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

9 In the Matter of Application No. 2003-01

10 SAGEBRUSH POWER PARTNERS, LLC;

11 KITTITAS VALLEY WIND POWER
12 PROJECT

EXHIBIT 100 (SUP)

13 **INTERVENOR F. STEVEN LATHOP'S PREFILED SUPPLEMENTAL DIRECT**
14 **TESTIMONY WITNESS #100, ROGER WEAVER**

15
16 Q. Please state your name and business address:

17 A. Roger Weaver, ReMax Community Realty, 738 Cascade Way, Ellensburg WA 98926

18 Q. What is your present occupation/profession?

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20 A. I am a real estate broker/consultant in Kittitas County, Washington. I am the
21 Broker/Owner of ReMax Community Realty in Ellensburg, Washington and I am also the
22 Broker/Owner of ReMax Alpine Realty in Cle Elum, Washington, and Re/Max Summit
23 Realty, Snoqualmie Pass.

24 Q. How long have you been in the real estate business in Kittitas County?

25 A. 28 years.
26

1 Q. Please explain the purpose of your testimony.

2 A. I am providing testimony relating to my review of George Sterzinger's May 2003
3 analytical report, *The Effect of Wind Development on Local Property Values* (The
4 Report).

5 Q. Who was Mr. Sterzinger's report prepared for?

6 A. Mr. Sterzinger's report was prepared for the Renewable Energy Policy Project.

7
8 Q. Did that report deal with communities that had wind turbines constructed in the area?

9 A. Yes, The following is a recap of that report:

Community/Area	# of Turbines	Population	Median Value Owner/Occup
Madison Co. NY	20	7,800	\$ 77,100
Carson City, TX	80	1,200	\$ 53,150
Bennington VT	11	3,047	\$117,400
Kewanee City, WS	31	3,005	\$104,000
Somerset, PA	6	18,898	\$ 61,800
Buena Vista, IA	257	18,368	\$ 68,933
Fayette City, PA	10	3,854	\$ 60,200
Riverside Co. CA	3,067	28,199	\$ 87,900
Kern Co. CA	3,569	15,000	\$ 68,000

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17 Q. Is the report a good comparison of the applicant's proposed project's impact on real
18 estate values in Kittitas County?

19 A. There is no similarity between the communities presented and discussed in the report and
20 Kittitas County. With the exception of the two California projects, the comparisons in
21 the report are not truly comparable with Kittitas County because neither the densities nor
22 the number of machines nor population are similar to Kittitas County. The number of
23 wind turbines is not comparable. These communities are small and remote with very few
24 wind turbines.

25 Q. What is the definition of a view shed as contained in the report?
26

1 A. The report defines a view shed as salable properties within a 5-mile radius of the
2 machines, or a 10-mile circle.

3 Q. Is this a fair comparison with Kittitas County?

4 A. No, comparing the number of machines to the view shed population in the report is not a
5 fair comparison to our community. There is no discussion in the report of the effect on
6 property values within 1/4 or 1/2 mile of the wind turbines. It also appears the report did
7 not present data on the effect of values within 1/4 or 1/2 miles of the towers. In the
8 report, it is interesting to note the projects not dealt with. There were 20 such locations
9 including Logan CO., Umatilla Or., Weld CO, and Walla Walla WA. The reason the
10 report did not cover these areas was "not enough sales" to evaluate and the rest because
11 of insufficient data. Again, the safe assumption is that the salable properties within the
12 view shed hardly exist in these remote locations. The statisticians were creative and the
13 data is probably correct but to compare any of the comparisons to Kittitas County is not
14 accurate.

15 Q. Is the assumption of "Property Values" in the report accurate?

16 A. The report's assumption of land values are inconsistent with what a Real Estate
17 Professional would experience in this market. The median value listed in the recap of the
18 report represents the cost of a single-family home in that region. For example, a salable
19 3-bedroom, 1-bath home in Carson City TX is \$53,150. The cost of a buildable,
20 developed lot (land only) without a home in Ellensburg is \$45,000 - \$60,000 and more
21 expensive in the Upper County. New affordable 3-bedroom, 1-bath homes in Ellensburg
22 are \$165,000 to \$210,000 on a 7000 sq. ft. lot. The average building permit for outside
23 the City limits in Kittitas County is in excess of \$250,000. This does not include the
24 Suncadia Development in Roslyn, Washington. People living in remote areas are looking
25 for less expensive, affordable housing and external influences such as wind turbines
26 would have less effect on prices than in Kittitas County. For example, I grew up very
close to steel mills because that was what we could afford – not because it was where we

1 wanted to live. The vast majority of people in Kittitas County want to and choose to live
2 here.

3
4 Q. How do the other sites compare with Kittitas County?

5 A. Wind turbines have not been constructed in an area with property values as high as
6 Kittitas County. Wind turbines have not been constructed in an area where the land uses
7 and values are based on recreation, residential, irrigated agriculture and forestland that is
8 all within 2 hours or less of a major metropolitan area.

9 Q. What impact do you believe wind turbines will have on land values in Kittitas County?

10 A. My belief is the construction of wind turbines by the applicant will have a detrimental
11 effect on property values within the view shed. Realtors in the area already have
12 prospective purchasers asking questions about wind turbines in relation to particular
13 parcels. The construction of wind turbines in the area will decrease property values in
14 Kittitas County.

