

Wind Energy Law and Ethics: A Meeting of Kant, Leopold and Cultural Relativism

Victoria Sutton[†]

The emerging field of wind energy, like many other emerging technologies, develops in the early stages with little or no regulation. This stage of development gives rise to consideration of an ethic which can originate from those involved in the development of wind energy, or from legislative or executive solutions to societal impacts that are perceived to need regulation in the developing technology. This article identifies ethical and legal issues which have become important in the emerging field of wind energy, evaluates these from a theoretical ethical foundation, and examines areas where laws and ethics are at the forefront of resolution of wind energy issues. Finally, the importance of recognizing the pursuit of an energy policy as an ethically imperative role of government is examined.

I. DO WE NEED A WIND ENERGY ETHIC?

Is an ethic of wind energy needed? The American Wind Energy Association, a trade group, has stated that “policing such a young industry during a land rush is unrealistic,”¹ implying that an ethic is needed because the industry is so young that no legal framework can capture the potential societal and individual harms that may occur during this phase of rapid development of the industry.

In an unregulated environment, there may be actions associated with wind energy development that comply with existing law, but may nonetheless be so ethically inadequate as to indicate the need for regula-

[†] Victoria Sutton is the Paul Whitfield Horn Professor of Law at the Texas Tech University School of Law and was the Chief Counsel for the Research and Innovative Technology Administration, U.S. Department of Transportation. She is a member of the Lumbee Indian Nation. She teaches law, science and technology courses, including Wind Energy Law and Policy. Her Ph.D. is in Environmental Sciences, and is a former Assistant Director in the Office of Science and Technology Policy, Executive Office of the President.

1. Kevin Maloney, *In New Land Rush, Ranchers Unite*, N.Y. TIMES, Nov. 26, 2008, available at http://www.nytimes.com/interactive/2008/11/26/us/20081127_WIND_SS1/index.html.

tory intervention. The wind industry would benefit by recognizing this need to consider factors that would nominally be considered ethics, rather than simply legal compliance. Although the need for the industry to work in an unregulated policy space is important to new markets, if the industry fails to take serious steps to self-regulation, then government regulatory intervention will be required.

An example of such a case involves wind farm siting decisions, wind lease negotiations and expected noise. In negotiating a wind lease, consideration should be given to the potential for noise pollution if the proximity of the wind turbines is relatively near residential housing.

Where an environmental impact statement is required, consideration of the level of noise pollution would be an environmental effect that should be included in the evaluation. There are at least three applicable standards for noise pollution referenced in a draft environmental impact statement (DEIS) for the Altona, Clinton, and Ellenburg region of New York: international, state, and local standards. The World Health Organization (WHO) recommends in conditions with continuous noise that it be limited as follows: Outside the dwelling should be forty-five decibels (dB) or less; inside the dwelling thirty dB or less, given that talking can be done comfortably at thirty-five dB or less.

The State of New York Department of Environment Conservation's standard limits increases of noise levels to no more than six dB over ambient levels (background noise levels). This may or may not exceed the WHO standard,² depending upon the ambient noise level, but both of these standards are more stringent than current wind industry standards.

The local government accepted levels of noise, according to the DEIS for the local government jurisdictions of Altona, Clinton, and Ellenburg, New York were also less stringent than the state standard. The DEIS stated that that "sound pressure increases of more than six dBA over existing conditions will occur at most residences within the vicinity of the Project,"³ suggesting that local ordinance standards applied, not the state standards, and no mitigating actions were recommended.⁴

Is this decision an ethically acceptable policy choice, given that this will create noise pollution beyond what would be acceptable to either the State of New York, or likely, the World Health Organization standard for

2. World Health Organization, *Guidelines for Community Noise*, Vol. 2, Issue 1, (1995), available at <http://www.who.int/docstore/peh/noise/Noiseold.html> (last visited Jan. 23, 2011).

3. NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ASSESSING AND MITIGATING NOISE IMPACTS (2001), available at http://www.dec.ny.gov/docs/permits_ej_operation_s_pdf/noise2000.pdf.

4. NINA PIERPOINT, WIND TURBINE SYNDROME: NOISE, SHADOW FLICKER, AND HEALTH 9 (Aug. 1, 2006) available at http://www.ohariupreservationsociety.org.nz/Wind_turbine_syndrome_with_refs.pdf.

comfortable noise levels? Although the standards have complied with applicable legal standards, should the ethical choice instead be the human health standard? The short-term gain for one developer may ultimately be quite costly to the industry if such actions drive the development of more regulatory standards. Such a course would not be desirable for a rapidly growing energy sector with its emerging technologies.

