THE OBAMA ADMINISTRATION'S GREEN ENERGY GAMBLE PART II: WERE ALL THE TAXPAYER SUBSIDIES NECESSARY?

HEARING

BEFORE THE

SUBCOMMITTEE ON REGULATORY AFFAIRS, STIMULUS OVERSIGHT AND GOVERNMENT SPENDING

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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THE OBAMA ADMINISTRATION'S GREEN ENERGY GAMBLE PART II: WERE ALL THE TAXPAYER SUBSIDIES NECESSARY?

Tuesday, June 19, 2012

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON REGULATORY AFFAIRS, STIMULUS OVERSIGHT, AND GOVERNMENT SPENDING,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 2154, Rayburn House Office Building, Hon. Jim Jordan [chairman of the subcommittee] presiding.

Present: Buerkle, Kelly, and Kucinich.

Also Present: Representative Mulvaney.

Staff Present: Ali Ahmad, Majority Communications Advisor; Alexia Ardolina, Majority Assistant Clerk; Robert Borden, Majority General Counsel; Molly Boyl, Majority Parliamentarian; Drew Colliatie, Majority Legislative Assistant; Brian Daner, Majority Counsel; Adam P. Fromm, Majority Director of Member Services and Committee Operations; Tyler Grimm, Majority Professional Staff Member; Peter Haller, Majority Senior Counsel; Christopher Hixon, Majority Deputy Chief Counsel, Oversight; Mark D. Marin, Majority Director of Oversight; Kristina M. Moore, Majority Senior Counsel; Laura L. Rush, Majority Deputy Chief Clerk; Scott Schmidt, Majority Deputy Director of Digital Strategies; Cheyenne Steel, Majority Press Secretary; Noelle Turbitt, Majority Assistant Clerk; Michael Whatley, Majority Professional Staff Member; Jaron Bourke, Minority Director of Administration; Lisa Cody, Minority Investigator; Kevin Corbin, Minority Deputy Clerk; Ashley Etienne, Minority Director of Communications; Devon Hill, Minority Staff Assistant; Chris Knauer, Minority Senior Investigator; Brian Quinn, Minority Counsel; Donald Sherman, Minority Counsel; Safiya Simmons, Minority Press Secretary; and Mark Stephenson, Minority Director of Legislation.

Mr. JORDAN. The Committee will come to order.

We want to welcome our witnesses here. We will get to you in just a minute. Typically, what we do is you have to listen to us talk for a few minutes first, kind of the normal procedure.

Today's hearing continues the Committee's examination of President Obama's green energy agenda that directed $90 billion of taxpayer money in an effort to create a government-engineered green energy utopia.

The Department of Energy's loan guaranty program, in particular, is of great concern. After the bankruptcies of Solyndra and Beacon Power, and with other taxpayer-funded companies teetering on the brink, taxpayers have a right to know how and why their money was spent in such poor ways.

The Committee has uncovered a troubling pattern of questionable projects sponsored by companies with political connections to this Administration receiving billions of dollars in taxpayer subsidies. The Obama Administration frequently claims that the 1705 loan guarantee program and other stimulus-funded green energy programs create green jobs in America and will develop a strong American green energy sector.

In contrast to these optimistic predictions from the Administration, at the last hearing before this Subcommittee we heard from four loan guarantee recipient companies that were struggling financially, finding workers, and halting production, despite receiving billions of dollars in taxpayer subsidies.

Today's hearing will examine other beneficiaries of the 1705 loan guarantee program, large, successful companies that had plenty of access to capital to fund green energy projects if they thought they were sensible investments, but saw Obama Administration programs as an easier and more profitable way to make money with little or no risk to themselves.

Today we will hear testimony from the CEOs of NRG Energy, Prologis, Cogentrix Energy, and Ormat. These companies, none of which can claim to be either small or startups, took over $5 million in taxpayer loan guarantees and all had ties to either the Obama Administration or powerful politicians.

The New York Times described the loan guarantee program and other government programs as a "banquet of government subsidies and a windfall for the industry." This profit opportunity wasn't ignored by the companies represented today. David Crane, the CEO of one company here today, described these programs as a once in a generation opportunity. He said, "I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects, and we intend to do as much business as we can get our hands on."

The business model of these companies is clear: sign long-term contracts with utilities that are required by State mandates to purchase renewable energy, and then seek Federal Government backing to build renewable facilities. In the meantime, use political connections to grease the wheels of the Federal Government.

As Mr. Crane implied, the companies are clear winners; they get all the profit. However, the losers are consumers of electricity all over the Country who pay higher prices and the American taxpayers who bear the risk if the projects fail. This, my friends, is the Obama Administration's green energy economics in a nutshell.

I want to thank our witnesses for being here today. Ultimately, today's hearing gets to the core of the problem with government pretending that it can be a venture capitalist. Businesses benefit not by pleasing their customers, but, rather, by using their lobbying savvy and political connections to get billions of dollars from the American taxpayers.

With that, I would yield to my good friend from Ohio, Mr. Kucinich.

Mr. KUCINICH. Mr. Chairman, thank you very much for calling this hearing. I look forward to our witnesses today and to learn more about the Department of Energy's 1705 loan guarantee program and what it has achieved for the American people.

But before the witnesses take their oath to provide true and accurate testimony, I want to make sure our congressional record is accurate to the best of our ability. On March 20th, 2012, our Chairman, Darrell Issa, issued a Majority staff report alleging that "DOE violated the statutory requirement that projects commence construction by September 30th, 2011" in approving a loan guarantee for Prologis's project, Amp, to place solar panels on warehouse roofs in 28 States.

Now, accusing a federal agency of breaking the law is a very serious accusation, and it shouldn't be made lightly or without substantial evidence. The Committee has in its possession a report of a September 2nd, 2011, site visit by engineers from DOE and Bank of America's independent contractor which appears to refute the accuracy of the Majority's assertion. Bank of America was the lender applicant on this project. At that time, both Bank of America engineers and DOE engineers confirmed that the commencement of construction requirement had been met.

Now, months prior to the issuance of the Majority's report, DOE produced to the Committee a document drafted by Bank of America's consultant, dated September 20th, 2011, certifying that the Prologis project had met the statutory requirement for commencement of construction. In addition, a September 21st, 2011, document issued by the DOE also indicates in writing that both parties confirmed the commencement of construction.

The only evidence that my friends in the Majority have cited for concluding that the requirement was not met is an email sent by a lawyer for Bank of America months after these events. We don't know what the email said, we do not know if Bank of America said what the Majority attributed to it, or if the Majority misunderstood what the Bank of America's attorney wrote, because the Majority has not released the email to the public.

Despite Bank of America's significant role as the source of both the consultant's report and the email purportedly contradicting it, our Chairman has not sent a formal document request to the company, nor did the Chairman invite Bank of America here today to explain the Bank's role in the 1705 program or the discrepancy between the Majority report and the independent consultant's certification.

If our Chairman still believes that the DOE violated the law, then it is incumbent upon our Committee to invite Bank of America to testify and to help us resolve the apparent contradiction in the Majority's report.

During previous hearings, some of my colleagues across the aisle expressed concern that cronyism was at play in the 1705 program. The Majority's witness today, a scholar from the Mercatus Center, points to loans like the one that Goldman Sachs' subsidiary, Cogentrix, received as the worst kind and inferred that it was a form of cronyism.

Now, this Committee has not requested documents from Goldman Sachs or invited Goldman Sachs' CEO to offer testimony about why it believed its project was a good investment for its balance sheet or for the American taxpayers.

Both Bank of America and Goldman Sachs could help this Committee understand the projects and the process that our Chairman has condemned. Both are substantial campaign contributors with very deep pockets. Who else could shed better light on whether federal loan guarantees were necessary or if politics was inappropriately at play?

Curiously, the Committee has not inquired with them, and that is too bad. It is like we are having a party here and the main guests who should be here aren't present.

A review of campaign finance records would reveal that there are donors to political causes who are just waiting for an opportunity to be heard from. Bank of America, for instance, made over $550,000 in contributions to my friends in the Republican party's pack and individuals, including several members of this Committee.

Now, I am not saying this to impugn anyone, because I know the members of this Committee and they are all honest people. But we have to understand the pall that is cast over the proceedings when you have Bank of America and you have Goldman Sachs being excluded from this kind of discussion.

So I haven't seen the evidence of the favoritism that the Majority has alleged in the federal program supporting energy of renewable energy technologies, but I have noticed the absence of several key players from this investigation and I think that we need to address that.

Just a month ago Chairman Issa said he would invite his friend, former Governor Schwarzenegger to testify at a future hearing. I hope that he will do so, and that he will extend similar invitations to Governor Brewer of Arizona and former Governor Gibbons of Nevada, who I had the pleasure of serving with in this Congress.

Today continues our important conversation about the value of the DOE 1705 loan guarantee program to America's future economic stability and energy security. Going forward, I hope that we can invite the other essential parties in this program to hear their opinions.

I yield back and I thank the gentleman.

Mr. JORDAN. I thank the gentleman for his statement.

I would ask unanimous consent that the gentleman from South Carolina, Mr. Mulvaney, be able to sit in on the Committee and participate in asking questions. Without objection.

I would also point out to my good friend from Ohio that we do have with us a wholly-owned subsidiary of Goldman Sachs, so Goldman Sachs does have a presence in front of this Committee today and we will be hearing from Mr. Mancini in just a few minutes.

Mr. KUCINICH. If my friend would yield briefly.

Mr. JORDAN. I will yield.

Mr. KUCINICH. With all due respect to the witness who is appearing here who is part of a wholly-owned subsidiary of Goldman Sachs, I think that it would be ever more instructive to have the

CEO of Goldman Sachs here to explain the role of Goldman Sachs in these kind of programs.

I thank the gentleman, though, for pointing that out.

Mr. JORDAN. Okay, we want to introduce our panel and get right to our witnesses today.

We have with us Mr. David Crane, the President and CEO of NRG Energy; Mr. Walter Rakowich, Co-CEO of Prologis; Mr. Robert Mancini is the CEO of Cogentrix Energy; and we have with us Ms. Yehudit Bronicki, who is the CEO and Director of Ormat Technologies; and Dr. de Rugy, who is the Senior Research Fellow at the Mercatus Center at George Mason University.

We want to welcome you all here.

It is the practice of this Committee just to swear you in, so if you would just stand up and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

[Witnesses respond in the affirmative.]

Mr. JORDAN. Let the record show that everyone answered in the affirmative.

We will move down the line. You all know how this works; you get five minutes, more or less. Keep it close there, if you can. You have the light system there in front of you, you can see.

Mr. Crane, we will start with you and go right down the list. Then we will get to questions.

STATEMENTS OF WITNESSES

STATEMENT OF DAVID CRANE

Mr. CRANE. Good morning, Mr. Chairman, Ranking Member Kucinich, and distinguished members of the Subcommittee. You have already introduced me, so I won't do that.

Let me introduce NRG. We are a Fortune 300 company with more than 25,000 megawatts of coal, nuclear, gas, wind, and solar generation, which is enough to power more than 20 million homes. We also own several retail electricity businesses that together serve more than 2 million customers in Texas and several northeastern States.

Important to our discussion today is NRG is not a rate-based utility. Our shareholders bear 100 percent of our risks of our capital investments and of the success of our operations, which is in stark contrast to rate-based utilities, which tend to socialize the risk of their capital projects among the ratepayers of their State.

I ask that my written testimony be included in the record.

NRG currently owns a majority interest in three solar projects that have received loan guarantees under Section 1705, and pictures of these three projects, taken very recently, all appear next to me. I am pleased to report to you on the progress of these projects through the critical construction phase, because that is typically the highest risk phase in the life of any power generation asset.

We are also involved in the ownership of a fourth section 1705 rooftop solar project, commonly called Project AMP, together with our partner, Prologis, but to date there have been no draw-downs on the Project Amp loan, so there is no progress for me to report on.

So let me go back to the three projects which are under construction.

We own a 50 percent interest in the 392 megawatt Ivanpah project in San Bernardino County, California, which is the picture on your left, my right. Ivanpah utilizes an Israeli-American concentrating solar power technology developed by BrightSource, a California headquartered company.

Ivanpah, when it is completed in 2014, will be the largest concentrating solar project in the world. All the electricity generated by Ivanpah will be sold under a series of long-term power purchase agreements to Pacific Gas & Electric, which is an A3 rated investor-owned utility, or to Southern California Edison, which is also an A3 rated investor-owned utility.

Ivanpah, which is located on the California-Nevada border, about 45 miles south of Las Vegas, is being constructed by Bechtel Corporation, the legendary San Francisco-based construction company that oversaw the construction of the Hoover Dam and hundreds of American infrastructure projects since. Construction at Ivanpah began in October of 2010 and, as of today, the project is on schedule. We expect to be making steam with Unit 1 in November of this year, and I am pleased to report that Ivanpah is not only on schedule, but remains under budget, as well.

Secondly, we own a 100 percent stake in the 250 megawatt California Valley Solar Ranch project near San Luis Obispo, California, which utilizes Sunpower's photovoltaic technology. The CVSR Project, as it is known, also benefits from a 25-year offtake agreement with PG&E and is also being constructed by the Bechtel Corporation. The 25 megawatt first phase of this project will be online in September, with final completion in late 2013. I am pleased to report to you that CVSR is ahead of schedule and under budget, and CVSR is this project on the far side.

Finally, we own a 51 percent stake in the 290 megawatt Agua Caliente Solar Project near Yuma, Arizona, which is being built by First Solar and utilizing their own solar module technology, with the power generated by this facility also sold under long-term contract to Pacific Gas & Electric. Agua Caliente, when complete, will be the largest solar photovoltaic project in the world, and I am very pleased to report to you that, halfway through the scheduled construction period, Agua Caliente already has achieved the distinction of being the largest solar plant operating in North America, delivering almost 200 megawatts of power into the grid. As such, Agua Caliente is so far ahead of schedule that we have had to petition the Department of Energy to allow us to complete the project sooner than was originally intended.

In summary, Mr. Chairman, all of us at NRG recognize and respect this Committee's focus on the taxpayer funds being deployed to construct these projects and your intense interest in seeing those funds paid back to the Government with interest. I am pleased to report to you that all three of these projects are well on track and that nothing has occurred which causes me to have particular concern that the taxpayer funds invested in these projects is at risk of nonpayment or even of late payment.

Having said that, there are nearly 5,000 people that work at NRG who are focused on construction, support, and management of these projects, and we will not rest and will remain ever vigilant until this money is in fact repaid. And, you see, the reason for this is that all three of these projects are being funded not only by DOE loan guarantees and federal financing bank loans, but with a considerable amount of equity capital provided by NRG and our partners in the respective projects.

In total, NRG itself has committed over $1 billion of its shareholder capital to these three projects, a considerable sum which represents about 30 percent of our market capitalization.

Since our capital is invested in equity, it is lowering the priority of repayment than the loans provided by the Federal Government. In blunt terms, we don't get paid unless the Government has been repaid. And with over $1 billion committed, you can rest assured that we are very highly motivated to making sure that the Government is repaid.

Thank you, and I look forward to any questions that you might have.

[Prepared statement of Mr. Crane follows:]

Written Testimony of David Crane, President & CEO of NRG Energy, Inc. Before the House Committee on Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending
June 19, 2012

Good morning, Mr. Chairman, Ranking Member Kucinich and distinguished Members of the Subcommittee. My name is David Crane and I am the CEO of NRG Energy, one of the largest electric power companies in America. We are a Fortune 300 company with more than 25,000 megawatts of coal, nuclear, gas, wind and solar generation — enough to power more than 20 million American homes. We also own several retail electricity businesses that, together, serve more than two million customers in Texas and several northeastern states. Important to our discussion today is that NRG is NOT a rate-based utility. Our shareholders bear 100% of the risks of our capital investments and of the success of our operations which is in stark contrast to rate-based utilities which tend to socialize the risk of their capital projects among the ratepayers of their state.

I am honored to have the opportunity to speak to you today about the status of NRG's solar projects associated with the Department of Energy's Section 1705 loan guarantee program.

I ask that my written testimony also be included in the record.

NRG currently owns a majority interest in three solar projects that have received loan guarantees under Section 1705 and I am pleased to report on the progress that these three projects are making through the critical construction phase, typically the highest risk phase in the life of any power generation asset. We are also involved in the ownership of a fourth Section 1705 rooftop solar project, commonly called Project Amp, together with our partner Prologis, but to date there have been no drawdowns on the Project Amp loan so there is no progress for me to report on.

Regarding our three projects that are utilizing Section 1705 loan guarantees:

- We own a 50% interest in the 392-megawatt Ivanpah Solar Electric Generating System in San Bernardino County, California. Ivanpah utilizes an Israeli-American "CSP" technology developed by Brightsource, a California-headquartered company. Ivanpah, when completed in 2014, will be the largest concentrating solar project in the world. All of the electricity generated by Ivanpah will be sold under a series of long term power purchase agreements with Pacific Gas & Electric, an A3/BBB rated investor-owned utility and Southern California Edison, an A3/BBB+ rated investor owned utility. Ivanpah, which is located on the California-Nevada border, approximately 45 miles south of Las Vegas, is being constructed by Bechtel Corporation, the legendary San Francisco-based construction company that oversaw the construction of the Hoover Dam and hundreds of American infrastructure projects since. Construction at Ivanpah began in October 2010 and, as of today, the project is on schedule. We expect to be making steam with unit 1 in November of this year. I also am pleased to report that Ivanpah is not only on schedule but it remains under budget, with the project contingency still intact and available to deal with any issue that may arise.
- We own a 100% stake in the 250-megawatt California Valley Solar Ranch near San Luis Obispo, California utilizing Sunpower's photovoltaic technology. The CVSR Project, as it is known, benefits from a 25 year offtake agreement with Pacific Gas & Electric and is being constructed under the supervision of the Bechtel Corporation. The 25 megawatt first phase

of the project will be online in September with final completion in late 2013. I am pleased to report to you that CVSR is ahead of schedule and under budget

- Finally, we own a 51% stake in the 290-megawatt Agua Caliente Solar Project near Yuma, Arizona being built by First Solar and utilizing their solar module technology with the power generated by the facility to be sold under a long term offtake agreement to Pacific Gas & Electric. Agua Caliente, when completed, will be the largest solar photovoltaic project in the world. I am very pleased to report to you that - half way through the scheduled construction period - Agua Caliente already has achieved the distinction of being the largest solar plant currently operating in North America - delivering almost 200MW of power into the grid. As such, Agua Caliente is so far ahead of schedule that we have had to petition the Department of Energy to allow us to complete the project significantly sooner than was originally intended.

In summary, Mr. Chairman, all of us at NRG recognize and respect this Committee's focus on the taxpayer funds being deployed to construct these projects and your intense interest in seeing those funds paid back to the Government with interest. I am pleased to report to you that all three of these projects are well on track and that nothing has occurred which causes me to have particular concern that the taxpayer funds invested in these projects is at risk of nonpayment or even late payment. Having said that, the nearly 5000 people working on construction, support and management of these projects will not rest and will remain ever vigilant until the money is in fact repaid.

You see, all three of these projects, Ivanpah, CVSR and Agua Caliente, are being funded not only with DOE guarantees and Federal Financing Bank loans but with a considerable amount of equity capital provided by NRG and our partners in the respective projects. In total, NRG itself has committed over $1 billion of its shareholder capital to these three projects, a considerable sum which represents approximately 30% of NRG's market capitalization. Since our capital is invested as equity, it is lower in the priority of repayment than the loans provided by the federal government. ***In blunt terms, we don't get repaid unless the government has been repaid***. And with over $1 billion committed, you can rest assured that we are very highly motivated to doing what it takes to ensure that we are repaid.

Thank you. I look forward to any questions you may have.

Mr. JORDAN. Thank you, Mr. Crane. When you said in the New York Times that it is filling the desert with panels, we can see that from those visuals certainly there.

Mr. Rakowich, you are now recognized for your five minutes.

STATEMENT OF WALTER C. RAKOWICH

Mr. RAKOWICH. Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee, good morning. My name is Walter Rakowich and I am the Co-Chief Executive Officer of Prologis. Thank you for the opportunity to be here today to talk to you about our company and our involvement with the Department of Energy's 1705 loan guarantee program.

For over 20 years, Prologis has been in the business of developing industrial real estate. We offer our customers approximately 500 million square feet of distribution space for lease in over 20 countries. About 75 percent of our properties support local communities in the United States. As a result, Prologis is a different sort of company from the others that have participated in the loan guarantee program.

Our corporate mission includes a focus on sustainability, which we believe provides a triple benefit: first, employee well-being; second, environmental stewardship; and, third, cost-effective facilities for our customers. And to that end we have begun to utilize the hundreds of millions of square feet of rooftops in our portfolio for the installation of photovoltaic systems. These rooftops face the sun and are directly adjacent to the electrical grid. Standing alone, they generate no additional benefit. With rooftop solar, however, they provide a renewable source of power for the communities where our buildings are located, while providing an additional revenue stream to our shareholders.

Going back to as early as 2006, we began having conversations with different solar panel manufacturers and financing sources about the potential for future rooftop solar installations, and since that time we have installed 78 megawatts of solar on about 18 million square feet of rooftops. In January 2010, we put out a tender seeking a solar EPC finance partner to lease our roofs and respond to a potential California utility request for proposal.

One respondent to our tender was Solyndra, who identified Bank of America Merrill Lynch as their financial partner. We ultimately selected the Solyndra-Bank of America proposal in February 2010, and we jointly responded to the utility RFP. That utility selected us in July 2010 to provide them with solar power, a project which became known as Project Photon.

In November 2010, we partnered with Bank of America to apply for a DOE loan guarantee to support a much larger, nationally-scaled program, which we call Prologis Amp. While we had completed smaller scale solar rooftop installation projects before, mostly financed by utilities, a larger, nationally-scaled project required a different approach. We applied for the loan guarantee to reduce the cost of our project financing, which would make our rooftop solar project more economical.

Working with Bank of America as our lender and NRG Energy as our equity partner, we sought to develop a multi-year, multi-phase project that would generate power for the grid in up to 28

States. Project Photon, which had been progressing, was anticipated to be the first phase of Project Amp. In July 2011, after receiving a conditional commitment from the DOE, we began construction work on the rooftops of 15 buildings in Southern California, at a cost to Prologis of just over $8 million.

