

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX**

<b>IN THE MATTER OF:</b>	)	<b>Docket No.</b>
	)	CAA(112r)-09-2016-0001
Puna Geothermal Venture,	)	
	)	<b>CONSENT AGREEMENT</b>
Respondent.	)	<b>AND</b>
_____	)	<b>FINAL ORDER PURSUANT TO</b>
	)	<b>40 CFR §§ 22.13 and 22.18</b>

**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 CFR Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region IX (“EPA”). Respondent is Puna Geothermal Venture, a general domestic partnership incorporated in Hawaii and owned by Ormat Technologies, Inc. (“Respondent”).
2. Respondent owns and operates a geothermal power plant located at 14-3860 Kapoho Paho Road, Paho, Hawaii 96778 (“Facility”).
3. Pursuant to 40 CFR §§ 22.13 and 22.18, this Consent Agreement and Final Order (“CA/FO”) simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Sections 112(r)(1) and (7) of the CAA, 42 U.S.C. §§ 7412(r)(1) and (7), and the regulations adopted pursuant thereto.

4. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

**B. GENERAL ALLEGATIONS**

5. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

6. The real property and improvements thereto located at 14-3860 Kapoho Paho Road, Paho, Hawaii, are a “stationary source” as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

7. At all times relevant to this CA/FO, Respondent has been the owner and operator of the Facility.

8. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.

9. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the assessment of a civil penalty for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

10. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA. Delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region IX, in turn, has re-delegated this authority with respect to enforcement of Section 112(r)(1) and (7) of the CAA to the Director of the Superfund Division, as well as the Director of the Enforcement Division. Regional Order 1265.05A, dated February 11, 2013.

11. In a letter dated October 14, 2014, the Department of Justice granted EPA authority to commence this administrative enforcement action pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

12. EPA alleges that Respondent has violated Sections 112(r)(1) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(1) and 7412(r)(7), and portions of 40 CFR Part 68. Respondent neither admits nor denies this allegation.

**i. CAA Section 112(r)(1)**

13. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling or storing a regulated substance under Section 112(r)(3), 42 U.S.C. § 7412(r)(3), or other extremely hazardous substances have a general duty to identify hazards which may result from a release using appropriate hazard assessment techniques, to design and maintain a safe facility, taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

14. Hydrogen sulfide is a regulated substance and an extremely hazardous substance within the meaning of Sections 112(r)(1) and (3) of the CAA, 42 U.S.C. §§ 7412(r)(1), (3), and it is a hazardous chemical for which an employer must have a Material Safety Data Sheet (“MSDS” now “SDS”) pursuant to the requirements of the Occupational Safety and Health Administration’s (“OSHA’s”) Hazard Communication Standard, 29 CFR § 1910.1200(c).

15. At all times relevant to this CA/FO, the Facility produced, processed, handled or stored hydrogen sulfide as a byproduct of its operations.

**ii. CAA Section 112(r)(7)**

16. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations, owners and operators of stationary sources at which a regulated substance is present in more than a threshold quantity (“TQ”) must prepare and implement a risk management plan (“RMP”) to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

17. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a TQ for each “regulated substance” above which a facility shall be subject to the requirements of Section 112(r) of the CAA. For substances designated as “regulated toxic substances” or “regulated flammable substances,” the TQs are specified at 40 CFR § 68.130.

18. Pentane is a “regulated flammable substance” listed under CAA § 112(r)(3) with a TQ of 10,000 pounds. 40 CFR § 68.130, Table 3.

19. At all times relevant to this CA/FO, Respondent had 10,000 pounds or more of pentane in a process at its Facility.

**C. ALLEGED VIOLATIONS**

**COUNT I**

(Failure to Conduct an Adequate Hazard Assessment)

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.

21. EPA regulations provide for three different levels of accidental release prevention programs, corresponding to different levels of risk. 40 CFR § 68.10. All three accidental release prevention programs require the submittal of an RMP, which must identify which Program level is applicable to each covered process. 40 CFR §§ 68.12(a); 68.160(b)(7). For a covered process to qualify for Program 1, which has the fewest program elements, the distance to a toxic or flammable endpoint for a worst-case release from that process must be less than the distance to any public receptor. 40 CFR § 68.10(b)(2).

22. Prior to November, 2010, the vessel storing the greatest amount of pentane at the Facility within the meaning of 40 CFR § 68.25(b)(1) was the Motive Fluid Storage Vessel located in the southeast corner of the Facility’s then-existing power plant area (“Location 1 MFSV”).