But there are also other ethics questions that arise with wind energy development from a policy choice perspective. Should our dependence on foreign oil and our increasing use of fossil fuels, which contribute to threat of increase of carbon dioxide in the atmosphere, make long term climate changes a consideration for ethical policy choices with wind energy? Utilizing a strictly economic model, wind energy development is still more costly per kilowatt, in terms of capital costs than coal, gas, or nuclear energy;⁵ however, its great advantage is the fact that it is a renewable resource that is a free feedstock in an economic sense. Moreover, when factors like decreased dependence on foreign oil and decreased contribution to carbon dioxide levels in the atmosphere are weighed against the incremental costs of producing wind energy, it becomes clearer that we are considering an ethical choice rather than a purely short term, economic one.

The requirement for governmental ethics in this new process of energy development, which includes not only regulatory governmental ethics but also adherence to the ethical standards of governing, would also be well served by industry self-regulation. Additionally, existing state government ethics codes will likely be applicable to most development issues since they are historically traditional local government transactions. In fact, the “gold rush” in wind energy has already created some issues of concern for protecting the public from unscrupulous developers in New York,⁶ a specific ethics code for wind energy development has been promulgated because of the lack of industry self-regulation, and harms to the state’s consumers.⁷

Much will depend upon whether the industry decides to self-regulate and make choices that are more protective than the minimum

5. U.S. ENERGY INFORMATION AGENCY, INTERNATIONAL ENERGY OUTLOOK 2010, available at [http://www.eia.doe.gov/oiaf/ieo/pdf/0484\(2010\).pdf](http://www.eia.doe.gov/oiaf/ieo/pdf/0484(2010).pdf).

6. See Attorney General of the State of New York, Code of Conduct for Wind Farm Development (2008), available at http://www.ag.ny.gov/media_center/2008/oct/Code%20Signed%20by%20Noble%20and%20AG.pdf [hereinafter Code of Conduct].

7. Denise A. Raymo, *Wind farm code of ethics established: investigation of wind farms continues*, PRESS REPUBLICAN, Oct. 31, 2008, available at http://pressrepublican.com/0100_news/x155180297/Wind-farm-code-of-ethics-established; Press Release, Attorney General of the State of New York, Attorney General Cuomo Establishes Code of Conduct for Wind Energy Companies Operating in New York (Oct. 30, 2008), available at http://www.ag.ny.gov/media_center/2008/oct/oct30a_08.html.

requirements of the law. Self-regulation for the industry could delay or even obviate the need for binding regulation or statutory consumer protections that might constrain the growing wind energy sector. In the long term, much will depend upon whether policy choices consider environmental stewardship together with political, diplomatic, and national security-sensitive factors in the development of the wind energy sector.

This article first examines the philosophy of ethics, the context for developing a wind energy ethic, and considerations of its societal impacts. This philosophy of an ethic for wind energy would collectively consider governmental, environmental and energy ethics as well as cultural relativism, human rights considerations and interpretations of existing legal frameworks. Finally, there is evidence of an emerging ethic in the context of wind energy, which bears our examination as lawyers, legislators, and regulators, where ethics often provide insight and direction for any future laws and regulations.

II. DEFINING ETHICS IN A WIND ENERGY CONTEXT

A. A Normative Approach

Ethics derive from cultural values, religious values, and moral values that distinguish between right and wrong. These collective behavioral standards then become expected courses of action in their applied context.⁸

It follows, that violations of these codes of ethics evoke societal punishment from shunning to more formal processes of explicit fines or censures. These societal processes—ranging from informal to formal—are the precursors and foundation for more formal laws and legal constructs. We see in this emerging energy sector, wind energy, emerging ethics questions in the context of energy, environment, development and governmental roles.

An emerging ethic in wind energy can be examined using a classical approach from ethics theories. To begin thinking of this emerging ethic, it is helpful to consider three ethics approaches in this context. The first, utilitarianism, is typically described as “the greatest good for the greatest number.” An example is the capitalist system or the governmental work of conservation of natural resources. The second is the Kantian, non-consequentialist approach, where order is of primary importance. For example, the ability to pay, use of a lottery system, or “first come, first served” provide a predictable order, without regard to the outcome.