In September 2011, Solyndra declared bankruptcy. This created a considerable challenge, as it occurred when we were in the final stages of closing our loan guarantee. After reviewing Solyndra's circumstances, we determined that there was an insufficient ability on Solyndra's part to provide the required solar modules, services, and warranties. As a result, we proactively informed our partners and the DOE that we would not use Solyndra technology for Phase 1.

Now, despite this challenge to the completion of Phase 1, we believed that it would not impede our ability to develop Project Amp as a whole over the four-year term of the project. We are continuing, to this day, to pursue power purchase agreements for Project Amp, including the use of the sites on which we had already spent millions of dollars. Under the terms of our loan agreement, each future phase of Project Amp will entail a specific power purchase agreement, will be funded separately, and must be approved in each instance by Bank of America and the DOE. To date, we have not yet sought or received any government loan guarantees under this arrangement.

Thank you, Mr. Chairman, for the opportunity to speak to this Committee about Prologis. We believe that our core assets in the industrial real estate area can be effectively utilized to generate significant solar energy output and thereby contribute to the goal of energy independence.

I would be pleased to answer any questions that you have. Thank you.

[Prepared statement of Mr. Rakowich follows:]

Statement of Walter C. Rakowich

Co-CEO, Prologis, Inc.

Before the Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, United States House of Representatives Committee on Oversight and Government Reform.

June 19, 2012

Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee:

Good morning. My name is Walter Rakowich and I am the Co-Chief Executive Officer of Prologis. Thank you for the opportunity to be here today to talk to you about our company and our involvement with the Department of Energy's 1705 loan guarantee program.

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In November 2010, we partnered with Bank of America to apply for a DOE loan guarantee to support a much larger nationally-scaled program, which we called Project Amp. While we had completed smaller-scale solar rooftop installation projects before, mostly financed by utilities, a larger nationally-scaled project required a different approach. We applied for the loan guarantee to reduce the cost of our project financing, which would make our rooftop solar project more economical.

Working with Bank of America as our lender and NRG Energy as our equity partner, we sought to develop a multi-year, multi-phase project that would generate power for the grid in up to 28 states. Project Photon, which had been progressing, was anticipated to be the first phase of Project Amp. In July 2011, after receiving a conditional commitment from the DOE, we began construction work on the rooftops of 15 buildings in Southern California, at a cost to Prologis of over $8 million.

In September 2011, Solyndra declared bankruptcy. This created a considerable challenge, as this occurred when we were in the final stages of closing our loan guarantee. After reviewing Solyndra's circumstances, we determined that there was an insufficient ability on Solyndra's part to provide the required solar modules, services, and warranties. As a result, we proactively informed our partners and the DOE that we would not use Solyndra technology for Phase I.

Despite this challenge to the completion of Phase I, we believed that it would not impede our ability to develop Project Amp as a whole over the four year term of the project. We are continuing to this day to pursue power purchase agreements for Project Amp, including the use of the sites on which we had already spent millions of dollars. Under the terms of our loan agreement, each future phase of Project Amp will entail a specific power purchase agreement, will be funded separately, and must be approved in each instance by Bank of America and the DOE. To date, we have not yet sought or received any government loan guarantees under this arrangement.

Thank you, Mr. Chairman, for the opportunity to speak to this Committee about Prologis. We believe that our core assets in the industrial real estate area can be effectively utilized to generate significant solar energy output and thereby contribute to the goal of energy independence. I would be pleased to answer any questions that you may have.

Mr. JORDAN. Thank you, Mr. Rakowich.

Mr. Mancini, you are up for five minutes.

STATEMENT OF ROBERT S. MANCINI

Mr. MANCINI. Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee, good morning. My name is Robert Mancini and I am the Chief Executive Officer of Cogentrix. Cogentrix is a wholly-owned subsidiary of the Goldman Sachs group, and I am also a Managing Director in the Commodities Business Unit of that firm. Thank you for the opportunity to appear this morning and speak to you about Cogentrix Energy and our Alamosa Solar Generating Plant in Colorado.

Cogentrix Energy is an independent power producer that has been in the business of developing, constructing, owning, and operating power generation facilities since 1983. We currently employ more than 200 full-time employees that work at our headquarters in Charlotte, North Carolina, as well as our power generating facilities located in Colorado, Virginia, Florida, and California.

I am here today to speak with you about our Alamosa solar project, but Cogentrix is not just in the renewable energy business. On the contrary, the majority of Cogentrix's history has been focused on conventional power projects throughout the United States that have included primarily natural gas and coal-fired facilities.

In total, we have developed power generation facilities across the Country with a combined generating capacity of over 5,000 megawatts of electric power, which is enough to power approximately 2 million homes. Currently, we are particularly focused on the continued development of natural gas-fired generation, as we believe that natural gas will undoubtedly play an increasing role in the U.S. electric generation market. As an example, we are presently working on the development of 100 megawatts of gas-fired generation in the San Diego, California area.

So while projects like Alamosa are important, we believe that represents only one part of what we do to address our Country's energy needs. The Alamosa Solar Generating Plant is presently one of the largest concentrating photovoltaic electric power generation facilities in the world. It is located in Colorado, it began commercial operation on April 1st of this year, and has been designed to produce approximately 30 megawatts of solar power under a 20-year power purchase agreement with the Public Service Company of Colorado.

The technology deployed in the Alamosa project was developed as part of the U.S. space program and had been deployed in that context for several years, but the Alamosa project represents one of its first utility scale applications. Importantly, in the process of our development and construction of Alamosa, we sourced more than 80 percent of the components from within the United States.

Cogentrix began development of the Alamosa project in 2009 in response to a request for a proposal from the Public Service Company of Colorado, and by June of 2010 we had signed a power purchase agreement with them for 20 years. The Alamosa project involved significant expenditures, in this case through approximately $140 million of hard costs. An independent power development cannot fund all these costs through its own equity contributions and remain competitive and profitable.

Typically, developers fund a portion of the total project costs from their own equity and obtain limited recourse financing from third-party lenders for the balance. However, projects such as the one developed in the Alamosa project present a special challenge, because while the technology of the project is proven in one context, as previously mentioned, it has not been deployed on a commercial scale.

Lenders generally do not provide cost-effective project financing until they know that a technology is commercially viable and, therefore, Cogentrix's willingness to pursue a project based on the CPV technology was predicated on the ability to source alternative forms of debt financing. After unsuccessful attempts at attracting private debt capital, it was only through the 1705 loan program that Cogentrix was able to obtain the debt that was cost-effective enough to allow us to move forward with the project.

Now, we at Cogentrix committed approximately $115 million in equity and equity guarantees, and we received just under $90 million in debt financing under the DOE loan program. We began this process of application with the DOE in February 2010 and signed the loan agreement guarantee on September 2nd, 2011.

To date, we have drawn approximately $71 million against the $90 million federal loan that was approved. The project reached commercial operation on time, we expect it will be completed under budget and the final loan amount will be about $86.5 million. At present, the project is generating energy in compliance with the requirements of our power purchase agreement and we are projecting that the project revenues will be more than enough to repay the DOE loan in a timely manner.

Mr. Chairman, Cogentrix has a long history of developing and operating power plants employing a variety of traditional and renewable energy technologies. We are proud of the success that we have achieved thus far on the Alamosa project and we look forward to continuing to advance both the renewable and conventional energy portions of our business.

I welcome any questions the Committee may have. Thank you very much.

[Prepared statement of Mr. Mancini follows:]

Statement of Robert Mancini

CEO, Cogentrix Energy, LLC

Before the Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, United States House of Representatives Committee on Oversight and Government Reform

June 19, 2012

Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee:

Good morning. My name is Robert Mancini and I am the Chief Executive Officer of Cogentrix Energy, LLC. Cogentrix is a wholly-owned subsidiary of the Goldman Sachs Group, and I am also a Managing Director in the Commodities Business Unit at that firm. Thank you for the opportunity to appear this morning and speak to you about Cogentrix Energy and our 30MW Alamosa Solar Generating plant in Colorado.

Cogentrix Energy is an independent power producer that has been in the business of developing, constructing, owning and operating power generating facilities since 1983. We currently employ more than 200 full-time employees that work at our headquarters in Charlotte, North Carolina, as well as our power generating facilities located in Colorado, Virginia, Florida, and California.

I am here today to speak with you about our Alamosa solar project. But Cogentrix is not just in the renewable energy business. On the contrary, the majority of Cogentrix's development, construction, and operating history has been focused on conventional power projects throughout the United States that have included primarily natural gas and coal fired facilities. We are an "all-of-the-above" energy company and intend to continue to develop both conventional and renewable energy facilities.

In total, we have developed power generating facilities across the country with a combined generating capacity of over 5000 MW of electric power, which is enough to power approximately two million homes. Currently we are particularly focused on the continued development of natural gas-fired electric generation, as we believe that natural gas will undoubtedly play an increasing role in the U.S. electric generation market. As an example, we are presently working on the development of a 100MW gas-fired power plant in the San Diego, California, area. So, while projects like Alamosa are important, we believe they represent only one part of what we do to address our country's energy needs.

The Alamosa Solar Generating Plant is presently the largest concentrating photovoltaic electric power generating facility in the world. Located in Colorado, it began commercial operation on April 1 of this year, and has been designed to produce approximately 30MW of solar power under a 20-year power purchase agreement with Public Service Company of Colorado. The technology deployed in the Alamosa project includes a tracking system to follow the sun's path and special lenses that concentrate sunlight onto high efficiency solar cells. This technology was developed as part of the U.S. space program, and has been deployed in that context for several years, but the Alamosa project represents one of its first utility-scale applications. Importantly, in the process of our development and construction of Alamosa we sourced more than 80 percent of the components from within the United States.

Cogentrix began development of the Alamosa project in 2009, in response to a request for proposals from Public Service Company of Colorado, and by June 2010 we had signed a 20-year power purchase agreement. Like most power projects, the Alamosa project involved significant expenditures; in this case, these were approximately $140 million. An independent power developer cannot fund all of those costs through its own equity contributions and remain competitive and profitable. Typically, developers fund a portion of the total project costs from their own equity and obtain limited-recourse financing from third party lenders for the balance. However, projects such as the one developed in Alamosa present a special challenge. While the technology for the project is proven, as previously mentioned, it has not been deployed on a commercial scale. Lenders generally do not provide cost-effective project financing until they know a technology is commercially viable. Therefore, Cogentrix's willingness to pursue a project based on the CPV technology was predicated on its ability to source alternative forms of debt financing. After unsuccessful attempts at attracting private debt capital, it was only through the 1705 loan guarantee program that Cogentrix was able to obtain the debt that was cost effective enough to allow us to move forward with the project under terms that would be compatible with the economic parameters set out in the power purchase agreement with Public Service Company of Colorado.

Approximately $115 million in equity and equity guarantees were allocated to the project, and we applied for just under $90 million in debt financing from the Federal Finance Bank under the DOE loan guarantee program. We began the application process with the DOE in February 2010, and signed the loan guarantee agreement on September 2, 2011.

To date, we have drawn approximately $71 million against the $90 million federal loan that was approved. The project reached commercial operations on time, and we expect that it will be completed under budget and that the final loan amount will be about $86.5 million. At present, the project is generating energy in compliance with the requirements of our power purchase agreement, and we are projecting that the project revenues will be more than enough to repay the DOE loan in a timely manner.

Mr. Chairman, thank you again for the opportunity to speak today about our Alamosa project and our experience with the DOE 1705 program. Cogentrix has a long history of developing and operating power plants employing a variety of traditional and renewable energy technologies. We are proud of the success that we have achieved thus far with the Alamosa project, and we look forward to continuing to advance both the renewable and conventional energy portions of our business. I welcome any questions the Committee may have.

Mr. JORDAN. Mr. Mancini, thank you.
Ms. Bronicki.

STATEMENT OF DITA BRONICKI

Ms. BRONICKI. Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee, my name is Dita Bronicki and I am the Chief Executive Officer of Ormat Technologies, Inc., a New York Stock Exchange listed company.

Ormat, which has been headquartered in Nevada since 1984, is the only vertically-integrated company primarily engaged in the geothermal power business. We design, develop, own, and operate power plants around the world, using our state-of-the-art technology.

Ormat was founded in 1965 and we have more than four decades of experience in the development of environmentally-sound power. We currently own and operate power plants totaling 586 megawatts around the world, with 470 megawatts in the western United States. We employ over 1,000 people worldwide, with more than 500 employees domestically.

I appreciate the opportunity to testify here today about our business and the Department of Energy's 1705 loan guarantee program.

Ormat participated not only in the current Department of Energy loan guarantee program, but also with its predecessor program almost 30 years ago. In the 1980s, Ormat obtained a $50 million loan guarantee for our Ormesa geothermal project. At that time, the DOE loan guarantee program was a needed catalyst to encourage commercial lenders to participate in such new projects, and additional geothermal plants totaling hundred so megawatts of capacity followed. That project paved the way for the growth of the geothermal industry in the United States and helped the financial community on the path to accepting the viability of geothermal energy projects.

In July 2010, John Hancock Life Insurance Company submitted an application to the DOE to participate in the current 1705 loan guarantee program along with our subsidiary. The proposed project, known as OFC 2, involved a portfolio of three different geothermal power facilities in the State of Nevada: Tuscarora, McGinness, and Jersey Valley. All three facilities would provide power pursuant to a 20-year power purchase agreement with Nevada Power Company, using our proprietary technology.

That technology has been installed and used in multiple geothermal power plants and our electricity generating systems around the world. The project was designed to proceed in two stages, which, upon completion, would generate a combined total of up to 120 megawatts of clean power. We were offered a conditional commitment from the DOE for our partial guarantee just under a year later, in June 2011.

We believe that this project is a strong fit with the objectives of the 1705 program. Economic conditions at the time of our application made it difficult to secure commercial debt to develop these three facilities. The DOE loan guarantee enabled us to deploy more plants and create more jobs than we would have been able to achieve without it. The two phase portfolio approach also mitigated the risk of the investment, as its overall success did not hinge entirely on the success of one facility.

A total of up to $350 million in debt financing has been approved by our financial partner, John Hancock. Our first draw on the guaranteed funds occurred in October 2011, of approximately $151 million, which is only a portion of the total budget for the projects. Indeed, as of the second quarter of 2010, before our application was submitted to the DOE, the project had been funded by Ormat in the amount of $117 million. In short, we have dedicated substantial equity to the project and are committed to its success. I am pleased to report that the Tuscarora facility has already reached commercial operation and we expect the McGinness facility to reach that milestone very soon.

Mr. Chairman, Ormat has been in the business of developing geothermal power for close to 30 years. Our deep experience enabled us to propose a solid commercial renewable energy power project to the Department of Energy.

Thank you for the opportunity to speak here today. I welcome any questions that the Committee may have.

[Prepared statement of Ms. Bronicki follows:]

Statement of Dita Bronicki

Chief Executive Officer, Ormat Technologies, Inc.

Before the Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending,

United States House of Representatives, Committee on Oversight and Government Reform

June 19, 2012

Mr. Chairman, Ranking Member Kucinich, and members of the Subcommittee:

My name is Dita Bronicki, and I am the Chief Executive Officer of Ormat Technologies, Inc., a New York Stock Exchange listed company. Ormat, which has been headquartered in Nevada since 1984, is the only vertically-integrated company primarily engaged in the geothermal power business. We design, develop, own, and operate power plants around the world, using our state-of-the-art technology. We are not new to this business. Ormat was founded in 1965, and we have more than four decades of experience in the development of environmentally-sound power. We currently own and operate power plants totaling 586 megawatts around the world, with 470 megawatts in the western United States. We employ over 1000 people worldwide, with more than 500 employees domestically. I appreciate the opportunity to testify here today about our business and the Department of Energy's 1705 loan guarantee program.

First, a word about geothermal energy. Geothermal energy is heat energy that comes from the Earth's molten interior. In a geothermal power plant, steam or hot water are captured and directed to drive the power unit. The advantages of geothermal energy are many. It harnesses a naturally available energy source, it offers base load electricity year-round with high reliability, and it provides an environmentally friendly alternative to fossil-fuel power generation.

Ormat participated not only in the current Department of Energy loan guarantee program, but also with its predecessor program almost thirty years ago. In the 1980s, Ormat obtained a $50 million loan guarantee for our Ormesa geothermal project. At that time, the DOE loan guarantee program was a needed catalyst to encourage commercial lenders to participate in such new projects, and additional geothermal plants -- totaling hundreds of megawatts of capacity -- followed. That project paved the way for the growth of the geothermal industry in the United States, and helped the financial community on the path to accepting the viability of geothermal energy projects.

In July 2010, John Hancock Life Insurance Company submitted an application to the DOE to participate in the current 1705 loan guarantee program along with our subsidiary. The proposed project, known as "OFC 2," involved a portfolio of three different geothermal power facilities in the State of Nevada: Tuscarora, McGinness Hills, and Jersey Valley. All three facilities would provide power pursuant to 20-year power purchase agreements with Nevada Power Company, using our proprietary technology. That technology has been installed and used in multiple geothermal power plants and other electricity generating systems around the world. The project was designed to proceed in two stages, which, upon completion, would generate a combined total of over 120 megawatts of clean power. We were offered a conditional commitment from the DOE for our partial guarantee just under one year later, in June 2011.

We believe that this project is a strong fit with the objectives of the 1705 program. Economic conditions at the time of our application made it difficult to secure the commercial debt to develop these three facilities. The DOE loan guarantee enabled us to deploy more plants and create more jobs than we would have been able to achieve without it. The two phase portfolio approach also mitigated the risk of the investment, as its overall success did not hinge entirely on the success of one facility.

A total of up to $350 million in debt financing has been approved by our financial partner, John Hancock. Our first draw on the guaranteed funds occurred in October 2011, of approximately $151 million -- which is only a portion of the total budget for the projects. Indeed, as of the second quarter of 2010, before our application was submitted to the DOE, the projects had been funded by Ormat in the amount of $117 million. In short, we have dedicated substantial equity to the project and are committed to its success. I am pleased to report that the Tuscarora facility has already reached commercial operation, and we expect the McGinness facility to reach that milestone very soon.

Mr. Chairman, Ormat has been in the business of developing geothermal power for close to thirty years. We have expertise in designing and developing geothermal power plants, as well as designing, manufacturing, and selling geothermal power equipment. Our products and systems are covered by 80 U.S. patents. This deep experience enabled us to propose a solid commercial renewable energy power project to the Department of Energy. Thank you for the opportunity to speak here today about Ormat and its geothermal energy projects. I welcome any questions that the Committee may have.

Mr. JORDAN. Thank you, Ms. Bronicki.

Doctor, you are recognized.

STATEMENT OF VERONIQUE DE RUGY

Ms. DE RUGY. Chairman Jordan, Ranking Member Kucinich, members of this Committee, it is an honor to appear before you today to talk about the Department of Energy loan guarantee program. My name is Veronique de Rugy. I am a Senior Research Fellow at the Mercatus Center at George Mason University, where I study tax and budget issues.

Advocates for renewable energy are right to be outraged by the large amount of subsidies going to fossil fuels. Yet, they are wrong to think that the answer is more subsidies for a form of energy that they approve of.

The Department of Energy's 1705 loan guarantee program is a cornerstone of the Department of Energy and the U.S. energy policy. The policy is often justified on two grounds: first, advocates argue that the renewable energy companies do not have access to sufficient credit to support new projects; second, the Department of Energy argues that by investing in green technology it would create up to 5 million green jobs. So how do these claims stand up to scrutiny?

Looking at the flow of the 1705 loan program we find, first, that nearly 19 percent of 1705 loans went to subsidize projects that were backed by large companies such as NRG Energy or even the financial giant Goldman Sachs. In practice, it is hard to argue that these companies would have had a hard time having access to capital to fund projects that would have been viable.

Second, according to the Department of Energy's data, under 1705, $16 billion in loans were guaranteed and 2,388 permanent green jobs were created. That means that for every $6.7 million in taxpayer exposure one job was created. These numbers dismiss this loan program as an effective job program.

But while the data speaks for itself, the real problem with the 1705 loan program lies below these numbers. It even goes beyond the recent waste of $538 million of taxpayers' money following the failure of Solyndra. Solyndra is a symptom of more fundamental problems that make loan guarantee programs, in general, and DOE's loan guarantee program, in particular, a bad deal for taxpayers.

Such programs suffer from three main problems: First, every loan guarantee program transfers the risk from lenders to taxpayers, creating a moral hazard problem. Because the loan amount is guaranteed, banks have less incentive to evaluate applicants thoroughly or apply proper oversight. The same is true for the company that borrows the money. Also, these programs privatize gains and socialize losses. In other words, taxpayers bear the risk of the project, but the companies and the bank that receive the guarantee get all the upside.

Second, every loan guarantee gives lenders an incentive to shift resources to government-supported projects and away from unsupported ones, regardless of the merit of the project. This has a cascading effect. For instance, once the government subsidizes a company, that company becomes a relatively safe asset in the eyes of other investors. However, safety in the market often signals low return on investment and it is likely to scare away venture capitalists, and that means lower rates of innovation.

But it gets worse. The data shows that non-venture capitalist private investors tend to congregate towards the safety provided by the government-guaranteed projects and that too takes resources away from unsubsidized projects towards subsidized projects, and these unsubsidized projects may have actually a better probability of surviving and a better business plan absent the subsidy. And make no mistake, this actually can hurt green energy production, as this tradeoff can actually take place within the green energy industry.

Third, at their worst, every loan guarantee introduces political incentives into business decisions, creating the condition for businesses to seek financial rewards by pleasing political interests rather than customers. It is called crony capitalism. It is a bipartisan problem and it entails real economic costs. Whatever the intentions that motivates the program, the evidence is clear it is just not working. The 1705 loan program does expose taxpayers to Solyndra-like waste. But of more concern are the systematic distortions it introduces into the market and the unintended consequences those may have.

Thank you.

[Prepared statement of Ms. de Rugy follows:]

MERCATUS CENTER
George Mason University
Bridging the gap between academic ideas and real-world problems

TESTIMONY

ASSESSING THE DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM

VERONIQUE DE RUGY
Senior Research Fellow

In his famous book *Economics in One Lesson,* economist Henry Hazlitt wrote, "Government encouragement to business is sometimes as much to be feared as government hostility."[1]

In 2009, renewable energy company Solyndra received $535 million through the federally backed 1705 loan guarantee program of the Department of Energy (DOE). Two years later the firm filed for bankruptcy and had to lay off its 1,100 employees, leaving taxpayers bearing the cost of the loan.

