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How Obama's Green Energy Agenda is Killing Jobs

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EXECUTIVE SUMMARY

Facing the worst economic recession since the Great Depression, President Obama confronted the crisis by promoting “green jobs” as a major component of his recovery strategy. He promised that these programs would create five million jobs within ten years. He cited the efforts of other nations as the rationale to try and subsidize our way to energy independence. Yet, the other nations who tried this experiment have struggled and after nearly three years and billions of spent taxpayer dollars later, the American people have received very little return on President Obama’s signature investment.

The theory behind a “green jobs” fueled recovery is also called into question by numerous sources documenting instances of inappropriate political influence affecting the distribution of government grants. Moreover, the Bureau of Labor Statistics’ efforts to legitimize the notion of “green jobs” by counting these jobs as a unique job category, would create official metrics for the nascent effort.

The Obama Administration’s green energy campaign has been pursued while it simultaneously implemented a regulatory agenda that is choking American businesses and restricting access to abundant domestic natural resources which have traditionally provided cheap energy that supports economic growth.

With unemployment at a staggering 9.2 percent, the ill-fated “green jobs” experiment has done little to create jobs or speed recovery; in fact, by many accounts it has destroyed jobs. This is a dangerous strategy that will drastically increase the price consumers pay for energy, hurt economic growth, and restrict job creation.

By sacrificing domestic carbon-based resources upon the altar of an ill-fated “green energy” experiment, the President has put U.S. economic security in jeopardy and wasted billions in taxpayer money at a time when our fiscal health is in peril.

KEY FINDINGS

- Three years and nearly a hundred billion dollars later, taxpayers have received little return from President Obama’s investments in “green jobs;”
- Labeling an occupation as a green job does not mean it has any special economic worth;
- The guise of “green jobs” has become a political rallying cry aimed to unite environmentalists and union leaders in a deliberate effort to consolidate an ideologically-based agenda;
- Labor unions are profiting from the many so-called “green” programs because there are often “strings attached” that require hiring union workers, the payment of union-level wages and other mandates;
- Evidence suggests that the Department of Labor’s Bureau of Labor Statistics (BLS) has been subjected to undue political influence to advance this agenda and is now using gimmick-accounting methods to count “green jobs” even though the term is vague, poorly defined, and has led to inaccurate counting;
- The metric of a “green job” is nothing more than a propaganda tool designed to provide legitimacy to a pre-determined outcome that benefits a political ideology rather than the economy or the environment;
- The Obama Administration’s “green jobs” agenda has been driven by political favoritism and accusations of pay-to-play relationships benefitting private investors with the security of public loan guarantees, such as in the much-publicized case of Solyndra;
- The Solyndra loan guarantee was further politicized when the federal government’s “investor” standing was subordinated to the interest of a private investor—one who happened to be a prominent Obama fundraiser;
- The President’s effort to force a transition to “green energy” has pursued twin policies of raising the price of fossil fuels and subsidizing “green energy” at the expense of the domestic energy production sector. Domestic oil, gas and coal industries are being choked under a slew of aggressive federal regulations, despite the proven long-term, job-creating record of this industry;
- There exists an undeniable relationship between America’s prosperity and its access to affordable energy sources that if ignored, will setback economic growth;
- The Obama Administration is hypocritical in its energy policy: it promotes traditional energy sources abroad through loans and diplomacy, while openly discouraging it at home;

- President Obama relied on the false pretense that subsidizing “green energy” as other nations such as Spain, Germany and Japan did would result in “good, high-wage jobs” when in actuality, nations such as Spain, Italy, Denmark, Germany and the U.K. have struggled with job destruction, higher energy costs and loss of taxpayer dollars as a result of pursuing such policies.

INTRODUCTION

Taking office amidst the worst recession since the Great Depression, President Obama confronted an unemployment crisis by focusing on the promotion of “green jobs.” His goal was to put people to work in ways that improve the environment. As the President asserted in his inaugural address, “we will act not only to create new jobs but to lay a new foundation for growth.”¹ He continued, “We will harness the sun and the winds and the soil to fuel our cars and run our factories.”² This strategy built on his campaign’s championing of green jobs as a means to achieve economic recovery, promising that America would create five million green jobs within ten years.³

A columnist for the *Los Angeles Times* recently noted that while the push to green energy is not new, having originated in the 1970s, “the mission keeps changing. Is the green energy revolution about energy independence? Or is it about fighting global warming? Or is it about jobs?”⁴ While there is certainly merit in promoting both economic growth and environmental conservation, these aims are often at odds with each other.⁵ Yet, “green jobs” are a key pillar in the Obama Administration’s economic recovery strategy. According to the President, green energy is the current generation’s equivalent of the Apollo missions, which sent a man to the moon in 1969.⁶ However, the entire Apollo Program (between 1960 and 1973) cost \$102.8 billion, adjusted for inflation. In contrast, the Recovery Act alone included \$90 billion⁷ in clean energy investments, which is on top of billions expended by the federal government since the 1970s.⁸ Yet unlike the generation who supported the NASA mission, this generation has very little to show for it.

Nearly three years and billions of taxpayer dollars later, Americans have received very scant return from President Obama’s investment. Recent media coverage resoundingly declared the “green jobs” experiment has been a costly failure. An August 16th editorial from *Investor’s Business Daily* observed, “The Obama Administration’s jobs plan was based on a greening of the economy. But the green jobs aren’t materializing...”⁹ Two days later, a *New York Times* article went further, “Federal and state efforts to stimulate creation of green jobs have largely failed...”¹⁰ The *Washington Post’s* editorial board was even harsher, declaring on September 9:

¹ President Barack Obama, Inaugural Speech (Jan. 20, 2009).

² *Id.*

³ See David G. Taylor, *Seeds Planted for Green Jobs, but Will They Bear Fruit*, POLITIFACT.COM (St. Petersburg Times), available at <http://www.politifact.com/truth-o-meter/promises/obameter/promise/439/create-5-million-green-jobs/>.

⁴ Jonah Goldberg, *America’s ‘Green’ Quagmire*, L.A. TIMES, Aug. 23, 2011.

⁵ Michael Greenstone, *The Impacts of Environmental Regulations on Industrial Activity: Evidence from the 1970 and 1977 Clean Air Act Amendments and the Census of Manufactures: Working Paper 8484*, NAT’L BUREAU OF ECON. RESEARCH, Sept. 2001, at 28.

⁶ President Barack Obama, State of the Union Address (Jan. 25, 2011).

⁷ COUNCIL OF ECONOMIC ADVISORS, EXECUTIVE OFFICE OF THE PRESIDENT, THE ECONOMIC IMPACT OF THE AMERICAN RECOVERY AND REINVESTMENT ACT, SECOND QUARTERLY REPORT (2009).

⁸ Fred Sissine, et al. *Energy Provisions in the American Recovery and Reinvestment Act of 2009 (P.L.111-5)*, CRS REPORT FOR CONGRESS (Mar. 12, 2009).

⁹ Editorial, *Wasted Stimulus*, INVESTORS.COM, Aug. 16, 2011.

¹⁰ Aaron Glantz, *Number of Green Jobs Fails to Live up to Promises*, N.Y. TIMES, Aug. 18, 2011.