8. See generally, JOHN RAWLS, A THEORY OF JUSTICE (The Belknap Press of Harvard University Press 1971).

The third is the deontological approach, which describes a philosophy based on a duty owed to others; for example, the duty to protect natural resources for future generations.

B. A Contract Theory of Ethics

Another normative ethics approach, a contract theory of ethics, describes a system of conduct with which we could all agree. This approach may not be well-suited for wind energy ethic because nature, animals and plants cannot “agree” on a course of conduct and they are necessarily part of a wind energy system.⁹ The use of guardians for representing nature would be required where there is action only by agreement between bargaining parties. A variant form of this theory might suggest an ecosystem-centered approach superior to an anthropocentric one.

C. Cultural Relativism Considered

In our emerging wind energy ethic, the concept of “cultural relativism” is particularly important because wind energy development may be present in a global range of cultures. Consideration of “cultural relativism” requires different answers for different cultures, and an expression of different ethics codes.

An example of the consideration of “cultural relativism” in the context of wind energy development is the evaluation of whether wind energy is an ethical choice for the mid-Atlantic region of the United States, where several factors, discussed below, influence the choice.

Analysis of an ethical question about wind energy using a utilitarian approach would consider all the various factors that would create the greatest good for the greatest number. First, its positive factors include improvement in air quality and reduction in greenhouse gases—which will prove good for everyone—as well as address intergenerational and intra-generational equities. However, these must be weighed against negative factors in a utilitarian approach, which include killing birds and bats, the destruction of habitat in the siting process, and the addition of noise pollution that might harm other wildlife.¹⁰ In addition to these negatives, a specific objection to wind power development in the mid-Atlantic region is the fact that “little more than one-half of one percent of

9. Priscilla N. Cohn, Presentation to the Wildlife and Wind Energy Conference: Ethics, Wildlife, and Potential Siting of Utility-Scale Wind Energy Facilities On Appalachian Ridges (Dec. 2, 2006).

10. *Id.*

the nation's wind energy potential" is in the mid-Atlantic region.¹¹ Thus, a utilitarian could conclude that wind energy was not ethically acceptable. Yet, there are utilitarian arguments on the other side as well. One such argument from the perspective of the mid-Atlantic region is, "Well, I'd rather have windmills on mountaintops than soldiers in the Middle East."¹² This argument would also serve intergenerational equity considerations.

Not only regional differences elicit "cultural relativism" for wind development, but differences also exist among communities and cultures whose traditions and beliefs directly influence wind and wind development. One prominent example is the Native American nations, which are "domestic, dependent nations"¹³ within the geographic boundaries of the United States, and can develop their own environment and energy policies.

An example of a Native American cultural perspective that influences tribal decisions on wind development is the description of wind as it moves in a circle:

You have noticed that everything an Indian does is in a circle, and that is because the Power of the World always works in circles, and everything tries to be round . . . The Sky is round, and I have heard that the earth is round like a ball, and so are all the stars. *The wind, in its greatest power, whirls.* Birds make their nest in circles, for theirs is the same religion as ours . . . Even the seasons form a great circle in their changing, and always come back again to where they were. The life of a man is a circle from childhood to childhood, and so it is in everything where power moves.¹⁴

The U.S. Department of Energy attempted to articulate the concept of "cultural relativism" with the following directive in their guidance on working with Native American tribal leadership in developing wind energy: "Your tribe may have special beliefs or sensitivities that impact the decisions or call for extra discussion or even education. For example, some people believe that wind turbines slice through the air in a harmful way."¹⁵ While the aspect of cultural relativism is recognized in the guid-

11. Jon Boone, *The Aesthetic Dissonance of Industrial Wind Machines*, 3 CONTEMPORARY AESTHETICS, Sept. 28, 2005, <http://www.contempaesthetics.org/newvolume/pages/article.php?articleID=319>.

12. Peter Koch, *The Great Wind Debate*, ARTVOICE, May 26, 2006, http://artvoice.com/issues/v5n21/great_wind_debate.

13. *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).

14. JOHN G. NEIHARDT, *BLACK ELK SPEAKS* 164-65 (Pocket Books 1972) (1932).

15. U.S. Dept. of Energy, *Guide to Tribal Energy Development: The Impacts of an Energy Project*, http://www1.eere.energy.gov/tribalenergy/guide/energy_project_impacts.html (last visited Jan. 26, 2011).

ance, the proposed solution, that “education” might change “special beliefs or sensitivities,” is probably misleading at best or colonial at worst.