For obvious reasons, more than any other recent events, the waste of taxpayers' money due to Solyndra's failure has attracted much attention. However, the problems with loan guarantees are much more fundamental than the cost of one or more failed projects. In fact, the economic literature shows that (1) every loan guarantee program transfers the risk from lenders to taxpayers, (2) is likely to inhibit innovation, and (3) increases the overall cost of borrowing. At a minimum, such guarantees distort crucial market signals that determine where capital should be invested, causing unmerited lower interest rates and a reduction of capital in the market for more worthy projects. At their worst, they introduce political incentives into business decisions, creating the conditions for businesses to seek financial rewards by pleasing political interests rather than customers. This is called cronyism, and it entails real economic costs.[2]

Yet, these loan programs remain popular with Congress and the executive. That's because in general most of the financial cost of these guaranteed loans will not surface for many years. That means that Congress can approve billions of dollars to benefit special interests, with little or no immediate impact to federal appropriations in the short term, because they are almost entirely off-budget.

HOW DO THESE LOAN GUARANTEES WORK?

The DOE Loan Programs Office (LPO) administers three separate loan programs: (1) Section 1703 loan guarantees, (2) Section 1705 loan guarantees, and (3) Advanced Technology Vehicle Manufacturing (ATVM) loans. Here are descriptions of the three loan programs, as explained by DOE:[3]

1. Henry Hazlitt, *Economics in One Lesson*, in Chapter VI Credit Diverts Production, Laissez-Faire Books, Benicia, CA, 1946, p. 27.
2. Matt Mitchell, The Pathology of Privileges (working paper, Mercatus Center at George Mason University, July 2012).
3. United States Department of Energy, accessed June 13, https://lpo.energy.gov/.

For more information or to meet with the scholars, contact
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- Section 1703 of Title XVII of the Energy Policy Act of 2005 authorizes the U.S. Department of Energy to support innovative clean energy technologies that are typically unable to obtain conventional private financing due to high technology risks.
- Advanced Technology Vehicles Manufacturing (ATVM) loans support the development of advanced technology vehicles (ATV) and associated components in the United States. They also meet higher efficiency standards.
- The Section 1705 Loan Program authorizes loan guarantees for U.S.-based projects that commenced construction no later than September 30, 2011 and involve certain renewable energy systems, electric power transmission systems, and leading edge biofuels.

According to LPO's website, DOE's loan guarantee authority originated from Title XVII of the Energy Policy Act of 2005 (P.L. 109–58).[4] Under Section 1703, the federal government can guarantee 80 percent of a project's total cost. The American Recovery and Reinvestment Act of 2009 (P.L. 111–5) amended the Energy Policy Act of 2005 by adding Section 1705.[5] Section 1705 was created as a temporary program, and 1705 loan guarantee authority ended on September 30, 2011.

The dollar volume of loans that can be guaranteed under DOE's authority is predetermined by congressional appropriations that oversee the program. A simple way to explain how these loans work is the following: If a recipient defaults on its loan, the federal government pays the remainder of the debt to the lenders and repossesses all of the assets from the unfinished projects.[6]

As with other loan programs, to prevent taxpayers' exposure, the federal government has established a credit subsidy fee. In this case, the cost of the fee is determined by DOE, with guidance from OMB. The lenders usually charge the up-front guarantee fee to the borrower after the lender has paid the fee to DOE and has made the first disbursement of the loan.

This is not the case for 1705 loans, however. Under the stimulus bill, DOE received appropriated funds to pay for credit subsidy costs associated with Section 1705 loan guarantees, which, after rescissions and transfers, was $2.435 billion. As the Congressional Research Service rightly puts it, "Section 1705 loan guarantees were very attractive as they provided an opportunity to obtain low-cost capital with the required credit subsidy costs paid for by appropriated government funds."[7]

DOE does not provide loans directly. Instead, borrowers have to apply to qualified finance organizations. These lenders are expected to perform a complete analysis of the application. Then DOE reviews the lender's credit analysis rather than conducting a second analysis. DOE still makes the final credit and eligibility decision.

DO LOAN GUARANTEES DO WHAT THEY CLAIM TO DO?

Leaving aside the question of whether the government should encourage the production of certain goods or services, the economic justification for any government-sponsored lending or loan guarantee program must rest on a well-established failure of the private sector to allocate loans efficiently (meaning that deserving recipients could

4. Section 1703 of the Energy Policy Act of 2005 (P.L. 109-58).
5. Section 1705 of the Energy Policy Act of 2005 (P.L. 109-58). Section 1705 was created by amending the EnergyPolicy Act of 2005 through the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)
6. However, the Office of Management and Budget has calculated that only 55 percent of loan can be recouped from the sale of assets.
7. Phillip Brown, "Solar Projects: DOE Section 1705 Loan Guarantees," (Congressional Research Service, October 25, 2011), accessed June 13, 2012, http://op.bna.com/env.nsf/id/jstn-8mzszy/$File/CRSSolar.pdf.

not have gotten capital on their own). Absent such a private-sector deficiency, the DOE's activities would simply be a wasteful at best, politically motivated at worst subsidy to this sector of the economy.

Yet, many argue that some public policy objectives require the sacrifice of marketplace efficiency. It is an accepted feature of modern American government that some public interests or social policy gains outweigh economic losses. In the case of green energy, the government's lending programs could fulfill specific public policy objectives that the marketplace on its own would not otherwise serve or would supply at suboptimal levels. But do they?

In describing its role in the economy, the DOE proclaims that its loans help save the planet[8] by helping to secure funding for the earlier-stage technologies or the later commercialization stage—known as the manufacturing "Valley of Death."[9] It also claims that the loan recipients will generate economic growth and "green" jobs that otherwise would not appear. DOE can thus be judged on its ability to meet these public policy goals—namely, to fill the supply-and-demand gap in the clean energy loan market, particularly for startups.

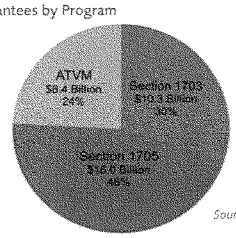
To measure the DOE results, I looked at the flow of DOE credits to evaluate who receives them and whether the DOE is meeting its stated policy objectives of promoting new startups and encouraging the creation of green jobs.

A close examination demonstrates that neither stated DOE policies nor its actual lending patterns provide evidence that its loan guarantees serve any of its defined public policy purpose.

FOLLOWING THE 1705 LOAN GUARANTEE PROGRAM MONEY

Since 2009, DOE has guaranteed $34.7 billion, 46 percent of it through the 1705 loan program, 30 percent through the 1703 program, and 14 percent through the ATVM.[10]

Loan Guarantees by Program



Source: U.S. Department of Energy, Loan Guarantee Programs

The 1705 (under which Solyndra received funding) authorized loan guarantees for programs for "certain renewable energy systems, electric power transmission systems and leading edge biofuels projects that commence construction no later than September 30, 2011." This program is a product of the economic stimulus bill of 2009. As mentioned before, this program offered borrowers better terms than the 1703—in some cases the government paid for a substantial fee out of appropriated funds, one that is the borrower's responsibility under the 1703. Also, many 1703-eligible projects were also eligible under the 1705.

The data shows that:

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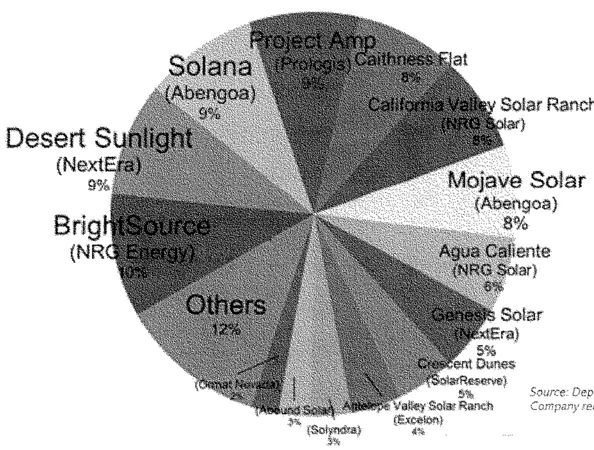
8. Mike King and W. David Montgomery, "Let's Reset Our Energy Policy Starting with Loan Guarantees," in Pure Risk: Federal Clean Energy Loan Guarantees, ed. Henry Sokolski (Nonproliferation Policy Education Center, 2012)
9. Sustainablebusiness.com, "Clean Energy: Crossing the Valley of Death," June 2010, http://www.sustainablebusiness.com/index.cfm/go/news.display/id/20544.
10. U.S. Department of Energy, Loan Programs Office: https://lpo.energy.gov/?page_id=45

- 26 projects were funded under the 1705, and guaranteed roughly $16 billion in total.
- Some 2,378 permanent jobs were claimed to be created under the program. This works out to a cost per job of $6,731,034.
- The recipient of the most 1705 loans is NRG Energy Inc. (BrightSource).
- NRG Energy Inc. (BrightSource) received $1.6 billion (11 percent of the overall amount guaranteed under the 1705).
- The top 10 recipients of loans under the 1705 program:
    - Are all solar generation companies,
    - Received 76 percent of the overall amount guaranteed,
    - Received $12.2 billion in loan guarantees, and
    - Included NextEra Energy Resources, LLC (Desert Sunlight), a fortune 200 company; Abengoa Solar Inc. (Solana), a Spanish multinational company; and Prologis (Project Amp), a global real estate investment trust. Utility firms like NRG Energy received three separate loans in the top 10 recipient list.
- Prologis received $1.4 billion (8.75 percent of the total) to install solar panels on top of a building it owns.
- Solyndra, the now bankrupted solar company, received $535 million in loan guarantees or 3.34 percent of the total.
- Cogentrix, a wholly owned subsidiary of the *Goldman Sachs* Group Inc, received a $90 million guarantee from the government.

Section 1705 Supported Projects



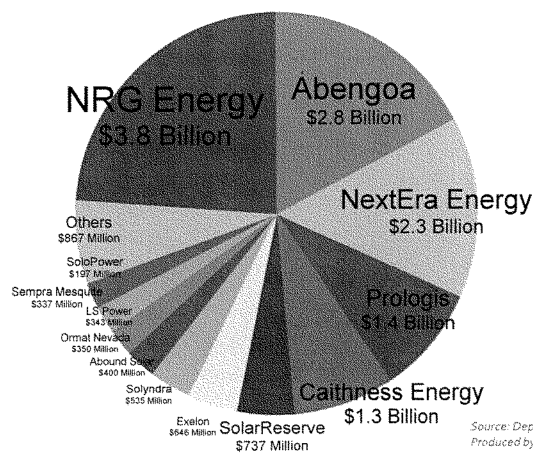
Source: Department of Energy, Loan Programs Office
Company recipients given in parentheses

If we organize the data by companies receiving 1705 loans, we find:

- The recipient of the most 1705 loans is NRG Energy Inc.
- NRG Energy Inc. received $3.8 billion (23.7 percent of the overall amount guaranteed under the 1705).
- Four companies received 64 percent, or $10.3 billion, of the total amount guaranteed under the 1705 program. These companies are:
    - NRG Energy,
    - NextEra Energy,
    - Arbogea, and
    - Prologis.

First, it should be noted that very few permanent green jobs were created under the 1705 loan program (or any of the other loan programs). The Obama administration had initially pushed these projects as job generators, claiming that it could create 5 million jobs in America through investment in green technology.

Section 1705 Supported Companies



Source: Department of Energy
Produced by Veronique de Rugy, Mercatus center

Also, to the extent that "green jobs" were created, the $6.7 million cost per job is quite spectacular. This trend and number probably dismisses this particular loan program as a job program.

Second, as we can see here, under the 1705 program most of the money has gone to large and established companies rather than startups. These include established utility firms, large multinational manufacturers, and a global real estate investment fund. In addition, the data shows that nearly 90 percent of the loans guaranteed by the federal government since 2009 went to subsidize lower-risk power plants, which in many cases were backed by big companies with vast resources. This includes loans such as the $90 million guarantee granted to Cogentrix, a subsidiary of Goldman Sachs. Currently, Goldman Sachs ranks number 80 on the list of America's Fortune 500 companies.[11]

This probably means that if there were an actual gap between the supply and demand for loans for energy companies, startups, or others, this program wouldn't be filling it. In fact, most of these loans look like government transfers of the worst kind: subsidies to very large corporations very much resembles cronyism.

Third, there seems to be an even more troubling trend of "double dipping" by large companies that received loan guarantees from the DOE program. Many of the companies that have benefitted from subsidized loans under the 1705 guarantee program also received additional grants under the American Recovery and Reinvestment Act (ARRA). For example, Prologis (which benefitted from $1.4 billion in subsidized loans) received a grant for $68,000 for the purpose of "rent for warehouse space" under the Recovery Act.

Green Mountain Energy, a company of NRG Energy, received two grants under the ARRA in the second quarter of fiscal year 2011. Likewise, Reliant Energy and Reliant Energy Tax Retail LLC, two other NRG Energy companies, reported receiving *at least 37 grants* under the ARRA. These grants augmented the $3.8 billion in loan guarantees for NRG Energy distributed under the Section 1705 Loan Program.

NRG will also be eligible to receive $430 million from the Department of the Treasury. [12] In addition, many companies benefited from the Department of Treasury 1603 grants. [13]

Quoted in the *New York Times* recently, NRG's chief executive, David W. Crane, explained how his company and its partners have secured $5.2 billion in federal loan guarantees, plus hundreds of millions in other subsidies for four large solar projects. "I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects," he said in a recent interview. "It is just filling the desert with panels."[14]

Examples of companies benefitting from multiple assistance programs initiated during this period abound. For instance, in addition to the $538 million it received under the 1705 loan program, Solyndra benefited from a $10.3 million loan guarantee that the Ex-Im Bank extended to a Belgian company (described in the Ex-Im deal data as "Zellik Ii Bvba") to finance a sale of Solyndra products.[15]

Solyndra isn't alone. First Solar's Antelope Valley project received a $646 million 1705 loan in 2011 through its partner Exelon, and per my calculation from the Ex-IM Bank FOIA deal data information for FY2011,[16] the company also scored $547.7 million in loan guarantees to subsidize the sale of solar panels to solar farms abroad.

More troubling is the fact that some of the Ex-Im money went to a Canadian company named St. Clair Solar, which is a wholly owned subsidiary of First Solar. [17] St. Clair Solar received a total of $192.9 million broken into

11. CNN Money, America's Fortune 500 Companies. http://money.cnn.com/magazines/fortune/fortune500/2012/snapshots/10777.html
12. Eric Lipton and Clifford Krauss, "A Gold Rush of Subsidies in Clean Energy Search," *New York Times*, November 11, 2011 http://www.nytimes.com/2011/11/12/business/energy-environment/a-cornucopia-of-help-for-renewable-energy.html?pagewanted=all.
13. Department of Treasury: 1603 http://www.treasury.gov/initiatives/recovery/Pages/1603.aspx
14. Eric Lipton and Clifford Krauss, "A Gold Rush of Subsidies in Clean Energy Search," *New York Times*, November 11, 2011 http://www.nytimes.com/2011/11/12/business/energy-environment/a-cornucopia-of-help-for-renewable-energy.html?pagewanted=all.
15. Export-Import Bank of the United States, 2011 Annual Report, http://www.exim.gov/about/reports/ar/2011/index.html, p. 30.
16. http://www.exim.gov/open/
17. Tim Carney, Firm Sells Solar Panel to Itself – Taxpayers Pay, The Washington Examiner, March 18th 2010, http://campaign2012.washingtonexaminer.com/article/firm-sells-solar-panels-itself-taxpayers-pay/434251.

two loans to buy solar panels from First Solar. In other words, the company received a loan to buy solar panels from itself. Incidentally, First Solar also received a $16.3 million loan from the government in 2010 to expand its factory in Ohio.[18]

This double-dipping by energy companies isn't new, unfortunately. While there is no doubt that the deals are lucrative for the companies involved, taxpayers have a lot to lose. Further, double-dipping provides evidence that businesses will be tempted to steer away from productive value creation for society and instead work on narrowly serving political interests for financial gain.

THE CASE AGAINST CLEAN ENERGY LOAN GUARANTEES

A great deal of attention has been focused on Solyndra, a startup that received $528 million in federal loans to develop cutting-edge solar technology before it went bankrupt, had to lay off over a thousand workers, and left taxpayers to foot the bill. Obviously, the considerable waste of taxpayers' money is upsetting. But it is only one aspect of the fundamental problems caused by loan guarantee programs in general, and DOE's clean energy loan programs in particular.

1. Socialized Losses and Privatized Gains

Historically, loans guaranteed by the government have had a higher default rate than the loans issued by the private sector without government guarantee. For instance, the Small Business Administration (SBA) has a long-term default rate of roughly 17 percent.[19] This compares to 4.3 percent for credit cards and 1.5 percent for bank loans guaranteed by the Federal Deposit Insurance Corporation.

Also, the Congressional Budget Office has calculated that the risk of default on the DOE's nuclear loan guarantee program, for example, is well above 50 percent.[20] In 2011, the CBO updated its study and replaced the embarrassing default rate with a list of variables affecting the rate.[21] While it doesn't provide a specific rate, the report asserts that higher equity financing of these projects would reduce the risk of default. However, this is rarely the case, as most loan guarantee programs cover 80 percent of their financing through debt rather than equity.

Moreover, according to the CBO, when the federal government extends credit, the associated risk of those obligations is effectively passed along from private lenders onto taxpayers who, as investors, would view this risk as costly. In other words, when the federal government encourages a risky loan guarantee it is "effectively shifting risk to the members of the public."

Also, if the loan isn't repaid, then the cost of the investment is to taxpayers. However, if the loan is repaid as expected, the lender will benefit from all the interest payments it collected thanks to a fairly risk-free loan, and the borrower will collect the fruit of its successful business venture. In other words, loan guarantee programs are yet another way that the federal government socializes losses while privatizing benefits.[22]

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18. Tim Carney, Firm Sells Solar Panel to Itself – Taxpayers Pay, The Washington Examiner, March 18th 2010, http://campaign2012.washington-examiner.com/article/firm-sells-solar-panels-itself-taxpayers-pay/434251.
19. Veronique de Rugy, "Banking on the SBA" (Mercatus on Policy, 2007, Mercatus Center at George Mason University) accessed on June 13, 2012, http://mercatus.org/publication/mercatus-policy-banking-sba.
20. Pamir Wang, "Federal Clean Energy Loan Guarantees: Their Moral Hazards," in Pure Risk: Federal Clean Energy Loan Guarantees ed. Henry Sokolski (Nonproliferation Policy Education Center, 2012)
21. Congressional Budget Office [CBO], "The Cost-Effectiveness of Nuclear Power for Navy Surface Ships," (May 12, 2011), http://www.cbo.gov/publication/41454.
22. Russ Roberts, "Gambling with Other people's money" Mercatus Center at George Mason University, April 28, 2010, accessed June 13, 2012, http://mercatus.org/publication/gambling-other-peoples-money.

2. Moral Hazard

Federally backed loans create a classic moral hazard. Because the loan amount is guaranteed, banks have less incentive to evaluate applicants thoroughly or apply proper oversight. In other words, the less skin the lender has in the game, the less likely the lender will effectively vet the quality of the project. Also, the company that borrows the money has less skin in the game than it would if its loan weren't guaranteed. In addition, each time the government bails out a firm or has to shoulder the cost of a loan guarantee that got into financial trouble, it reinforces the signal to borrowers and bankers alike that it's OK to take excessive risks.

In a March 2012 report, the Government Accountability Office (GAO) found that the DOE loan guarantee program was riddled with program inefficiencies, putting the fairness of decisions about what firms receive loan guarantees into question.[23] When GAO requested data from the DOE on the status of the applications, the DOE did not have consolidated data readily available and had to assemble these data over several months from various sources. Inadequate documentation and out-of-date review processes reduce the assurance that the DOE has treated applicants consistently.

These findings do not prove the ability of the DOE to fully assess and mitigate project risks. Moreover, while in the absence of government intervention the private sector builds the infrastructure to assess risk, the federal government has neither the expertise nor the incentive to build such a safety net. This increases the likelihood that loan guarantees will be awarded based on factors other than the ability of the borrower to repay the loan, such as political connections and congressional interest in local pork.[24]

The moral hazard of loan guarantees increases when rules intended to prevent the program from being a pure giveaway to companies are removed. This is the case, for instance, when as part of the stimulus bill of 2009, the government lifted the subsidy fees for 1705 loans. This move increases the cost to taxpayers and attracts high-risk companies.

3. Mal-investments

Loan guarantee programs can also have an impact on the economy beyond their cost to taxpayers.

Mal-investment—the misallocation of capital and labor—may result from these loan guarantee programs. In theory, banks lend money to the projects with the highest probability of being repaid. These projects are often the ones likely to produce larger profits and, in turn, more economic growth. However, considering that there isn't an infinite amount of capital available at a given interest rate, loan guarantee programs could displace resources from non-politically motivated projects to politically motivated ones. Think about it this way: When the government reduces a lender's exposure to fund a project it wouldn't have funded otherwise, it reduces the amount of money available for projects that would have been viable without subsidies.

This government involvement can distort the market signals further. For instance, the data shows that private investors tend to congregate toward government guarantee projects, independently of the merits of the projects, taking capital away from unsubsidized projects that have a better probability of success without subsidy and a more viable business plan. As the Government Accountability Office noted, "Guarantees would make projects [the

23. Government Accountability Office [GAO], DOE Loan Guarantees: Further actions are needed to improve tracking and review of applications, (March 2012), accessed June 13, 2012, http://www.gao.gov/assets/590/589210.pdf.
24. King and Montgomery, "Let's Reset," 22.

federal government] assists financially more attractive to private capital than conservation projects not backed by federal guarantees. Thus both its loans and its guarantees will siphon private capital away."[25]

This reallocation of resources by private investors away from viable projects may even take place within the same industry—that is, one green energy project might trade off with another, more viable green energy project.