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EXHIBIT 103

13 **PREFILED DIRECT TESTIMONY of INTERVENOR F. STEVEN LATHOP**

14 Q. For the record, please state your name and business address.

15
16 A. My name is F. Steven Lathrop and my business address is 201 W. 7th Avenue, Ellensburg
17 Washington 98926.
18

19
20 Q. How long have you lived in Kittitas County?

21
22 A. Approximately 48 years, except for time away at school and a few years working in
23 Seattle. I grew up on my family's cattle ranch north of Ellensburg
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26 Q. What is your background and present occupation?

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A. I have a bachelor of science in finance from the University of Washington, a *juris doctorate* from Willamette University and have been licensed to practice law in the State of Washington since 1973. I am a principal in the law firm of Lathrop, Winbauer, Harrel, Slothower & Denison LLP which I started in 1977. I am also licensed as a real estate broker in the State of Washington. I have been directly involved in the purchase, sale, and development of primarily commercial real estate in Washington for approximately 35 years, in Oregon for approximately 14 years, and more recently in Arizona. The value of the property developed would exceed \$80 million. I have been a partner in most of the commercial projects, and I am presently involved in the development of approximately 160 residential lots adjacent to Ellensburg.

Q. What is the nature of your law practice?

A. For almost all of my 28 plus year in private practice in Kittitas County I have been engaged in real estate and land use matters and transactions. For at least the past 16 years, my practice has been almost exclusively devoted to land use, development entitlements and water rights law. I have represented most of the significant developments and developers within Kittitas County over at least the last dozen years and am very familiar with local attitudes and values and with what is required to make a project compatible so that it can be permitted.

Q. Are you opposed to wind power?

1 A. I object to any industry that must be wrapped with political protection and heavily
2 subsidized to survive. And, any industry that is being driven by New York investment
3 bankers is already in trouble and I point to the oil and gas ventures in the 1970's, the tax
4 shelters in the 1980's, and the dot com craze of the 1990's.

5
6 I am submitting as an exhibit (Exhibit 103.2) an op-ed piece from the *Seattle Times*
7 published January 15, 2004, by Collin Levey on the subject of how misguided the
8 politicians are on supporting and subsidizing ethanol as an alternate energy source. If,
9 when you read it, you will mentally substitute "wind power" every place the word
10 "ethanol" appears, I think the case against the concept of wind power is stated very well.
11

12
13 Q. What does your experience tell you about the proposed site of the KV Project?
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16 A. There is no place within the boundaries of the proposed site that one or more wind
17 turbines can be located which can meet the criteria under established County code.
18 Pursuant to KCC 17.61A.040(C.), the County can only approve an application that meets
19 all of these elements, one of which is: "2. The proposal is not detrimental or injurious to
20 the public health, peace, or safety *or to the character of the surrounding neighborhood;*"
21 (emphasis added) This language is identical to one of the elements required for a
22 conditional use permit (KCC 17.60.010) and substantially similar to requirements for
23 rezones in the County generally. (see KCC 17.98) One who is not familiar with the
24 application of this language by the County over time may think it to be unclear, but it has
25
26 been applied with remarkable consistency and predictability by the County through many

1 different Boards of Commissioners and Boards of Adjustment for many differing
2 projects. It is simply not correct to say that the County's code does not give adequate
3 direction. Some things simply do not fit under this language and cannot be made to fit.
4 The KV Project has suffered this defect from the outset.

5
6 I would note that the rules guiding EFSEC for the review of applications and especially
7 those regarding preemption are no less subjective.
8

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10 Q. Why did you intervene in this process?

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12 A. The review of this project by EFSEC was always going to boil down to whether state
13 politics override a local land use decision. I believe that I bring an element of local
14 knowledge and experience that may assist in convincing the Council that the proposed
15 site was never appropriate and would be especially damaging to a significant cross
16 section of rural landowners in the Valley of which I am a part.
17

18
19 Q. Do you own property in Kittitas County?

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21 A. Yes, for the last 14 plus years I have owned 40 acres off Robinson Canyon Road
22 approximately 7 miles south-southwest of the southerly most proposed turbine locations.
23 Attached is Exhibit 103.1 the showing location of my property and its proximity to the
24 project.
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1 Q. Can you describe your property?
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3 A. My property is comprised of two 20-acre tax parcels in an Ag 20 zone. Except for
4 approximately an acre or so around my home, the property is irrigated and used to graze
5 cattle from mid-spring to mid-fall each year. Each tax parcel is eligible to be divided in
6 two through an exempt segregation process unique to this zone. The property is located
7 approximately 4 miles directly west of Ellensburg. As with all land, my property has
8 unique features. It generally sits at the easterly edge of a ridge which provides a
9 commanding view in every direction of all of the Kittitas Valley and the surrounding
10 ridgelines. The hills to the north, from the Clockum Ridge west to Cle Elm, the Stuart
11 Range, Hayward Hill, Lookout Mountain and the many draws and valleys extending to
12 the Valley floor are all quite visible. The route of U.S. 97 to the north can be seen until it
13 disappears over the top of the ridge above Hidden Valley. The topography, size and
14 remoteness of my property provide a great deal of insulation and isolation from
15 immediately surrounding land uses and improvements. The area is characterized by a
16 compatible mix of intensive agriculture, 20-acre parcels used for single family residences
17 and "ranchettes," and some smaller residential parcels of 2 to 5 acres. It is undulating
18 ground with a drainage channel that runs water year round, many mature trees and good
19 cover for wildlife. My home sits at the end of a half mile, private driveway that is shared
20 with Mr. and Mrs. Scott Repp who own the 59 acres immediately adjacent to the west.
21 My home is oriented to provide a view of the Valley in all directions, the extent and
22 quality of which is not readily apparent unless one comes to the residence site. The view,
23 isolation and insulation from future development are why I bought this land.
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Q. Is there anyplace within the rim of the Kittitas Valley that is appropriate for the site of a wind farm?

