

**BEFORE THE NEVADA ENERGY COMMISSIONER
NEVADA RENEWABLE ENERGY AND
ENERGY EFFICIENCY AUTHORITY**

In the Matter of the Application of:)	
)	
ORMAT NEVADA INC. and)	Application Filing No. 10-04001G
ORNI 15, LLC.)	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing was held before the Nevada Energy Commissioner of the Nevada Renewable Energy and Energy Efficiency Authority (hereinafter “the Commissioner”) on August 6, 2010 regarding Application Filing No. 10-04001G. Applicants Ormat Nevada, Inc. and ORNI 15, LLC (hereinafter “Ormat”) was represented by Scott Scherer of Holland & Hart LLP. The Commissioner was advised by Louis Ling. Based upon Ormat’s presentation at the hearing, the Commissioner makes the following findings of fact, conclusions of law, and order in this matter.

FINDINGS OF FACT

1. At the hearing of the matter, Ormat presented the testimony of Paul Thomsen, Director of Policy and Business Development for Ormat, and Eyal Hen, Controller of Ormat. The Commissioner admitted into evidence one exhibit which contained nine subparts: (A) Notice of Public Hearing posted July 28, 2010; (B) Screenshot from the Commissioner’s website; (C) Ormat’s Pre-application filed March 19, 2010; (D) Ormat’s Application Filing No. 10-04001G (redacted); (E) Pre-filed testimony of Paul Thomsen; (F) Pre-filed testimony of Eyal Hen; (G) Letter from the Pershing County Board of County Commissioners dated May 27, 2010 and accompanying meeting minutes; (H) Energy-Related Tax Incentive Fiscal Note by the Nevada Department of Administration, Budget Division, dated June 22, 2010; and (I) Fiscal Impact

Renewable Energy Partial Abatement of Property Taxes provided by the Nevada Department of Taxation and Fiscal Impact Renewable Energy Partial Abatement of Sales/Use Taxes, received on June 17, 2010. Based upon the testimony of the witnesses and the evidence presented, the Commissioner finds the following to be the facts in this matter.

2. On March 19, 2010, Ormat submitted its Pre-application in this matter.

3. On April 8, 2010, Ormat submitted Application Filing No. 10-04001G (hereinafter “the Application”) seeking partial abatement of sales and use taxes and property taxes for the construction of a geothermal power plant in Pershing County, Nevada that would be known as Jersey Valley I. The Application described a geothermal power generation facility that was intended to generate 15 megawatts (MW) of electricity that would be sold to Nevada Power Company for a period of 20 years pursuant to a power purchase agreement.

4. Director of the Nevada State Office of Energy (April 8, 2010), Commissioner (April 9, 2010), Department of Taxation (April 22, 2010), Nevada Department of Administration, Budget Division (May 11, 2010) and Ormat signed a Confidentiality Agreement, the effect of which was to render much of the information contained in the Application confidential because the information constituted trade secrets, confidential commercial information, proprietary or confidential information, or confidential economic information that was determined to be confidential according to Nevada law.

5. On April 14, 2010, the Commissioner and Ormat signed an Agreement for Provisional Partial Abatement of Sales and Use Taxes, the effect of which was to allow Ormat to receive a provisional grant of partial abatement of sales and use taxes pending the full and final hearing on the merits of the Application at a later date. The Commissioner and Ormat agreed that because of the unique circumstances related to Ormat’s Jersey Valley I project, that a provisional agreement would further the legislative intent of NRS 701A.300 through 701A.450. This allowed Ormat to

move forward with their scheduled project timeline and purchase the needed tangible personal properties while the application was processed.

6. At the hearing and in his pre-filed testimony, Mr. Thomsen testified that Ormat was properly licensed and qualified to do business in Nevada; that Ormat had obtained and intended to maintain all of the required licenses and permits to operate the Jersey Valley I facility; that Ormat had extensive history constructing and operating similar facilities in Nevada and, through its affiliated companies, in other states, and in other countries; that Ormat had received all necessary approvals for the Jersey Valley I facility, including from the Pershing County Board of Commissioners; that the Jersey Valley I project has been under construction since April 8, 2010 and was, at the time of the hearing, actively in its second quarter; that in the second quarter, there were 60 full-time employees engaged in the construction, of which 57 were Nevada residents; that the average hourly wage for the construction employees was \$41.42; that the project was estimated to be completed in approximately nine months; that a reasonable average of the number of full-time employees on the construction project for the nine months of construction would be 60, though the actual employees would change from time to time as they completed their work and other employees came on the site to perform their work; that no matter who the contractors or subcontractors were, the total number of full-time employees engaged on the construction of the project who were Nevada residents would never go below 30% of the full-time employees; that part of the project included the construction and installation of a 69 kV transmission line by which the facility would be connected to the power distribution grid; and that Ormat intended to continue exploration of the resource at the site with an eventual goal of potentially increasing production from 15MW to 30 MW.