More importantly, once the government subsidizes a portion of the market, the object of the subsidy becomes a safe asset. Safety in the market, however, often means low return on investments, which is likely to turn venture capitalists away. As a result, capital investments will likely dry out and innovation rates will go down.[26]

In fact, the data show that in cases in which the federal government introduced few distortions, private investors were more than happy to take risks and invest their money even in projects that required high initial capital requirements. The Alaska pipeline project, for instance, was privately financed at the cost of $35 billion, making it one of the most expensive energy projects undertaken by private enterprise.[27] The project was ultimately abandoned in 2011 because of weak customer demand and the development of shale gas resources outside Alaska.[28] However, this proves that the private sector invests money even when there is a chance that it could lose it. Private investment in U.S. clean energy totaled $34 billion in 2010, up 51 percent from the previous year.[29]

Finally, when the government picks winners and losers in the form of a technology or a company, it often fails. First, the government does not have perfect or even better information or technology advantage over private agents. In addition, decision-makers are insulated from market signals and won't learn important and necessary lessons about the technology or what customers want. Second, the resources that the government offers are so addictive that companies may reorient themselves away from producing what customers want, toward pleasing the government officials.

4. Crowding Out

To some (for example, those lucky enough to receive the loan guarantee), government money may seem to be free. But it isn't, of course. The government has to borrow the money on the open market too. This additional borrowing comes from Americans' savings, as does the money that Americans invest in the private sector's growth. There comes a point when there just aren't enough savings to satisfy both masters. In other words, when government runs a deficit to finance its preferred projects, it can affect private sector access to capital, and lead to a reduction in domestic investment.

Economists use the term "crowding out" to describe the contraction in economic activity associated with deficit-financed spending.[30]

In addition, the competition between public and private borrowing raises interest rates for all borrowers, including the government, making it more expensive for domestic investors to start or complete projects.

Over time, this could mean that American companies will build fewer factories, cut back on research and develop-

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25. Wang, " Federal Clean, Energy"
26. Wang, "Federal Clean Energy," 15.
27. Peter Bradford, "Taxpayer Financing for Nuclear Power: Precedents and Consequences" (Nonproliferation Policy Education Center,2008) http://www.npolicy.org/article_file/Taxpayer_Financing_for_Nuclear_Power-Precedents_and_Consequences.pdf.
28. Ben Casselman, Alaska Pipeline Scrapped, May 18, 2011, Wall Street Journal, http://online.wsj.com/article/SB10001424052748703509104576329541913338186.html.
29. The Center for the Next Generation website, "Advanced Energy and Sustainability," accessed June 13, 2012, http://www.tcng.org/programs/advanced-energy-and-sustainability.
30. Matthew Mitchell and Jakina Debnam, "In the End, We're all Crowded Out," (working paper, Mercatus Center at George Mason University, 2010), http://mercatus.org/publication/long-run-we-re-all-crowded-out#cit7.

ment, and generate fewer innovations. As a result, our nation's future earning prospects will dim, and our future living standards could suffer.

5. Cronyism

In a 2003 speech to the National Economists Club in Washington, D.C., then-Federal Reserve Governor Edward M. Gramlich argued that loan guarantee programs are unable to save failing industries or to create millions of jobs, because—he explained—the original lack of access to credit markets is caused by serious industrial problems, not vice versa. If an applicant's business plan cannot be made to show a profit under reasonable economic assumptions, private lenders are unlikely to issue a loan. And they would be right not to.

Then why is the federal government still guaranteeing loans? One reason is it serves three powerful constituencies: lawmakers, bankers, and the companies that receive the subsidized loans.

Politicians are able to use loan programs to reward interest groups while hiding the costs. Congress can approve billions of dollars in loan guarantees with little or no impact to the appropriations or deficit because they are almost entirely off-budget. Moreover, unlike the Solyndra case, most failures take years to occur, allowing politicians to collect the rewards of granting a loan to a special interest while skirting political blame years later when or if the project defaults. It's like buying a house on credit without having a trace of the transaction on your credit report.

It is also easy to understand why companies and company executives benefit from these loans and may seek them out. However, this shouldn't obscure the fact that this preferential treatment comes at the expense of the taxpayer, and ultimately at the expense of our market and political system.

But another potential beneficiary of these loans is the financial institutions that issue them. With other loan programs such as the SBA, there is evidence that lenders may have an incentive to favor borrowers that qualify for a loan with a government guarantee over those that do not. When a small business defaults on its obligation to repay a loan, bankers do not bear most of the cost; taxpayers do. Meanwhile, lenders make large profits on SBA loans by pooling the guaranteed portions and selling investors trust certificates that represent claims to the cash flows.

How profitable is this? Testifying before Congress in April 2006, David Bartram, the president of the SBA Division of U.S. Bancorp, the nation's sixth-largest financial services company, explained that "return on equity of SBA loans can exceed 70 percent."[31] A 70 percent return on equity (RoE) is remarkably high. Right now, the five-year average RoEs for the two biggest banks in America—Citigroup and Bank of America—are 16.2 percent and 14.5 percent, respectively.

More study is required to determine whether a similarly outsized return to financial institutions occurs with the DOE program, but the parallels between the DOE and SBA programs suggest this is a possibility.

CONCLUSION:

The Department of Energy's loan guarantee programs have been the focus of much public attention since energy company Solyndra went bankrupt last year, leaving taxpayers with a $538 million bill. Of equal concern to the significance of this waste, however, is the distortion and incentives experienced by both lenders and companies that participate in the government loan program, as well as the distortion of market signals. Further looking at where the money is going, the evidence seems to go solidly against the idea that they are achieving their goals. And the systematic economic harm done by rewarding companies that forgo value creation in favor of pursuing financial benefit through the political system creates long term consequences for our economy and our country.

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31. Veronique de Rugy, "Banking on the SBA," Mercatus on Policy, Mercatus Center at George Mason University, Arlington, VA, 2007, http://mercatus.org/publication/mercatus-policy-banking-sba.

ABOUT THE MERCATUS CENTER

The Mercatus Center at George Mason University is a research, education, and outreach organization that works with scholars, policy experts, and government officials to connect academic learning and real-world practice.

The mission of Mercatus is to promote sound interdisciplinary research and application in the humane sciences that integrates theory and practice to produce solutions that advance in a sustainable way a free, prosperous, and civil society.

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Veronique de Rugy is a senior research fellow at the Mercatus Center at George Mason University. Her primary research interests include the U.S. economy, federal budget, homeland security, taxation, tax competition, and financial privacy issues. Her popular weekly charts, published by the Mercatus Center, address economic issues ranging from lessons on creating sustainable economic growth to the implications of government tax and fiscal policies.

Mr. JORDAN. Thank you, doctor. We appreciate that fine testimony.

I want to yield first to the gentleman from Pennsylvania, Mr. Kelly, for five minutes of questioning.

Mr. KELLY. And I thank the Chairman.

I thank you all for being here and I know that sometimes this seems like an exercise in futility because there are other things you would like to be doing. But our job is to protect the taxpayers. Being a small business person, I have actually navigated trying to borrow money.

Mr. Crane, you were talking about the money that you were able to borrow through the 1705. This is a loan that is made. What is the interest rate on the loan?

Mr. CRANE. I don't know what the interest rate is, but it is very low by standards. It is set by the Federal Government, so I think——

Mr. KELLY. Well, but wait a minute. You have an idea.

Mr. CRANE. Well, I think it is like the Fed fund rate plus 50 basis points or something. It is very low.

Mr. KELLY. But for the average American, what would that mean? If he went to the bank and borrowed this money, what interest rate would he be paying?

Mr. CRANE. What would the average American be paying?

Mr. KELLY. No. In average terms that an average American would understand. Because I understand you guys make really good investments, and I understand that you are entitled to make a return on your investment, but, you know what, not at the expense of the taxpayers. The truth of the matter is these are loans with probably almost zero percent, right?

Mr. CRANE. I think they are very low interest rates, but the Government sets that loan.

Mr. KELLY. No, I understand that, but that is why you go after it.

Mr. CRANE. Well, we went after it and also just because of the size of the loan.

Mr. KELLY. No, I understand all that.

Mr. CRANE. These projects——

Mr. KELLY. You understand—no, listen. Let me tell you, because I watch everybody rolling their eyes and Ms. de Rugy was testifying about, oh, here we go again, poor taxpayers. Truth of the matter is you can't borrow this money in the open market for the price the Government is charging you. That is the fact of the matter, okay? Let's just get beyond it.

Let me ask you something, because I watched you all sitting there. I have also had to go out and borrow money. When you borrow money, there is something basically out there called the Five Cs; it is character, capacity, capital, collateral, and conditions. You guys have pretty good character, you guys have pretty good capacity, capital, collateral. You have everything. You have Goldman Sachs. You even have Warren Buffet owning 49 percent of one of the companies. So you have pretty good guys that you want to lend the money to, the Government wants to lend the money to. The other thing is there is no return for the American taxpayer. It is an absolutely ridiculous thing; it is free money. It is actually free money that goes out to these companies.

Now, I don't blame you for going after it, don't misunderstand me. Don't misunderstand me. Anybody in business would love to have that opportunity. So when you see that out there, it is like, are you kidding me? Are you kidding me, I can borrow this money at this rate? I could do it myself, but I can get it for almost nothing; that is what I am going after. I am going after that brass ring or that gold ring.

You don't need to capitalize to do this program; you could have capitalized it yourself. The truth of the matter is the money was so cheap you had to go after it. That is not a condemnation; that is a smart business move. Not a good business move for the American taxpayer, but a good business move for those of us in business who can borrow money at a very low rate.

Now, I am trying to imagine this feeding frenzy when this money was put out there. Who came after this money? And the numbers of people that came after this money, I think it is, what, $15 billion that was put out there? I think that is what the number is. So my question then comes down to what did the American taxpayer invest in? We have a slide that shows credit ratings. Can we put the slide up? Don't we have access to that?

[Slide.]

Mr. KELLY. This is incredible because, you know, when you are in school, an A is a really good score, a B is a pretty good score. I mean, I lived in Bs. Cs my parents weren't too happy about, but Bs were good. But the truth of the matter is a B is a high risk, it is a junk rate.

Now, American taxpayers, we risked some of your money, but we risked it because, you know, what, we had to take that gamble. So when I look at this, I look at the credit ratings. So we are telling people we made good investments for you and there is a good ROI on this, but the truth of the matter is most of the money went to junk grade opportunities.

Now, that brings me down to, so, how do you navigate that territory? How do you get me the guys that win the money? So it has to be a process. And I was looking at some GAO numbers. There were 460 applications to the program. I think 25 got the money. About 7 percent of the people that applied got the money, and my question is what did those people do to get that money.

Ms. Bronicki, who is Paul Thompson?

Ms. BRONICKI. Paul Thompson is working in our Business Development Department.

Mr. KELLY. Okay. So who does he work for?

Ms. BRONICKI. Who is he working for?

Mr. KELLY. Yes.

Ms. BRONICKI. In the company?

Mr. KELLY. Yes. He is a lobbyist for your firm, right?

Ms. BRONICKI. I don't——

Mr. KELLY. Okay, well, he is a lobbyist for your firm. Let me ask you this. Before Thompson worked for you, who did he work for?

Ms. BRONICKI. Who did he work before he worked for us?

Mr. KELLY. Yes.

Ms. BRONICKI. I don't know if——

Mr. KELLY. That was Harry Reid.

Ms. BRONICKI. I don't know——

Mr. KELLY. I want you to see something. This may refresh your memory.

There is a little thing I wanted to show that we can maybe put up.

This will help you remember this.

[Video played.]

Mr. KELLY. You go through this and here is my point. Here is my point. There is a way to navigate these waters. When only 7 percent of the applicants actually get the prize, you have to wonder, as an average American sitting in my home, sitting in my business, how did these guys get there and all the rest didn't? And we find out that almost every single one of these is tied in in some way to the Administration. So there is a way to navigate the waters. There is a way to be successful, and the idea is you better be tied in to somebody who is influential.

Now, Mr. Thompson right now is busy, and I know that Harry Reid visits Ormat facilities. I visit a lot of facilities throughout Western Pennsylvania too, because I want to know what is going on. But I have to tell you the American people are starting to wonder, billions and billions of dollars invested by a government that picks winners and losers, and a lot of it based on highly suspect ways of how do you get there.

So I wish I had more time. This is an interesting subject and I know the people don't want to hear about this, but at the end of the day people want to know where their money went and how did it get there. This is a difficult, difficult map to navigate, and you know that and I know that. But free money is free money. This feeding frenzy had to be phenomenal.

And when you guys got that information, it would be wow, man, let's get our share. It is just amazing to me who got their share and how they got their share, and it is the old story: if you are not at the table, you are probably on the menu. And I will tell you what, somebody got to the table in a hurry and got a bigger share of the pie than other people. And who funded it all? Hardworking American taxpayers. And they deserve to know how that worked out and how that happened.

Mr. JORDAN. I thank the gentleman. We will come for a second round; the gentleman can get more time.

Mr. KELLY. I hope so.

Mr. JORDAN. Yield now to the Ranking Member, my good friend from Ohio, Mr. Kucinich.

Mr. KUCINICH. First of all, I want to say that I want to associate myself with the concerns that my friend, Mr. Kelly, has expressed. But bottom line, we are talking about power and money, how people get to the table, and I don't think it has anything to do with Democrat or Republican. For example, Mr. Thompson, who we are talking about, if I am correct, just to show his bipartisan nature, he was able to be appointed as involved in the transition for then Governor Gibbons for natural resources issues.

So the fact of the matter is we can go, and I have gone into who has contributed to whom. People are contributing to Democrats and Republicans alike; it is part of the problem with this process. The men and women who sit on these committees are good people; the people who serve in Congress are good people. The system is rotten; it is up for sale, and the unfortunate assumption or the assumption that occurs about this unfortunate nexus between money and power is inarguable. The only question is what about these programs.

Mr. JORDAN. Would the gentleman yield for one second?

Mr. KUCINICH. Of course.

Mr. JORDAN. I would just point out that I think that was the point that the doctor made, that this is not——

Mr. KUCINICH. I don't disagree with the point.

Mr. JORDAN.—a one party problem; this is a problem when you have government handing out, as Mr. Kelly——

Mr. KUCINICH. Look, the issue of moral hazard is there. I agree with that.

Now, also, just to make the point, there are some of my friends from the other side of the aisle who signed a letter, actually an urgent letter, to Secretary Salazar of Interior, saying, look, let's get these solar programs moving.

With unanimous consent, I would like to put that in the record.

So there is bipartisan support for the programs, but there is a partisan debate over who got what and why.

Now, we also, another little item that I would like to clarify here, that I want to ask unanimous consent, Goldman Sachs, we know we have a wholly-owned subsidiary of Goldman Sachs testifying, but Goldman Sachs' involvement goes well beyond this subsidiary. In fact, Goldman Sachs stands behind several of the loan guarantees granted by DOE, which don't involve the subsidiary here today, and I want to insert into the record this article from the New York Times which states that Goldman Sachs was also involved in the Desert Sunlight Solar Farm, getting a guarantee of $1.46 billion. Without objection?

Mr. JORDAN. Without objection, so ordered.

[The information follows:]

Congress of the United States
Washington, DC 20515

July 28, 2009

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C. Street, NW
Washingtin, D.C. 20240

Dear Mr. Secretary:

Over the past year we have observed and monitored the inaction of the Department of Interior and the Bureau of Land Management in processing renewable energy project permits. The inability of the BLM to move forward in this regard is quite disturbing to us. The common sense approach of developing clean and renewable sources of energy that will lessen our dependence on foreign oil, create jobs in our ailing economy, and protect our environment, has, unfortunately, limped along at painfully slow speed for far too long.

There are approximately 160 active applications for solar energy projects on federally-controlled lands. As a Department of Interior news release dated July 7th states, the proposed solar projects have a projected capacity of powering approximately 29% of the nation's household electrical consumption. Some of these applications date back to 2005, and not a single application has been approved. This record of zero approvals is not acceptable. As American families face rising energy costs, losses in savings and the loss of jobs, the Bureau and your Department have continued to stand by unsatisfactory results.

Among other things, painfully burdensome Environmental Impact Statements thwart the progress of these applications, and thus the projects, jobs, and energy that would ensue. While we appreciate your indicated support, rhetoric only goes so far. The recent Department of Interior press release, which states that the Department will "fast-track initiatives for solar energy development on Western lands" is nice to hear. But action must follow these well intentioned words.

The people of this country and we expect that the Department will commit to working with the Congress to ensure the expedited use of BLM lands for solar energy. If the Department finds that the environmental review process continues to stand in the way of badly-needed solar energy, we would hope that the Department would work with the Congress to institute practical changes to current law.

Sincerely,

Dana Rohrabacher
Member of Congress

Doc Hastings
Member of Congress

Don Young
Member of Congress

Elton Gallegly
Member of Congress

Ken Calvert
Member of Congress

Dan Lungren
Member of Congress

Rob Bishop
Member of Congress

Jason Chaffetz
Member of Congress

John Campbell
Member of Congress

Kevin McCarthy
Member of Congress

Jeff Flake
Member of Congress

Paul Broun
Member of Congress

Cathy McMorris-Rogers
Member of Congress

Robert Latta
Member of Congress

John Shadegg
Member of Congress

Tom Cole
Member of Congress

Scott Garrett
Member of Congress

Trent Franks
Member of Congress

September 30, 2011

First Solar Sells 550-Megawatt Desert Sunlight Solar Farm, Among World's Largest

Hiring already under way of up to 630 people

TEMPE, Ariz.--(BUSINESS WIRE)-- First Solar, Inc. (Nasdaq:FSLR) today announced completion of the sale of one of the world's largest photovoltaic (PV) solar power projects — the 550-megawatt (AC) Desert Sunlight Solar Farm near Desert Center, Calif.

Workers install First Solar panels in Blythe, Calif. (Photo: Business Wire)

First Solar — which will continue to build and subsequently operate and maintain the project under separate agreements — has sold the project toaffiliates of NextEra Energy Resources, LLC, the competitive energy subsidiary of NextEra Energy, Inc. (NYSE:NEE), and GE Energy Financial Services. First Solar estimates that Desert Sunlight will employ up to 630 people for construction, which has begun. Converting sunlight into electricity, the solar power project will provide enough clean, affordable energy to power approximately 160,000 California homes and displace 300,000 metric tons of greenhouse gas emissions per year —equivalent to taking 60,000 cars off the road. Total indirect local economic benefits to Riverside County, where the solar project is located, are estimated at $336 million, the majority of which will be generated during construction with the remainder over the minimum 25-year operating period (according to an economic benefits study by Coachella Valley Economic Partnership and The Brattle Group), including nearly $200 million in wages. Indirect benefits result from local business-to-business transactions, for example local purchase of building materials. The project is expected to contribute approximately $27 million in sales and property tax revenue to the county. Desert Sunlight will also help California meet its target of generating 33 percent of its power from renewable sources by 2020.

Tapping the Desert's Sun

The project is located 35 miles west of Blythe and six miles north of Desert Center in the Chuckwalla Valley on approximately 3,800 acres — with 200 more acres for related infrastructure — of largely vacant land managed by the Bureau of Land Management. First Solar will install its advanced thin-film PV modules, which convert sunlight into electricity without producing emissions or waste or using water. First Solar will supply some modules from a new $300 million factory it is building in Mesa, Ariz., that will employ 600 people to support Desert Sunlight and other U.S. PV projects. Project construction began this month, with full commercial operation expected by the first quarter of 2015.

Funding from Equity and Debt

Affiliates of NextEra Energy Resources and GE Energy Financial Services have each acquired 50 percent of the Desert Sunlight project. Financial details of the transaction were not disclosed. A NextEra Energy Resources affiliate will manage the project. The Desert Sunlight project's power will be sold under two long-term power purchase agreements: a 250-megawatt agreement with Southern California Edison and a 300-megawatt agreement with Pacific Gas and Electric Company.

The U.S. Department of Energy Loan Program Office on September 29 approved a loan guarantee for the project. The project will not receive any cash from the government through the loan guarantee; rather the DOE is partially guaranteeing $1.46 billion in loans provided by a syndicate of private institutional investors and commercial banks headed by lead lenders Goldman Sachs Lending Partners LLC and Citigroup. The loan guarantee expanded the pool of potential lenders to the project, encouraging development and deployment of clean energy, jobs and reduction of the country's reliance on fossil fuels.

"We are pleased to be able to expand our position as North America's leading generator of solar power," said NextEra Energy Resources President and CEO Mitch Davidson. "Acquiring a 50 percent interest in the Desert Sunlight project is consistent with our strategy to add fully contracted clean energy to our portfolio."

"First Solar is excited about the sale of such a groundbreaking PV solar project, which will have profound environmental and economic benefits," said Frank De Rosa, First Solar Senior Vice President of Business Development—Americas. "We look forward to working closely with the new owners as we build and operate the facility, bringing jobs, renewable power and energy security to California and the United States."

In connection with the sale of Desert Sunlight, First Solar is filing a Current Report on Form 8-K with the Securities and Exchange Commission. First Solar investors should refer to such Form 8-K, as it contains important additional information, including information related to revenue recognition for the project and certain possible payments that apply to First Solar. In addition, questions and answers regarding the Desert

Sunlight transaction are included as Exhibit 99.2 to the Form 8-K and can also be found at http://investor.firstsolar.com. Further details about the project can be found at: www.desertsunlightsolar.com.

About NextEra Energy Resources

NextEra Energy Resources, LLC, is a clean energy leader and one of the largest competitive energy suppliers in North America. A subsidiary of Juno Beach, Fla.-based NextEra Energy, Inc. (NYSE: NEE), NextEra Energy Resources is the largest generator in North America of renewable energy from the wind and sun. It operates clean, emissions-free nuclear power generation facilities in New Hampshire, Iowa and Wisconsin as part of the NextEra Energy nuclear fleet, which is the third largest in the United States. NextEra Energy had 2010 revenues of more than $15 billion, nearly 43,000 megawatts of generating capacity, and approximately 15,000 employees in 28 states and Canada. For more information, visit www.NextEraEnergyResources.com.

About First Solar, Inc.