23. On June 1, 2010, PGV re-submitted its RMP, identifying the Program Level as 1.

24. In 2010, PGV planned an expansion plant at the Facility, including installation of a larger Motive Fluid Storage Vessel, located at the Facility's new expansion power plant area ("Location 2 MFSV").
25. During October 2010, Respondent completed a revised Hazard Assessment reflecting the expansion plant processes and Location 2 MFSV.
26. On or about November 5, 2010, Respondent submitted an RMP to EPA that reflected the expansion plant processes and Location 2 MFSV and re-classified the Facility as subject to Program 3 under 40 CFR Part 68. EPA recorded that the revised RMP was received on November 17, 2010.
27. On or about November 4, 2011, Respondent filled the Location 2 MFSV with pentane, making the Location 2 MFSV the vessel storing the greatest amount of pentane at the Facility within the meaning of 40 CFR § 68.25(b)(1).
28. The residence located at 14-3843 Pahoia-Kapoho Road, Pahoia, Hawaii, is an off-site residence and a public receptor within the meaning of 40 CFR § 68.3.
29. The residence located at 14-3843 Pahoia-Kapoho Road, Pahoia, Hawaii is within 0.3 miles of the Location 1 MFSV.
30. At all times relevant to this CA/FO, the flammable endpoints for a release of pentane from the vessel storing the greatest amount of pentane at the Facility within the meaning of 40 CFR § 68.22 was 0.3 miles.
31. Based on information gathered during EPA's August 20-21, 2013 inspection and EPA's investigation, prior to November 17, 2010, Respondent failed to properly locate, in its worst-case release scenario analysis, the single vessel containing the greatest amount of a flammable substance.

32. At all times relevant to this CA/FO, Respondent was subject to the “Program 3” requirements, pursuant to 40 CFR § 68.10(d), because the distance to a flammable endpoint for a worst-case release is less than the distance to any public receptor and because Respondent has been the owner and operator of a covered stationary source with a process subject to the OSHA process safety management standards set forth in 29 CFR § 1910.119.

33. The Facility is, and all relevant times to this CA/FO, has been subject to Program 3 requirements, including but not limited to, conducting a hazard assessment as set forth in 40 CFR §§ 68.20 through 68.42, implementing the prevention requirements set forth in 40 CFR §§ 68.65 through 68.87, and submitting as part of the RMP the data on prevention program elements for Program 3 processes, as provided in 40 CFR § 68.175.

34. Based on EPA’s August 20-21, 2013 inspection and information gathered during EPA’s investigation, prior to November 17, 2010, Respondent failed to properly analyze and report in its revised RMP the worst case release scenario as required by 40 CFR § 68.25.

35. Based on EPA’s August 20-21, 2013 inspection and information gathered during EPA’s investigation, Respondent failed to identify and analyze in its November, 2010 RMP at least one alternative release scenario as required by 40 CFR § 68.28.

36. Therefore, prior to November 17, 2010, Respondent failed to conduct and submit in its RMP an adequate hazard assessment for the Facility, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.12(d)(2).

COUNT II

(Failure to Develop and Implement Adequate Operating Procedures)

37. Paragraphs 1 through 36 above are incorporated herein by this reference as if they were set forth here in their entirety.

38. Pursuant to 40 CFR § 68.69(a), Respondent is required to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process, consistent with the process safety information.
39. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, at the time of the investigation, Respondent failed to include in its operating procedures information on the consequences of deviation from the process operating limits, as required by 40 CFR § 68.69(a)(2).
40. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, at the time of the investigation, Respondent failed to include in its operating procedures complete information on safety and health considerations, as required by 40 CFR § 68.69(a)(3).
41. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, at the time of the investigation, Respondent failed to develop and implement adequate operating procedures, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.69.

### COUNT III

#### (Failure to Perform Adequate Inspection and Testing)

42. Paragraphs 1 through 41 above are incorporated herein by this reference as if they were set forth here in their entirety.
43. Pursuant to 40 CFR § 68.73(d), Respondent is required to perform inspections and tests on process equipment, the frequency of which shall be conducted consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

44. The following inspection and test frequencies are set forth in Respondent's mechanical integrity program: (1) performance of monthly function testing of the Facility's UV/IR flame detectors and alarm panel; (2) performance of annual ultrasonic testing of pressure vessel wall thickness; and (3) depending upon type of application and service, testing and inspection every one to three years of pressure relief devices on pressure vessels.

45. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, EPA found that Respondent did not adhere to the inspection and test frequencies in the following instances: (1) between November 15, 2012 and August 15, 2013, Respondent only performed four function tests of the Facility's UV/IR flame detectors and alarm panel; (2) since 2006, Respondent did not perform ultrasonic testing of pressure vessel wall thickness; and (3) Respondent did not conduct all of the required inspection and testing of pressure relief devices on pressure vessels.

46. Therefore, Respondent failed to perform adequate inspection and testing in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.73(d).

