

BEFORE THE WYOMING INDUSTRIAL SITING COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE INDUSTRIAL SITING PERMIT )  
OF PIONEER WIND PARK I, LLC AND PIONEER WIND ) DOCKET DEQ/ISC 10-02  
PARK II, LLC )

ORDER DENYING APPLICATION FOR SUBPOENA

WHEREAS, Pioneer Wind Park I, LLC and Pioneer Wind Park II, LLC (Permittee) has a permit to construct a large wind park in Converse County; and

WHEREAS, Permittee submitted a written request on August 14, 2015, for approval from the Industrial Siting Council (Council) that Special Conditions #19 regarding financial assurance has been satisfied. Permittee submitted a commitment letter, an auditor's letter, and financial statements from FTP Power, LLC (FTP). The documents describe that FTP through its wholly owned subsidiary, sPower, acquired Pioneer Project I and II from Wasatch Wind Intermountain, LLC. Pioneer Park I and II will be funded 100% by FTP and sPower capital contributions; and

WHEREAS, the Industrial Siting Division (Division) transferred the evidence over to the Office of Administrative Hearings (OAH) to hold a hearing on Special Condition #19; and

WHEREAS, OAH has scheduled and notified parties of a hearing date of October 12, 2015, in Douglas, Wyoming to consider the evidence submitted by the Permittee; and

WHEREAS, the Division received an application from the Northern Laramie Range Alliance (NLRA) and the Northern Laramie Range Foundation (NLRF), parties to the proceeding, on August 17, 2015, requesting subpoenas be issued from the Council under Chapter 2, Section 10 (b) of the Wyoming Department of Environmental Quality, Rules and Regulations of the Industrial Siting Council. Specifically, the NLRA and NLRF requested the Council issue subpoenas to FTP, Fir Tree Inc. (Fir Tree) and any and all funds under its advisement, sPower and Titan Grove Holdings LLC (Titan Grove) for production of the following documents for the period from January 1, 2012, to the present: 1) All annual and quarterly balance sheets, income statements, cash flow statements, and projections thereof, of the Permittee, sPower, Titan Grove, FTP and Fir Tree, together with independent auditor reports thereon; 2) All investment guidelines applicable to all Fir Tree funds; 3) All reports or other communications by any and all Fir Tree Funds to the Asset Owners with investments therein related, directly or indirectly, to any investment in or acquisition of the Permittee or in regard to the Permit; 4) All contracts or other agreements and/or other documents reflecting any direct or indirect interest in, or credit extended to, the Permittee by or on behalf of any or all of the referenced entities; 5) All of the referenced entities' governing documents, including but not limited to, Articles, By-Laws and Operating Agreements; and 6) All documents of or relating to all assets and/or financing (i) provided, (ii) offered, and/or (iii) available (for lending or other investment), to any of the referenced entities by any person; and

WHEREAS, Permittee provided a response to the NLRA and NLRF's subpoena application on August 28, 2015; and

WHEREAS, Wyoming Department of Environmental Quality, Rules and Regulations of the Industrial Siting Council, Chapter 2, Section 10 (b) states that “[s]ubpoenas for the production of books, paper or other documents, unless directed by the Council upon its own motion, will issue only upon application in writing, and such application shall set forth the books, papers or other documents sought with a showing that they will be of service in the decision of the Council”; and

WHEREAS, at the Council’s public meeting, on August 31, 2015, in Douglas, Wyoming, the Council considered the subpoena application from the NLRA and NLRF; and

WHEREAS, the Council heard and considered verbal argument from Mr. Peter C. Nicolaysen, attorney for the NLRA and NLRF; and

WHEREAS, the Council discussed the issue and found the subpoena application request to be overly broad, voluminous, and that the NLRA and NLRF had failed to make a clear showing of how the requested information would be of service to the Council in the forthcoming hearing on Special Condition #19; and

WHEREAS, the Council voted 4-2 to deny the subpoena application from the NLRA and NLRF; and

ACCORDINGLY, THEREFORE, the Council denies the application for subpoena.

So ordered this 23<sup>rd</sup> day of September 2015.

  
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John Corra, Chairman  
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