determined by the Department of Employment, Training, and Rehabilitation (hereinafter "DETR") for fiscal year 2012 was \$20.13. Thus 110% of the wage for fiscal year 2012 was \$22.14, and 150% of the wage for fiscal year 2012 was \$30.20. Fiscal Year 2013 wages are not yet released.

7. The Fiscal Impact statement produced by the Department of Taxation shows the following estimated figures regarding the sales and uses taxes related to the Facility:

Total Amount Abated (Year 1)	\$22,380,749.59
Total Amount Abated (Year 2)	\$466,551.54
Total Amount Abated (Years 3)	\$0
<b>TOTAL AMOUNT ABATED</b>	<b>\$22,847,301.13</b>
Total Amount Abated by Local Government (Year 1)	\$14,729,211.27
Total Amount Abated by Local Government (Year 2)	\$307,046.74
Total Amount Abated by Local Government (Year 3)	\$0
<b>TOTAL AMOUNT ABATED BY LOCAL GOVERNMENT</b>	<b>\$15,036,258.01</b>
<b>TOTAL LOCAL SCHOOL SUPPORT TAX GAIN</b>	<b>\$8,787,423.51</b>

8. The Fiscal Note produced by the Budget Division shows that the State General Fund will be impacted for a total of approximately \$7,811,043 abated over the period of the abatement (2013 through 2016).

9. This project is located on the Moapa River Indian Reservation and the majority of the Capital Investment will be invested directly on tribal land in the state of Nevada. The applicant has submitted an estimate of the potential percentage of investment made on tribal lands and what may occur on state or other federal land. The K Road Good Faith Estimate (GFE) submitted as evidence in this matter estimates scenarios of both a 10% Capital Investment in the state of Nevada and a 5% Capital Investment in the state of Nevada. The estimated Capital Investment on non-tribal land is \$39,055,216 or \$19,527,608, respectively in each of those scenarios. The K Road GFE is attached as Attachment 1.

10. Synthesizing the figures in evidence in this matter, the total estimated benefit pursuant to NRS 701A.365(1)(f) to the state, the Moapa tribe and local governments in Nevada is \$429,364,921 and the total estimated amount of sales and use taxes abated in this matter is \$22,847,301. The estimated benefits and the amount of sales and uses taxes abated in this matter are further calculated based on the K Road GFE. For the purpose of determining eligibility, 5% of the capital investment on non-tribal land, 5% of the sales and use tax received by the state, and 100% of the calculated Nevada construction and operational jobs benefits were used. The evidence presented in this matter shows that the benefits to the state include the following amounts:

Financial Benefits

Capital Investment on non-tribal land	\$19,527,608
Total School Support Tax Over Abatement Period (3 years)	\$439,371
Construction Payroll in Nevada residents:	\$29,345,264
Operational Payroll in Nevada:	\$680,077
<b>TOTAL BENEFITS OVER ABATEMENT PERIODS</b>	<b>\$49,992,320</b>

Amounts Abated

Total Sales and Use Taxes Abated (3 Years)	\$1,142,365
<b>TOTAL TAXES ABATED</b>	<b>\$1,142,365</b>

10. That all of the evidence discussed in the preceding paragraphs was supported by the substantial, reliable, and probative evidence taken from the record as a whole produced at the hearing of this matter.

CONCLUSIONS OF LAW

1. The Director has the jurisdiction and authority to adjudicate this matter because the Application is within the scope of NRS 701A.300 through 701A.390 and the Director is required by law to hold the hearing in this matter pursuant to NRS 701A.360(5).

2. The substantial, reliable, and probative evidence in the record of this matter shows that K Road Application for the construction and operation of the Facility satisfies the following statutory requisites:

(a) NRS 701A.320(1)(a) – The primary source of energy to operate the Facility will be the Facility itself, thus meeting the statutory standard.

(b) NRS 701A.320(1)(b) – The Facility will generate 250 MW AC Nameplate, thus exceeding the statutory standard.

(c) NRS 701A.320(2) – The Facility is not located on residential property, thus meeting the statutory standard.