“green jobs” offer a dubious rationale for federal support of clean-energy technology. To the extent that government creates jobs by subsidizing particular companies, it does so by shifting resources that might have created jobs elsewhere. Political favoritism, or the appearance thereof, is an inherent risk....¹¹

The same day, the *Wall Street Journal* lamented, “bureaucrats are betting ... on industries they may not understand... [which] invites political favoritism for the powerful few at the expense of millions of middle-class taxpayers.”¹² “Promises of green jobs start withering on vine,” reported the *Washington Times* the next week.¹³

Economic realities have levied an even harsher indictment of the President’s green agenda. Evergreen Solar and Solyndra, Inc. now typify the problems of forcing green energy upon the American public. Just seven months ago, a headline in an industry publication, *Renewable Energy World*, read “Can Everygreen Solar be Our Sputnik Moment?”¹⁴ Yet, after receiving millions in government support, Boston, MA based Evergreen Solar filed for bankruptcy on August 15, 2011.¹⁵

Likewise, the Fremont-based solar company, Solyndra – the first company to receive a Department of Energy loan guarantee – was visited by President Obama in May 2010. At this event, the President praised Solyndra as a “testament to American ingenuity and dynamism.” Solyndra filed for bankruptcy on September 2, 2011¹⁶ and has laid off 1,100 workers, despite having received \$535 million in federal loan guarantees.¹⁷ Solyndra’s failure is evidence of the folly of subsidizing green energy combined with the folly of politicians hand-picking winners and losers in the market.

In addition to these concerns, questions are being raised as to whether DOE awards were made, or if the process was accelerated, on the basis of political favoritism. In the case of Solyndra, White House visitor logs show that “between March 12, 2009, and April 14, 2011, Solyndra officials and investors made no fewer than 20 trips to the West Wing.”¹⁸ At a minimum, it appears that the federal government’s support of Solyndra was influenced by the White House.

¹¹ Editorial, *Lessons from the Solyndra Debacle*, WASH. POST, Sept. 8, 2011.

¹² Review and Outlook, *The Solyndra Scandal*, WALL ST. J., Sept. 9, 2011.

¹³ Ben Wolfgang, *Promises of Green Jobs Withering on the Vine*, WASH. TIMES, Sept. 11, 2011.

¹⁴ Clint Wilder, *Can Evergreen Solar be Our Sputnik Moment*, RENEWABLE ENERGY WORLD.COM, Feb. 4, 2011, available at <http://www.renewableenergyworld.com/rea/news/article/2011/02/can-evergreen-solar-be-our-sputnik-moment>.

¹⁵ MB Snow, *Nevergreen Solar-WSJ.com*, POLITICAL NEWS NOW, Aug. 17, 2011, available at <http://sroblog.com/2011/08/17/nevergreen-solar-wsj-com/>.

¹⁶ Scott McGrew, *Solyndra Filing a Disaster for Obama*, NBC BAY AREA.COM, Sept. 2, 2011, available at <http://www.nbcbayarea.com/news/local/Solyndra-Filing-a-Disaster-for-Obama-128816968.html>.

¹⁷ *Id.*

¹⁸ Amanda Carey, *Solyndra Officials made Numerous Trips to the White House, Logs Shows*, THE DAILY CALLER.COM, Sept. 8, 2011, available at <http://dailycaller.com/2011/09/08/solyndra-officials-made-numerous-trips-to-the-white-house-logs-show/#ixzz1Xhdr06Wf>.

The purpose of this report is to examine the effectiveness of President Obama's green energy agenda as a jobs plan. The President has stated, time and again, that this agenda will result in robust job creation which will help America compete in the 21st Century. This report seeks to understand the merits of that claim. This report does not express a technology preference, rather it is the position of the Committee that American consumers should determine which energy technologies meet their needs and preferences.

Of course, we welcome and embrace all new technologies, especially those with the aim of increasing environmental conservation. However, there is an important distinction between industries that can stand on their own and make our economy stronger and those which require taxpayer assistance to survive.

This report provides evidence that the expensive "green jobs" policies implemented by President Obama have not helped Americans get back to work. The 14 million unemployed Americans – 43%, or 6 million, of whom have been without work for 27 weeks or more – deserve to understand why so much money has been spent to create so few jobs. This report also builds on earlier work of the Committee on Oversight and Government Reform ("Committee"), which demonstrated the Obama Administration has put in place numerous regulatory impediments, which have hampered job creation in the traditional energy sector.

Part I of this report deconstructs President Obama's green energy agenda to expose that it has put politics before science, allowing favored industries to succeed while punishing others.

Part II examines the ways in which the Obama Administration's green energy agenda has -- and will continue to -- negatively impact economic growth and job creation in the United States.

Part III focuses on the fundamental flaws in the Obama Administration's claim that green energy can lead to robust job creation.

PART I: OBAMA'S GREEN AGENDA DECONSTRUCTED

“Green Jobs” are a Political Construct

The concept of “green collar jobs” dates back to 1976 and suggests that the work is related to environmental improvement.¹⁹ The phrase is a modern spin on “blue collar jobs,” traditionally jobs involving manual labor, and “white collar jobs,” typically office jobs involving mainly “cognitive tasks.”²⁰ However, no one contends it is important to understand how many “blue” or “white” collar jobs there are in the labor market because those labels do not, inherently, carry any economic meaning – they are simply nominal references to broad categories of occupations. In much the same way, “green job” is simply a label that denotes work somehow related to the environment. Labeling an occupation as a green job does not mean it has any special economic worth.

“Green Jobs” Unite Democratic Factions

The idea of “green jobs” has become a major political rallying cry for environmentalists and union leaders alike. While seemingly at odds with each other – unions have, historically, been at odds with environmentalists over regulations that destroy jobs²¹ – unions and environmentalists have joined forces to secure new mandates and subsidies under the guise of simultaneously bolstering the American manufacturing base and leading to conservation. Many have compared the collaboration of unions and environmentalists to the famous cooperation of “bootleggers and Baptists” to fight for prohibition.²² Economist Bruce Yandle, who developed the analogy, explains, “Bootleggers ... support Sunday closing laws that shut down all the local bars and liquor stores [so they can sell alcohol]. Baptists support the same laws and lobby vigorously for them [for religious reasons].”²³ Similarly, union leaders support “green jobs” because much of the subsidized work is designated to be awarded to unionized workers. For their part, environmentalists benefit from having a broader base of support for policies that seek to “green” the economy. The outcome is a political alliance with incredible power.

The genesis of promoting so-called “green jobs” can be traced to a group known as the Apollo Alliance, which has been the center of gravity for the green jobs movement since 2001.²⁴ Its membership consists of nearly every major labor union and environmental organization in the country: the AFL-CIO, the Sierra Club, AFSCME, Greenpeace, the International Brotherhood of Electrical Workers, Natural Resources Defense Council (NRDC), the International Brotherhood

¹⁹ Noam Segal, *Green Collar Jobs: The Alternative Energy Industry and Labor Markets in Reviewing the Middle East: Climate Changes*, in *Security and Energy and the New Challenges for EU-Israel Relations*. (Roby Natanson & Stephan Stetter eds., IEPN Publication 2008).