A. No.

Q. Why?

A. The answer to that only comes with a comprehensive understanding of the elements that make the Kittitas Valley unique, such as its orientation, size, topography, economy, land use and development patterns, including current uses, those uses which are reasonably foreseeable and areas in transition to more intensive uses.

The Kittitas Valley is really quite small in relative terms with its length extending northwest to southeast approximately 20 miles and its maximum width being something less than 10 miles. Being a valley, all surrounding higher ground is quite visible at considerable distances, and it is just this topography that makes all view quadrants so attractive from most parts of the Valley and especially my land. The portion of the valley southwesterly of the Yakima River, known as the "West Side," has experienced growth and appreciation in value due to its views of the entire valley and proximity to I-90. My property is in the middle of the West Side.

1 The history of the Kittitas Valley is one of agriculture, but, whether one likes it or not, the
2 transition to a service and government driven economy commenced in earnest at least 10-
3 15 years ago. In the 1960's the cow-calf operations in the Valley exceeded 50,000 head.
4 Now, I would challenge one to find 2500. In addition, there were approximately 15-
5 25,000 head of cattle on feed around the valley, and Schaake Packing Company was
6 headquartered here processing 300-400 head per day. Although cattle are still pastured in
7 the Valley during the growing season, the feedlots are gone as is the packing company.
8 Its plant was torn down a few years ago, and the land is now owned by the BLM which is
9 returning it to riparian habitat. There were a number of family dairies and a local milk
10 plant. None remain. The Valley used to raise potatoes and sweet corn, and dry land
11 wheat was raised on its south and west slopes. The demands of modern agri-business
12 have made the growing of potatoes here no longer feasible, and what limited sweet corn
13 that is grown produces a limited return. Several large local farmers have relocated their
14 primary operations to the Columbia Basin where the economics still work. Timothy hay
15 remains as the cash crop that can be raised at a reasonable profit with grain and some
16 other crops being planted in rotation to rest the timothy ground. For parcels 10 to 20
17 acres and larger, irrigated ground anyplace in the Valley now costs \$7000 to \$22,000 per
18 acre with dry land ranging from \$2000 to \$5000 per acre. Larger parcels on the West
19 Side (20 acres and up) start at \$20,000 per acre with smaller ones going for up to double
20 that. The value of the land long ago outstripped its ability to produce any reasonable
21 return from agriculture, and the future of agriculture here is only as good as the
22 determination and patience of those farmers wanting to continue.
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1 The economy of the Kittitas Valley is now driven by government and service
2 employment and people coming here to at least semi-retire in a rural community. Its
3 growth also comes from its proximity to the Seattle metropolitan area with driving times
4 for commuters from Kittitas County competitive with many portions of King and
5 Snohomish Counties, and the availability of a more affordable, rural lifestyle is an ever-
6 increasing factor. Whatever the reasons, however, Kittitas County is the fifth fastest
7 growing county in the state over the last five years, growing by 10.4%. Only Franklin,
8 Clark, Benton and Island Counties grew faster. Moreover, 84% of the Kittitas County
9 growth was from net in-migration. The most recent population growth estimates adopted
10 by the Kittitas County Council of Governments on October 26, 2005, and based on the
11 Office of Financial Management revised population projections done in 2002, call for
12 52,810 people to live in the County by 2025, up from approximately 36,600 in 2005. The
13 COG also projected that 45% of this growth will occur in unincorporated areas, and the
14 vast bulk of available land in the unincorporated areas of the County is within the
15 confines of the Kittitas Valley. A considerable portion of the demand for larger tracts of
16 land, the factor driving present land prices, comes from people moving into the area that
17 want, and can afford, to live in a country or rural setting with some open space around
18 them. The choice is: an ordinary, undeveloped residential lot in King County for
19 \$400,000—if you can find one; or 20 acres in the Kittitas Valley. The marketplace is
20 accurately reflecting that there is a significant segment of the population that can and is
21 electing the later option.
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1 It is here that the applicant and its experts attempt to obscure, if not totally avoid, any
2 accurate assessment of the impacts this proposed project will have on Valley lands. Their
3 collective position looks solely at properties within a mile; all simulation pictures, save
4 one, are careful not to skyline any turbines; and every place else in the Valley is ignored.
5 The Kittitas Valley is so small and its area so visible from anyplace within its rim, that
6 one simply cannot get far enough away from a wind farm to mitigate its impact on a very
7 large portion of the view shed for the majority of people living in the Valley. It may well
8 be that its orientation and compactness contributes to the prevailing winds, but the
9 intimacy of the Kittitas Valley is also the very essence of what makes it so attractive and
10 why a wind farm anywhere would not only be a major distraction, it would be a major
11 brake on land values and substantially harm the visual esthetics well beyond the
12 boundaries of this project.
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16 Q. What other support can you point to for this assessment of the visual impacts?
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18 A. The Kittitas County Planning Commission and the Board of Commissioners all
19 recognized these elements in their deliberations and decisions on both the Wild Horse
20 project and this one and had no trouble distinguishing Wild Horse with two houses within
21 1.5 miles of the project and the KV Project with 65 houses within 1 mile. However, most
22 telling of the accuracy of my assessment of the agricultural situation and the far reaching
23 impacts on land uses and values are two of the major arguments made repeatedly by
24 proponents of this project throughout the public hearing process at the County level: the
25 landowners leasing to the applicant can no longer make the land pay for agriculture; and
26

1 the way to stop population growth in rural areas and keep land “affordable” is to plant a
2 wind farm there.