(d) NRS 701A.360(2) – The Facility is not owned, operated, leased, or controlled by a government agency, thus meeting the statutory standard.

(e) NRS 701A.365(1)(a)(1) – The Facility is anticipated to be operational for at least 25 years, thus exceeding the statutory standard.

(f) NRS 701A.365(1)(b) – The Facility has all the necessary state and local permits and licenses to operate, thus meeting the statutory standard.

(g) NRS 701A.365(1)(c) - 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, except any private activity bonds as defined in 26 U.S.C. §141, thus meeting the statutory standard.

(h) NRS 701A.365(1)(e)(1) – The construction of the Facility will employ at least 183 full-time employees during the second quarter of construction. K Road states that at least 30% of those employees will be Nevada residents, thus meeting the statutory standard.

(i) NRS 701A.365(1)(e)(2) – The capital investment in Nevada for the Facility is estimated to be up to \$420,000,000, and at least \$19,527,608 is estimated to be on non-tribal land, thus exceeding the statutory standard.

(j) NRS 701A.365(1)(e)(3) – The average hourly wage paid to the operational employees of the Facility will be approximately \$40.87, which is more than 110% of the average hourly wage set by DETR of \$22.14, thus exceeding the statutory standard.

(k) NRS 701A.365(1)(e)(4) – The average hourly wage paid to the construction employees on the Facility will be approximately \$32.81, which is more than 150% of the average hourly wage set by DETR of \$30.20, thus exceeding the statutory standard.

(l) NRS 701A.365(1)(e)(4)(I) and (II) – The health insurance provided to the construction employees on the Facility was represented to allow for the coverage of the dependents of the

employees and will meet or exceed the standards established by the Director, thus meeting the statutory standard.


(m) NRS 701A.365(1)(f) – Using the most conservative estimates based on a small portion of capital investment and sales and use tax to state and local governments, the 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 exceeds the loss of tax revenue that will result from the abatement, thus meeting the statutory standard.

(n) NRS 701A.370(1)(b)(1)(III) – 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.

**ORDER**

Based upon the foregoing, the Director orders that K Road Application Filing No. 12-1120PV related to the construction and operation of the Facility is hereby **GRANTED**. K Road and the Director may execute an Abatement Agreement as soon as practicable that will satisfy the requisites of NRS 701A.300 through NRS 701A.390. K Road sales and use tax abatement will terminate three years from the effective date of the Abatement Agreement.

SIGNED this 23 day of April, 2013.

  
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STACEY CROWLEY  
Director  
Governor's Office of Energy

Attachment "1"

<b>Scenario 1 - Cap Invest, S&amp;U tax proportional and jobs 100% benefits</b>			
	<b>100% of sales subject to state sales tax</b>	<b>90% of Sales subject to Indian Sales tax</b>	<b>95% of Sales subject to Indian Sales tax</b>
<b><u>Financial Benefits</u></b>		10%	5%
Capital Investment subject to tax	\$ 390,552,157	\$ 39,055,216	\$ 19,527,608
Total School Support Tax Paid Over 3 years	\$ 8,787,424	\$ 878,742	\$ 439,371
Nevadans Construction Payroll (12 months @\$32.81/hr)	\$ 29,345,264	\$ 29,345,264	\$ 29,345,264
Operational Payroll (assumed Nevadans - 24 months @\$40.87/hr)	\$ 680,077	\$ 680,077	\$ 680,077
<b>Total Benefits to NV over 3 year abatement period</b>	<b>\$ 429,364,921</b>	<b>\$ 69,959,299</b>	<b>\$ 49,992,320</b>
<b><u>Amounts Abated</u></b>			
<b>Total Sales &amp; Use Tax Abated (3 years)</b>	<b>\$ 22,847,301</b>	<b>\$ 2,284,730</b>	<b>\$ 1,142,365</b>
<b>Benefits less (-) Abatement</b>	<b>\$ 406,517,620</b>	<b>\$ 67,674,569</b>	<b>\$ 48,849,955</b>