²⁰ TEXAS WORKFORCE COMMISSION, LABOR MARKET AND CAREER INFORMATION DEPARTMENT, GREEN COLLAR WORKERS AND OTHER MYTHICAL CREATURES (2008) [hereinafter Texas Study].

²¹ Beth Shulman, *Yes, Union Labor's message to liberals: Rumors of our irrelevance have been much exaggerated*, *The American Prospect*, Nov. 1, 1996 available at http://prospect.org/cs/articles?article=yes_union.

²² See e.g. ANDREW P. MORRIS ET AL., THE FALSE PROMISE OF GREEN ENERGY 149 (2011).

²³ Bruce Yandle, *Bootleggers and Baptists-The Education of Regulatory Economist*, *AEI Journal on Government and Society*, 13, May/June 1983, available at <http://www.cato.org/pubs/regulation/regv7n3/v7n3-3.pdf>.

²⁴ Apollo Alliance: Clean Energy & Good Jobs, <http://apolloalliance.org/about/> (last visited Sept. 19, 2011).

of Teamster, the National Wildlife Federation, and dozens of others.²⁵ Accordingly, the Apollo Alliance and other coalition efforts like the Blue-Green Alliance²⁶ bring together two major components of the Democratic political base – environmentalists and labor unions.

Observing the alliance of labor groups and environmentalists to mobilize support for the green jobs movement, the London-based Institute for Public Policy Research noted in July 2011:

It enabled environmentalists to counter arguments that climate change policies are ‘job destroyers’; it appealed to trade unions concerned about the outsourcing of jobs, the ‘low road’ strategy of many firms in the renewable energy/energy efficiency sector, and the decline of manufacturing and energy intensive industries; and it allowed politicians, particularly those on the left, to reach out beyond an ‘environmental elite’ to convince broader constituencies of the benefits of a green economy.²⁷

Labor Unions are Profiting under the Pretense of Green Energy

While the green jobs movement clearly advances the interests of environmental special interest groups in the green jobs movement, the interests of labor unions may not be as readily apparent. However, a careful look at statutes passed in the Democrat controlled 110th and 111th Congresses reveal that unions stand to benefit from many of the so-called green programs because these programs have “strings attached ... that require paying union-level wages, hampering lower cost, nonunion firms from competing for the jobs produced by the grants.”²⁸ The left-wing magazine, *The American Prospect*, noted in September of 2007 that Leo Gerard, the President of the United Steelworkers, has played a major role in the development of the Apollo Alliance and its political influence:

In creating a new progressive gospel that links labor and enviro[nmentalists], Gerard has built an alliance of genuine strategic importance to the Democrats—most especially because the two constituencies’ current disagreement over congressional efforts to mandate fuel-efficiency standards could drive them farther apart. Long a force for labor solidarity, Gerard has become a force for Democratic solidarity as well.²⁹

Another reason why Gerard and the United Steelworkers, in particular, are drawn to this coalition is the amount of steel required to manufacturer green energy products, such as wind

²⁵ Apollo Alliance: Clean Energy & Good Jobs, Endorsers, <http://apolloalliance.org/about/endorsers/> (last visited Sept. 19, 2011).

²⁶ BlueGreen Alliance About Us, http://www.bluegreenalliance.org/about_us (last visited Sept. 20, 2011).

²⁷ Claire McNeil & Hanna Thomas, *Green Expectations: Lessons from the US green jobs market*, 6, (Institute for Public Policy Research 2011), available at http://www.ippr.org/images/media/files/publication/2011/07/green-expectations_July2011_7756.pdf.

²⁸ MORRISS, *supra* note 22, at 198.

²⁹ Jim Grossfeld, *Leo the Linchpin*, THE AMERICAN PROSPECT, Sept. 24, 2007, available at http://prospect.org/cs/articles?article=leo_the_linchpin.

turbines. To the extent that manufacturers use American steel, the assumption is that the government subsidies and regulations would benefit their membership as well. As Gerard has stated, arguing for steel protections, “If we are not going to do solar panels and fluorescent bulbs and wind turbines here, the next generation of R and D will not be here.”³⁰

Codifying the “Green Jobs” Construct - The Role of the Department of Labor in Green Job Promotion

The Bureau of Labor Statistics (BLS), a division of the Department of Labor, is arguably the most rigorous and well-respected data collection agency in the world. Its numbers are the gold standard for understanding employment in the United States.³¹ These statistics are then used by policy makers, investors, and others to make decisions that will greatly impact the economy. Accordingly, evidence suggesting that the BLS is being subject to undue political influence to advance the political agenda of the President is deeply troubling. The Green Jobs Act of 2007, sponsored by then-Congresswoman Hilda Solis (now Secretary of Labor) included a provision that directed the BLS to begin counting “green jobs.”³² Because the concept of a “green job” is so vague and not easily defined, counting these jobs this is an inherently flawed task. It is also a task vulnerable to manipulation and misrepresentation.

In recent guidance, the BLS has determined that the following jobs could be counted as “green”:

1. Jobs in businesses that produce goods or provide services that benefit the environment or conserve natural resources.
2. Jobs in which workers’ duties involve making their establishment’s production processes more environmentally friendly or use fewer natural resources.³³

While this definition may appear to be facially reasonable, the details of the BLS guidance reveal that there is little relationship between jobs classified as green and actual environmental benefit. For instance, the BLS guidance indicates that jobs which “[i]ncrease public awareness of environmental issues” are green jobs.³⁴ College professors that teach classes related to ecology, reporters that write about environmental issues, and policy experts at think tanks discussing environmental policy all would seem to meet this criteria and be considered green jobs. Those who “[e]nforce environmental regulations” will also count – in other words, any bureaucrat that

³⁰ Howard Schneider, *U.S. Steelworks Target China*, WASH. POST, Sept. 10., 2010.

³¹ U.S. Bureau of Labor Statistics Home Page, *available at* <http://www.bls.gov/jobs/aboutbls.htm> (last visited Sept. 21, 2011).

³² *Obama Taps Green Jobs Champion Hilda Solis as Labor Secretary*, THE DAILY KOS, Dec. 18, 2008, <http://www.dailykos.com/story/2008/12/18/674657/-Obama-Taps-Green-Jobs-Champion-Hilda-Solis-as-Labor-Secretary>.

³³ Bureau of Labor Statistics, *Definition of Green Jobs*, http://www.bls.gov/green/green_definition.pdf (last visited Sept, 21, 2011).

³⁴ *Id.*

works on issues related to the environment.³⁵ Accordingly, it appears the BLS metric is geared towards maximizing the number of jobs classified as green.

To be fair, many outside groups have attempted to come up with a definition of “green jobs” without much success. For example, the Brookings Institution (“Brookings”) recently attempted to provide a workable definition.³⁶ However, Ken Green, a senior fellow at the American Enterprise Institute, has observed the multitude of problems with defining green jobs. Using the Brookings definition as an example, he observed:

Brookings doesn’t count people who work inside companies in environmental compliance or environmental impact reduction, but they throw in a very large number of mass transit workers.