#### COUNT IV

##### (Failure to Perform an Adequate Compliance Audit)

47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth here in their entirety.

48. Pursuant to 40 CFR § 68.79, Respondent is required every three years to certify that it has evaluated compliance with the provisions of the Program 3 Prevention Program, to verify that procedures and practices developed under its Program 3 Prevention Program are adequate and are being followed, to promptly determine and document an appropriate response to audit findings, and to document that any deficiencies identified have been corrected.



49. In 2010, Respondent completed onsite work for its compliance audit on May 25, and completed its report from the audit on June 21.

50. For its next compliance audit, Respondent completed onsite work on July 13, 2013, more than three years after the onsite work was completed for its 2010 compliance audit, and completed its report for the audit on July 30, 2013, more than three years after the report was completed for its 2010 compliance audit.

51. The 2010 compliance audit recommended that Respondent update the Piping and Instrumentation Diagram (“P&ID”), consistent with the recommendation in the 2009 Process Hazard Analysis. That recommendation in the 2010 compliance audit was not timely implemented. Respondent’s 2013 compliance audit repeated the recommendation. Respondent thereby failed to appropriately implement and document in its 2013 compliance audit that the deficiencies identified in the 2010 compliance audit had been identified and corrected, as required by 40 CFR § 68.79(d).

52. Therefore, Respondent failed to comply with the compliance audit requirements in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.79.

#### COUNT V

##### (Failure to Submit an Adequate RMP)

53. Paragraphs 1 through 52 above are incorporated herein by this reference as if they were set forth here in their entirety.

54. Pursuant to 40 CFR § 68.150(a), Respondent is required to submit an RMP that includes all the information required by 40 CFR §§ 68.155 through 68.185, including a registration form identifying the Program level of the process, as well as information required for a Prevention Program for a Program Level 3 process, as set forth at 40 CFR §§ 68.160(b)(7); 68.175.

55. Prior to November 17, 2010, Respondent failed to identify in the registration form included in its RMP the correct Program level of the process, as required by 40 CFR § 68.160(b)(7).

56. Prior to November 17, 2010, Respondent failed to include in its RMP the information required by 40 CFR § 68.175.

57. Therefore, Respondent failed to submit an adequate RMP, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.150.

#### COUNT VI

##### (Failure to Design and Maintain a Safe Facility)

58. Paragraphs 1 through 57 above are incorporated herein by this reference as if they were set forth here in their entirety.

59. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, EPA found that Respondent failed to include updates to its system in its P&ID.

60. Based on EPA's August 20-21, 2013 inspection and information gathered during EPA's investigation, EPA found that Respondent failed to perform certain preventative maintenance ("PM") in accordance with frequencies established by Respondent's mechanical integrity program.

61. Therefore, Respondent failed to design and maintain a safe facility by taking such steps as are necessary to prevent releases of a regulated substance or other extremely hazardous substance in violation of the general duty clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

#### **D. CIVIL PENALTY**

62. Section 113(d) of the CAA, as adjusted by the Debt Collection Improvement Act of 1996, *see* 40 CFR Part 19, authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500) per day for violations of the CAA that occur after December 6, 2013. 78 Fed. Reg. 66643, 66648 (Nov. 6, 2013).

63. Based on the facts alleged herein and upon all of the factors which the Complainant considers pursuant to the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 CFR Part 68, dated June 2012 ("CEP"), the Complainant proposes that the

Respondent be assessed, and Respondent agrees to pay **SEVENTY-SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$76,500)** as the civil penalty for the violations alleged herein.

The proposed penalty was calculated in accordance with the CEP.

**E. ADMISSIONS AND WAIVERS OF RIGHTS**

64. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO.

65. Respondent admits and agrees that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, and 40 CFR Part 22. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

66. Respondent hereby waives any rights Respondent may have to a hearing or an appeal on any issue relating to the factual allegations or legal conclusions set forth in the CA/FO with respect only to the specific alleged violations set forth above, including, without limitation, a hearing pursuant to Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2), or judicial review pursuant to Section 113(d)(4) of the CAA, 42 U.S.C. § 7413(4). Respondent hereby consents to the terms of this CA/FO and the issuance of this CA/FO without adjudication.

67. Complainant and Respondent agree that settlement of this matter is in the public interest and that entry of this CA/FO without further litigation is the most appropriate means of resolving this matter.

**F. PARTIES BOUND**

68. This CA/FO shall apply to and be binding upon Respondent and its successors and assigns, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full and complete settlement of the violations alleged herein.

69. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

70. Until termination of this CA/FO, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

71. The undersigned representative of Respondent hereby certifies that s/he is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

**G. CERTIFICATION OF COMPLIANCE**

72. Upon signing this CA/FO, Respondent certifies to EPA that it has fully complied with the requirements of Section 112(r) of the CAA that formed the basis for the violations alleged in the CA/FO, and that the Facility is now in compliance with Section 112(r) of the CAA.

73. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

**H. PAYMENT OF CIVIL PENALTY**

74. Respondent consents to the assessment of and agrees to pay a civil penalty of **SEVENTY-SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$76,500)** in settlement of the civil penalty claims made in this CA/FO.

75. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date that the Final Order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

76. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson (314-418-4087)

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact - Jesse White (301-887-6548)  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 31006  
CTX Format

On Line Payment:

This payment option can be accessed from the information below:  
[www.pav.gov](http://www.pav.gov)  
Enter "sfol!" in the search field  
Open form and complete required fields

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to both:

Regional Hearing Clerk (RC-1)  
U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

and

Jeremy Johnstone (SFD-9-3)  
Superfund Division  
U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105.

77. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to send the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO, at the current interest rate published by the U.S.

Treasury, as described at 40 CFR §13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date.

78. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

**I. DELAY IN PERFORMANCE / STIPULATED PENALTIES**

79. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

80. For failure to submit a payment to EPA by the time required in this CA/FO: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter.

81. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section H of this CA/FO.

82. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 CFR § 13.11. Complainant reserves the right to take any additional action, including

but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA and its implementing regulations.

83. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

84. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

**J. RESERVATION OF RIGHTS**

85. EPA expressly reserves all rights and defenses that it may have.

86. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO, except as it relates to those matters resolved by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA or any other statutory, regulatory or common law enforcement authority of the United States. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under the CAA or any other statutory, regulatory or common law enforcement authority of the United States, except as it relates to those matters resolved by this CA/FO.

87. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with the CAA or any other applicable local, state, tribal or federal laws and regulations. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state,



or federal permits, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, tribal, state or local permit.

88. The entry of this CA/FO and Respondent's consent to comply with the terms of this CA/FO shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted, except as it relates to those matters resolved by this CA/FO.

89. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States in the event of delay of performance as provided by this CA/FO.

**K. MISCELLANEOUS**

90. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

91. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

92. Each party to this action shall bear its own costs and attorneys' fees.

93. EPA and Respondent consent to entry of this CA/FO without further notice.

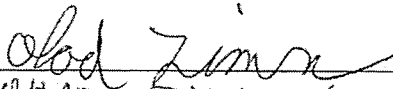
**L. EFFECTIVE DATE**

94. In accordance with 40 CFR §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

Respondent Puna Geothermal Venture

DATE: 12/15/2015

BY:   
Name: OTHAD ZIMRAN  
Title: V.P. OPERATIONS

United States Environmental Protection Agency, Region 9

DATE: 12/22/15

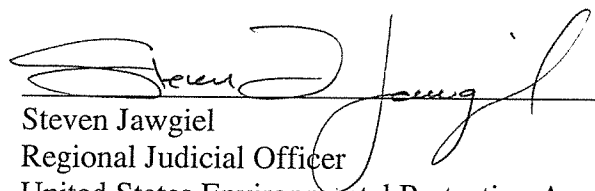
BY:   
Enrique Manzanilla  
Director, Superfund Division

**FINAL ORDER**

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order (“CA/FO”) (Docket No. CAA 112r-09-2016-0001) be entered and that Respondent pay a civil penalty of **SEVENTY-SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$76,500)** in accordance with the terms of this CA/FO.

**THIS FINAL ORDER SHALL BE EFFECTIVE UPON FILING WITH THE HEARING CLERK.**

01/05/16  
Date

  
Steven Jawgiel  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region IX

**CERTIFICATE OF SERVICE**

Docket No. CAA(112r)-09-2016-0001

I hereby certify that the original ~~copy~~ of the foregoing CAFO with the Docket number referenced above, has been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

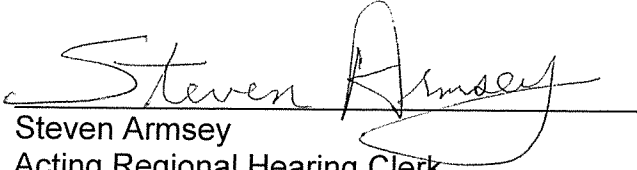
Ohad Zimron  
Vice President  
Ormat Technologies Inc.  
6225 Neil Road, Ste. 300  
Reno NV 89511-1136

**CERTIFIED MAIL NUMBER:** 7014 1820 0000 4722 5065

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Rebekah Reynolds, Esq.  
Office of Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne St.  
San Francisco, CA 94105

Jan. 6, 2016  
Date

  
Steven Armsey  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105