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11 Attorneys for Defendants

12 UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 GLOBAL COMMUNITY MONITOR, a
California nonprofit corporation;
16 LABORERS' INTERNATIONAL
UNION OF NORTH AMERICA LOCAL
17 UNION NO. 783, an organized labor
union; RANDAL SIPES, JR., an
18 individual; RUSSEL COVINGTON, an
individual;

19 Plaintiffs,

20 v.

21 MAMMOTH PACIFIC, L.P., a California
22 Limited Partnership; ORMAT NEVADA,
INC., a Delaware Corporation; ORMAT
23 TECHNOLOGIES, INC. a Delaware
Corporation; and DOES I-X, inclusive,
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25 Defendants.
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Case No. 2:14-cv-01612-MCE-KJN

STIPULATION AND ORDER ON
DEFENDANTS' MOTION FOR A
PROTECTIVE ORDER

Honorable Kendall J. Newman

RECITALS

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2 1. On August 20, 2015, Defendants Mammoth Pacific, L.P., Ormat Nevada, Inc. and
3 Ormat Technologies, Inc. (collectively “Ormat”) filed a motion (Dkt No. 38) seeking entry of a
4 protective order staying discovery in this matter (“Motion for Stay”). Ormat’s Motion for Stay
5 requested a stay of all discovery and the service of initial disclosures under Fed. R. Civ. P. 26(a)(1)
6 pending the Court’s disposition of Ormat’s Motion to Dismiss or, In the Alternative, for Summary
7 Judgment (“Ormat’s Dispositive Motion”) (Dkt. No. 34). Ormat’s Dispositive Motion was noted
8 before Judge Morrison C. England, Jr. on October 1, 2015.

9 2. Ormat’s Motion for Stay pertained to Plaintiffs’ First Requests for Production of
10 Documents and First Request for Entry Onto Land, both of which were served on Ormat on May 22,
11 2015. Copies of Plaintiffs First Request for Production of Documents and First Request for Entry Onto
12 Land are attached to this Stipulation and Order as Exhibits A and B, respectively. Ormat served its
13 Objections and Responses to GCM’s First Set of Requests for Production of Documents on June 24,
14 2015.

15 3. Pursuant to Local Rule 251(c), the Parties filed a Statement Regarding Discovery
16 Disagreement (Dkt. No. 42) (the “Joint Statement”) on September 3, 2015. In their Joint Statement,
17 both Ormat and Plaintiffs Global Community Monitor, Laborer’s International Union of North America
18 No. 783, Randal Sipes, Jr. and Russel Covington (collectively “GCM”) set out their positions with
19 respect to Ormat’s Motion for Stay.

20 4. On September 10, 2015, the Hon. Kendall J. Newman held a hearing on Ormat’s Motion
21 for Stay. Steven G. Jones appeared on behalf of Ormat and Richard Drury appeared on behalf of GCM,
22 accompanied by Meredith Wilensky. Following the hearing, counsel for Ormat and GCM negotiated
23 the Stipulation outlined below and jointly request that the Court enter the subjoined Order
24 implementing the terms of that Stipulation.

1 These permits are responsive to GCM's Requests for Production Nos. 1-12. Ormat's counsel
2 agrees to consult with Ormat to determine if there are any additional responsive permits and, if so, to
3 produce any additional permits to GCM on or before September 30, 2015.

4 **Requests for Production of Documents Nos. 13 - 15.**

5 3. GCM's RFP Nos. 13-15 seek documents referencing the ownership interests in the MP-
6 I, MP-II and PLES-I plants. In its response to those RFPs, Ormat has stipulated that MP-I, MP-II and
7 PLES-I are jointly owned by Defendants.

8 **Requests for Production Nos. 28 – 30.**

9 4. GCM's RFP Nos. 28-30 seek production of maps of the geothermal material and
10 production wells, control rooms and pipelines for MP-I, MP-II and PLES-I. Ormat's counsel agrees to
11 consult with Ormat and to produce a current map or maps of all three facilities, showing the location of
12 the facilities relative to each other, all geothermal wells, the location of the control room and pipelines
13 on or before September 30, 2015.