3
4 Q. What about topography, as there is Hayward Hill and other land masses between you and
5 this project?

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8 A. The elevation of my property is approximately 1700 feet, and the elevations at the bases
9 of turbines B7 and C7 are approximately 2300 and 2150 feet, respectively. The elevation
10 range of the B string runs from 2300 to 2400 feet and of the C string from 2150 to 2300
11 feet. The turbine hubs are approximately 250 feet above the ground, and there are no
12 land masses between my property which will obscure even the bases of these turbine
13 strings. I will see them all.

14
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16 Q. Why does not the distance of your property from the proposed turbine locations
17 adequately off-set or mitigate their impacts on you?

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19 A. Distance from the project boundaries is another element with which the applicant and its
20 experts neglect to appropriately deal. Their approach has been to propose set-backs
21 based on safety factors such as blade and ice throw and tower collapse. The problem is
22 that turbines usually need to sit in prominent locations and cannot be camouflaged due to
23 FAA requirements and the hope that at least some birds and bats will see and avoid them.
24 As demonstrated by EFSEC’s own rules, distance is the only reasonable mitigation for a
25 facility such as this. An applicant to EFSEC must survey land use regulations and uses
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1 within 25 miles of a thermal plant, 10 miles of a petroleum refinery, 10 miles of above or
2 below ground petroleum or natural gas storage facilities or well heads, and 1 mile of pipe
3 and power lines. WAC 463-42-362. Certainly, these are not prescribed set-backs but
4 they very clearly define the areas and distances within which other lands may be
5 impacted and, thus, considered and included in the decision making process. That the
6 WAC does not speak to wind farms does not mean they have an area of influence well
7 beyond their borders.
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10 The literature on how to quantify visual impacts or even determine an appropriate
11 distance to use in the measurement is as varied as the vested interests giving the opinions.
12 One of the applicant's experts, Mr. Sterzinger, says the view shed extends 5 miles around
13 the boundary but then cites to other authorities that state that not until a distance of 25
14 miles does the visual impact become negligible. Turbine height, numbers and proximity
15 to each other are further complicating factors. However, having reviewed these materials
16 and based upon common experience, I concur with the weight of authority that the
17 middle view extends 3 to 8 miles within which there will be moderate visual impacts.
18

19
20 In addition, I now have the Wild Horse project to look at some 20 miles east of my
21 property which has confirmed my opinion that, even at that distance, their intrusion into
22 the Valley is quite noticeable. I can see them clearly at anytime of the day and would not
23 want them one bit closer. The most common reactions I have heard about the Wild Horse
24 turbines are to the effect: "I did not realize they would be (so close, so visible, so big, so
25 many, etc.)." Also, my testimony in the EFSEC hearing about the "white" color of the
26

1 Wild Horse turbines was specifically discounted by the applicant (they are the same for
2 both projects) as being outright wrong—the turbines were to be painted “gray.” Well,
3 they are up, they are white, and they are very visible.
4

5 The U.S. Bureau of Land Management takes care of some 264 million acres of land
6 around the country and has created its Visual Resource Management (VRM) system to
7 ensure that scenic values are considered before allowing uses with negative visual
8 impacts. Its VRM system has established design techniques for both the proper siting or
9 location of projects and the structures to be built. As to location, the VRM states:
10 “Visual contrasts or impacts decrease as the distance between the viewer and the
11 proposed development increases, so projects should be located as far away from
12 prominent viewing locations as possible.” Distance matters, and the KV project is too
13 close to my property to not impose a significant visual impact upon it.
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17 Q. What do you think the impacts from the KV Project to your property will be?
18

19 A. The impacts will fall into these categories: the monetary value of my property; its
20 esthetic or enjoyment value; and the longer range impacts due to the precedent.
21

22
23 The monetary impacts will result from the combination of direct and indirect effects of
24 the KV Project. The value of my property is in its unique location which provides
25 security, seclusion and extraordinary views in all directions and the level of
26 improvements in which I have invested. However, the prime view in the Valley, and the

1 one for which my home is oriented, is of the Stuart Range which would have the KV
2 Project directly in its foreground. Above a million dollar price level, the esthetics of
3 what is being purchased matter a great deal as does the stability or reliability of those
4 esthetics. The KV Project will directly reduce the value of my property by significantly
5 changing the status quo.
6

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8 The real problem is that the KV Project will dramatically change the character of the
9 entire Valley, again due to its compact nature. As discussed above, there is no way to go
10 anyplace in the Valley to mitigate the view shed impact to negligible because one cannot
11 get far enough away and still be in the Valley. Accordingly, property values will be
12 affected based upon the distance from the project that can be achieved with some
13 variations due to local topography that may help to mitigate the visual impacts. If any
14 land values are negatively impacted by this project, by definition all lands with any visual
15 impacts will also be impacted to one degree or another. This is the indirect component.
16