7. At hearing and in his pre-filed testimony, Mr. Hen testified that Jersey Valley I would produce approximately 15 MW of electricity; that Ormat had a 20-year power purchase

agreement with Nevada Power Company; that Ormat had secured all the necessary leases and state and local permits to allow for the operation of the Jersey Valley I facility; that there will be between eight and ten full-time jobs for the operation and maintenance of the Jersey Valley I facility once it is operational; that the operational employees will earn an average of \$25.23; and that the estimated annual payroll will be approximately \$419,000.00; and that the total estimated project cost for the Jersey Valley I project was \$88,560,000.00.

8. The Commissioner took notice that the statewide average hourly rate as determined by the Department of Employment, Training, and Rehabilitation (hereinafter “DETR”) for fiscal year 2010 was \$20.05 per hour and for fiscal year 2011 was \$19.93. Thus 110% of the wage for fiscal year 2010 was \$22.05 and for fiscal year 2011 was \$21.92, and 150% of the wage for fiscal year 2010 was \$30.07 and for fiscal year 2011 was \$29.90.

9. With Ormat’s permission, the Commissioner added to Ormat’s Application the 69 kV transmission line so that it is included within the scope of the Facility.

10. The Fiscal Impact statement produced on June 17 2010 by the Department of Taxation shows the following estimated figures regarding the property taxes related to the Jersey Valley I facility:

Total Estimated Capital Investment	\$88,560,000.00
Total Taxable Value of the Project in 2010	\$89,713,450.00
Total Property Taxes Due Over Abatement Period (20 years)	\$16,734,164.00
Total Property Taxes Abated Over Abatement Period	\$9,203,790.00
Total Taxes to Local Government Over Abatement Period	\$4,141,706.00
Total Taxes to Renewable Energy Fund Over Abatement Period ¹	\$3,388,668.00

¹ Pursuant to NRS 701A.385(1)(a), 45% of the abated property taxes collected prior to July 1, 2011 shall be paid into the State’s General Fund. After July 1, 2011, 45% of the abated property taxes collected shall be paid into the Renewable Energy Fund.

11. The Fiscal Impact statement produced on June 17 2010 by the Department of Taxation shows the following estimated figures regarding the sales and uses taxes related to the Jersey Valley I facility:

Total Amount Abated (Year 1)	\$1,200,825.00
Total Amount Abated (Year 2)	\$45,000.00
Total Amount Abated (Years 3)	\$45,000.00
TOTAL AMOUNT ABATED	\$1,290,825.00

Total Impact on Local/County Government (Year 1)	\$667,125.00
Total Impact on Local/County Government (Year 2)	\$25,000.00
Total Impact on Local/County Government (Year 3)	\$25,000.00
TOTAL IMPACT ON LOCAL GOVERNMENT	\$717,125.00

Local School Support Tax Gain (Year 1)	\$693,810.00
Local School Support Tax Gain (Year 2)	\$22,500.00
Local School Support Tax Gain (Year 3)	\$22,500.00
TOTAL LOCAL SCHOOL SUPPORT TAX GAIN	\$738,810.00

12. The Fiscal Note produced by the Budget Division on June 22, 2010 shows that the State General Fund will be impacted for a total of \$572,191.00 in sales and use taxes abated over the period of the abatement (2010 through 2013) and that the State's Debit fund will be impacted for a total \$918,628.00 in property taxes abated over the period of the abatement (20 years). In the first year of the abatement, the State's General Fund could receive up to \$196,906.00 from the non-abated property tax¹

13. Synthesizing the figures in evidence in this matter, the total estimated financial benefit pursuant to NRS 701A.365(1f) to the state and local governments in Nevada is \$108,787,872.00. The total estimated amount of sales and use taxes and property taxes abated in this matter is \$10,494,615.00. Thus, the benefits to the state and local governments in Nevada

exceed the total amount of abated taxes. The financial benefits and amounts abated over the applicable periods of abatement are calculated as follows:

Financial Benefits²

Capital Investment in the Facility	\$88,560,000.00
Total Property Taxes That Will Be Received by State Government After the Abatements	\$3,388,668.00
Total Property Taxes That Will Be Received by Local Government After the Abatements	\$4,141,706.00
Sales and Use Taxes Collected After Abatement (Local School Support Tax)	\$738,810.00
Construction Payroll (9 months @ \$397,632 per month) (\$3,220,819.00 to Nevada residents + \$357,869.00 to non- residents)	\$3,578,688.00
Operational Payroll for 8 FTE (20 years @ \$419,000 per year)	\$8,380,000.00
TOTAL BENEFITS OVER ABATEMENT PERIODS	\$108,787,872.00

Amounts Abated

Total Property Taxes Abated (20 Years)	\$9,203,790.00
Total Sales and Use Taxes Abated (3 Years)	\$1,290,825.00
TOTAL TAXES ABATED	\$10,494.615.00

14. 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.