First Solar manufactures solar modules with an advanced semiconductor technology and provides comprehensive photovoltaic (PV) system solutions. The company is delivering an economically viable alternative to fossil-fuel generation today. From raw material sourcing through end-of-life collection and recycling, First Solar is focused on creating cost-effective, renewable energy solutions that protect and enhance the environment. For more information about First Solar, please visit http://www.firstsolar.com.

For First Solar Investors

This release contains forward-looking statements which are made pursuant to the safe harbor provisions of Section 21E of the Securities Exchange Act of 1934. The forward-looking statements in this release do not constitute guarantees of future performance. Those statements involve a number of factors that could cause actual results to differ materially, including risks associated with the company's business involving the company's products and services, their development, distribution and performance, economic and competitive factors, the company's key strategic relationships, the ability to obtain permits from governmental authorities for the project and litigation and other risks detailed in the company's filings with the Securities and Exchange Commission. First Solar assumes no obligation to update any forward-looking information contained in this press release or with respect to the announcements described herein.

NextEra Energy Resources Cautionary Statements And Risk Factors That May Affect Future Results

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements typically express or involve discussion as to expectations, beliefs, plans, objectives, assumptions or future events or performance and often can be identified by the use of words such as "may," "plan," "will," "expect," "believe," "anticipate," "estimate," and similar terms.

Although NextEra Energy, Inc. (NextEra) believes that its expectations are reasonable, because forward-looking statements are subject to certain risks and uncertainties, it can give no assurance that the forward-looking statements contained in this press release will prove to be correct, including NextEra's expectations with respect to the Desert Sunlight Solar Farm. Important factors could cause NextEra's actual results to differ materially from those projected in the forward-looking statements in this press release. Factors that could have a significant impact on NextEra's operations and financial results, and could cause NextEra's actual results or outcomes, both generally and specifically with respect to the Desert Sunlight Solar Farm, to differ materially from those discussed in the forward-looking statements include, among others:

- Inability to complete construction of, or capital improvements to, the Desert Sunlight Solar Farm or other NextEra power generation facilities
- Inability to obtain the required regulatory approvals and permits for the construction and operation of the Desert Sunlight Solar Farm
- Inability to obtain the supplies necessary for the construction, operation, and maintenance of the Desert Sunlight Solar Farm or other NextEra power generation facilities
- Inability to hire and retain skilled labor for the construction, operation and maintenance of the Desert Sunlight Solar Farm or other NextEra power generation facilities
- Changes in laws, regulations, governmental policies and regulatory actions regarding the energy industry and environmental matters
- Inability of NextEra or its affiliates to access capital markets or maintain their current credit ratings
- Failure of the Desert Sunlight Solar Farm or other NextEra power generation facilities to generate the expected amount of electric generation
- General economic conditions
- Hazards customary to the operation and maintenance of power generation facilities, including unanticipated outages
- Unusual or adverse weather conditions, including natural disasters
- Transmissions constraints or other factors limiting NextEra's ability to deliver energy from NextEra's power generation facilities
- Volatility in the price of energy
- Failure of NextEra customers to perform under contracts
- Increased competition in the power industry
- Changes in the wholesale power markets

- Costs and other effects of legal and administrative proceedings
- Terrorism or other catastrophic events

These foregoing factors should be considered in connection with information regarding risks and uncertainties that may affect NextEra's future results included in NextEra's filings with the Securities and Exchange Commission (SEC), which are available at the SEC's website at www.sec.gov.

Any forward-looking statement speaks only as of the date on which such statement is made, and NextEra undertakes no obligation to update any forward-looking statement to reflect events or circumstances, including unanticipated events, after the date on which such statement is made, unless otherwise required by law. New factors emerge from time to time and it is not possible for management to predict all of such factors, nor can it assess the impact of each such factor on the business or the extent to which any factor, or combination of facts, may cause actual results to differ materially from those contained or implied in any forward-looking statement.

Photos/Multimedia Gallery Available: http://www.businesswire.com/cgi-bin/mmg.cgi?eid=50013192&lang=en

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News Provided by Acquire Media

Mr. KUCINICH. So several very large companies participated in projects that received DOE loan guarantees and, unfortunately, the Committee's investigation is not asked many of them about their involvement.

Now, Mr. Mancini, it is my understanding that your company, Cogentrix, is a wholly-owned subsidiary of Goldman Sachs Group. Given that fact, what was Goldman Sachs' involvement in Cogentrix's 1705 project in Alamosa, Colorado?

Mr. MANCINI. Congressman Kucinich, to answer that question, I think you have to understand how we structured this project. We structured this project at Cogentrix like we would any other project financing for the construction of a power project.

Mr. KUCINICH. What was the involvement?

Mr. MANCINI. So the involvement of Goldman Sachs really was derivative to the whole process. If I could just explain.

First, we, at the Cogentrix level, the operating level, we would have to go out and secure and negotiate a power purchase agreement with a offtaker, a utility in this case, for the purchase of the power. The next thing we would do would be to select an equipment provider and a construction manager, and then, and only then would we go out and try to find the financing package that would make this project viable.

Mr. KUCINICH. So what was Goldman Sachs' involvement?

Mr. MANCINI. So Goldman Sachs provided equity capital to Cogentrix to make $116 million of commitments to this project. We are, in fact, the project leading financier, not the Government.

Mr. KUCINICH. Mr. Mancini, thank you.

Mr. Rakowich, it is my understanding your company is mainly comprised of warehousing operations throughout the world and that Project Amp deals with placing solar panels on your roofs. I understand the Bank of America played a very significant part in putting this deal together. What is Bank of America's involvement in this project?

Mr. RAKOWICH. Congressman, Bank of America would be the lender to the extent that, if we roll out the solar on these roofs, Bank of America was——

Mr. KUCINICH. To what extent, sir?

Mr. RAKOWICH. Well, to the extent of roughly 80 percent of the project cost.

Mr. KUCINICH. And how much is that?

Mr. RAKOWICH. It is hard to say. The maximum amount of the program is $2.6 billion.

Mr. KUCINICH. Thank you.

Mr. Mancini and Mr. Rakowich, your companies have both been the subject of document requests from this Committee and, of course, you were both requested to testify here. Thank you for being here.

Now, to your knowledge, Mr. Mancini, was your parent company, Goldman Sachs, ever given a document request or an invitation to testify, to your knowledge? Do you have any idea?

Mr. MANCINI. To my personal knowledge, I do not know.

Mr. KUCINICH. Okay.

And how about you, Mr. Rakowich, to your knowledge, was the primary deal-maker and financier behind your project, Bank of America, ever sent document requests, do you know?

Mr. RAKOWICH. Not to my knowledge. Well, document requests? I don't know.

Mr. KUCINICH. Okay.

So, Mr. Chairman, I just want to say that I think that this Committee could be ever more effective in its work if we were to have Goldman Sachs and Bank of America here to answer questions about their involvement, since they stand behind it. I mean, in the scheme of things, these are small companies, in the scheme of things.

In terms of Goldman Sachs and Bank of America, they are the highest level. And I think if we were able to bring them forward, the kind of questions that Mr. Kelly has raised, it would be an opportunity for us to really go deep and find out what is happening, and also to go into the interplay of the politics and the contributions.

Mr. JORDAN. I appreciate that from the Ranking Member.

We now yield to the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. Thank you, Mr. Chairman. I thank the Chairman and the Ranking Member for the courtesy of allowing me to participate today.

I want to talk about something different for a few minutes and then follow up on some of the things that Mr. Kelly and Mr. Kucinich were raising. I want to deal first with the issue that Ms. de Rugy mentioned, which was the true impact, the true stimulative impact of these programs.

As I sat and I listened to you folks testify, one of the things that became readily apparent and I want to press on a little bit is whether or not these projects would have been done anyway.

Mr. Rakowich, you said you started this in 2006, you started doing this program and, in fact, had put some of these photovoltaic systems on your roofs before the loan program started, is that right?

Mr. RAKOWICH. Congressman, that is true. Those programs prior to this were almost entirely financed by the utilities that we, in essence—they financed that program at that point in time.

Mr. MULVANEY. And in the program that you testified on regarding the program in California, I understand that that has not actually led to any installation of photovoltaic operations on your rooftops, is that correct?

Mr. RAKOWICH. That is correct.

Mr. MULVANEY. So the 1705 program in your particular circumstance actually hasn't generated any stimulative effect, has it?

Mr. RAKOWICH. Well, Congressman, if you don't mind, let me just give you a little bit of context to that, because——

Mr. MULVANEY. Sure.

Mr. RAKOWICH.—the program itself is a four-year program designed to start on September 30th of 2011. So if you look at——

Mr. MULVANEY. In fact, you had to start by—and I am sorry to interrupt, but——

Mr. RAKOWICH. That is correct.

Mr. MULVANEY.—the program required you to start September 30th of 2011.

Mr. RAKOWICH. Correct. And we had started construction at that point in time. But the overall program, Amp program, was largely to be done in years three and four of a four-year program, so it would be, if you will, rolled out over time.

Mr. MULVANEY. And I understand that, and, again, I am not being critical of the program. I understand the difficulties of having a supplier go bankrupt and the impact that can have on the delay of the system. But the truth of the matter, Mr. Chairman, is that this was a program that was supposed to create jobs right away, and it looks like it hasn't created a single job in your particular circumstance.

Mr. Crane, I understand there are 5,000 folks that work for your company, NRG, and I think that the report that I read said that the total amount of loan guarantees that you all and your partners have on those three projects are roughly $5.2 billion. I congratulate you on employing 5,000 people, but I harken back to Ms. de Rugy's comment about the ratio of jobs to the amount that is involved in the equation. I am a simple country lawyer, but I can handle the math. I do 5,000 into 5 billion and I get $1 million a job. Am I doing the math right on that one?

Mr. CRANE. Well, first of all, I should clarify. Maybe it was a flight of rhetoric. That is 5,000 people that work at NRG, full-time employees. The three projects that you are talking about, and maybe you will like this number more, is roughly employ 4,000 people directly.

Mr. MULVANEY. I can assure you I don't like that number more because that means more money per job.

Mr. CRANE. But the indirect impact is obviously a multiple event, but as the CEO of a company, counting jobs is something that public policymakers like to do.

Mr. MULVANEY. It is what we have to do. Let me ask you the same question I asked Mr. Rakowich, which is would these projects have gone on but for the 1705 program?

Mr. CRANE. Congressman, the three projects that we are involved in absolutely would not have happened without the 1705 project, particularly—well, let me put it there is absolutely no way the Ivanpah project would have happened. The Agua Caliente project, without the federal loan, maybe one in five chance. The First Solar—I said CVSR one in five. First Solar, maybe 40 percent chance.

The amount of money, Congressman, the private sector did not, contrary to what Ms. de Rugy said, the private sector project finance market was not large enough to do projects of this size. Most of the banks involved in project finance are actually European banks, and they have not been in the best condition over the last few years.

Mr. MULVANEY. Let's talk about the CVSR project. And I am hoping there is a second round of questions, because this will take a little bit of time. You said it is a one chance in four of it going on. When did you all start the analysis and start planning for this particular project?

Mr. CRANE. Congressman, one of the things also, I am sorry, but all of the three projects that we are involved in, NRG was not the initial proponent of the project. We bought into the projects well after the projects were started, so I actually can't answer the question on when the project——

Mr. MULVANEY. When did you buy the project?

Mr. CRANE. On CVSR?

Mr. MULVANEY. Yes, sir.

Mr. CRANE. We signed the purchase agreement in November of 2010.

Mr. MULVANEY. And how far along was the project at that time?

Mr. CRANE. Well, the project was in the development phase. They had most of the permits and they had a letter of intent with the Government in terms of the 1705 financing, which is projects of this size, we weren't going to get involved unless you had that letter of intent because we knew the private sector could not provide that size of loan.

Mr. MULVANEY. I understand, and although I have never done business in California, something for which I am grateful, my understanding is it is not a quick process to get a development permit and a letter of intent for a project of this size in the State of California. Would that be a reasonable statement to make?

Mr. CRANE. Well, I mean, your generalization that California is a difficult place to permit every type of power plant is a true generalization. I would agree with that. A solar photovoltaic plant that doesn't use water has less issues and has no air emissions, has less issues than traditional power plants, but it has land use issues. But we weren't responsible for the permitting.

Mr. MULVANEY. No, I am not suggesting that you are. I am suggesting that somebody thought this project was going to go forward before the stimulus program was enacted in 1705.

Mr. CRANE. Well, yes. Sunpower started the development of it. I am sure they had reason. I don't know how they initially felt. I would guess that they started development before the financial crisis, where it was not inconceivable that the private sector would have come up with a billion dollar loan. But, believe me, after the financial crisis there was no way the private sector was coming up with a billion dollar loan.

Mr. MULVANEY. Thank you, Mr. Chairman. I hope there is a second round.

Mr. JORDAN. Yes, we will have a second round.

Mr. Rakowich, I just want to be clear. Have there been any solar panels put on these rooftops in the Amp project?

Mr. RAKOWICH. No, Mr. Chairman. As of right now, there is no solars——

Mr. JORDAN. So what have you done? Because Mr. Crane, in the first testimony we heard today, he said you haven't drawn down any of the dollars, so what has happened with this project? I understand it is a three-or four-year phase thing.

Mr. RAKOWICH. Right.

Mr. JORDAN. But you haven't drawn down any of the money, but you are still approved, you are still going ahead, and yet you haven't built anything, you haven't done any construction, actually put panels on the rooftops like you are supposed to do to get the loan guarantee from the Department of Energy.

Mr. RAKOWICH. Right, Mr. Chairman. And, again, I would, first of all, let me just say that is almost by design. I mean, the first couple, 15 to 18 months, we did not project to do too much construction.

Mr. JORDAN. And how much money did you get, again, from the Department of Energy? What is the loan amount?

Mr. RAKOWICH. The total commitment is, I believe, $1.4 billion.

Mr. JORDAN. So you have 1.4 just waiting there. You can use it whenever you want. God bless America. It is just right there, ready for when you think you need it.

Mr. RAKOWICH. Well——

Mr. JORDAN. That is a pretty good deal. Mr. Kelly's point, it is a pretty good deal.

Mr. RAKOWICH. With all due respect, I think—let me just explain the way the project works. First of all, we go out and we identify utilities that are looking to sign power purchase agreements.

Mr. JORDAN. Let me just ask you have you done any construction at any part of Phase 1? Have you done anything, any construction at all in the Phase 1 part of the program?

Mr. RAKOWICH. Yes. We prepared the 15 roofs in Southern California for solar in the future.

Mr. JORDAN. You prepared them but no panels have been put up.

Mr. RAKOWICH. No panels have been put up on those roofs.

Mr. JORDAN. Have you returned to Fitch for a follow-up rating yet?

Mr. RAKOWICH. We don't have a project at this point in time to be rated.

Mr. JORDAN. Okay. Have you purchased any solar panels?

Mr. RAKOWICH. We have not purchased any solar panels.

Mr. JORDAN. So you haven't even purchased any. You don't even have any waiting, let alone put them up.

Mr. RAKOWICH. We have not purchased any.

Mr. JORDAN. I would like to enter for the record, and we can give you a copy of this email from our staff to a lawyer from Bank of America, where we just asked them some questions regarding the Project AMP, this project, four different questions: Have PPAs been signed yet? Has Prologis purchased solar panels? Has Project AMP returned to Fitch for a follow-up rating yet? Has Project AMP begun construction in any locations that are part of Phase 1?

And their representative says no to every one of them. And yet you still get to keep the money, it is still sitting there? This is amazing. And this was back in March, and obviously you were supposed to be moving on this by September 30th. So we will give you a copy of this, but, without objection, I would like to enter this into the record.

Mr. JORDAN. Mr. Crane, you have three projects, three loan guarantees that you guys have gotten?

Mr. CRANE. Yes.

Mr. JORDAN. And how much was the money, again?

Mr. CRANE. How much is the——

Mr. JORDAN. Total.

Mr. CRANE. The total amount of the loans?

Mr. JORDAN. Yes.

Mr. CRANE. For those three projects? It is about $4 billion.

Mr. JORDAN. And you received those solely on the merits of the project? This is to Dr. de Rugy's point, there was nothing based on friends in high places and political connections, all based on the merits of the project?

Mr. CRANE. I believe so.

Mr. JORDAN. Have you been to the White House ever to discuss this issue and talk about how important these loan guarantees were?

Mr. CRANE. To discuss loan guarantees?

Mr. JORDAN. Well, let me ask you first have you been to the White House?

Mr. CRANE. Yes, I have been to the white House many times.

Mr. JORDAN. Many times? How many is many times?

Mr. CRANE. Between the Bush White House and the Obama White House, I would say 14, 15 times.

Mr. JORDAN. Since the 1705 program has been in place, how many times have you been to the White House?

Mr. CRANE. I don't——

Mr. JORDAN. This Administration, how many times have you been to the White House?

Mr. CRANE. I would say six or seven times.

Mr. JORDAN. Six or seven times. Who did you talk with when you were at the White House?

Mr. CRANE. Well, I was a part of a large group, once meeting with President Obama——

Mr. JORDAN. Did you talk about this loan guarantee program when you met with President Obama in that meeting?

Mr. CRANE. No, we talked about climate change.

Mr. JORDAN. Okay. And who else have you talked with at the White House?

Mr. CRANE. Vice President Biden. I spoke with him about the clean energy standard. But mainly I spoke with Carol Browner or once with Valerie Jarrett, and that was all about the nuclear loan guarantee program.

Mr. JORDAN. Okay. And you guys are also involved with the BrightSource project as well, correct?

Mr. CRANE. That is the Ivanpah project.

Mr. JORDAN. Ivanpah project, right. And are you familiar with—if we can put the email up, too. Are you familiar with this email? This was brought up in our last hearing when Mr. Woolard was here with BrightSource, the email from Mr. Woolard to Mr. Silva at the Department of Energy asking him to edit and proofread a letter that BrightSource was going to send from Mr. Bryson to Bill Daley, White House chief of staff. Are you familiar with this email?

Mr. CRANE. No.

Mr. JORDAN. Did you have any part? Did you know about this? Were you involved in any way with this email being sent to the Department of Energy?

Mr. CRANE. I don't think I am copied on it.

Mr. JORDAN. Pardon?

Mr. CRANE. No, I have nothing to do with this.

Mr. JORDAN. Nothing to do at all? Didn't know about it?

Mr. CRANE. No.

Mr. JORDAN. Okay. In those seven visits you had to the White House, did you talk to anyone there about this project, the Ivanpah project?

Mr. CRANE. No, never. I never spoke with anyone at the White House about this project or any other renewable loan guarantee, only about the nuclear loan guarantee.

Mr. JORDAN. Okay, so you have been to the White House, you talked a lot about energy issues in general. Do you think it is maybe out of the ordinary or not customary to have a company send an email to the Department of Energy, asking those folks at the Department of Energy, who are going to be responsible for determining whether you get the loan or not, do you think it is unusual for them to ask the Department of Energy to edit a letter that their chairman of the board was going to send to the White House chief of staff? Do you think that is unusual?

Mr. CRANE. Well, I don't know. It is nothing that I have ever done, but whether it is unusual or not, I don't know what common practice is.

Mr. JORDAN. You have been to the White House six times to talk about energy projects and you don't know what common practice——

Mr. CRANE. Well, I don't know that——

Mr. JORDAN. Do you think it is uncommon to get that specific and ask the person who is supposed to say yay or nay on a loan project, that we would like you to edit this letter that our chairman is going to send to the White House chief of staff?

Mr. CRANE. I don't think that I, personally, have ever sent an email or a letter to the White House, so I don't have a lot of experience in this area.

Mr. JORDAN. Okay. Well, maybe you didn't have to send one; you were going to there all the time; you get to talk to him in person.

I thank the gentleman.

We will now go to our second round of questioning and would yield to the Ranking Member for five minutes.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

Although members of Congress from both parties have supported 1705 loan guarantees for projects in their districts, it now appears that some of my friends in the Majority have had a change of heart. In a report published in March, the Majority argued that DOE "amassed an excessively risky loan portfolio." Now, there are experts who do disagree with the Majority's assessment. Recognizing the inherent risk in emerging green technology loans, Congress authorized a setaside of $2.47 billion for potential losses in the DOE 1705 loan guarantee program.

According to several analysts, even after accounting for the collapse of Solyndra and Beacon Power, the actual default rate on the DOE loan guarantee program ended up being a fraction of what the Government actually budgeted for the losses. Bloomberg Government also came to a different conclusion than the Majority. Bloomberg's recent report, Beyond Solyndra: An Analysis of DOE's Loan Guarantee Program, concluded that the 1705 DOE loan portfolio is "composed of predominantly low-risk projects."

Now, Ms. Bronicki, do you agree with the Majority that Ormat Technologies' project is excessively risky or it is a lower risk project? Why?

Ms. BRONICKI. The three projects that received the DOE loan guarantee are very low-risk projects from a technology point of view. They are similar to many megawatts that have built utilizing the same technology. It was all about expanding geothermal, and not innovation.

Mr. KUCINICH. Right. I understand. But the risk was low, is that what you are saying?

Ms. BRONICKI. Very low.

Mr. KUCINICH. As I understand it, one reason why the portfolio can be considered low risk is because most of the projects that received 1705 loan guarantees are for power generation, and DOE required these companies to have long-term agreements in place with nearby utilities to purchase the power once it was built. This means that the projects have a guaranteed income stream, which greatly limits any risk of default.

Now, Mr. Mancini, can you explain the difference between the power generation projects like the Cogentrix loan guarantee and project finance deals? And do you already have agreements in place to sell power to major utilities once the projects are completed?

Mr. MANCINI. We do, in the case of Alamosa, have a long-term power purchase agreement with the Public Service Company of Colorado to purchase the power. That is one of the requirements of the DOE loan.

Mr. KUCINICH. You couldn't do it if you didn't have some kind of an agreement in place, right?

Mr. MANCINI. We couldn't do it with the DOE——

Mr. KUCINICH. It doesn't work financially.

Mr. MANCINI. It would be very difficult, very difficult.

Mr. KUCINICH. Because otherwise you would be stuck with a white elephant.

Mr. MANCINI. There are very few of those projects that have actually succeeded without long-term contracts.

Mr. KUCINICH. Now, Herb Allison, independent consultant commissioned by the White House to review DOE's loan program office, found the DOE support of public-private partnerships between power generators and utilities in States like California ensure that loan guarantee recipients have a steady and predictable funding source.