17
18 I have read the testimony of the applicant's experts in this matter and in the Wild Horse
19 and Enxco projects. I have also read a good deal of the materials generated throughout
20 the world on the subject of wind farm impacts on surrounding land values. Most of the
21 studies have been commissioned by the wind power industry with predictable
22 conclusions on value impacts. However, they all suffer the same functional defect: no
23 research has been done in an area such as the Kittitas Valley with its features,
24 demographics and considerably higher land values. In addition, each acknowledges
25 statistical, data age and source, sample size, or limiting factors and qualifies their
26

1 respective results accordingly. There are documented cases of property value decreases
2 due to wind farms in England, Denmark, and Australia, yet the studies state that no such
3 situations can be found. The reductions in value, in actual transactions, were from 25%
4 to 30%. Even the applicant's expert on values, Mr. DeLacey, in his testimony to the
5 County stated: "But when we come to residential real estate, it's much more sensitive to
6 personal taste." Exactly so.
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9 As an attorney, I know that I can find a "fully qualified" expert to testify on either side of
10 almost any issue you can think of, and the more subjective the issue, the better. After
11 trying lawsuits for over thirty years, I also know that, to be believable to a judge or jury,
12 the expert opinion has to have a reasonable relationship with the common human
13 experience and, usually, common sense as well. The speed expert can testify that the
14 driver was only going the speed limit, but the damages and injuries simply point to the
15 contrary. For one to assert that 64 wind turbines, 240 feet tall, on 20+ foot diameter
16 towers, and with blades reaching to over 410 feet, all painted white and moving will have
17 no negative impact on any land values any where is not credible and defies common
18 experience. And that is what the applicant has asked EFSEC and anyone who may be
19 affected to believe. Why do EFSEC's own rules require a survey of land uses within
20 prescribed distances from every type energy facility (except wind farms)? Safety is one
21 issue, but compatibility is another. I would have no trouble living within 10 miles of an
22 oil refinery—think Cherry Point in Seattle which is hidden by Magnolia Bluff—but no
23 closer than 20 miles of a wind farm.
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1 The combination of the direct and indirect consequences of the KV Project will
2 negatively impact my property by not less than 20%.

3
4 As much of the literature on visual impacts describes, the eye is naturally drawn to
5 prominent topographic features and to something that is out of character, scale or
6 symmetry with its surroundings. The Wild Horse project now provides a first hand
7 example of those principles: one's vision has always been drawn to the ridgeline at the
8 easterly end of the Valley, and it is now impossible to look to the east from any place in
9 the Valley and not focus on the growing number of turbines and turning blades. There is
10 no more rural and ridgeline landscape in that direction—it is now of an industrial
11 complex. The Bureau of Land Management policies on wind farms and its Visual
12 Resource Management system (VRM) is based on the premise that the easiest and best
13 technique for minimizing visual impacts is to pick a proper location in the first place. In
14 the section on design techniques for structures, the VRM materials show a picture of
15 three 2-bladed wind turbines that appear to be somewhat shorter than those proposed for
16 the KV Project erected in a rural and hilly area quite similar to the KV site. The picture
17 bears this caption: "These structures, in addition to creating strong color contrast, are not
18 in scale with the human environment."
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23 From my property I can see many homes, barns, roads, buildings in town and at the
24 university, the airport, the BPA towers and power lines and substation, and all the other
25 man-made structures around the Valley, yet they are all of compatible scale. The BPA
26 towers are truly gray in color that softens their appearance. The KV Project will forever

1 contaminate the landscape of the Valley and exterminate much of its charm. The Kittitas
2 Valley will be the Kent Valley of Eastern Washington—just another pretty valley given
3 over to industrial development. The enjoyment of my property will drop right along with
4 most of the other residents.

5
6 Finally, there is a very insidious element to this project that cannot be ignored. If this site
7 is approved, what further evidence will it take to prevent the proliferation of wind
8 projects any other place in the Valley? The KV Project boundaries have not changed
9 much, and it is still approximately 6000 acres. It is 64 turbines today, but will it be 128
10 tomorrow? It is a slippery slope that EFSEC is on with the future character of an entire
11 community because no one can deny that the wind blows all over this Valley. That is the
12 very dark cloud which will loom over us all if this project is approved. To say that my
13 property will be harmed will be a gross understatement, and many others will awaken to
14 this fact and the long range implications, but too late.

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18 Q. Why do you think there has not been more local concern about the KV Project?

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20 A. Actually, there has been a great deal of opposition to this project shown over the years,
21 and it continues today. However, dealing in land use issues as much as I do, there are
22 several psychological factors at work here. The subject of this project has been on the
23 table for several years, and, even when one's own interests are involved, people only
24 have so much time and energy to devote to a fight. Virtually all of the proponents of this
25 project—the landowners holding leases, the applicant's employees, the consultants, the
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1 lobbyists and the special interest groups—are being paid to continue. They do not care
2 how long this takes. Time wears people out on a subject. But, what should be impressive
3 to EFSEC in this case is that there continue to be over 200 people who continue to be
4 very active in their opposition and that is because the stakes are so high.