14 **All Other Requests for Production Propounded by GCM**

15 5. With the exception of the RFPs specifically identified above, the Parties stipulate that
16 Ormat's production of any documents responsive to GCM's Requests for Production is stayed until
17 Judge England issues a decision on Ormat's Dispositive Motion.

18 6. In the event that Judge England denies Ormat's Dispositive Motion, Ormat's production
19 of documents responsive to GCM's RFPs or its agreement to make responsive documents available for
20 inspection and copying by GCM will be due 60 days from the date of entry of Judge England's Order
21 denying Ormat's Dispositive Motion.

22 **Initial Disclosures Under Fed. R. Civ. P. 26(a)(1)**

23 7. The Parties stipulate that, in the event that Judge England denies Ormat's Dispositive
24 Motion, the Parties' initial disclosures under Fed. R. Civ. Pro. 26(a)(1) will be due 60 days from the
25 date of entry of Judge England's Order denying Ormat's Dispositive Motion.

26 **GCM's Request for Entry Onto Land**

27 8. Ormat stipulates that, in the event that Judge England denies Ormat's Dispositive
28 Motion, counsel for Ormat will work with counsel for GCM to make arrangements for a site visit to be

1 conducted at a mutually convenient time for all Parties, but in no event later than 90 days from the date
2 of entry of the Order denying Ormat's Dispositive Motion.

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4 So Stipulated this 15th day of September, 2015:

5 HOLLAND & HART LLP

6 s/ Steven G. Jones
7 MATTHEW HIPPLER
8 STEVEN G. JONES (Admitted Pro Hac Vice)
9 EMILY C. SCHILLING (Admitted Pro Hac Vice)

10 Attorneys for Defendants

11 LOZEAU | DRURY

12 s/ Richard Drury
13 RICHARD DRURY
14 DOUGLAS CHERMAK

15 Attorneys for Plaintiffs

16 **ORDER**

17 Based on the parties' Stipulation as outlined above, the Court enters the following Order:

18 1. All permits placed into the record as attachments to the September 8, 2014 Declaration
19 of Steven G. Jones (Dkt. 15) ("First Jones Dec.") are deemed to be authenticated by Ormat as true and
20 correct copies of those permits.

21 2. Ormat's counsel is directed to consult with Ormat and ascertain whether there are any
22 additional permits pertaining to Ormat's facilities which were not included as attachments to the First
23 Jones Dec. Any additional permits identified are to be produced to GCM on or before September 30,
24 2015.

25 3. Defendants' joint ownership of the MP-I, MP-II and PLES-I facilities is deemed to be a
26 stipulated fact for the remainder of this matter.

27 4. Ormat's counsel is directed to consult with Ormat and identify a current map or maps of
28 the MP-I, MP-II and PLES-I facilities, showing the location of the facilities relative to each other, the

1 location of the geothermal wells, the control room and pipelines. Production of this document or
2 documents to GCM is to take place on or before September 30, 2015.

3 5. Initial Disclosures under Fed. R. Civ. P. 26(a)(1), Ormat's production of any other
4 documents responsive to Plaintiffs' First Set of Requests for Production of Documents and Ormat's
5 response to Plaintiffs' First Request for Entry Onto Land are STAYED until Judge England issues a
6 decision on Ormat's Dispositive Motion.

7 6. In the event Judge England denies Ormat's Dispositive Motion:


8 a. The Parties' Initial Disclosures under Fed. R. Civ. Pro. 26(a)(1) will be due 60
9 days from the date of entry of Judge England's Order denying Ormat's Dispositive Motion;

10 b. Ormat's production of any additional documents responsive to Plaintiffs' First
11 Requests for Production of Documents will be due 60 days from the date of entry of Judge England's
12 Order denying Ormat's Dispositive Motion; and

13 c. The Parties will consult with each other and make arrangements for a site visit by
14 GCM to Ormat's MP-I, MP-II and PLES-I facilities at a mutually convenient time, but in no event later
15 than 90 days from the date of entry of Judge England's Order denying Ormat's Dispositive Motion.

16 IT IS SO ORDERED.

17 Dated: September 16, 2015

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE
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