Yet whether or not mass transit is green depends on ridership levels, the power source, the age of the vehicles, which emissions you’re focused on and so on.³⁷

The United Nations Environment Programme and the Conference of Mayors have both put out reports attempting to define green jobs.³⁸ With each group’s attempt at coming up with a definition, however, there is significant conflict that reveals the impossibility of this task.³⁹

In addition to the challenges associated with defining a “green job,” it is important to note that many of the newly defined jobs are not jobs that have been recently “created,” as the Administration’s rhetoric would lead one to believe, but rather “re-labeled” as green by the BLS. Marc Anderberg of the Texas Workforce Commission has observed:

For workforce planning and development purposes, there is no point in generating nonsensical data on green collar workers merely to satisfy the media’s thirst for numbers to make oversimplified reports sound credible or to provide good news that an economic development agent can paste on a bumper sticker.⁴⁰

The reality is that pre-existing jobs are merely being counted as green-collar; they are not “new,” they are simply grouped and counted with the meta-label “green.”⁴¹ In addition to the illusion that these so-called green jobs are new, the BLS admits that “the planned BLS surveys may

³⁵ *Id.*

³⁶ Mark Muro, *Sizing the Clean Economy: A National and Regional Green Jobs Assessment*, BROOKINGS, Jul. 13, 2011, available at http://www.brookings.edu/reports/2011/0713_clean_economy.aspx.

³⁷ *Building the Ladder of Opportunity: What’s Working to Make the American Dream a Reality for the Middle Class, before the Senate Committee on Health, Education, Labor, and Pensions*, 112th Cong. (2011) (statement of Dr. Kenneth P. Green, Resident Scholar, American Enterprise Institute).

³⁸ MORRISS, *supra* note 22, at 73-5.

³⁹ *Id.*

⁴⁰ Texas Study, *supra* note 20, at 2.

⁴¹ *See id.*

identify and count some jobs twice.”⁴² In other words, these jobs are not putting Americans *back* to work; they are simply counting Americans already at work and sometimes counting them twice.

While the definition has very little economic meaning, by creating a “green jobs” metric in BLS’s data, DOL is attempting to provide legitimacy to a political construct. It is likely that this designation will play a large role in determining eligibility for federal funds. Accordingly it will distort the market by incentivizing companies to change their currently successful business model in the hopes of garnering government favoritism. Moreover, proponents will likely point to these new, yet meaningless, statistics to claim the green economy is more viable than it actually is. Ultimately, counting green jobs jeopardizes the credibility of the BLS and makes them subject to political influence.

The Obama Administration’s Green Energy Agenda Has been Driven by Political Favoritism

The Obama Administration’s aggressive pursuit of its green energy agenda has raised significant questions about possible pay-to-play relationships between the Administration and green energy company officials and investors. The green energy industry’s reliance on the federal government for financial backing has created a situation that places the Department of Energy in the position of picking winners and losers among different green energy firms. In several situations, companies with close financial ties to the Obama Administration have won government loans and grants despite having questionable financial strength.

The most obvious example of this favoritism comes from Solyndra, a California based solar company. President George W. Bush signed the Energy Policy Act of 2005, which created a loan guarantee program for green technology. President Obama’s campaign had made green energy a priority, and the new Administration decided to place a new focus on the loan guarantee program. The Energy Policy Act’s loan guarantee program was changed by The Recovery Act, and a new section was created (Section 1705) that was “a temporary program designed to address the current economic conditions of the nation. It authorizes loan guarantees for certain renewable energy systems, electric power transmission systems and leading edge biofuels projects that commence construction no later than September 20, 2011.”⁴³ The Obama Administration moved quickly to use the loan guarantee program to fund green energy projects.

Solyndra had applied for a loan guarantee under the Bush Administration and had not received it. In fact, only days before the Obama Administration took office, the DOE under President Bush refused to approve the Solyndra application.⁴⁴ One official at the DOE worried that Solyndra would fail because even based upon Solyndra’s own numbers the company would

⁴² Bureau of Labor Statistics, Green Jobs, Measuring Green Jobs, <http://www.bls.gov/green/> (last visited July 13, 2011).

⁴³ U.S. Department of Energy, Loan Programs Office, 1705, https://lpo.energy.gov/?page_id=41 (last visited Sept. 21, 2011).

⁴⁴ Matthew Mosk et al., Emails: Obama White House Monitored Huge Loan to ‘Connected’ Firm, ABC NEWS, Sept. 13, 2011, *available at* <http://abcnews.go.com/Blotter/emails-obama-white-house-monitored-huge-loan-connected/story?id=14508865>.

no longer have any money by September 2011.⁴⁵ Despite objections from analysts at DOE and the Office of Management and Budget, the Obama Administration reconsidered Solyndra's application.

In March 2009, Energy Secretary Chu announced that the Department had approved a \$535 million conditional loan for Solyndra.⁴⁶ DOE and OMB officials continued to worry about Solyndra and the government investing in the company.⁴⁷ The Obama Administration ignored the concerns and completed the loan. In September 2009, Vice President Biden announced at the groundbreaking ceremony for Solyndra that the company was approved to become the first recipient of a 1705 loan guarantee.⁴⁸ When announcing the loan guarantee, Vice President Biden claimed that "this announcement today is part of the unprecedented investment this Administration is making in renewable energy and exactly what the Recovery Act is all about."⁴⁹

Despite the support of taxpayer funds, Solyndra continued to experience financial difficulties. Even so, the Obama Administration continued to advertise it as a success story. In March 2010, PriceWaterhouseCoopers audited Solyndra and questioned whether the company could continue due to financial problems.⁵⁰ Yet, the Administration ignored this warning and instead participated in an elaborate public relations event, where President Obama spoke at the plant and the White House released a video on its website to highlight all of the economic benefits of Solyndra.⁵¹ The President claimed that "companies like Solyndra are leading the way toward a brighter and more prosperous future ... [T]he true engine of economic growth will always be companies like Solyndra."⁵²

By the end of 2010, Solyndra needed serious help to avoid financial disaster. Government documents indicate that in December 2010 "Solyndra had only about a month of cash on hand and faced bankruptcy absent continued funding."⁵³ Solyndra refinanced in January 2011 with the help of DOE. This arrangement subordinated the Federal loan to the interest of a private investor.⁵⁴ This arrangement made taxpayer funds more vulnerable in the event that Solyndra were to enter into Bankruptcy protection because the private investors would receive their money before the taxpayers received a dime.

⁴⁵ *Id.*

⁴⁶ *Id.*; see also *A History of Solyndra*, WASH. POST, Sept. 13, 2011, available at: http://www.washingtonpost.com/politics/a-history-of-solyndra/2011/09/13/gIQA1r5qQK_story.html.

⁴⁷ House Committee on Energy and Commerce, available at <http://republicans.energycommerce.house.gov/Media/file/Hearings/Oversight/091411/SolyndraSlides.pdf> (DOE emails from August 2009 reveal the continued concerns of DOE officials about the loan to Solyndra).

⁴⁸ Office of the Vice President, Press Release, The White House, *Vice President Biden Announces Finalized \$535 Million Loan Guarantee for Solyndra*, Sept. 4, 2009.

⁴⁹ *Id.*

⁵⁰ *Emails Show White House Pressure Ahead of Solar Company Loan Approval*, FOX NEWS, Sept. 14, 2011, available at <http://www.foxnews.com/politics/2011/09/13/gop-to-hold-hearing-on-now-bankrupt-solar-company-that-obama-once-touted/>.

⁵¹ McGrew *supra* note 16.

