

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

UPON REFERRAL FROM THE
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
INDUSTRIAL SITING DIVISION

STATE OF WYOMING

IN THE MATTER OF THE INDUSTRIAL)
SITING PERMIT APPLICATION OF) DOCKET NO. DEQ/ISD 10-02
PIONEER WIND PARKS, WASATCH)
WIND INTERMOUNTAIN, LLC)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
GRANTING PERMIT APPLICATION WITH CONDITIONS AND
ALLOCATING IMPACT ASSISTANCE FUNDS

THIS MATTER came before the Industrial Siting Council (Council) on May 16, 17 and 18, 2011 and June 13, 2011, for evidentiary hearing. The record was officially closed on June 13, 2011. Council members present for the proceedings included Shawn Warner, Chairman, Sandy Shuptrine, Darrell Offe, Gregg Bierei, Jim Miller, Peter Brandjord and Mike Daly. Bridget Hill, Senior Assistant Attorney General, was also present on the Council's behalf. Deborah A. Baumer from the Office of Administrative Hearings served as the Hearing Examiner in the proceedings. The Applicant, Pioneer Wind Parks, Wasatch Wind Intermountain (Wasatch Wind) appeared by and through its counsel, Brent R. Kunz and John A. Masterson. The Industrial Siting Division (Division) appeared by and through its counsel, Assistant Attorney General, Luke J. Esch. Seven other parties participated in the evidentiary hearing including Natrona County represented by Bill Knight, Converse County represented by Quentin Richardson, the Town of Rolling Hills represented by F. Scott Peasley, Grant Ranch represented by Lynne Boomgaarden, True Ranches represented by David L. True, Chester and Jennifer Hornung (the

Hornung's) represented by Scott J. Olheiser and the Northern Laramie Range Alliance/Northern Laramie Range Foundation (NLRF) represented by Peter C. Nicolaysen. Wasatch Wind's Application (WWI), Addenda 1 and 2, Replacement Pages, Exhibit B consisting of Exhibits 1 through 26 (Exhibit 10 revised) and Rebuttal Exhibits 1 through 4, the Division's Exhibits 1 through 4, Converse County's Exhibits 1 and 2, Grant Ranches Exhibits 1 through 6 (Exhibit 6 revised), Hornung's Exhibits 1 through 4, and NLRF's 1, 2, 4, 5, 6, 10, 11, 12, 21, 24, 27, 28, 29, 34, 38 through 47, 49, 50, 51, 51PP, 52, 52R and 55 were admitted for purposes of the evidentiary hearing. The Council also received 28 limited appearance statements in this case before the close of the evidentiary hearing and considered those statements in making its final decision. The Council has considered the evidence and argument of the Applicant and the parties, and makes the following findings:

I. JURISDICTION

Wyo. Stat. Ann. § 35-12-106(a) (LEXIS 2010) provides that, "No person shall commence to construct a facility, as defined in this chapter, in this state without first obtaining a permit for that facility from the council."

"Industrial facility" or "facility" means any industrial facility with an estimated construction cost of at least one hundred seventy eight million, three hundred thousand dollars (\$178,300,000.00) and any commercial facility generating electricity from wind and associated collector systems that consists of 30 or more wind turbines. Wyo. Stat. Ann. § 35-12-102(a)(vii) (LEXIS 2010).

10. According to Mikell, the turbine site was chosen because the data collected by Grant Ranch, the location of the Projects, was shown to be extremely windy. Additionally, transmission lines were within close proximity to the proposed site and a market to sell the power existed. *Tr. of Proc.*, pp. 40-42.

11. Due to concerns expressed by the citizens of the area, Wasatch Wind agreed that, subject to FAA approval, lighting technology would be retrofitted on the turbines to turn off the blinking red lights unless a plane is flying nearby. Mikell testified that Wasatch Wind would not be opposed to a permit condition requiring installation of the technology once it is approved.

According to Mikell, only one resident would be affected by shadow flicker which would be noticed nine minutes each year. That resident is a lessor and has no objection to the Projects. Additionally, on April 1, 2011, a revised turbine layout was submitted to the Division. The revision occurred as a result of view shed concerns of Glenrock citizens surrounding a golf course, and the close proximity to the Huxtable Ranch listed on the National Historic Register of Places as a historic property on April 7, 2011. Huxtable Ranch, also known as the White Creek Ranch, is owned by Kenneth Lay. A total of seven turbines were moved, five to a string closer to the Hornung's property. Portions of seven turbines will be visible from the White Creek Ranch driveway. Seven residences are within two miles of the closest turbine. Six of the seven residences have signed leases with Wasatch and none are opposed to the Projects. Twenty-one residences are within five miles of the Projects, and six have publicly opposed the Projects. Thirty eight residences are within 7.6 miles from the nearest turbine and one additional resident opposed the Projects. *Tr. of Proc.*, pp. 54-58, 104-109, 112; 1060-1061;1066; *Wasatch Wind Exhibits 7, 9 and 10R; Rebuttal Exhibit 1.*

Converse County. The Director of Land Acquisition, Sam Lichenstein (Lichenstein), attended the meeting and spoke to the Hornung's. Other than mailing, Wasatch Wind has had no further direct contact with the Hornung's. Stevens and Lichenstein also had direct contacts with Kenneth Lay, who is opposed to the Projects. *Tr. of Proc.*, pp. 369-379.

21. Stevens testified that Wasatch knew that visual aesthetics were a concern in the area. As a result, if approved by the FFA, Wasatch Wind will use AVWS radar system which keeps night skies dark and the lights on the turbines off unless an aircraft is approaching.

Wasatch also chose seven key observation points and did visual simulations which were presented at the November 9, 2010, open house. Turbines were only visible from four of the observation points. Stevens also met with 20 landowners in Glenrock who expressed concerns about the turbine locations. Turbines were relocated as a result of that meeting. In Stevens' professional opinion, the Pioneer Wind Park I and Pioneer Wind Park II met the notification requirements in the statute. *Tr. of Proc.*, pp. 379-383.

22. George Blankenship (Blankenship) conducted the socioeconomic assessments for Wasatch Wind. Blankenship has 32 years of experience in conducting socioeconomic assessments and has worked on 15 industrial siting applications. Blankenship reviewed monitoring reports from nearby wind farm projects to determine the residency distribution during the peak quarters of construction. Within the three nearby projects, over 95 percent of non-local construction work force lived in Converse and Natrona Counties. Of that amount of workers, 95 percent lived in the three communities of Glenrock, Douglas and Casper. Pioneer Wind Park I construction schedule starts with 100 workers in the first month and peaks at 168 workers in the second month. The work force then drops to 80 workers after the first two months and in the final month, drops to 45 workers. Pioneer Wind Park I estimates 17.8 construction worker

decommission and reclaim the facility. If sufficient financial resources are not obtained within two years, the Permit shall expire.

Special Condition #20. Upon opponent landowner agreement, the Applicant will negotiate in good faith, mitigation for visual and potential audio impacts of Pioneer Wind Projects I and II, such as but not limited to vegetative screening.

Special Condition #21. FFA approval for remote control night lighting of wind generating towers will be sought and installed within six months of FFA approval.

ORDER

IT IS THEREFORE ORDERED that the Industrial Siting Permit Application known as Wasatch Wind Intermountain, LLC, doing business as Pioneer Wind Park I, LLC and Pioneer Wind Park II, LLC, as submitted by the Applicant and modified by this Council as set forth above in Permit Conditions #1 through #21 is granted.

DONE this __18__ day of July, 2011.

_____/s/_____
Shawn Warner, Chairman
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