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7 **BEFORE THE WASHINGTON STATE**  
8 **ENERGY FACILITY SITE EVALUATION COUNCIL**

9 SAGEBRUSH POWER PARTNERS,  
10 L.L.C.

11 KITTITAS VALLEY WIND POWER  
12 PROJECT

NO. 2003-01

**MOTION TO MOVE DEIS,  
CORRESPONDING PUBLIC  
COMMENTS, AND PUBLIC  
CORRESPONDENCE INTO  
ADJUDICATIVE RECORD**

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14 **I. INTRODUCTION**

15 Counsel for the Environment (CFE) moves that the Draft Environmental Impact  
16 Statement (DEIS) for the Kittitas Valley Wind Power Project, along with the Supplemental  
17 DEIS and the corresponding public comments for both, be moved into the into the official  
18 adjudicative record. Additionally, CFE moves that all public comments received by the  
19 Energy Facility Site Evaluation Council (EFSEC) via letters and e-mail be moved into the  
20 adjudicative record.

21 **II. ISSUES**

- 22 1. Should the DEIS, Supplemental DEIS, and the corresponding public comments to both  
23 be moved into the official adjudicative record?  
24 2. Should the public comments received by EFSEC via letter and e-mail be moved into  
25 the adjudicative record?  
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1 **III. DISCUSSION**

2 **A. THE DEIS, SUPPLEMENTAL DEIS AND THE CORRESPONDING PUBLIC**  
3 **COMMENTS SHOULD BE MOVED INTO THE ADJUDICATIVE RECORD.**

4 The DEIS, Supplemental DEIS and the corresponding public comments have been  
5 referenced by multiple parties in pre-filed testimony and opening statements. *See i.e.* Exhibit  
6 1, Pre-filed Testimony of Chris Taylor; Exhibit 50, Pre-filed Testimony of Clay White;  
7 Exhibit 91, Pre-filed Testimony of Kenneth Bevis; Exhibit 101, Pre-filed Direct Testimony of  
8 David Taylor, Exhibit 100R.0, Pre-Filed Rebuttal Testimony of Ed Garrett. Although the  
9 documents are part of the overall EFSEC administrative record and will be considered by  
10 EFSEC in making its recommendation to the governor, the documents are not currently part of  
11 the official adjudicative record. Because the documents have been referenced in the  
12 adjudicative proceeding, and it seems more than likely that they will be referenced in the  
13 adjudicative hearing, the DEIS, Supplemental DEIS and the corresponding public comments  
14 should be moved into the adjudicative record.

15 **B. PUBLIC COMMENTS RECEIVED BY EFSEC VIA MAIL AND E-MAIL**  
16 **SHOULD BE MOVED INTO THE ADJUDICATIVE RECORD.**

17 Public comment on the project as part of the adjudicative hearing is currently  
18 scheduled for the evening of October 5, 2004. Members of the public will be encouraged to  
19 provide oral testimony and present documentary evidence as part of the public comment  
20 portion of the adjudicative hearing. According to Prehearing Order No.1, Council Order No.  
21 777, Appendix A page 8, documents provided by or on behalf of members of the public at a  
22 public hearing may be offered as illustrative exhibits and letters received by EFSEC and CFE,  
23 from members of the public, may be offered into evidence as illustrative of the opinions of the  
24 correspondents. Many member of the public have previously provided EFSEC with  
25 documents, arguments, and opinions, regarding the project via mail and e-mail. In the interest  
26 of efficiency and elimination of redundancy, rather than having the public re-submit this  
information during the public comment portion of the adjudicative hearing, all documents

1 previously provided to EFSEC should be moved into the official adjudicative record and  
2 considered as part of the public comment portion of the adjudicative hearing.

3 Public comments previously received by EFSEC have been cataloged and distributed  
4 to all parties by EFSEC staff. *See* Attachment A, July 28, 2004 letter from Irina Makarow.  
5 CFE would also ask that public comment letters received since July 28, 2004 also be  
6 incorporated into the adjudicative record once collected by EFSEC staff.

#### 7 IV. CONCLUSION

8 Inclusion of the DEIS, Supplemental DEIS, corresponding public comments to both,  
9 and letters received by EFSEC will not prejudice any party and is in the best interest of  
10 providing a complete adjudicative record for EFSEC to consider when making its  
11 recommendation to the governor. All parties have copies of the documents and in may cases  
12 have relied upon them. The documents are currently part of the general EFSEC  
13 administrative record, but deserve to be considered as part of the adjudicative record.

14 DATED this \_\_\_\_\_ day of July, 2005.

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16 CHRISTINE O. GREGOIRE  
Attorney General

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19 JOHN E. LANE, WSBA # 31541  
Counsel For the Environment