⁵² President Barack Obama, Address at Solyndra, Inc. (May 26, 2010).

⁵³ William McQuillen, *Taxpayers Rank Behind Solyndra Investors Under Obama's Refinancing Deal*, BLOOMBERG, Sept. 3, 2011.

⁵⁴ *Id.*

The refinancing deal kept Solyndra functioning for only a few months before it completely collapsed. On August 31, 2011, Solyndra declared bankruptcy and dismissed over 1,000 workers.⁵⁵ Solyndra's bankruptcy will now be handled by a bankruptcy court, but the federal government could potentially lose half a billion dollars on an "investment" that produced no permanent jobs.

Solyndra's failure clearly raises questions about the administration of DOE's Section 1705 loan guarantees program. However, it appears that the mismanagement might extend beyond DOE. Solyndra was partially owned (35.7%) by the George Kaiser Family Foundation.⁵⁶ George Kaiser bundled over \$50,000 for the Obama campaign in 2008.⁵⁷ Kaiser's influence with the Obama Administration enabled him to have 16 meetings with White House officials, including several immediately before DOE's decision to issue the \$535 million loan.⁵⁸ Kaiser's financial ties to the Obama Administration and his White House meetings raise important questions about whether his political connections helped Solyndra secure its \$535 billion loan. Especially in light of emails indicating that DOE was concerned about the loan, the Administration's decision to go ahead with the potentially risky loan that could now cost taxpayers hundreds of millions of dollars seems suspect and raises the possibility that the Administration placed political connections ahead of financial soundness.

Furthermore, DOE has funneled billions of taxpayer funds to other companies with political ties to the White House, even in the weeks after Solyndra went bankrupt. For example, DOE awarded a \$275 million loan guarantee to SolarCity on September 7, 2011. SolarCity's chairman, Elon Musk, was a major donor, having donated over \$40,000 to the Obama campaign. Mr. Musk has visited the White House at least four times for high level meetings.⁵⁹ DOE awarded \$13 million to Solixel on September 2, 2011. Steve Westly, a major investor in Solixel, has bundled over \$600,000 for Obama in the 2008 and 2012 cycles combined.⁶⁰ It remains possible that the political connection to the White House and the award of stimulus funds is entirely coincidental. However, in light of the Solyndra scandal, these ties have become significantly more questionable.

In addition to the possibility of an overt pay-to-play scheme, the Obama Administration's energy agenda has enriched scores of businesses and trade associations from government subsidization of green initiatives.⁶¹ Bjorn Lomborg, director of the Copenhagen Consensus, describes the rise of companies angling for government assistance as the "Climate-Industrial Complex."⁶² Lomborg observes:

⁵⁵ *History of Solyndra supra* note 46.

⁵⁶ William McQuillen, *Taxpayers Rank Behind Solyndra Investors Under Obama's Refinancing Deal*, BLOOMBERG, Sept. 3, 2011.

⁵⁷ Bundlers, Center for Responsive Politics, <http://www.opensecrets.org/pres08/bundlers.php?id=N00009638> (last visited Sept. 21, 2011).

⁵⁸ Carey *supra* note 18.

⁵⁹ Amanda Carey, *New DOE Loans Support Green Obama-Backers*, THE DAILY CALLER, Sept. 12, 2011, available at <http://dailycaller.com/2011/09/12/new-doe-loans-support-green-obama-backers/>.

⁶⁰ *Id.*

⁶¹ Apollo Alliance: Clean Energy & Good Jobs, Endorsers, <http://apolloalliance.org/about/endorsers/> (last visited Sept. 19, 2011).

⁶² Bjorn Lomborg, *The Climate-Industrial Complex*, WALL ST. J., May 22, 2009.

The cozy corporate-climate relationship was pioneered by Enron, which bought up renewable energy companies and credit-trading outfits while boasting of its relationship with green interest groups. When the Kyoto Protocol was signed, an internal memo was sent within Enron that stated, "If implemented, [the Kyoto Protocol] will do more to promote Enron's business than almost any other regulatory business."⁶³

Lomberg also notes, "U.S. companies and interest groups involved with climate change hired 2,430 lobbyists [in 2008], up 300% from five years [prior]." A contemporary example can be found in General Electric (GE). In their recent book, *The False Promise of Green Energy*, economists Andrew Morriss, William Bogart, Roger Meiners, and Andrew Dorchak note that GE has shaped its business model to profit from government subsidies.⁶⁴ GE feels it could "bring in as much as \$192 billion from projects funded by governments around the globe, such as electric grid modernization [and] renewable-energy generation."⁶⁵ GE's CEO has even stated, "The government has moved in next door, and it ain't leaving."⁶⁶

⁶³ *Id.*

⁶⁴ Morriss *supra* note 22 at 198.

⁶⁵ *Id.*

⁶⁶ *Id.*

PART II: THE OBAMA ADMINISTRATION PURSUES ITS GREEN ENERGY AGENDA DESPITE OVERWHELMING EVIDENCE THAT IT WILL RESULT IN ECONOMIC DAMAGE

The Green War on Traditional Energy

America's reserves of carbon-based energy are amongst the largest on earth. "They eclipse Saudi Arabia (3rd), China (4th) and Canada (6th) combined — and that's without including America's shale oil deposits."⁶⁷ U.S. proven reserves of oil total 19.1 billion barrels, reserves of natural gas total 244.7 trillion cubic feet, and natural gas liquids reserves total 9.3 billion barrels.⁶⁸ "That's enough oil to maintain America's current rates of production and replace imports from the Persian Gulf for more than 50 years."⁶⁹ Technically recoverable "oil in the United States is 145.5 billion barrels, and undiscovered technically recoverable natural gas is 1,162.7 trillion cubic feet."⁷⁰

However, despite these resources, the Obama Administration seeks to fundamentally alter the American economy by forcing a transition to "green" energy. Because most alternative energy sources are significantly more expensive than traditional sources of energy, such a transition requires the Administration to raise the price of fossil fuels, while at the same time subsidizing "green energy." Only when the cost of green energy is close to the price of fossil fuels will the market sustain these technologies. The Administration has been busy pursuing these twin policies in an effort to force a "green" revolution.

This strategy should not be a surprise to the American public. During the campaign, then-Senator Obama openly declared that as part of his plan, "electricity rates would necessarily skyrocket ... that will cost money. They [businesses] will pass that cost on to consumers ..."⁷¹ His Secretary of Energy, Steven Chu, has argued that the price of gasoline ought to be raised to encourage the sale of more-efficient cars: "[s]omehow we have to figure out how to boost the price of gasoline to the levels in Europe."⁷²

While such statements seem radical, increasing the price of energy obtained from fossil fuels helps the Administration make the case for "green" energy. Substantially higher prices for fossil fuels would incentivize investment in alternative sources of energy. To this end, there is a pattern of increased enforcement, regulatory delay and new hurdles to the development of carbon-based energy across numerous agencies and approval processes.⁷³ The Administration's assault on traditional sources of energy is detailed in the Committee report, "Pain at the Pump:

⁶⁷ Peter C. Glover, *U.S. Has Earth's Largest Energy Resources*, ENERGY TRIBUNE, Mar. 24, 2011.