5
6 A clear majority of people in Kittitas County oppose this project. The applicant naturally
7 disputes this and attempts to discount all the polls and indicia to the contrary. However,
8 the applicant has offered no data that it has any broad based support because, except for
9 its team and a small contingent of wind power advocates who could care less about
10 location, it has none. The problem is, as with most such controversies, the silent majority
11 stays that way until it is brought face to face with the issue. There was almost no public
12 comment, let alone opposition, to the erection of 110 foot concrete power poles through
13 the University until the first poles went up. Then a virtual firestorm erupted, and the
14 University and Puget Sound Energy were forced to take them down and abandon that
15 idea. Here, however, there will likely be no chance for second thoughts, and, although
16 they are opposed to the project if asked, most people continue to sit back and leave the
17 heavy lifting to others.
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21 A fact that should be important to EFSEC is that most people already believe that the KV
22 Project is dead and that there is no longer any need to fight it. They are surprised and
23 concerned to learn that the Valley is still in jeopardy. When you attempt to explain the
24 EFSEC process to them and that the fate of the Valley now rests with the State, EFSEC
25 and the Governor should be very disturbed by the responses.
26

1 In a June 2005 memorandum by the National Wind Coordinating Committee, *Wind*
2 *Power Facility Siting Case Studies: Community Response*, an evaluation was done on the
3 subject. After evaluating nine sites, including the Nine Canyon one in Benton County,
4 Washington, it stated in its recommendations:

5 “None of the sites examined faced organized opposition (where people met
6 beforehand, discussed a strategy to oppose the project and acted in unison to achieve that
7 objective). In the cases considered, opposition tended to take the form of individuals
8 raising concerns in public forums such as public meetings organized by the developer or
9 regulators. Because none of the sites examined had this type of organized opposition, it is
10 difficult to draw any links between concerns raised by organized opposition and actions
11 taken in response. Wind Power facilities have been proposed in other locations that
12 ultimately could not be developed because of strong community or stakeholder
13 opposition. Further study of these unsuccessful projects, and comparison with the
14 successful case studies described in this report, might yield further information useful to
15 wind-interested stakeholders.”

16 The point is that, where there is organized opposition to a project such as that against the
17 KV Project, no real information or study has been done as to whether a project should be
18 approved.

19
20 A. Was the County process fair and reasonable to the applicant?

21
22
23 Q. Not even the applicant claims that the County decision is not supported by substantial
24 evidence, let alone is arbitrary or capricious. There are no objective standards with which
25 to decide this application. The unanimous consensus of the Planning Commission and
26 the Board of Commissioners was that the project was totally out of character and of the

1 wrong scale for the surrounding area and would have substantial impacts that could not
2 be mitigated.

3
4 Q. Was the applicant's adherence to the County process fair and reasonable?

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7 A. No, and in support of that opinion, I pose these questions: Is there presently available a
8 written copy of the application, as amended, which clearly states the number, size, and
9 location of all proposed turbines with all acceptable mitigation, and is that application
10 and those facts the ones upon which the County was asked to make its final decision?
11 Were I a betting man, I would bet that asking this question to those assisting the
12 applicant, let alone individual members of the Council, would elicit inconsistent
13 responses. How can it have been fair to the County if the terms of the application never
14 stopped moving, and how can EFSEC preempt unless what it is presented with is the
15 same as was presented to the County?
16

17
18 Q. Do you believe that EFSEC should preempt the decision of the County?

19
20 A. I do not believe EFSEC should preempt the County's decision. However, whether they
21 do or not will be dependent upon whether the politics of the situation win out over the
22 land use considerations because none of the elements of WAC 463-28-040 are or have
23 been met by the KV Project.
24
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1 At no time through however many years this project has been under consideration has the
2 applicant shown the slightest good faith toward resolving County issues. The initial
3 application was withdrawn and preemption sought before the County process was even
4 commenced. It was re-filed when this gaff became obvious, but the applicant has done
5 nothing more than go through the motions with the County so that it could escape to
6 EFSEC just as soon as possible. As the County Findings reflect, the County has never
7 closed the discussions about the remaining unresolved issues—even to this day. The
8 applicant has unilaterally decided that it does not want to talk anymore and that further
9 mitigation might make the project no longer feasible. Land use regulations in this state
10 say nothing about making allowances or granting dispensation to allow a developer's
11 project to be profitable nor does WAC 463-42 dealing with applications.
12
13

14 There are clearly alternate locations for this project and, as now proven by Wild Horse,
15 always have been. When the KV Project application was initially made, the applicant
16 maintained (and still does) that this is the only feasible and available site in Kittitas
17 County. Shortly thereafter, it filed the application for Wild Horse which has been
18 permitted and nearly constructed due simply to its location. There are thousands of acres
19 similarly situated in the County, and I proposed to the County last year that much of the
20 area around Wild Horse be designated for wind farms. The applicant opposed the
21 change. It is not credible for the applicant to maintain that the County process makes
22 alternative sites impossible to determine when it just did so.
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1 To meet RCW 80.50.010, the last of the four preemption elements, the applicant must
2 show that “the location and operation of such facilities will produce minimal adverse
3 effects on the environment...;” that the actions of EFSEC balance the demands for
4 energy against the broad public interest and, in doing so, will “protect the quality of the
5 environment” and “enhance the public’s opportunity to enjoy the esthetic...benefits of
6 the ...land resources....” The clincher is that this section also is directed to avoid
7 duplication in the siting process. The County has done a thorough review based on what
8 the applicant offered, and it was not enough to approve the project. There is nothing
9 more EFSEC can or should do for this project under those circumstances.
10