D. Why a Purely Economic Theory Cannot Be the Basis of a Wind Energy Ethic

Sustainability requires an energy policy that is “meeting the needs of the present without compromising the ability of future generations to meet their own needs.”¹⁶ An example of an energy policy which would satisfy a nearsighted economic theory, but in some cases fail to achieve an ethical result is a policy of utilizing corn for biofuels that does not consider the predictable rise in the price of corn for human consumption, and weigh the benefit of biofuels production against the potential human suffering and starvation as a result of the price of corn. A policy that does not consider the full measure of the probable rise in the price of corn and its accompanying effect on aggregate human starvation is an energy policy that supports one economic theory, but may fail to achieve an ethical result. This example thus illustrates the need to balance current demands with the next generation’s ability to sustain itself.

Two ethics theories would have different results. The utilitarian approach, which requires the greatest good for the greatest number of people, would likely find this unethical. In contrast, the Kantian, or non-consequentialist approach, which accepts a “first come, first served” order as a primary organizing principle, might accept this result as ethical. Using a purely economic theory will not assure an ethical result.

E. Applying a Traditional Environmental Ethic

An environmental ethic also contributes to our understanding of an emerging wind ethic. Aldo Leopold in *A Sand County Almanac* outlined three ethics principles which describe a land ethic:¹⁷ Ethic One says that an action is right when it affirms the right of continued existence; Ethic Two says that a thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community and is wrong when it tends otherwise; and Ethic Three says that to be effective, there must be some form of social approbation for right actions and disapproval for wrong actions.¹⁸

Ethics have formed the foundation for the text of international environmental treaties for the concepts of intra-generational equity, interge-

16. WORLD COMMISSION ON ENVIRONMENT & DEVELOPMENT, OUR COMMON FUTURE, 43 (1987), available at <http://www.energy.kth.se/courses/4A1613/2008-2009/1987-brundtland%20pp%201-17.pdf>.

17. Aldo Leopold, *A SAND COUNTY ALMANAC* (Oxford University Press 1949).

18. *Id.*

nerational equity, intrinsic value of the biosphere, and every part of it.¹⁹ The ethical considerations underlying these international environmental law principles and customary law are also considerations that are important to a wind energy ethic.

III. THE EMERGENCE OF QUESTIONS INVOLVING ETHICS IN WIND ENERGY DEVELOPMENT AND GOVERNMENTAL ROLES AND ETHICAL CONDUCT

In the area of wind development, the lack of self-regulation has led to the regulation of the ethics of wind development in some areas of law.

One such area of formal ethics regulation has been in limiting gifts or profiteering. The New York Office of the Attorney General drafted a wind ethics code in the wake of an investigation in Franklin County, New York concerning unethical behavior in wind development.²⁰ In the first test of the New York Code of Ethics for Wind Development, the Court rejected petitioner's argument that the municipal official had received a "gift" when he received \$1,900 as a realtor in a transaction involving the wind development project.²¹ This case demonstrates the complexity of the role of local government officials in wind development.

Transparency may also be another means to ethics in wind energy. Public policy makers should be free to make decisions for the public good in creative ways; however, if decisions are made that differ from public perspectives, or activities are undertaken which appear to conflict with governmental responsibilities, "this fact should be transparent and responsibility of doing so clearly assumed."²²

In Massachusetts, a case involving wind energy development questioned whether a conflict of interest arose when a governmental appointee to the Massachusetts Marine Fisheries Advisory Commission testified as a paid consultant before state and federal agencies about the Cape Wind Project and its environmental impact. The State Ethics Commission in Boston determined that there was a violation of the State Employee Ethics Code and fined Mark Weissman \$2,500.²³

19. Robert B. Gibson, *Sustainability Assessment: Basic Components of a Practical Approach*, 24 *IMPACT ASSESSMENT AND APPRAISAL* 170-182 (Sept. 2006).

20. Code of Conduct, *supra* note 6.

21. *Dudley v. Town Bd. of Prattsburgh*, No. 100,345, 2009 WL 513401, at *4 (N.Y. Sup. Ct. Feb. 26, 2009).

22. Ganzalo Gamboa & Giuseppe Munda, *The Problem of Windfarm Location: A Social Multi-Criteria Evaluation Framework*, 35 *ENERGY POLICY* 1564, 1580 (2007).