⁶⁸ Gene Whitney et al., *U.S. Fossil Fuel Resources: Terminology, Reporting and Summary*, CRS REPORT FOR CONGRESS, Nov. 20, 2010.

⁶⁹ Press Release, U.S. Senate Comm. on Env't. and Public Works, Government Report: America's Combined Energy Resources Largest on Earth (Mar. 11, 2011).

⁷⁰ *Id.*

⁷¹ Senator Barack Obama, Meeting with the Editorial Board of the San Francisco Chronicle (Jan. 2008).

⁷² Neil King Jr. and Stephen Power, *Times Tough for Energy Overhaul*, WALL ST. J., Dec. 12, 2008.

⁷³ See STAFF OF H. COMM. ON OVERSIGHT AND GOV'T REFORM, 112TH CONG., REPORT ON RISING ENERGY COSTS: AN INTENTIONAL RESULT OF GOVERNMENT ACTION, May 23, 2011 [hereinafter Committee Report].

Policies that Suppress Domestic Production of Oil and Gas.”⁷⁴ The result of these government actions are artificially constrained production of fossil fuels and energy that is more expensive for everyone.⁷⁵

Expensive Energy is Economically Destructive

Energy is the so-called “master resource;”⁷⁶ it is pervasive and essential at every stage in the production process.⁷⁷ According to economists, “[e]nergy consumption is often used as a proxy for economic growth,”⁷⁸ and — where economists have studied the relationship empirically — they often conclude that the channel from energy use to economic growth is two directional.⁷⁹ In other words, increased energy usage is correlated with more economic growth, and vice versa. As a country’s economy grows, industries develop and expand, and — as a consequence — producers demand more energy to facilitate expansion.

Economists of all stripes acknowledge the pernicious effects higher energy prices will have on Americans. Among them is Federal Reserve Chairman Ben Bernanke, who stated, “rising energy prices pose a risk to both economic activity and inflation.”⁸⁰ According to the International Energy Agency’s chief economist, high and increasing energy prices will threaten the fragile economic recovery.⁸¹ The American Public Power Association (APPA) has reported green energy regulations “will set in motion a chain of events that will lead to high electricity prices, plant closures, and job losses at a time when the economy is hurting.”⁸² Furthermore, the Consumer Energy Alliance (CEA) released a report entitled “Energy, Jobs & the Economy: Powering America’s Future,” in June 2011, which found an alarming connection between high energy costs and restrictions of new economic activity.⁸³

Capital that would have been invested in job creation has been siphoned off by higher energy bills. CEA found “that blockages of American energy development could cost the U.S. economy more than 500,000 jobs, and rising energy prices will cost the transportation sector \$51 billion more in 2011, as compared to just one year ago.”⁸⁴ CEA is suggesting that the impact of high energy prices is reflected in more than the just pain-at-the-pump. High energy prices also dampen market activity and thereby job creation.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ ROBERT BRADLEY, *ENERGY: THE MASTER RESOURCE* (2004).

⁷⁷ Marcelo Arbex & Fernando S. Perobelli, *Solow meets Leontief: Economic Growth and Energy Consumption*, *ENERGY ECONOMICS* 32, 44, (2010).

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Fed Chief Warns Energy Prices a Danger*, CBS NEWS (Apr. 14, 2009) available at http://www.cbsnews.com/8301-500395_162-1551995.html.

⁸¹ International Energy Agency, *High Oil Prices Pose Threat to Global Economic Recovery* (Jan. 5, 2011) available at http://www.iea.org/index_info.asp?id=1737.

⁸² Press Release, *CEA Report: America Needs More Domestic Energy Supplies* (June 29, 2011) available at <http://consumerenergyalliance.org/2011/06/cea-report-america-needs-more-domestic-energy-supplies/>.

⁸³ *Id.*

⁸⁴ *Id.*

Fossil Fuel Use Has Been a Major Driver of American Prosperity

The positive relationship between access to affordable energy sources and economic growth is undeniable; fossil fuels have been the backbone of American prosperity. As an essential factor of production, energy is, by definition, a key component of economic output.⁸⁵ By extension, the quality of life that a society achieves is proportional to the amount of energy that a country consumes, along with the efficient use of that energy.⁸⁶ Overall, countries that use more energy are also countries that are more prosperous. Although other factors — such as geography, political institutions, and natural resources — are also important in determining a society’s overall prosperity, there is no doubt that energy use boosts “productivity, which boosts wealth.” The development and use of traditional energy sources in the United States — which has spurred tremendous economic growth and job creation — may be the quintessential example of this strong correlation.

Carbon-based energy, or fossil fuels, are defined broadly as coal, petroleum (or crude oil) and natural gas. Since emerging in the modern era as “far more concentrated, portable, reliable and cost-effective energy carriers” than alternatives, fossil fuels have fostered economic growth in the U.S. and around the world.⁸⁷ The U.S. Energy Information Administration (EIA) credits carbon-based energy with spawning “one of the most profound social transformations in history.”⁸⁸ Fossil fuels currently meet more than 80% of U.S. energy demand, with petroleum satisfying half of that demand.⁸⁹

The expanded use of fossil fuels throughout history has facilitated the development of some of our nation’s most productive industries. For example, the expanded use of coal fostered industrialization in the second half of the 19th century,⁹⁰ shifting a chiefly agricultural economy to one “based predominately on factory-based manufacturing industry....”⁹¹ As technology improved, oil, and, to a lesser extent, natural gas, eventually surpassed coal as the biggest source of primary U.S. energy in the mid 20th Century.⁹² Oil is credited with “the rise and development of capitalism and modern business” itself.⁹³ Today, coal, oil and natural gas form the backbone that supports the American economy.

⁸⁵ David I. Stern, *Energy and Economic Growth*, (Apr. 2003), available at <http://www.localenergy.org/pdfs/Document%20Library/Stern%20Energy%20and%20Economic%20Growth.pdf>.

⁸⁶ James C. Williams, *History of Energy*, THE FRANKLIN INSTITUTE, (Apr. 25, 2006), available at <http://www.fi.edu/learn/case-files/energy.html>.

⁸⁷ BRADLEY, *supra* note 76.

⁸⁸ Institute for Energy Research (IER), Fossil Fuels, <http://www.instituteforenergyresearch.org/energy-overview/fossil-fuels/> (last visited Sept. 20, 2011).

⁸⁹ Energy Information Administration (EIA), *Energy in Brief*, (Updated: Oct 28, 2010), available at http://www.eia.doe.gov/energy_in_brief/major_energy_sources_and_users.cfm.

⁹⁰ U.S. Department of Energy, A Brief History of Coal Use, http://fossil.energy.gov/education/energylessons/coal/coal_history.html (last visited Sept. 21, 2011).

⁹¹ TIM JACKSON, MATERIAL CONCERNS: POLLUTION, PROFIT AND QUALITY OF LIFE, 24, 1996.

⁹² See EIA, *Annual Energy Review 2009*, (Aug. 2010), available at <http://www.eia.gov/totalenergy/data/annual/pdf/aer.pdf>.

⁹³ DANIEL YERGIN, THE PRIZE: THE EPIC QUEST FOR OIL, MONEY & POWER, 13, 1992.