11
12 However, the political pressure to approve the KV Project is palpable. The recently filed
13 supplemental testimony of Tony Usibelli of CTED is either an insult to the Council or an
14 open admission of an agenda to approve this project regardless. But it does tell the
15 political tail. He says that non-compliance with Kittitas County code is “irrelevant” and a
16 “technicality.” The wind blows at the project site, the State needs the power, the
17 provincial decision of the County means nothing, end of story.
18

19
20 Q. Do you have concerns about the EFSEC process?
21

22
23 A. Very serious ones. I believe there to be direct conflicts of interest between members of
24 the Council and proponents of the KV Project due to their employment by state agencies
25 that not only stand to directly profit from this project, but have already been receiving
26 money to the benefit of their budgets. My motion to disqualify on the point was denied,

1 and it is very disturbing that other members of the Council speak out or call for
2 procedural safeguards. I believe that Chapter 80.50 RCW is unconstitutional and that its
3 provisions and underlying rules violate procedural and substantive due process rights. I
4 believe that the Growth Management Act removed any right for EFSEC to preempt the
5 County decision. I believe substantial political pressure has been brought to bear and
6 contributions made to see to it that this project is approved regardless of the issues, and
7 the applicant's financial support of EFSEC may have some legal basis but cannot cover
8 up the obvious bias toward project approval. I am reserving judgment on the role the
9 Counsel for the Environment elects to play and must trust that there will, in fact, be three
10 independent, active participants before EFSEC—proponents, opponents and the Counsel
11 for the Environment.
12

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15 Q. Do you have any concluding remarks?
16

17 A. The members of the EFSEC Council have before them very serious matters of first
18 impression. To the extent that it has any legal basis, preemption is an extraordinary
19 remedy which has never been exercised. However, it should never come into play absent
20 unsupported and unreasoned obstruction, and that is certainly not the case here. After
21 many days and nights and hours of testimony and volumes of documents where the
22 applicant had full opportunity to present its case, not one decision maker was swayed in
23 favor of this project.
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1 The only issue holding up the KV Project is its location. It cannot no longer be credibly
2 disputed that there is a very large area on the eastern reaches of the County above the
3 Columbia River that has ample wind resources, land areas and access to transmission
4 lines well away from and totally out of sight of the Valley upon which this project can
5 likely be permitted and constructed in a relatively short period of time. The applicant has
6 no contract for the power this project may produce. The location can be changed and the
7 project can go forward. These circumstances do not present EFSEC with a close question
8 or one where preemption could be justified or sustained. There is no overriding general
9 public interest present for this location, and there certainly is no justification for forcing
10 property owners and residents of the Kittitas Valley to bear even a portion of the risks
11 this project poses.
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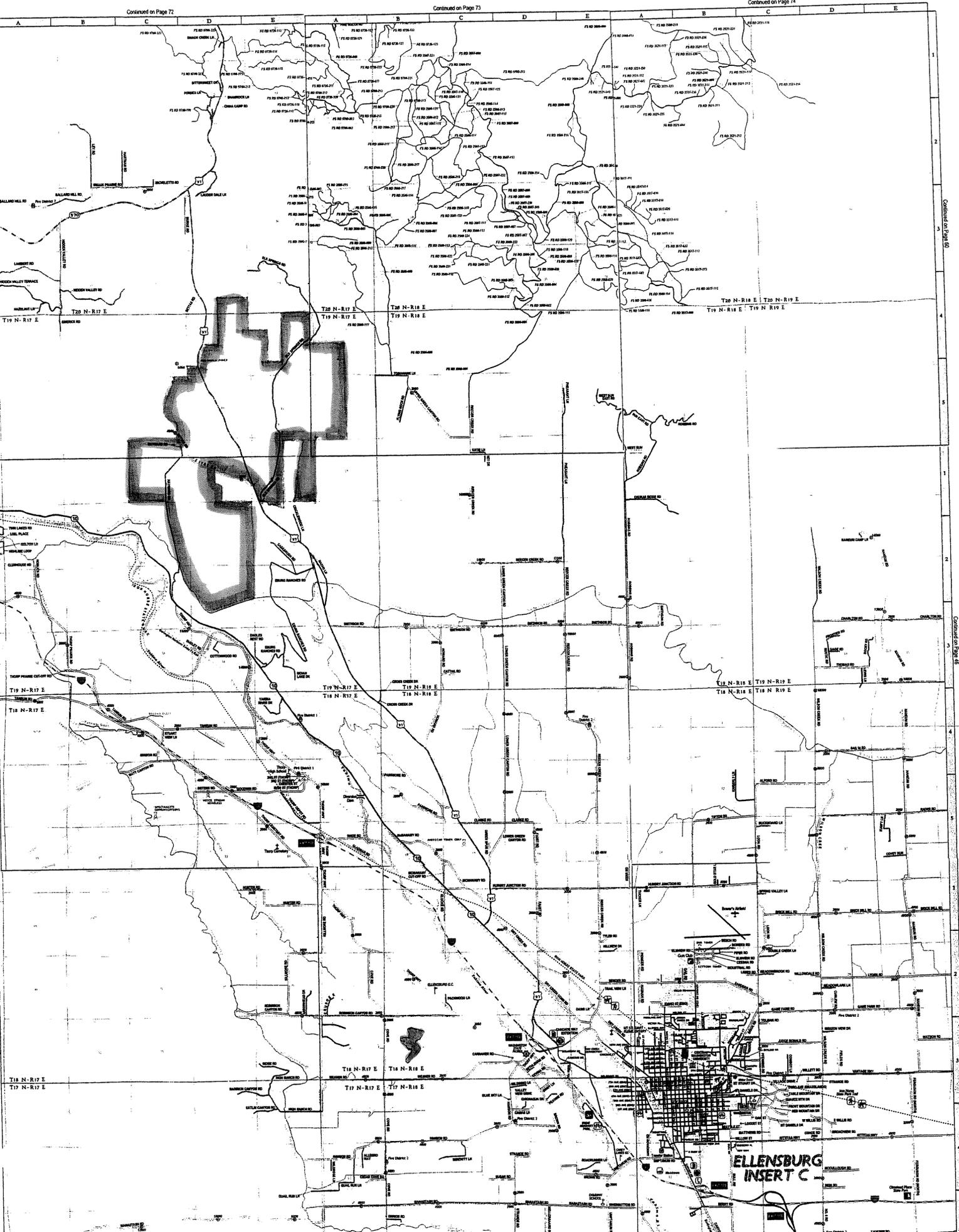
**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of Application No. 2003-01