Now, Mr. Crane, do you agree with this assessment?

Mr. CRANE. [Remarks made off microphone.]

Mr. KUCINICH. Mr. Rakowich, the Majority has documented that Prologis's Project AMP has yet to start generating solar energy. While that fact is disappointing, can you tell us how much taxpayers money has been drawn down by the project so far?

Mr. RAKOWICH. Zero, Congressman.

Mr. KUCINICH. How has the project—what was that answer?

Mr. RAKOWICH. None.

Mr. KUCINICH. None. Okay. How was the Project AMP loan guarantee designed to mitigate the risk of taxpayer losses?

Mr. RAKOWICH. I would say three things: one, we are not going to move forward unless we have a long-term power purchase agreement, which is generally a 20-year agreement, 15-to 20-year agreement with a utility, okay? Number one.

The second thing is that we are putting up the equity, or us and our financial partners are putting all of the equity. As well, the lender has 20 percent at risk that is not guaranteed. So nearly 40 percent of the project is at risk before the Government puts up the guarantee. So we are not going to put up any——

Mr. KUCINICH. The question here is the performance, and I think that it is clear that this program is performing better than expected in financial terms. One of Congress's main goals in creating the 1705 loan guarantee program was to spur technological advances in renewable energy technology.

Now, Ms. Bronicki, do you believe your project funded by the 1705 program financing is spurring technological advances?

Ms. BRONICKI. Sorry?

Mr. KUCINICH. Are you spurring technological advances with the program that has been financed by 1705?

Ms. BRONICKI. What does it mean, spurring technological advances?

Mr. KUCINICH. Are you creating technological advances?

Ms. BRONICKI. Not in this program. We are an innovative company with other programs, but this is a proven technology, no experimenting.

Mr. KUCINICH. Mr. Crane?

Mr. CRANE. Yes.

Mr. KUCINICH. Mr. Mancini?

Mr. CRANE. Particularly the solar Ivanpah project is a huge technological advance.

Mr. KUCINICH. Mr. Mancini?

Mr. MANCINI. As I explained in my opening remarks, the technology used in this project was used in the space program, but never deployed in a commercial scale, utility scale project. This gave it the opportunity to do that, and I am happy to report that it is operating successfully.

Mr. KUCINICH. Okay.

I just want to say, Mr. Chairman, that when we have an isolated look at what the program has actually done, we have some testimony here that suggests that it could be working within the context in which it was designed. Now, on the other hand, there are legitimate questions that are raised by Dr. de Rugy about the risk involved. Just in this case it looks like it might be working. But I think that we still need to have some caution here.

I ask unanimous consent. Moments ago, Mr. Chairman, you made public the email your staff cited to allege that DOE had violated the law. I have three documents which I would respectfully suggest would refute that: an engineering assessment by the Bank of America's independent consultant, two official DOE documents. All of these documents certify commencement of construction and refute the allegations that have been made, and I ask that these be submitted in the record, and I appreciate your consideration.

Mr. JORDAN. Without objection.

Mr. JORDAN. Mr. Crane, I want to put back up this email again because I am just flabbergasted that we actually have an email where the CEO of BrightSource, relative to the Ivanpah project, is asking the Department of Energy to proofread a letter that their chairman of the board, now Commerce secretary, plans to send to the White House chief of staff.

A couple of the highlighted things there: send me any comments or suggestions to ways you think we can improve this message, so definitely asking for edits from the Department of Energy. Contained in the draft letter is the statement, Dear Bill, referring to the White House chief, we need a commitment from the White House to quarterback loan closure between OMB and the Department of Energy by March 18th. Later on in the draft letter that they are asking for edits and review of they said we need guidance and support from the White House.

So this takes place in March of 2011. The loan guarantee is ultimately approved, I believe, on April 11th, 2011. Those seven visits you had to the White House, were any of them during this time frame, the spring of 2011?

Mr. CRANE. I would think that probably there were some.

Mr. JORDAN. Some prior to the April 11th, 2011, approval of the loan guarantee?

Mr. CRANE. Yes, I would think there would actually have been more before than after.

Mr. JORDAN. More before than after. And this project is a big project; you had the big picture up there. This is one big deal to your company and, of course, BrightSource.

Mr. CRANE. Well, Mr. Chairman, you have to understand two things. One is this project, at that basis, I mean, we were involved, but it was still basically BrightSource's project, number one. Number two, this may seem like a big deal to you, but my focus was entirely on our nuclear project in Texas.

Mr. JORDAN. Okay.

Mr. CRANE. Which was a much bigger project than this, five times larger than this project.

Mr. JORDAN. Well, BrightSource got billions of dollars. It is not a big deal to you at all, then? This project wasn't that big a deal?

Mr. CRANE. If it didn't happen, we had not invested—BrightSource was the developer of this project——

Mr. JORDAN. But you obviously got an interest; you are a partner with BrightSource in this project, correct? You have pictures of it right here.

Mr. CRANE. Well, now we are.

Mr. JORDAN. Yes.

Mr. CRANE. Now we have hundreds of millions of dollars invested. But as of March or April of 2011, we had nothing.

Mr. JORDAN. So it is important now, but it wasn't important then? That is what you are saying.

Mr. CRANE. Well, it was important to the people who had developed the project, which is BrightSource. We had an opportunity to invest in the project.

Mr. JORDAN. It was important enough to BrightSource, your partner, to have the Department of Energy check over their homework in a letter they were going to send to the White House chief of staff is pretty important, but not important to you?

Mr. CRANE. At that time, if we had not had an opportunity to invest in that project, it would not have mattered.

Mr. JORDAN. Okay. So in any of those meetings, just to be clear and just for the record, in any of those seven meetings you had with the White House, some of them taking place in the spring of 2011, you did not bring up the Ivanpah project and this issue at all in your visit with the White House?

Mr. CRANE. Absolutely, unequivocally not.

Mr. JORDAN. Okay. You didn't know about the email, you didn't know about the draft letter, and you didn't bring it up in any of your visits to the White House.

Mr. CRANE. That is right.

Mr. JORDAN. Okay. Let me just bring up another point here, if I could. Could we get the second email up? Just because I want to see this. And I want to let the doctor comment on this one.

[Slide.]

Mr. JORDAN. So this is now an email from Prologis, Mr. Drew Torbin, to Kimberly Heimert at the Department of Energy, and this is going the other way. Now, this gets right to the point of when you get so close and you have to grease the skids of government to get approval.

But it says, we have made adjustments to the memos which we believe are necessary to accurately reflect the situation. We are talking about an internal memorandum. So here we now have outside folks—oh, this was just entered into the record by Mr. Kucinich, okay, the same thing. Glad we are thinking the same here, Mr. Kucinich.

But now we have it going the other way around, where we have the Department of Energy having someone in the private sector edit and draft internal documents that are communicated within the Department of Energy. I mean, if the American taxpayers can just see what is going on in this program, and I believe it was your third point, Doctor, in your testimony you talked about this is what happens when cronyism gets to this level and this much money is at stake.

Ms. DE RUGY. Yes. When a lot of money is at stake for a company, whether it is direct cash or loan guarantees, which would basically give them, as Mr. Kelly said, lower rates than they would get on the open market, it actually shifts a lot of the incentive for the company itself to expand a lot of energy, rather than to please the Government or actually to meet the standards expected by the Government. But I believe the reverse is true; there is huge economic literature, Public Choice Economics is all about the way the reverse is true too, where governments design programs in order to feed some companies and some industries. So, yes, it goes both ways.

Mr. JORDAN. I just find it amazing that on one hand we have a company saying, hey, edit this letter for us that our chairman is going to send to the White House chief of staff, and then we also have, now, the Department of Energy saying, hey, private sector, edit this internal memo we are going to send to folks in the Department of Energy. Unbelievable. In my time in public office, I have never seen those kind of communications going on in a loan guarantee program or, for that matter, any program.

I appreciate that.

I yield now to the gentleman from Pennsylvania, Mr. Kelly.

Mr. KELLY. Thank you, Chairman. And I know this can be uncomfortable. Listen, I don't fault you for taking advantage of a government that continues in this dependence, co-dependent type of a model, and it is sometimes hard to walk away from it once it is there. You say, it is just so easy, why wouldn't we do it?

But it does come down to what is the return on the investment for the people whose money is actually at risk, and I think that is where the disconnect comes, because people think, oh, it came from the government, it didn't hurt anybody. But then you say, well, where did the government get the money, and you find out it is people who actually pay taxes. And then you find out who is paying taxes and you find out, well, not everybody pays taxes; some of us do, some of us don't.

But for those that do, a lot of people still carry a little lunch bucket, and by the time they get done paying their school taxes, they get done paying their municipal taxes, they get done paying their State taxes, they get done paying their federal taxes, there is just no money left for them to take care of their kids and to plan their future, and I think that is where the disconnect comes because we actually start to believe this is free money. It is not free money; this is taxpayer money.

Mr. Rakowich, how much money did Cogentrix get?

Mr. RAKOWICH. I am sorry, I am not with Cogentrix.

Mr. KELLY. I am sorry, I thought you were. I thought you were. All right, Mr. Mancini.

Mr. MANCINI. The federal loan guarantee amount was $90 million.

Mr. KELLY. Ninety million dollars. Do you know how many permanent jobs that created?

Mr. MANCINI. We created, directly, approximately 10 permanent jobs——

Mr. KELLY. Ten permanent jobs. So let me ask you——

Mr. MANCINI. But then there were also——

Mr. KELLY. Not you, but you sitting at your kitchen table, and I would tell you, you know what, we just made a $90.6 million investment, and this is all about jobs. This whole initiative was about creating jobs. And here is the good news: 10 people got jobs. Is there any reason why the American people no longer have faith in what is going on in Washington, D.C.?

The disconnect is so great here, it is so foreign to people who live in this area that this money actually comes out of working people's pockets. It is free. It is not free. This drives me absolutely nuts. Can you imagine going to a bank and saying I want to borrow $90 million, and here is the upside, I can hire 10 people with that? They would say, hey, you know what? It is good to see you. Please leave. I don't get this.

And I am going to tell you, Ms. Bronicki, because obviously you don't know a lot of what is going on, this gentleman, Mr. Thompson, before he worked for you, he worked for Mr. Reid. Kai Anderson of Cassidy & Associates is an outside lobbyist for your firm. Did you know that?

Ms. BRONICKI. Yes.

Mr. KELLY. Okay. Do you know who he worked for?

Ms. BRONICKI. He worked——

Mr. KELLY. He was Harry Reid's deputy chief of staff until 2005. Okay, so Mr. Thompson worked for Harry Reid, Mr. Anderson worked for Harry Reid. Yoram Bronicki, is that your husband, maybe, or who would that be?

Ms. BRONICKI. My son.

Mr. KELLY. That is your son. And he was a donor to Senator Reid's reelection campaign. And there is nothing wrong with this, believe me, there is nothing wrong. Here is the point, though. Here is my point. This is not to embarrass you. When we follow this Judas goat of taking money from the government, there are strings attached to all this money we take and there are repercussions, and it gets to the point where people start to wonder.

As I said earlier, this feeding frenzy to come after this money. How in the world did 25 of you get to the table and the others were left out in the cold? Because then you start to look, well, how did they get there? Well, geez, the guys worked for Harry Reid and the other guy worked for Harry Reid, and all of a sudden Harry Reid gets involved in it and all of a sudden the money starts to flow. So people start to wonder how did it get gamed? Again, this is the tough part of you sitting there. The American people have a right to know how did this happen.

Ms. BRONICKI. If I may?

Mr. KELLY. Absolutely.

Ms. BRONICKI. I sincerely believe that our project is one of the most fit projects for the program. It was well advanced, it was shovel-ready. Actual construction has started when we submitted the application. The financial markets were not available to provide financing for such projects in 2009, and this certainly accelerated the construction.

Mr. KELLY. I have no question about that. Listen, because I am going to run out of time. I understand that. It was a good project for your company. You are also geothermal people; you build the geothermal plants. So, yes, it was a good project for you.

But let me ask you, Mr. Crane, BrightSource, Agua Caliente, California Valley Solar Ranch, Project Amp, where do they sell the power that they generate?

Mr. CRANE. They all sell to California, mainly to Pacific Gas & Electric.

Mr. KELLY. PG&E. So why is that market so strong in California?

Mr. CRANE. It is strong because California has a 33 percent renewable portfolio standard.

Mr. KELLY. Which means what?

Mr. CRANE. Which means that by a certain year, I think it is 2020, 33 percent of the power——

Mr. KELLY. By government mandate.

Mr. CRANE. Yes.

Mr. KELLY. Okay. So the government says you must buy this renewable energy.

Mr. CRANE. Well, it is the State government.

Mr. KELLY. No, okay. So the market was created by a government mandate.

Mr. CRANE. Which I think then was endorsed by the people.

Mr. KELLY. No, no, I understand that, how it was created. It didn't happen in the free market, it was created by a government mandate that said you will supply it at this level. So the market wasn't created by a market demand, it was created by a government saying this is what you are going to do; you are going to do it with renewables, okay?

Mr. CRANE. That is correct.

Mr. KELLY. That is why, listen, 1703, that is why we were hot in nuclear back then, because 1703 did address nuclear. 1705 doesn't. I understand that. I understand you go to where the money is; it is the old Jerry McGuire, show me the money. I get it.

But when it comes down to a government that creates the market through a mandate, that is not the same thing because you know what, at the end of the day, no matter how much you subsidize it, if it is not market-ready, no matter what amount of money you subsidize it with, it is not going to float. And if it is marketable, you don't have to subsidize it a penny.

So we create these markets and then we create a business opportunity. I do not fault you for taking advantage of a government that mandated something on people that they didn't want on their own. We forced it down their throat. They didn't just go out and buy it because they wanted to. So we create a market and then we say, okay, now we are going to create the funding for you folks to go after it. I get it. I get it.

But at the end of the day every single penny came out of taxpayers' pockets, it did not come out of the government; it was funneled through the government. Any government spending is flat out taxes; that is all it is. That is all it is. And we have lost connection. We have disconnected ourselves with the source, the revenue source; it is hardworking American taxpayers.

I yield back my time, Mr. Chairman.

Listen, I appreciate your patience with us, but I have to tell you, where I come from, these people are struggling. They are out of work and they are trying to figure out—some of them are working two and three jobs. Mom is working jobs and everything else, and they are trying to figure out what the heck are you people doing with the money we send you. It just doesn't make sense to the average American.

Mr. JORDAN. I thank the gentleman.

Yield now to the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. Thank you, Mr. Chairman. Again, I appreciate the courtesy extended to me to participate today.

Mr. Crane, I want to talk to you about the statement towards the end of your both written and oral testimony, which I think is important, where you mention that NRG has actually invested a billion dollars of your own equity in the three projects that we have discussed previously. I think the notes I had said that $400 million of that, for example, were in the California Valley Solar Ranch, the CVSR program, and I think that is important.

You went on to say that, in blunt terms, we don't get repaid unless the Government has been repaid. I think you hit on an important issue there because I think a lot of the frustration that you hear amongst the panelists today, or at least the members, is a reflection of what folks back home are hearing, which is why are these folks getting paid when the taxpayer is still on the hook?

That is what they saw with Fannie Mae; that is what they saw with Freddie Mac; they saw it to a certain extent with Solyndra. They see the owners and sometimes the officers of these companies making money, when the taxpayers are still ultimately on the hook. So I want to talk about this for just a second.

Are you telling us, sir, that on the $400 million in equity, there is no preferential payments, no return on that equity until the debt has been repaid?

Mr. CRANE. Congressman, what I am saying is that in the waterfall of payments, the debt service happens before there is any return to equity. I don't know the month-on-month, year-on-year, but debt has a higher priority of repayment than equity.

Mr. MULVANEY. It does. You know, you said the debt service is above the equity on the waterfall. What about the repayment of the principal of the loan?

Mr. CRANE. Well, debt service is interest plus principal.

Mr. MULVANEY. Okay. You all collect fees and management consulting fees, I would assume, for the management of the project, correct?

Mr. CRANE. Well, yes. Operating fees for a solar photovoltaic project are pretty small because there is no moving parts. Yes, operating fees for any project go above debt service because you have to keep the project operating during the income.

Mr. MULVANEY. And I have no difficulty with that. Is there any debt? Have the owners of the company extended any debt to the CVSR program?

Mr. CRANE. No.

Mr. MULVANEY. Okay, so it is just equity. You don't have any subordinated or unsubordinated debt in the project?

Mr. CRANE. No, not at all. We don't ever put debt to any type of project.

Mr. MULVANEY. All right.

Mr. CRANE. We are not debt providers.

Mr. MULVANEY. What are the repayment terms? How long will it take to repay the $1.2 billion Government guaranteed loan?

Mr. CRANE. You know, Congressman, I am sorry, I should know, but I don't know what the term of the repayment is on the projects. I would say the debt is tied to the length of the power purchase agreement, and these are 20-and 25-year power purchase agreements, so——

Mr. MULVANEY. That would make sense, and, again, I don't know the specific terms of this, but the ones I have seen before, they would be tied to that agreement. You have a guaranteed flow of funds coming in because you have the agreement to sell the electricity to the——

Mr. CRANE. That is right.

Mr. MULVANEY.—providers in California and your debt would be very close, the loan terms would be very close to that.

Mr. CRANE. Usually, the debt ends a little bit before the power purchase agreement.

Mr. MULVANEY. Exactly. So here is what I am struggling with. The statement that you made that, in blunt terms, we don't get repaid unless the Government gets repaid. The taxpayer is going to, in theory, be on the hook for something for the next 20 to 25 years.

Mr. CRANE. Yes.

Mr. MULVANEY. But you made a statement to Wall Street analysts in August saying that your company was going to get all of your capital back in two to five years.

Mr. CRANE. Do you want me to explain that?

Mr. MULVANEY. And that is what I am asking you, yes.

Mr. CRANE. That statement, which was later taken out of context by the New York Times, had to do with a solar project called Blythe, which has no Department of Energy loan guarantee.

Mr. MULVANEY. Okay, so it is your testimony here again today that there will be no return on equity and no return of equity on the CVSR program until after the Government guaranteed loans are repaid in full?

Mr. CRANE. Again, I would have to see the profile, but I am not saying exactly that, because no project, if you say to equity, we are not going to give you a dollar back for 20 years, there is never going to be equity in a project. What I am saying is that the debt service under the terms of the loan will be serviced before any money can come out, as we call it in the business, out of the waterfall to equity. So debt gets repaid before equity.

Mr. MULVANEY. Sure. And I understand that. I understand how debt and equity work. But when you tell me the debt is going to get serviced before there is a return on equity doesn't necessarily mean the same thing as the debt is going to be repaid in full before there is a return on equity.

Mr. CRANE. Yes, that is probably correct.

Mr. MULVANEY. So I guess you will get repaid, at least something on that equity, before the taxpayer is completely off the hook.

Mr. CRANE. I am sure we will get some income, yes, before the debt is fully off the books.

Mr. MULVANEY. Thank you, Mr. Chairman.

Thank you, Mr. Crane. Thank you to all the panelists.

Mr. JORDAN. Mr. Crane, were you taken out of context in some of these other quotes in the New York Times piece, like I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects? Was that I context or out of context?

Mr. CRANE. No, that is in context. I do believe that in the context of when——

Mr. JORDAN. You intend to do as much of this business as you can get your hands on?

Mr. CRANE. Yes. And keep in mind, Mr. Chairman, that we are talking about a company that is trying to build a nuclear power plant. I would absolutely say that a solar photovoltaic ground-mounted in the California desert is about the least risky project that you can do in the power industry.

Mr. JORDAN. Okay.

Mr. CRANE. So, no, that was not taken out of context.

Mr. JORDAN. Okay. Just wanted to be clear which were in context, which were out.

Mr. Rakowich, to your knowledge, before you got the loan guarantee, conditional or final, did the DOE share any internal documents with you or your company or representatives of your company?

Mr. RAKOWICH. I am not sure I follow. What types of documents would you be referring to?

Mr. JORDAN. Any documents. I put up the one email where you guys got to edit a Drew Torbin—does Drew Torbin work for you?

Mr. RAKOWICH. Yes, he does. Works for our company.

Mr. JORDAN. I understand. And does Jonathan Plow work for your company?

Mr. RAKOWICH. No, Jonathan Plow does not work for our company. I believe he works for Bank of America.

Mr. JORDAN. Okay. But Drew Torbin does.

Mr. RAKOWICH. Yes.

Mr. JORDAN. Okay. So you got to edit an internal memo, but I want to know did they share any other internal documents with you.

Mr. RAKOWICH. I don't know. I was not involved in the negotiations.

Mr. JORDAN. Okay.

Mr. RAKOWICH. I would say that we were completely transparent with the DOE as to the situation that was evolving at that point in time as it relates to Solyndra, and, needless to say, we wanted certain documents; in the final loan document, we wanted the DOE to acknowledge that, so there was back and forth that took place as it relates to that particular email, and that is not unusual.

Mr. JORDAN. You don't think it is unusual?

Mr. RAKOWICH. I don't.

Mr. JORDAN. That someone from your company gets to edit an internal memo, what is going to be distributed to Department of Energy employees?

Mr. RAKOWICH. I don't think it is unusual——

Mr. JORDAN. People who are paid by the taxpayers?

Mr. RAKOWICH. Mr. Chairman, I don't think it is unusual given the back and forth that needed to take place before the loan document was signed, that there would be back and forth conversation, editing and the like that needed to take place between the parties.

Mr. JORDAN. But you did not participate in any of that back and forth?

Mr. RAKOWICH. I did not, no.

Mr. JORDAN. As the CEO, you didn't participate?

Mr. RAKOWICH. I was not even aware of it at the time.

Mr. JORDAN. Okay. Okay, well, let me just show another email, because we have another one that just astounds me. This is from Mr. Peter O'Rourke at the Department of Energy to Jonathan Plow, who works for Bank of America, Drew Torbin, who works for you all, right? Okay? It says please do not send beyond two of you.

This is very important. Feel free to use the concepts that we articulate in your own words if you don't already have this in your message, and that refers to Project Amp Department of Energy developed document that they are going to send to you with all kinds of information that you guys can use in your presentation.