² At hearing, additional benefits such as Mining Proceeds Taxes, Modified Business Taxes, Royalties, and Land Lease payments were discussed, but because they were not quantified at hearing or in any of the Application documents, they are not included in the calculation of benefits. These benefits are projected to be \$3,751,502.00 over the tax abatement period. Taxes and Royalty Revenues for the state and local government after the abatement are projected to be \$11,168,736.00.

CONCLUSIONS OF LAW

1. The Commissioner 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 Commissioner 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 Ormat's Application for the construction and operation of the Jersey Valley I facility satisfies the following statutory requisites:

(a) NRS 701A.320(1)(a) – The primary source of energy to operate the Jersey Valley I facility will be from the Facility itself, which is within the Legislative intent underlying NRS 701A.320(1)(a), thus meeting the statutory standard.

(b) NRS 701A.320(1)(b) – The Jersey Valley I facility will generate 15 MW, thus exceeding the statutory standard.

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

(d) NRS 701A.360(1) – The Jersey Valley I facility will generate electricity from geothermal resources, thus making it eligible to apply for the partial abatements pursuant to the statutory standard.

(e) NRS 701A.360(2) – The Jersey Valley I facility is not owned, operated, leased, or controlled by a government agency, thus meeting the statutory standard.

(f) NRS 701A.365(1)(a)(1) – The Jersey Valley I facility is anticipated to be in operation for at least 20 years, thus exceeding the statutory standard.

(g) NRS 701A.365(1)(b) – The Jersey Valley I facility has all the necessary state and local permits and licenses to operate, thus meeting the statutory standard.

(h) NRS 701A.365(1)(c) – No funding for the Jersey Valley I 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.

(i) NRS 701A.365(1)(e)(1) – The construction of the Jersey Valley I facility is employing 60 full-time employees during the second quarter of construction, thus exceeding the statutory standard.

(j) NRS 701A.365(1)(e)(2) – The capital investment in the Jersey Valley I facility is estimated to be \$88,560,000, thus exceeding the statutory standard.

(k) NRS 701A.365(1)(e)(3) – The average hourly wage paid to the operational employees of the Jersey Valley I facility will be approximately \$25.23, which is more than 110% of the average hourly wage set by DETR (FY 2010 = \$22.05 / FY 2011 = \$21.92), thus exceeding the statutory standard.

(l) NRS 701A.365(1)(e)(4) – The average hourly wage paid to the construction employees on the Jersey Valley I facility will be approximately \$41.42, which is more than 150% of the average hourly wage set by DETR (FY 2010 = \$30.07 / FY 2011 = \$29.90), thus exceeding the statutory standard.

(m) NRS 701A.365(1)(e)(4)(I) and (II) – The health insurance provided to the construction employees on the Jersey Valley I facility allows for the coverage of the dependents of the employees and will meet or exceed the standards established by the Commissioner, thus meeting the statutory standard.

(n) NRS 701A.365(1)(f) – 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 Jersey Valley I

facility in this State exceeds the loss of tax revenue that will result from the abatement, thus meeting the statutory standard.

(o) NRS 701A.370(1)(a)(3) – The abatements will not apply during any period in which the Jersey Valley I facility is receiving another abatement or exemption from property taxes imposed pursuant to NRS chapter 361 other than any partial abatement provided pursuant to NRS 361.4722, thus meeting the statutory standard.

(p) NRS 701A.370(1)(b)(1)(III) – The abatement will not apply during any period in which the Jersey Valley I facility is receiving another abatement or exemption from local sales and use taxes, thus meeting the statutory standard.

(q) NRS 701A.365(2) – The Pershing County Board of Commissioners approved the project for the property tax abatement as is evidenced by the Board's letter dated May 27, 2010, thus meeting the statutory standard.

ORDER

Based upon the foregoing, the Commissioner orders that Ormat's Application Filing No. **10-04001G** related to the construction and operation of the Jersey Valley I facility is hereby **GRANTED**. Ormat and the Commissioner may execute an Abatement Agreement as soon as practicable that will satisfy the requisites of NRS 701A.300 through NRS 701A.390, and Ormat will be entitled to the continuance of its sales and use tax abatement that commenced on April 08, 2010. Ormat's sales and use tax abatement will terminate on April 8, 2013. Ormat's property tax abatement will terminate 20 years from the effective date of this Abatement Agreement.

SIGNED this 26 day of August, 2010.

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Dr. HATICE GECOL, Nevada Energy Commissioner
Renewal Energy and Energy Efficiency Authority