SAGEBRUSH POWER PARTNERS, LLC

KITTITAS VALLEY WIND POWER
PROJECT

EXHIBIT 103.1



**ELLENSBURG
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**BEFORE THE STATE OF WASHINGTON
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EXHIBIT 103.2

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The Seattle Times

Thursday, January 15, 2004, 12:00 a.m. Pacific

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Guest columnist

While stumping in Iowa, tank up on ethanol

By Collin Levey

Special to The Times

This is a very special time of year for political enthusiasts: It's the week before the Iowa caucuses, with the New Hampshire primary just around the corner. Turn on the news anytime of day and you're guaranteed to catch CNN's Judy Woodruff in a cornfield or Fox News reporting live from Farmer John's back barn. These are the days when the whims of the Des Moines Register can send campaigns into a tailspin.

But if the exercise may seem bizarre to outsiders, Iowa voters have come to expect the attention. Despite all the changes in the world since the election of 2000, the state still has the candidates doing the same old huzzahs beneath the corn divinities, while Archer Daniels Midland, that ever-needy corporate charity case, smiles benevolently.

The issue, of course, is ethanol — that corn-based grain alcohol that, aside from preserving frogs in high-school science class, is known as a gasoline additive or "oxygenate" that is supposed to make fuel burn cleaner. Although the science behind it is widely acknowledged as inefficient (more on this later), ethanol continues to luxuriate in bipartisan political support because of Iowa's special primary status in the presidential election.

Historically speaking, roughly 200,000 Iowa voters have driven presidential candidates' fortunes before most of the country has even tuned in. Few in history have been brave enough to defy the ethanol express, and those who have (see Steve Forbes) haven't lived to tell the story. George W. Bush blathered on shamelessly about his support for the additive when it was his turn in Iowa and two of the Democratic contestants this time around (John Kerry and Joe Lieberman) went back on previous opposition. Howard Dean supports it, too.

There've been so many last-minute candidate adjustments leading into the early primaries — from Wesley Clark's argyle sweaters to John Kerry's new coif — that the traditional Iowa obeisance would be almost reassuring, if the stakes weren't so high.

The story of the ethanol subsidy has taken on an even greater significance this year than in previous years. This presidential election comes at a time when both the issue of independence

from foreign oil and interest in alternative sources of fuel are higher than they've been in years. It was also earlier this year that ethanol's corporate fat cats received one of the biggest windfalls in its history as part of the 1,700 page energy bill.

After decades of financial support, ethanol is the third-highest user of corn in the country (to give you a mental picture, it uses more than all the boxes of Frosted Flakes, Chex and other cereals in all the grocery stores). But according to the bill, government will double the current use of ethanol over approximately the next 10 years, raising the cost of gasoline by \$8.4 billion a year until 2008.

For states outside the Midwest, where the cost of procuring the ethanol is highest, the picture is particularly bleak. So much so that despite her assumed presidential ambitions in 2008, New York Sen. Hillary Clinton has been a vocal opponent (as have Sen. Chuck Schumer, D-N.Y., and Sen. Dianne Feinstein, D-Calif.). By all principles, most liberal Democrats should agree: Ethanol amounts to a tax on working families to pay for something that has little redeeming value as environmental policy.

Farm-state congressmen like ethanol because they know mandating its use artificially raises the price of a bushel of corn, in addition to the \$25 billion in projected subsidies for production. But even those comfortable with this warping of the marketplace have reason to be increasingly dubious — especially Democrats concerned about the power of OPEC, "blood for oil" and drilling in the Arctic National Wildlife Refuge. Any farmer will tell you that corn is an unreliable source of renewable energy as a crop, more prone to failure and drought than many others.

And though environmentalists often get behind ethanol, they shouldn't. The focus on ethanol as a way to cleaner-burning fuels continues to distract attention from actual solutions. Once it has all been harvested and processed, ethanol proponents' bragging rights amount to an energy ratio of 1 to 1.2. In other words, the amount of energy that is created is just 20 percent more than the amount of energy expended in the process. In her defense of the industry, American Farm Bureau chief economist Terri Franci shrugged that "no one is suggesting that ethanol is a miracle fuel."

The environmental principle behind oxygenates like ethanol is that when they are stirred into gasoline they cut the amount of carbon monoxide that comes out. If only it had the same effect on political candidates.

Collin Levey writes Thursdays for editorial pages of The Times. E-mail her at clevey@seattletimes.com