I mean, let's think about the way I think the American citizen would see this. This is like the teacher telling two of the students, not the whole class, two of the students, hey, here is what is going to be on the test, we are going to give it to you, don't—in fact, they say that, don't send beyond the two of you—don't tell anyone else we are giving you the answers to the exam; and you say that is fine, that is the normal course of business back and forth? And you didn't have any knowledge of it as the CEO of the company?

Mr. RAKOWICH. Mr. Chairman, I think as it relates to what was sent, which was the presentation of——

Mr. JORDAN. Mr. Crane, did you get that kind of treatment? Did you get internal documents from the Department of Energy telling you, hey, here is the answer to the exam? If you say things this way, you are more likely to get billions of dollars of taxpayer money and a guaranteed loan? Did you get that privilege?

Mr. CRANE. Well, I can guarantee that I have never seen a Department of Energy internal memorandum——

Mr. JORDAN. So you didn't get it.

Mr. CRANE.—and I don't think——

Mr. JORDAN. Mr. Mancini, did you guys get that kind of special treatment?

Mr. MANCINI. Not that I am aware of.

Mr. JORDAN. You don't know of anyone that got any internal documents from——

Mr. MANCINI. Not that I am aware of.

Mr. JORDAN. Okay. Ms. Bronicki?

Ms. BRONICKI. I am not aware of any.

Mr. JORDAN. Okay.

Doctor, does this seem kind of unusual to you, or this is par for the course when you head down this road, I assume, right? This is what happens when you decide you are going to have this kind of cronyism in government?

Ms. DE RUGY. I am not entirely surprised. I mean, I don't know this particular case, but——

Mr. JORDAN. Mr. Rakowich, did you think it is a little unusual? Torbin is the one who worked for you, maybe just a great job and Torbin, they just said he is a really nice guy, he has been working hard, we are going to tell him the answers to the exam?

Mr. RAKOWICH. Chairman, I don't think that sending a presentation as to what Project Amp is about, I mean, that is our project, so sending the presentation I don't see as being unusual, no.

Mr. JORDAN. Feel free to use the concepts that we articulate in your own words. So this is certainly intellectual property developed at the Department of Energy that they are sending out, hey, you might want to use this language when you send it back to us, higher chance of approval. That is the implication I draw from that statement. Is that not what you conclude?

Mr. RAKOWICH. I don't know, I hadn't seen it until you put it up.

Mr. JORDAN. But, again, we have to take this whole thing, this is why we have had several hearings on this. You take this all in context. Mr. Kelly's point, 26 companies got taxpayer money, were in this loan guarantee; 22 of them had credit ratings of BB minus, junk status; most of the companies who got money, a significant number at least is probably more accurate, but a significant number had strong connections to the Obama Administration, either during the campaign. In the BrightSource case the chairman of the board became Commerce secretary shortly after they get the loan approved. I mean, it is amazing.

So we see all this and now we have emails going back and forth saying, hey, say it this way; hey, edit this letter that we want to send. So when you put it in the big picture, no wonder the taxpayer is saying what the heck is going on with our government. This is not the way it is supposed to work. I mean, it is just so frustrating to look at this is what is going on at the Department of Energy, where they are picking the winners and losers. As Mr. Kelly pointed out, hundreds of companies applied; 26, 26 got the $15 billion. Such a deal. Such a deal.

And you think this is, in your words just a little bit ago, you think this is customary and the way it is supposed to work?

Mr. RAKOWICH. What I said, Mr. Chairman——

Mr. JORDAN. You said this is the course of doing business.

Mr. RAKOWICH.—with all due respect, what I said was sending a presentation on our exact project that we are working on back and forth doesn't seem unusual to me, no.

Mr. JORDAN. Doesn't seem unusual that the Department of Energy tells you this is how you need to say it, here are the answers to the test, this is the way you need to do it. This is not unusual?

Mr. RAKOWICH. I couldn't read the email, I don't know exactly——

Mr. JORDAN. Well, I will read it to you: Please do not send beyond two of you. This is very important. Feel free to use the concepts that we articulate in your own words. So feel free to plagiarize. That is what it says.

Mr. RAKOWICH. Right. It is a presentation that is about our project, so going back and forth on a presentation that ultimately we will use or somebody will use in the future just doesn't—I don't understand the context of why this was sent, but I can tell you that the presentation——

Mr. JORDAN. Did you personally have any communication with the Department of Energy?

Mr. RAKOWICH. I did not.

Mr. JORDAN. You didn't talk to Mr. O'Rourke, Mr. Silva, or any of these folks at the Department of Energy? You didn't talk to Director Chu?

Mr. RAKOWICH. No, sir.

Mr. JORDAN. Secretary Chu, I should say.

Mr. RAKOWICH. No, sir, I did not.

Mr. JORDAN. Did you make any trips to the White House?

Mr. RAKOWICH. No, sir, I did not.

Mr. JORDAN. Okay. Did you talk to anyone in the Administration?

Mr. RAKOWICH. No, sir, I did not.

Mr. JORDAN. Did you talk to Bill Daley about this when he was White House chief of staff?

Mr. RAKOWICH. No, sir.

Mr. JORDAN. Mr. Biden?

Mr. RAKOWICH. No, sir.

Mr. JORDAN. Wow. Okay, you got a little different treatment than Mr. Crane, but understand.

All right, with that, I will yield to the Ranking Member from Ohio.

Mr. KUCINICH. Thank you very much, Mr. Chairman. I want to go back to the email that you just discussed. Here again it goes right to the Bank of America, because the only party to this email that has not provided public testimony regarding its involvement in the loan program is Bank of America. Now, the impact and import of this particular memo, which you have cited as a matter of concern, we really don't understand it until we get Bank of America's perspective.

So I would just like to ask my friend if there is a way that you and I can work together to see if Bank of America and, for that matter, Goldman Sachs, who is on another program, if the guys at the top, that they be invited to come in to explain their point of view about this. Could we see if we could work together? Would you consider this?

Mr. JORDAN. I will definitely consider that. I appreciate the Ranking Member bringing it up. I think, in light of what we have uncovered here today, that that is something we need to think about.

Mr. KUCINICH. I want to also say that in listening to this discussion and my friend, Mr. Kelly, has a way of continuing to hammer home about the benefits that are going to some at the exclusion of others, and that is a valid question, always is in this town.

As you were talking, one of the things that occurred to me about this particular model in this discussion we are having, just to kind of let's look at it from a different level, this is all about centralization of power, literally. We could have a different model, we could be decentralizing power, we could be investing in decentralization of power, get more people involved in manufacturing, let's say, microtechnologies, for example.

But when you have a centralized government and a centralization of power on business part, you put those two things together, there is a different philosophy at work here, and that is something that I just wanted to—that is not the subject of this hearing, but I just wanted to put that out there as an ongoing concern that I have, because inevitably people's utility rates under one model are likely to be higher than they are under another model.

Now, I just want to say that when Congress created this 1705 program, which is the subject of this hearing, as I mentioned earlier, it appropriated $2.47 billion to pay credit subsidy costs for the energy projects, and this program because a partnership between the Government and the private sector, and this Committee held a hearing where we learned that the 1705 loan guarantee portfolio's low-risk projects were likely to achieve a degree of success within this particular model.

Now, there are some who feel, well, the 1705 portfolio is a bunch of companies on the verge of bankruptcy. That doesn't appear to be the case. It appears to be a collection of projects with solid private and public sector backing, and I would like to hear from our witnesses on why they believe their respective projects will benefit their bottom line, the environment, but, most importantly, and it is the question that Mr. Kelly keeps raising and it is a valid question, how do the taxpayers benefit? I want you to tell me that too; I am interest.

So let's go, Mr. Mancini, your company, Cogentrix, was able to build this solar project in Southern Colorado. It is my understanding you obtained about a $90 million loan guarantee from DOE, that you have successfully built the project, clean energy is being sold to a major Colorado public utility. Tell me how this is a win-win for your company, the environment, the taxpayers. Tell the Committee.

Mr. MANCINI. Ranking Member Kucinich, just a point of information before I answer the question. I just want to clarify that I am a managing director of Goldman Sachs. I have been with the company almost 20 years, and if there are any questions that you would like to present to Goldman Sachs, I would be happy here to answer those questions. So that would be unusual to draw attention to myself, but I think, for the record, I need to clarify what my role is. I am not the CEO, obviously, of Goldman Sachs, but I would be happy to answer any questions I can.

To answer your question, with respect to the project that we funded together with the Government, what we did is advanced the technology and took it from I would call it a context in which it was being applied in the space program and put it in a different context to prove that that technology could be applied on a utility scale, commercial scale project to produce green power for the citizens of Colorado or citizens anywhere in the Country. So one of the benefits was to prove the hypothesis that this particular type of technology could in fact be deployed commercially.

Mr. KUCINICH. Okay, I just want to thank you and I just want to respond to your calling to our attention that you are a managing director, and that is in commodities?

Mr. MANCINI. Correct. I am a managing director in the Commodities Business Unit.

Mr. KUCINICH. Okay. We want to talk to the person who runs Goldman Sachs. You don't run the whole company.

Mr. MANCINI. I do not, but one comment that I do think is very important to make is that in respect of the DOE loan program, there was no political favor.

Mr. KUCINICH. Oh, you know what? Thank you for saying that. You have just said that for the record.

Thank you, Mr. Chairman.

Mr. JORDAN. Mr. Mancini, let me ask you this. If the gentleman just for one second. If the 1705 program had not been in place, would Goldman Sachs have funded, would you have put capital at risk in the Cogentrix project?

Mr. MANCINI. If the 1705 program had not been available——

Mr. JORDAN. Just be clear. You are a wholly-owned subsidiary of Goldman Sachs. I know it is hypothetical, but if that money wasn't there that you could get from the Government, from the taxpayer, would this have been a worthy project? Would Goldman say, you know what, we believe in this; this is a wholly-owned subsidiary; we are going to put up the cash? Would you guys have done it?

Mr. MANCINI. Just remember, Mr. Chairman, our first stop was to no less than 10 commercial banks to see if we could get the funding, including Goldman Sachs from the debt perspective, and we were not——

Mr. JORDAN. So the answer is no?

Mr. MANCINI. Beg your pardon?

Mr. JORDAN. So the answer is no, you would not have done it?

Mr. MANCINI. We would not have done the project. The cost of capital would have been too expensive.

Mr. JORDAN. Okay. I mean, again, I think that sort of proves our point. This is not where private venture capital would go, but it is okay to put the taxpayer money at risk. Is Goldman a major investor in Amanex Company? Are you guys an investor in that company as well?

Mr. MANCINI. My understanding is we own 3 percent of Amanex and do not have any board seat.

Mr. JORDAN. And what about Xcel Energy, do you have a direct financial interest in that company or an indirect interest in that company?

Mr. MANCINI. We do not. There are funds that are managed by Goldman Sachs Asset Management, which is much like Fidelity or Vanguard, that puts together a portfolio of securities for investors in the mutual fund for which we earn a fee that is based not on the returns of any particular company within that portfolio, but just based on the raw dollar amounts that are vested across——

Mr. JORDAN. But would it be fair to say an indirect relationship in that there is a fund you manage which does have a direct relationship with Xcel Energy?

Mr. MANCINI. I would say it is very tenuous, frankly.

Mr. JORDAN. Okay, but there is some interest there.

Mr. MANCINI. Not by Goldman Sachs.

Mr. JORDAN. All right, I just want to ask this. The loan arrangement, the $90 million you got in the loan agreement from the Department of Energy, did that also in that agreement include the fact that Cogentrix needed to buy electricity—or Xcel would buy electricity from Cogentrix and that Amanex would be the solar panel provider to Cogentrix?

Mr. MANCINI. Well, Xcel owns or controls the Public Service of Colorado. The Public Service of Colorado sells that electricity at no profit to its customers; there is no markup to their electricity because it is regulated in a specific way in respect of this project that does not allow them to pass through any additional costs or markup other than the cost of the power.

Mr. JORDAN. But the question was the agreement, the loan agreement between the Department of Energy and Cogentrix included the details that a part of that agreement was that Xcel Energy and Cogentrix have a relationship and Amanex is the solar panel provider to Cogentrix, correct?

Mr. MANCINI. The relationship between Cogentrix is with Public Service of Colorado. It has a power purchase agreement and Xcel is a parent company, but we don't have any relationship directly with Xcel.

Mr. JORDAN. Okay, but certainly with Amanex.

Mr. MANCINI. Amanex is the panel provider.

Mr. JORDAN. And that is in the agreement.

Mr. MANCINI. Correct.

Mr. JORDAN. And Goldman has, and you have a direct financial interest in Amanex.

Mr. MANCINI. Sure. Had nothing to do, though, with the selection of Amanex. Public Service of Colorado required us to use a certain type of technology; Amanex was one of four companies that were the leading manufacturers.

Mr. JORDAN. Oh, yes, you had to use them.

Mr. MANCINI. Our engineers then evaluated all four of those companies and based on the technology and the evaluation of the technology and the cost——

Mr. JORDAN. Do you have a financial interest in the others? Wait, wait. I just want to be clear.

Mr. MANCINI. No, not to my knowledge.

Mr. JORDAN. Oh, so it did work out that there were four possibilities, based on what you just said, and, oh, by the way, the one that was selected is the one that Goldman has a financial interest in.

Mr. MANCINI. Only because it provided the best technology at the lowest cost, which was very important to PSCo.

Mr. JORDAN. But certainly benefits Goldman.

Mr. MANCINI. How it benefits Goldman is almost inconsequential, quite honestly. Because it has a 3 percent interest doesn't mean——

Mr. JORDAN. So it is inconsequential that the company that was chosen of the four possibilities is the only one that Goldman has a financial interest in? That is inconsequential?

Mr. MANCINI. That ignores the fact——

Mr. JORDAN. I don't know——

Mr. MANCINI. Here is the fact, Mr. Chairman, that PSCo——

Mr. JORDAN. Particularly when—you have to go back to the first point. Particularly when Cogentrix is a wholly-owned subsidiary of Goldman Sachs.

Mr. MANCINI. That ignores——

Mr. JORDAN. Just so you can see the chart, you have the Department of Energy giving $90 million taxpayer dollars to Cogentrix, and the part of the deal says, oh, by the way, the solar panels, four companies you can choose from and the agreement says you are one that Goldman has a financial interest in, Amanex.

That is a pretty good deal for Goldman all the way around, isn't it? Particularly when you said that we wouldn't finance this, banks wouldn't do it, but we can put the taxpayers on the hook for it, and we are going to make a lot of money. Based on what Mr. Crane had to said earlier, you put panels in the desert, this is a great deal for everybody. God bless America. This is wonderful. Except the ratepayers and the taxpayers.

Mr. MANCINI. With all due respect, Mr. Chairman, the process that we went through in order to select a panel manufacturer was blessed by the independent engineers of DOE. It was also required——

Mr. JORDAN. Whoa, whoa, whoa. You just said the independent folks at DOE? If there is one thing we have proven here today, if there is one thing that is completely clear, it is not independent. We have emails going back and forth, edit this for us, this is a letter we are going to send to the White House chief of staff; hey, here are the answers to the exam, you guys get them; you can paraphrase, you can plagiarize; send it back to us. If there is one thing we have proven, it is not independent.

Mr. MANCINI. The engineers that are advising DOE are not our engineers, meaning they are advising someone other than us. So they had to make an independent judgment, that was not our judgment, that in fact they agreed that Amanex was the better technology at the lowest cost to ratepayers.

Now, PSCo, at the end of the day, also had to bless Amanex as the supplier, and they did so as the lowest cost provider. So to suggest that there was some sort of——

Mr. JORDAN. Well, let me ask you this. So you would have preferred that—well, it is certainly a benefit that Amanex was the one selected by the so-called independent engineers?

Mr. MANCINI. Could you say that again?

Mr. JORDAN. It is certainly better for Goldman that Amanex was selected by the independent engineers?

Mr. MANCINI. To suggest that we would put $116 million of our equity capital into a project because a 3 percent interest——

Mr. JORDAN. I am not suggesting that. What I am suggesting is the deal is pretty good. And you have to go back to the first point: you are a wholly-owned subsidiary of Goldman Sachs. As you just told Mr. Kucinich, you sit on the board of Goldman; you are one of the managing directors.

Mr. KUCINICH. Would the gentleman yield?

Mr. JORDAN. I would be happy to yield.

Mr. KUCINICH. I just want to associate myself with your line of questioning. Thank you.

Mr. MANCINI. What you are suggesting is that Goldman Sachs and Cogentrix would put $116 million of its equity at risk in order to benefit itself in some way indirectly through a 3 percent interest in a company that——

Mr. JORDAN. I am not suggesting that. I am just suggesting that there is this close-knit relationship up and down the line, and there is this cozy relationship between the Department and folks who are getting a loan. That is what I am suggesting. I am not saying it is a bad thing you did this or bad that it worked out this way; I am just pointing out this is what is involved here, and this is why we are having the hearings, and this is why the American taxpayers are saying this is not what we are supposed to be doing. This is not the way the system is supposed to work.

Mr. MANCINI. Mr. Chairman, this depiction is incorrect, I am sorry. To suggest that we have an interest in Xcel Energy that somehow is benefitting Goldman Sachs is just not correct.

Mr. JORDAN. I think the focus of my questioning, though, once you pointed that out to me, my focus on my questioning wasn't on Xcel. I accept that point. I am not coming down the lefthand side; I am coming down the right-hand side.

Mr. MANCINI. If we are making a decision——

Mr. JORDAN. I will concede that.

Mr. MANCINI. If we are making a decision to put as much as $116 million at risk for a tenuous and minimal return that might, might occur to a company in which we own 3 percent, that would be completely irrational on the part of Goldman Sachs, Cogentrix, and all of its constituencies, including its shareholders.

Mr. JORDAN. My point is it at least raises some concern, in light of what we have seen with the way the Department of Energy dealt with Prologis, the sharing of emails, the sharing of information; in light of the fact that Mr. Crane has been to the White House seven different times; in light of the fact that we got letters being drafted that are going to go to the White House chief of staff from the chairman of the board of BrightSource.

I mean, at some point you have to say where does this all end? What really took place in here? No wonder a whole bunch of these companies didn't get a chance, because the ones that did were so close with the Government, we see why the projects got approved.

Mr. MANCINI. Mr. Chairman, I understand why you have raised some of the questions you have raised about other people on the panel. I understand that. I don't come to any conclusions myself with respect to any of those, but I can only tell you that with respect to the one loan that we applied for, received, it had nothing to do with any relationships with anyone in the Administration, the White House; it was done on its merits——

Mr. JORDAN. How much money—what is the dollar amount of the interest you have in Amanex, do you know?

Mr. MANCINI. It is less than $10 million, I believe.

Mr. JORDAN. Okay. I mean, that is still real money.

Mr. MANCINI. Yes, but in relation to—I guess my point is in relationship to $116 million that we are putting on the line for this project——

Mr. JORDAN. Nine percent.

Mr. MANCINI. Sorry?

Mr. JORDAN. Ten million out of 116 is still pretty significant.

Mr. MANCINI. I think, frankly, it would be completely imprudent for us to risk $116 million to protect $10. So with all due respect——

Mr. JORDAN. I am not arguing with that fact. All I am saying is if one of the four is the one you happen to have an interest in, all the better. You will concede that, right?

Mr. MANCINI. If it happens by coincidence to be the case, sure.

Mr. JORDAN. No, no, it is not by coincidence.

Mr. MANCINI. It is completely by coincidence.

Mr. JORDAN. No, you just told me the expert said it was the right thing to do.

Mr. MANCINI. Well, all I am saying is that we had people, not only our own engineers who were evaluating the technology and the cost, but the engineers that were advising the DOE and Public Service of Colorado itself all had to bless the same thing.

Mr. JORDAN. Okay. I thank the gentleman.

We yield now for our final round of questioning to the gentleman from Pennsylvania.

Mr. KELLY. Is that a general sigh of relief from the panel?

You know what, I know this is uncomfortable for you. Mr. Mancini, I understand when you said we would never risk $116 million on such an imprudent project, and I get that.

Mr. MANCINI. I said we wouldn't risk $116 million to protect $10 million.

Mr. KELLY. Okay. All right. How about the American taxpayers putting $15 billion at risk? Was that being prudent? Because I am going to shift very quickly because there is an old adage out there where I come from: it is not what you know, it is who you know. And obviously there is another part to that, it is who knows you. So you may know a lot and you may know some people, but the real defining answer to this is when that phone call goes to somebody that says I need help or I need you to weigh in on this, some people say tell him I am not in, tell him I am on another call. If it is somebody that you know, you say put the call through. I am just saying that for these 25 companies that were able to get through this feeding frenzy and cut through all these different navigations, somebody obviously appreciated the fact and knew who was on the other end of the phone.

So having said that, Ms. de Rugy, because we really lost sight of what this is about. This whole program, if I understood it correctly—and I don't fault any of these people for taking advantage of a program that was out there that gave them money at very low rates. Why would you pay it back ahead of time? I mean, my gosh, that would be stupid. You don't pay back loans you don't owe a lot on; you pay back the ones where the heaviest weight are. I mean, everybody gets that. The ones you owe the most on your credit cards, some of those ones at 18 percent, you want to make sure you lower that principal in a hurry; you want to pay it all back and get it off your plate. But when you don't owe anything, when there is no big number on it, I understand why they don't do it.

But at the end of the day, at the end of the day, we were led to believe that if we invested all this money there was going to be a return on this investment, and the return on this investment that we were going to give people who were sitting at home, unable to find a job, a job; and this great opportunity that was out there was going to create these jobs. What was the number of jobs that were supposed to be created?

Ms. DE RUGY. Well, originally, I think the claim made by the Department of Energy was that investing in green technology through this loan would bring 5 million.

Mr. KELLY. Five million jobs. Do we know exactly what the number is?

Ms. DE RUGY. Well, when I looked yesterday——

Mr. KELLY. I mean, not the game numbers; not when you took a guy who was driving a bus that was powered——

Ms. DE RUGY. No, sir. I mean, according to the Department of Energy, permanent jobs through the 1705, it comes down to 2,388 jobs.

Mr. KELLY. So we invested—what was the total amount we invested?

Ms. DE RUGY. Sixteen, roughly $16 billion.

Mr. KELLY. Sixteen billion.

Ms. DE RUGY. Yes.