Businesses Don't Need the Federal Government to tell them to Use Energy Efficiently

Because energy is a “master resource,” and usually comprises one of the largest input costs for the manufacturing industry, there is a built-in market incentive to use energy efficiently. History has proven this theory to be correct. Since 1970, the amount of energy needed to produce a dollar's worth of output in the U.S. has decreased dramatically.⁹⁴ More specifically, the quantity of energy needed to produce \$1 of GDP today is about half the amount needed in 1970, adjusted for inflation.⁹⁵ Similarly, carbon emissions per dollar of GDP in the U.S. have fallen in half since 1970 and are nearly a third of what they were in 1950.⁹⁶ In fact, energy efficiency in the U.S. has steadily risen for at least the last two centuries.⁹⁷ This has been a result of businesses responding to market incentives to use energy as efficiently as possible.

According to the International Energy Agency (IEA), energy efficiency “can reduce the need for investment in energy infrastructure, cut fuel costs, increase competitiveness and improve consumer welfare.”⁹⁸ In short, “energy efficiency investment is a sound business strategy in today's manufacturing environment.”⁹⁹ Industry wide energy efficient improvements that are applied to traditional fossil fuel sources have turned America into possibly “the most energy-efficient society in human history.”¹⁰⁰

The correlation between energy consumption and economic activity runs in the opposite direction as well. For instance, during the economic recession from late 2007 to 2009 — the longest and most severe contraction since World War II — U.S. demand for oil shrunk 8.1% from its December 2007 peak to March 2009.¹⁰¹ In total, “world ... energy consumption contracted by 1.2 percent in 2008 and by an estimated 2.2 percent in 2009, as manufacturing and consumer demand for goods and services declined.”¹⁰² Though U.S. energy consumption has since rebounded, it is still below long-term trends, but the U.S. EIA expects “energy intensity” will decline by an average of 1.9 percent per year from 2009 to 2035 as recovery continues.¹⁰³

⁹⁴ U.S. Energy Information Administration, *Annual Energy Review*, 21, (Aug. 2010), available at <http://www.eia.gov/totalenergy/data/annual/#consumption>.

⁹⁵ See *id.* (Discussing how energy consumption per dollar of GDP actually decreased from 15.89 in 1970 to 7.28 in 2009).

⁹⁶ U.S. Energy Information Administration, Table 1.5 Energy Consumption, Expenditures, and Emissions Indicators, 1949- 2009, <http://205.254.135.24/totalenergy/data/annual/txt/ptb0105.html> (last visited Sept. 20, 2011).

⁹⁷ Lewis E. Lehrman, *Energetic America: The Energy Policy the U.S. Needs*, THE WEEKLY STANDARD, (Sep. 29, 2003).

⁹⁸ International Energy Agency (IEA), Energy Efficiency, http://www.iea.org/subjectqueries/keyresult.asp?keyword_id=4122 (last visited Sept. 20, 2011).

⁹⁹ Christina Galitsky & Ernst Worrell, *Energy Efficiency Improvement and Cost Saving Opportunities for the Vehicle Assembly Industry*, ERNST ORLANDO LAWRENCE BERKELEY NAT'L LAB. 1 (March 2008), available at <http://ies.lbl.gov/iespubs/energystar/vehicleassembly.pdf>.

¹⁰⁰ STEPHEN MOORE & JULIAN L. SIMON, IT'S GETTING BETTER ALL THE TIME: GREATEST TRENDS OF THE LAST 100 YEARS 100 (2010).

¹⁰¹ Steve Kopits, *Recession and Oil Demand: Looking to Recovery*, CUTTING EDGE Aug. 10, 2009.

¹⁰² U.S. Energy Info. Admin., International Energy Outlook 2010- Highlights <http://205.254.135.24/oiaf/ieo/pdf/highlights.pdf> (last visited Sept. 21, 2011).

¹⁰³ U.S. Energy Info. Admin., *Annual Energy Outlook 2011 with Projections to 2035*, 62, <http://www.eia.gov/forecasts/aeo/> (last visited Sept. 21, 2011).

Traditional Energy Industries Have Generated Countless Jobs

In addition to this relationship between energy use and job growth, the energy sector itself is a significant source of job creation in the U.S. Today the oil and natural gas industry has grown to one of the largest employers in the country — with the amount of workers it employs larger than the populations of 15 states.¹⁰⁴ Most recent studies estimate that the U.S. oil and natural gas industry's total employment contribution to the national economy amounts to 9.2 million full-time and part-time jobs — 5.3% of the total employment in the country.¹⁰⁵

In 2008 and 2009, industry salaries in the exploration and production sectors were more than twice the national average for all U.S. jobs.¹⁰⁶ The total income generated from all of these jobs adds up to \$534 billion, or 6% of the nation's total labor income.¹⁰⁷ Each direct job in this industry also supports about three jobs elsewhere in the U.S. economy.¹⁰⁸ In all, the industry's total value-added contribution to the economy amounts for over \$1 trillion,¹⁰⁹ about 7% of U.S. GDP in calendar year 2010.¹¹⁰

These job opportunities could be increasingly plentiful because of the discovery of large oil and natural gas deposits in the U.S. As highlighted in the Committee's May 2011 report,¹¹¹ the development of the shale and natural gas industry is a valuable source of this job growth.¹¹²

Oil and gas jobs have typically attracted new residents to the states that are fostering a climate for business investment in fossil fuels development. According to the 2010 Census, for instance, natural gas development jobs raised the population in Wyoming by 14.1% to 563,626.¹¹³ A senior economist at the state's Economic Analysis Division confirms the increase is “a completely employment-driven population change.”¹¹⁴

There is a similarly favorable outlook on job growth in North Dakota as a result of the oil available in the Williston Basin. According to one report, “North Dakota is booming. Its unemployment rate is the lowest in the country, 3.7 percent, and so many people have moved there for jobs that last year local housing officials declared a housing crisis.”¹¹⁵

¹⁰⁴ U.S. Census Bureau, *Annual Estimates of the Resident Population for the United States, Regions, States and Puerto Rico: April 1, 2000 to July 1, 2009*, (Dec. 2009), available at <http://www.census.gov/popest/states/NST-ann-est.html>.

¹⁰⁵ PricewaterhouseCoopers, LLC, *The Economic Impacts of the Oil and Natural Gas Industry and the U.S. Economy in 2009: Employment, Labor Income and Value Added*, (May 2011) [hereinafter PWC Study].

¹⁰⁶ Jonah Goldberg, *Drill, Obama, Drill: How to Really Create Jobs*, N.Y. POST, (Jan. 22, 2011).

¹⁰⁷ See PWC Study *supra* note 106.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ \$1 Trillion is about 7% of \$14.66 Trillion (GDP in 2010).

¹¹¹ See Committee Report *supra* note 73.

¹¹² Am. Chemistry Couns., *Shale Gas and New Petrochemicals Investment: Benefits for the Economy, Jobs, and US Manufacturing*, 21 (Mar. 2011), available at <http://www.americanchemistry.com/ACC-Shale-Report>.

¹¹³ Melanie Eversley, *Natural Gas Jobs Fuel Wyoming's Population Growth*, USA TODAY, Mar. 3, 2011.

¹¹⁴ *Id.*

¹¹⁵ Eric Konigsberg, *Kuwait on the Prairie: Can North Dakota Solve the Energy Problem?*, NEW YORKER, Apr. 25, 2011 at 43.