23. Bina Venkataraman, *Official Fined for Ethics Violation in Project Testimony*, *BOSTON GLOBE*, Dec. 2, 2008, at A14.

In another wind energy development case in Rhode Island, the State's Attorney General was asked for an advisory opinion from a practicing attorney who wanted to clarify whether his activities were compliant with the state legal ethics code. The lawyer and petitioner was a member of the Barrington Town Council, a municipal elected position, and was also an attorney in private practice. He requested an advisory opinion as to whether he is prohibited from participating in discussion and voting regarding a proposed wind turbine project in the Town of Barrington, primarily because the law firm in which he is a non-equity partner, Nixon Peabody, is a member of the American Wind Energy Association.

The advisory opinion from the Rhode Island Attorney General advised the attorney that he was not prohibited from participating in the discussion and voting regarding a wind turbine project in the Town of Barrington, even though he held an elected position in the municipality, notwithstanding the fact that the law firm in which he is a non-equity partner is a member of the American Wind Energy Association.²⁴

In Texas, the State's Attorney General was asked for an advisory opinion on a similar question: Whether a commissioner who will receive royalties from a wind turbine company must abstain from voting on a tax abatement agreement with the company.²⁵ Rather than give an advisory opinion on this specific set of facts, the Attorney General provided general guidance for weighing such ethics determinations on the part of government representatives. In summary, the Attorney General responded:

“A member of a commissioners court generally must abstain from a vote on a matter if it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property distinguishable from its effect on the public. Whether a vote on a particular tax abatement agreement will have such a special eco-

24. Attorney General of Rhode Island, Op. Att'y Gen. NO. 2008-48, available at <http://www.ethics.ri.gov/advisory/individual/2008/2008-048.htm>. (“Under the Code of Ethics, the petitioner may not participate in any matter in which he has an interest, financial or otherwise, which is in substantial conflict with the proper discharge of his duties and employment in the public interest. See R.I. GEN. LAWS § 36-14-5(a) (2009). The petitioner will have an interest in substantial conflict with his official duties if he has a reason to believe or expect that a “direct monetary gain” or a “direct monetary loss” will accrue, by virtue of his official activity, to himself, a family member, a business associate, an employer, or any business which he represents. See R.I. GEN. LAWS § 36-14-7(a) (2009). R.I. GEN. LAWS § 36-14-5(d) provides that a public official may not use his office for pecuniary gain, other than provided by law, for himself, a family member, employer, business associate, or a business that he represents.”).

25. Attorney General of Texas, Opinion on County Commissioners and Tax Abatement Agreements, Op. GA-0600, 2008 WL 258313 at *1 (2008).

conomic effect is generally a question of fact that cannot be resolved in an attorney general opinion.”²⁶

The development of an ethics code among members of the bar is an emerging area to watch in terms of a wind energy ethic and future regulation. Furthermore, given the centrality of lawyers in setting the course for nascent wind development, professional ethics have particularly broad implications here.

IV. PUBLIC POLICY CHOICES AND ETHICS

The policy choices to be made by legislators and regulators have been recently embodied in a national energy policy, but the United States has not always had a national energy policy. At least in recent times, whenever the President has introduced a new energy policy, it has been controversial, which has probably led to reluctance to develop an energy policy through some of our nation’s more difficult political periods.

Presidents Kennedy and Johnson had no energy policy; indeed the first modern presidency to introduce a national energy policy was President Nixon’s. He announced his policy of reducing oil imports with Project Independence, which aimed to “make the US energy independent by 1980”.²⁷ Oil imports have more than doubled since that time, and President Nixon, for other reasons, had the lowest popularity rating since President Truman.²⁸ On May 27, 1975, President Ford introduced his energy policy for oil independence by 1985 in a television address to the American public.²⁹ His popularity fell from a high of 52 percent to 48 percent over the ensuing year and he lost his Presidential re-election bid. President Carter introduced his new energy policy to the American people through a television speech in April 1977,³⁰ which likely contributed to his drop in popularity from 58 percent at the time of his speech to 39 percent over the course of a year.³¹ Indeed today, President Carter is often remembered negatively for his fireside chat with the American people, wearing a sweater and urging Americans to turn down their

26. *Id.*

27. Mark P. Mills, *Energy Intelligence: The Efficacy Of Presidential Energy Policy*, FORBES.COM Apr. 7, 2009, available at <http://www.forbes.com/2009/04/07/roosevelt-reagan-bush-clayton-christensen-energy-policy-html>.