Mr. KELLY. That is with a B, billion.

Ms. DE RUGY. Yes. So it is an exposure for taxpayers of 6.7 million. But really this number is relatively meaningless. I mean, think about it this way: this is the taxpayers' exposure per job, but the reality is if the company defaults, right, there are no jobs created, this is what we saw with Solyndra where, in fact, $538 million will have to be repaid by taxpayers in one way or another, and in the end there were zero jobs created.

Mr. KELLY. So they get whipsawed; they get it in both ends.

Ms. DE RUGY. Yes.

Mr. KELLY. So I am just trying to understand because, to me, this is not a Democrat or Republican situation; this is where we took American taxpayer money and we put it down on the green. Not the red or the black, but the green. And we spun the wheel and we said, you know what, I bet we are going to win in this and I bet we are going to create 5 million jobs. So we put all that money, said put it on the green because I know we are going to win, and at the end of the ay what did the American taxpayers win?

Ms. DE RUGY. I think it comes down to the ability of the Government to create jobs, and it can't. I mean, it can, obviously, pay for some jobs, but to create sustainable jobs that will sustain themselves when the Government money is gone, the Government can't do this.

Mr. KELLY. Sustainable jobs only come from the private sector. That is just the way it works.

Ms. DE RUGY. Exactly. The private sector is the one that can actually sustain jobs and create economic growth, for that matter, and the private sector has been also pretty good at even leading the way on green energy.

Mr. KELLY. Sure. Well, and you know why. But this has been the most irresponsible waste of taxpayer money that I have seen in my lifetime, and I have been around for a little bit now. But to me it is just incredible that we can sit back and say mission accomplished. This is ridiculous what we have done to the American taxpayer, and then continue to ask them keep funding this, by the way, because I am sure somewhere there is a pot of gold at the end of the rainbow.

Ms. DE RUGY. If I may add something. I mean, I don't know whether it is the most irresponsible thing; I think the Government does a lot of very irresponsible things.

Mr. KELLY. Well, this is the one we are talking about today.

Ms. DE RUGY. Certainly. But, more importantly, there is something I don't quite understand, which is how we can reconcile the idea that these projects are low risks and at the same time these projects could not have found funding for themselves. If they are actually low-risk, if one of the conditions for the company to get money is to actually have secured a source, a customer, a secured customer for the next 20 years, I mean, it seems like a pretty safe bet, and why wouldn't a private company go ahead and fund this project?

Moreover, I find it surprising that while some of the companies involved have had a hard time maybe finding funding in capital while the recession was going on and while European banks were in trouble, it does seem that it is also the same time where everyone in America is hurting, and it seems somewhat irresponsible to be asking taxpayers then to jump in to take that risk.

Mr. KELLY. Well, you can actually do that when it is not your own money that is being risked. It is a very easy bet to make when it is not your money. When it is your money, it is a much more difficult risk to take.

Ms. DE RUGY. I do not understand. If it is really low-risk, which I am willing to——

Mr. KELLY. Well, you make a good point. It is hard to understand, and the reason it is hard to understand is because it doesn't make sense. It is not common sense to the average guy who goes out there and average girl that goes out there every day that has to pay their own bills out of their own pocket. When they have their own skin in the game, when their nose is the one that is getting bloodied, they know the difference.

And whenever you can take money from somewhere other than out of your checkbook or out of your pocket and go ahead and put at risk, that is an easy roll of the dice. When it is your own money that you took so long to earn and it is hard to pay back, then it is a much tougher bet to make. We have just made a very, very easy bet using taxpayer dollars.

Chairman, I appreciate the opportunity to be here and I really appreciate you all being here. Listen, I don't discredit you for doing what you did, okay? It makes sense. It makes sense. It makes sense to you. Unfortunately, it doesn't make sense to the taxpayers whose money was what was wagered, okay? Just as long as we clear the air on that.

And I know it is difficult to sit here and listen to us, but I have to tell you I don't represent me; I represent 705,687 people in Western Pennsylvania, and they are not all Republicans. And they tell me all the time you think you have a low approval rating, you ought to try and work with ours. It is very difficult. So I have to tell you people have lost confidence, and the reason they have lost confidence is because we have shown them time and time again we will risk their money any time we have a chance. So thank you for being here.

Mr. Chairman, thank you very much.

Mr. JORDAN. I thank the gentleman. I want to thank our Ranking Member; mostly thank our witnesses.

Do you want to say anything?

Mr. KUCINICH. Just briefly.

You know, within the closed system of the legislation that created 1705, you can make the argument, well the program within that system and the way it was designed that it has been successful. But I think that this Committee has asked the right questions in raising the question about who the winners and losers are here. And when I heard the gentlelady from Mercatus speak about the fact that you have so many businesses out there, they are not getting access to capital. I mean, I know and members of this Committee know that the Federal Reserve famously was giving money to big banks and the big banks weren't turning around and loaning it to people. People in my district, who had great credit ratings, who had been in business for 30 years or more, Mr. Chairman, and people who were stalwarts in their business communities, their credit dried up.

So we cannot be unmindful of the fact that we are designing systems here which do pick winners and losers. And I will go again to my friend Mr. Kelly; that has to be something we have to pay attention to. And when we get to some of the largest companies in America who have been able to get advantages that smaller companies couldn't, those are really important questions that are raised.

With all due respect to the gentlemen who probably know more about putting finance deals together for energy than anybody, these are questions this Committee has to raise because there are a lot of people out there asking, hey, why not me? How come I didn't get in on this? How come they did, I didn't? What is the connection?

And in this time in Washington, when there is such suspicion on both sides of the aisle about where the money is coming from, why it is going there, why somebody gets a contract, why somebody doesn't get a contract, notwithstanding Mr. Mancini's comments about, well, there is no influence that was used here, listen, Goldman Sachs is synonymous with influence over the Government, and that is what we all feel here. So it is not like some big moment when you say, well, there was no influence. I heard giggles up here, with no insult to you.

That is how we seem to figure this out. And you don't have to be Matt Taibi, who has studied Goldman Sachs pretty carefully, to understand that Goldman Sachs has a reputation around here of being able to have massive influence. So you are going to have forgive the members of this Committee for raising that question back at you.

So have a lovely day. Thank you.

Mr. JORDAN. I thank the gentleman. I want to thank our witnesses. I know it is not always the best experience, but you all did a great job. We appreciate you taking the time to be here and the work you are doing, and we will adjourn the Committee.

[Whereupon, at 12:13 p.m., the subcommittee was adjourned.]

Chairman Jim Jordan
Opening Statement
The Obama Administration's Green Energy Gamble Part II: Were the Taxpayer Subsidies Necessary?
June 19, 2012

Today's hearing continues the Committee's examination of President Obama's green energy agenda that directed 90 billion dollars of taxpayer money in an effort to create a government-engineered green energy utopia. The Department of Energy's loan guarantee program, in particular, is of great concern. After the bankruptcies of Solyndra and Beacon Power and with other taxpayer-funded companies teetering on the brink, taxpayers have a right to know how and why their money was spent in such poor ways. The Committee has uncovered a troubling pattern of questionable projects sponsored by companies with political connections to the Obama Administration receiving billions of dollars in taxpayer subsidies.

The Obama Administration frequently claims that the 1705 loan guarantee program and other stimulus-funded green energy programs create green jobs in America and will develop a strong American green energy sector. In contrast to these optimistic predictions from the Administration, at the last hearing before this Subcommittee we heard from four loan guarantee recipient companies that were struggling financially, firing workers, and halting production despite receiving billions of dollars in taxpayer subsidies.

Today's hearing will examine other beneficiaries of the 1705 loan guarantee program: large, successful companies that had plenty of access to capital to fund green energy projects if they thought they were sensible investments but saw Obama Administration programs as an easier and more profitable way to make money with little to no risk to themselves. Today we will hear testimony from the CEOs of NRG Energy, Prologis, Cogentrix Energy, and Ormat. These companies—none of which can claim to be either small or startups—took over 5 billion dollars in taxpayer loan guarantees and all had ties to either the Obama Administration or powerful politicians.

The New York Times described the loan guarantee program and other government programs as a "banquet of government subsidies" and a "windfall for the industry." This profit opportunity wasn't ignored by the companies represented today. David Crane, the CEO of one company here today, described these programs as a once-in-a-generation opportunity. He said, "I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects" and "we intend to do as much business as we can get our hands on."

The business model of these companies is clear: sign long-term contracts with utilities that are required by state mandates to purchase renewable energy, and then seek federal government backing to build green energy facilities. In the meantime, use political connections to grease the wheels of the federal government. As Mr. Crane implied, the companies are clear winners – they get all the profit. However, the losers are consumers of electricity all over the country, who pay higher prices, and the American taxpayers, who bear the risk if the projects fail. This, my friends, is the Obama Administration's green energy economics in a nutshell.

I want to thank our witnesses for being here today. Ultimately, today's hearing gets to the core of the problem with government pretending that it can be a venture capitalist: businesses benefit not by pleasing their customers but rather by using their lobbying savvy and political connections to get billions of dollars from the American taxpayers.

[redacted]

From: Mogilnicki, Eric J [Eric.Mogilnicki@wilmerhale.com]
Sent: Tuesday, March 06, 2012 10:46 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Project AMP

[redacted] We've spoken with the Bank, and the answer to each of these questions is no.

Please let us know if you would like any additional information.

Hi Eric:

Follow-up questions regarding Project AMP/Prologis

1. Has Project AMP/Prologis begun construction at any locations that are part of phase 1? If so, when did construction begin for each location?
2. Has Project AMP returned to Fitch for a follow-up rating yet? (At the time of our call, they hadn't yet.)
3. Has Prologis already purchased solar panels? If so, approximately when (to the month) was the first purchase made?
4. Have PPAs been signed yet? (we understand they weren't yet, but were close, at the time of our call)

We're happy to talk with Jonathan or others on the project, however, would hope to talk this week and an email response would work as well.

Thanks and best regards,

[redacted]

BLACK & VEATCH
Building a world of difference.

BLACK & VEATCH
ENTERPRISE MANAGEMENT SOLUTIONS
489 FIFTH AVE, 12TH FLOOR
NEW YORK, NY 10017 USA
+1 212-973-1339 Ext 12 | MakO@bv.com

Date: September 28, 2011

Bank of America, N.A., as Administrative Agent
Agency Management
101 South Tryon Street
Mail Stop: NC1-002-15-36
Charlotte, NC 28255-0001
Attention: Maria McClain

United States Department of Energy, as Guarantor
Loan Guarantee Program
1000 Independence Avenue, SW
Washington, D.C. 20585
Attn: Director, Portfolio Management
Re: DOE Loan Guarantee, LGPO Loan # F1029

INDEPENDENT ENGINEER CERTIFICATE

Ladies and Gentlemen:

Black & Veatch Corporation (as "Independent Engineer") hereby delivers to you this Independent Engineer Certificate (the "Certificate") pursuant to Section 3.1(o) of the Loan Agreement, dated as of September 28, 2011 (the "Loan Agreement"), by and among (i) ProSun Project Company, LLC, as Borrower, (ii) certain subsidiaries of the Borrower, as Phase Subsidiaries, (iii) the United States Department of Energy, as Guarantor, (iv) Merrill Lynch New Energy Investments 2011-1, Inc., as Lender and (v) Bank of America, N.A., as Administrative Agent and Collateral Agent.

All capitalized terms used in this Certificate not otherwise defined shall have their respective meanings specified in the Loan Agreement.

We have read the Section 3.1 of the Loan Agreement which identify the responsibilities of the Independent Engineer related to providing this Certificate in connection with Section 3.1(c) and Section 3.1(o) of the Loan Agreement.

We have reviewed the supporting material and data made available to us by the Borrower Entities which information consists of: (a) pre-construction engineering and design documents consisting of sites plans and electrical and structural designs, stamped by professional engineers registered in the state of California, for solar photovoltaic systems to be installed at 1751 South Point Avenue, Ontario, California; 4850 East Airport Drive, Ontario, California; and 8449 Milliken Avenue, Rancho Cucamonga, California, (b) documentation of necessary licenses, permits and state and national environmental clearances, and (c) evidence of the ordering of equipment and supplies necessary to begin the Physical Work (as defined below). We have also observed the status of construction activities at three sites of Physical Work. When we visited the sites of the Physical Work, our review and observations were performed in accordance with generally accepted engineering practices consisting of a walk-through of three sites conducted on September 2, 2011, observation of installed equipment and material, and observation of work procedures. Our general field observations were visual, above-ground examinations of selected areas which we deemed adequate to comment of the commencement of construction, but were not in the detail which would be necessary to reveal conditions with respect to safety or environmental conditions or the conformance with Project contracts, codes, permits, or regulations applicable to the construction of the Project. The Independent Engineer's certificate is based on the understanding and assumption that we have been provided true, complete and accurate information from other parties.

Based on our review described above of the aforementioned information, the Independent Engineer HEREBY CERTIFIES for the benefit of the Guarantor, and of the Administrative Agent that as of the date hereof Commencement of Construction has occurred because the Borrower (or relevant contractor or sub-contractor) has

1) begun (or resumed) physical work of a significant nature on the Project, including roofing work intended to extend the expected roof lifetime to match the term of the power purchase agreements and to increase the reflectivity of the roofing surface and 2) security and safety upgrades which would not normally be installed in the absence of a photovoltaic system performed at the following three addresses: 1751 South Point Avenue, Ontario, California; 4850 East Airport Drive, Ontario, California; and 8449 Milliken Avenue, Rancho Cucamonga, California (such work, the "Physical Work"); and

2) with respect to the Physical Work, the Borrower has (i) commenced all pre-construction engineering and design, (ii) received necessary licenses, permits and local and national environmental clearances, and (iii) engaged all contractors and ordered all essential equipment and supplies that, in each case of (i), (ii) and (iii), are reasonably necessary to begin (or, if previously interrupted or suspended, resume) the Physical Work and to proceed to completion without foreseeable interruption of a material duration.

IN WITNESS WHEREOF, the undersigned has executed this Independent Engineer's Certificate as of the date first written above.

BLACK & VEATCH CORPORATION

By: Oscar Mak	By: J. Randolph Becker
Its: Manager, Management Consulting	Its: Director, Independent Consulting and Engineering

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September ~~20~~, 2011

Bank of America, N.A., as Administrative Agent
Agency Management
101 South Tryon Street
Mail Stop: NC1-002-15-36
Charlotte, NC 28255-0001
Attention: Maria McClain

United States Department of Energy, as Guarantor
Loan Guarantee Program
1000 Independence Avenue, SW
Washington, D.C. 20585
Attn: Director, Portfolio Management
Re: DOE Loan Guarantee, LGPO Loan # F1029

INDEPENDENT ENGINEER CERTIFICATE

Ladies and Gentlemen:

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We have read the Section 3.1 of the Loan Agreement which identify the responsibilities of the Independent Engineer related to providing this Certificate in connection with Section 3.1(c) and Section 3.1(o) of the Loan Agreement.

We have reviewed the supporting material and data made available to us by the Borrower Entities which information consists of: (a) pre-construction engineering and design documents consisting of sites plans and electrical and structural designs, stamped by professional engineers registered in the state of California, for solar photovoltaic systems to be installed at 1751 South Point Avenue, Ontario, California; 4850 East Airport Drive, Ontario, California; and 8449 Milliken Avenue, Rancho Cucamonga, California, (b) documentation of necessary licenses, permits and state and national environmental clearances, and (c) evidence of the ordering of equipment and supplies necessary to begin the Physical Work (as defined below). We have also observed the status of construction activities at three sites of Physical Work. When we visited the sites of the Physical Work, our review and observations were performed in accordance with generally accepted engineering practices consisting of a walk-through of three sites conducted on September 2, 2011, observation of installed equipment and material, and observation of work procedures. Our general field observations were visual, above-ground examinations of selected areas which we deemed adequate to comment of the commencement of construction, but were not in the detail which would be necessary to reveal conditions with respect to safety or environmental conditions or the conformance with Project contracts, codes, permits, or regulations applicable to the construction of the Project. The Independent Engineer's certificate is based on the understanding and assumption that we have been provided true, complete and accurate information from other parties.

Based on our review described above of the aforementioned information, the Independent Engineer HEREBY CERTIFIES for the benefit of the Guarantor, and of the Administrative Agent that as of the date hereof Commencement of Construction has occurred because the Borrower (or relevant contractor or sub-contractor) has

1) begun (or resumed) physical work of a significant nature on the Project, including roofing work intended to extend the expected roof lifetime to match the term of the power purchase agreements and to increase the reflectivity of the roofing surface and 2) security and safety upgrades which would not normally be installed in the absence of a photovoltaic system performed at the following three addresses: 1751 South Point Avenue, Ontario, California; 4850 East Airport Drive, Ontario, California; and 8449 Milliken Avenue, Rancho Cucamonga, California (such work, the "Physical Work"); and

2) with respect to the Physical Work, the Borrower has (i) commenced all pre-construction engineering and design, (ii) received necessary licenses, permits and local and national environmental clearances, and (iii) engaged all contractors and ordered all essential equipment and supplies that, in each case of (i), (ii) and (iii), are reasonably necessary to begin (or, if previously interrupted or suspended, resume) the Physical Work and to proceed to completion without foreseeable interruption of a material duration.

IN WITNESS WHEREOF, the undersigned has executed this Independent Engineer's Certificate as of the date first written above.

BLACK & VEATCH CORPORATION

By: Oscar Mak

Its: Manager, Management Consulting

By: J. Randolph Becker

Its: Director, Independent Consulting and Engineering

Department of Energy
Washington, DC 20585

September 21, 2011

INTERNAL MEMORANDUM

TO: FILE

FROM: DONG KIM, DIRECTOR
TECHNICAL AND PROJECT MANAGEMENT DIVISION, (LP-30)

SUBJECT: TECHNICAL AND PROJECT MANAGEMENT DIVISION, (LP-30), CERTIFICATION OF COMMENCEMENT OF CONSTRUCTION FOR PROJECT AMP (FIPP) – REVISED

Black and Veatch (BV), the lenders' independent engineer (IE), proposed two changes to commencement of construction language within the "FORM OF INDEPENDENT ENGINEER CERTIFICATE". Consequently, on September 8, LPO Legal Counsel (LP-70) requested that Technical and Project Management (TPMD, LP-30) certify by internal memorandum to be included in the closing documents to commencement of construction. Accordingly, *TPMD hereby certifies that the Project AMP* has (1) completed all pre-construction engineering and design, (2) received all necessary licenses, permits and local and national environmental clearances, and (3) engaged all contractors and ordered all essential equipment and supplies that, in each case, are reasonably necessary to begin physical work of a significant nature on the Project and to proceed to completion without foreseeable interruption of a material duration; and that Project Amp or relevant sub-contractor has begun such physical work.

TPMD acknowledges that ProLogis (the Sponsor of Project Amp) has informed the LPO that it does not intend to use Solyndra panels for Phase 1 (Project Photon), and that Phase 1 may not be developed under the currently-contemplated Phase 1 PPAs. However, as indicated in the email from ProLogis, attached as Attachment 1, ProLogis has confirmed "that it will continue to endeavor to utilize all or a portion of the rooftops that are referenced in the definition of Physical Work in the IE Certificate in the Project, including working to confirm its right to develop such rooftops during the availability period of the loan without using Solyndra panels. In the event (i) of such confirmation and (ii) such rooftops continue to be available, suitable and subject to acceptable power purchase agreements during the availability period of the loan, ProLogis believes that it is highly likely that all or a portion of such rooftops will be developed and included in the Project at some point during the course of the Project." This information does not change the conclusion above regarding commencement of construction.

This certification is based on the certification provided by BV in the document attached as Attachment 2 and TPMD's own work, which is described in the memorandum attached as Attachment 3.

Department of Energy
Washington, DC 20585

September 21, 2011

MEMORANDUM

TO: FILE

FROM: DONG KIM, DIRECTOR
TECHNICAL AND PROGRAMS MANAGEMENT DIVISION (LP-30)

SUBJECT: Commencement of Construction for Project Amp (FIPP) – Revised

For all ARRA Section 1705 projects, the Loan Programs Office's (LPO) Technical and Project Management Division (TPMD) schedules visits by staff or the Independent Engineer to confirm that commencement of construction has started in advance of the September 30, 2011, sunset date. On September 2, 2011, Mr. Todd Shrader and Mr. Ronald Harris, TPMD, and Mr. Oscar Mak and Mr. Luke Ohlmacher, Black & Veatch (the lender's Independent Engineer (IE)), visited ProLogis (Project Amp's sponsor) and confirmed the commencement of construction for Project Amp. Rooftop preparation activities continue in accordance with project plans to support solar panel installation.

Installation of distributed rooftop PV systems on existing buildings begins with rooftop modifications to ensure that rooftop life meets or exceeds the planned project life and that roof structures can support PV systems. These modifications can be extensive, depending on the age and features of the buildings involved. ProLogis provided evidence to TPMD and the IE that Project Amp has commenced construction by providing an inspection tour at two ProLogis warehouses in Ontario and one warehouse in Rancho Cucamonga, CA, each of which is contemplated to be included in Phase 1 of Project Amp. At the time of the visit, ProLogis had installed or was installing reflective thermoplastic olefin barrier membranes over rooftop areas that exceed 700,000 square feet for all three warehouses. The installation of this reflective membrane improves roof surfaces to ensure a minimum 20 year lifetime.

In addition, Project Amp has or continues to modify roof features such as skylights, security systems, and other features on all fifteen ProLogis warehouse rooftops that are contemplated to be included in Phase 1 of Project Amp, which total almost 2.8 million square feet. LPO personnel and the IE reviewed plans and documentation that show evidence that work is proceeding and is at varying degrees of completion. A review of current project plans and schedules and interviews with ProLogis personnel show that rooftop improvements for those fifteen rooftops will be completed by mid-September, at which time they will be ready for the installation of solar panels and balance of plant (BOP) systems.

During the site visit, TPMD and the IE requested information on procurement of BOP systems and the PV panels to be installed. BOP purchases or contracts orders for inverters, monitoring equipment, and racks were evidenced, but not yet fully executed. ProLogis indicated detailed planning for roof modification for a possible Phase 2 has not been executed, but could occur in parallel to Phase 1 activities, continuing execution of project phases as the project proceeds.