28.

USA TODAY, “Presidential Approval Tracker,” <http://www.usatoday.com/news/washington/presidential-approval-tracker.htm> (visited Jan. 24, 2010).

29. President Gerald Ford, Address on Energy Policy (May 27, 1975), transcript available at <http://millercenter.org/scripps/archive/speeches/detail/3985>.

30. President Jimmy Carter, Address to the Nation on Energy, (Apr. 18, 1977), transcript available at <http://millercenter.org/scripps/archive/speeches/detail/3398>.

31. Presidential Approval Tracker, *supra* note 28.

thermostats. On July 17, 1981, President Reagan transmitted his National Energy Policy to Congress;³² at the time his approval rating was 60 percent and over the next year fell to 43 percent. President George H.W. Bush's Administration announced the first national energy policy developed in eight years on February 20, 1991, in a release by the Department of Energy. His popularity fell in a steady decline from an all-time high of 89 percent to a meager 44 percent a year later. The William J. Clinton Administration, over the course of its two terms, was primarily criticized for having no energy policy at all. At the end of President Clinton's second term, his administration continued to announce that the failed energy policy was due to Congress' failure to pass his administration's legislative proposals.³³ The only modern Presidency who had no energy policy, the Clinton Administration, did have the most consistent popularity ratings during his two terms—higher than any other presidency second only to President Ronald Reagan.³⁴

As one of the first acts of his administration, President George W. Bush made Vice President Richard Cheney the leader of his national energy policy development process with an Executive Order on January 29, 2001; in May of the same year, President Bush produced a national energy strategy.³⁵ The intervening events of 9/11 and his response to them probably were responsible for a rise in President Bush's popularity rating from 63 percent in May 2001 to 76 percent in May of 2002. President Bush was thus the only President to see a rise in popularity, rather than a drop in popularity, after introducing a national energy policy, but this can be explained by the President's responses to the intervening events of 9/11 that have been attributed to this rapid rise in popularity.

The politics of introducing a national energy policy have predictably negative ramifications for a President; thus, making hard choices with effects on popularity, becomes a politically risky undertaking for a President. President Carter may well be remembered most vividly for his sweater and chat by the fireplace as he announced to the American people that he wanted to have an "unpleasant" conversation about energy—resulting in a blow to his popularity. There is no indication that the

32. President Ronald Reagan Message to Congress Transmitting The National Energy and Policy Plan (Jul. 17, 1981) available at <http://www.reagan.utexas.edu/archives/speeches/1981/71781b.htm>.

33. Alan S. Miller, *Energy Policy From Nixon to Clinton: From Grand Provider to Market Facilitator*, 25 ENVTL. L. 715 (1995).

34. Presidential Approval Tracker, *supra* note 28.

35. See NATIONAL ENERGY POLICY DEVELOPMENT GROUP, RELIABLE, AFFORDABLE, AND ENVIRONMENTALLY SOUND ENERGY FOR AMERICA'S FUTURE, (2001), available at <http://www.wtrg.com/EnergyReport/National-Energy-Policy.pdf>.

correlation between energy policy and popularity will change; and although there may be no legislative mandate for the President to produce an energy policy, the President may have an increasingly critical ethical duty to produce an energy policy for his or her “sphere” of responsibility.³⁶ The more our energy needs are impacted by climate change, geopolitics, and economics, the more clearly the failure to develop a national energy policy becomes an ethical failure.

VI. CONCLUSION

The relatively young, rapidly growing wind energy industry should have a goal of self-regulation in site selection decisions, standards, public official ethics, professional ethics, governmental ethics, and appearances of conflicts. Classical ethics theories can also inform the emerging wind energy ethic; however, economic theory models and a contract theory alone are not sufficiently informative and require broader incorporation of other ethical disciplinary areas.

Transparency in government and avoiding the appearance of conflict are two emerging ethical principles for public officials working with the wind industry.

The development of a National Energy Policy has become increasingly critical to our national economy and our national security. Despite the pattern of decreases in Presidential popularity over a period of a year following the announcement of such a policy, it nonetheless remains an important governmental obligation and duty. Indeed, the failure to develop a responsible National Energy Policy would be an ethical failing.

36. *McCulloch v. Maryland*, 17 U.S. 316 (1819).