A new study by Penn State University projects that, for the state of Pennsylvania alone, “the number of workers supported by the gas industry would likely hit 156,000 this year, up from 60,000 in 2009 and 140,000 last year.”¹¹⁶ These increased opportunities have allowed many to realize the American dream. According to recent reports, increased production of the Marcellus Shale in West Virginia has led to a shortage of school bus drivers. Truck drivers on Marcellus shale crews are earning between \$45,000- \$100,000 compared to the \$17,000 they used to make for driving school buses.¹¹⁷ One resident attested that at “church he's met new members recently arrived from Montana and New Mexico to make \$20 an hour on Marcellus shale crews in the region.”¹¹⁸ However, these jobs are being threatened by bureaucratic overreach as the U.S. Environmental Protection Agency, the Department of Interior, and the Department of Energy are in a race to see which agency can regulate the process known as hydraulic fracturing the fastest.¹¹⁹

Coal mining also has the potential to generate more employment opportunities in the U.S. In 2010, the surface and underground coal mining industry supported almost 90,000 jobs across the country, the vast majority of which are located in the Appalachian region.¹²⁰ (The Appalachia region had 1,639 mining operations as of 2009, which employed 57, 979 workers).¹²¹ Moreover, a recent study finds that every job in coal mining supports about three other jobs indirectly in the local community — from truckers and railroad workers to equipment suppliers,¹²² suggesting the industry could have indirectly fostered around 300,000 jobs across the country last year.

Unfortunately, job opportunities in coal mining are less promising today due to recent regulatory overreaches by the U.S. Environmental Protection Agency (EPA) regarding its authority to oversee coal mining site permits under the Clean Water Act (CWA).¹²³

At a hearing in July of this year, the Committee’s Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending found that the EPA has enacted a de facto permit moratorium on CWA permits in the Appalachia region through its “enhanced review” process.¹²⁴ The 79 permits flagged for “enhanced review” are expected to produce over two billion tons of coal through operations and support 17,806 existing and new jobs and 81 small

¹¹⁶ Fredric U. Dicker, *It's a gas! New study fuels fracking backing*, N.Y. POST, July 22, 2011.

¹¹⁷ Jim Bissett, *Bus Driver: 'We Have a Crisis.'* ASSOCIATED PRESS, Dec. 12, 2010.

¹¹⁸ *Id.*

¹¹⁹ See Committee Report *supra* note 73.

¹²⁰ Nat'l Mining Ass'n, *Trends in U.S. Coal Mining 1923- 2010*, (June 28, 2011), available at http://www.nma.org/pdf/c_trends_mining.pdf.

¹²¹ Nat'l Mining Ass'n, *U.S. Coal Mine Employment by State, Region and Method of Mining-2009*, (Oct. 29, 2010), available at http://www.nma.org/pdf/c_employment_state_region_method.pdf.

¹²² Kentucky Coal Association, *Kentucky Coal Facts: Kentucky Coal Provides Jobs, Energy, Tax Revenue, and Economic Growth*, (11th ed. 2011), available at <http://www.kentuckycoal.org/documents/Coal%20Facts%202010--11th%20Edition.pub.pdf>.

¹²³ *Improving EPA Review of Appalachian Surface Coal Mining Operations Under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order*, U.S. Environmental Protection Agency, Apr. 1, 2010.

¹²⁴ *EPA's Appalachian Energy Permit Moratorium Job Killer or Job Creator? Hearing Before the Subcomm. On Regulatory Affairs, Gov't Spending, and Stimulus Oversight*, 112th Cong. (2011).

businesses.¹²⁵ EPA's actions are creating massive uncertainty in the coal mining industry, putting jobs in Appalachia at risk, and threatening our domestic energy security in the process.

Other Countries Realize the Benefits of Cheap Traditional Energy

President Obama's quixotic crusade to replace energy produced by fossil fuels with energy produced from green technologies occurs as fossil fuels establish their dominant position on the worldwide stage. According to energy experts, growing global demand for energy will "secure the dominant position of fossil fuels for at least the next several decades."¹²⁶ Pursuit of the President's vision may result in slightly increased use of alternative resources, but, it will likely prevent America's entrepreneurs from successfully competing against foreign rivals who benefit from relatively inexpensive and widely available fossil fuels. Ultimately, the President's green economy makes us a less competitive nation.

In today's global economy, job creators in the U.S. must compete against manufacturers in China, Brazil, and India just to name a few. While U.S. energy consumption has remained relatively stable since 1990,¹²⁷ largely due to increased energy efficiency, our competitors have greatly expanded their consumption of fossil fuels. For example, between 1990 and 2008, China, Indonesia, and Malaysian energy consumption grew by 300 percent, due almost entirely to expanded use of fossil fuels.¹²⁸ Brazilian oil production has also increased by 300 percent over that same time period.¹²⁹ Overall, total electricity generation worldwide increased by 70 percent, while U.S. generation increased by only 35.5 percent.¹³⁰

As noted, a shift to a green economy necessitates a shift away from traditional affordable sources of energy. Meanwhile, China is one of the best examples of a country taking advantage of this cheap energy as part of its plan to fuel rapid economic expansion. While the U.S. economy is expanding at anemic rates, China, a major U.S. competitor, has one of the fastest growing economies in the world, with 9.8 percent annual growth.¹³¹ While news reports frequently discuss China's commitment to developing green energy, in reality the bulk of China's supply comes from traditional sources.¹³² In 2007, 70 percent of Chinese energy came from coal.¹³³ Moreover, in order to sustain the economic growth and job creation that comes with its expansion, China plans to build 500 coal-fired power plants in the next decade.¹³⁴ That

¹²⁵ STAFF OF S. COMM. ON ENVIRONMENT AND PUBLIC WORKS, 111TH CONG., REPORT ON THE OBAMA ADMINISTRATION'S OBSTRUCTION OF COAL MINING PERMITS IN APPALACHIA, May 21, 2010.

¹²⁶ Fossil Fuels *supra* note 89.

¹²⁷ ROBERT BRYCE, POWER HUNGRY: THE MYTHS OF "GREEN" ENERGY AND THE REAL FUELS OF THE FUTURE 60 (2010).

¹²⁸ *Id.*

¹²⁹ Brazil Crude Oil Production By Year, <http://www.indexmundi.com/energy.aspx?country=br&product=oil&graph=production> (last visited Sept. 14, 2011).

¹³⁰ BRYCE *supra* note 128.

¹³¹ RICHARD J. CAMPBELL, CHINA AND THE UNITED STATES – A COMPARISON OF GREEN ENERGY PROGRAMS AND POLICIES, Congressional Research Service, Mar. 30, 2011.

¹³² *Id.*

¹³³ Louisa Lim, *China's Coal-Fueled Boom Has Costs*, NATIONAL PUBLIC RADIO, May 2, 2007; U.S. Energy Information Administration, China Energy Data and Statistics, July 2009, <http://www.eia.gov/emeu/cabs/China/Background.html> (last visited Sept. 14, 2011).

¹³⁴ Louisa Lim, *China's Coal-Fueled Boom Has Costs*, National Public Radio, May 2, 2007.

is roughly one coal-fired power plant per week. These coal-fired power plants will allow China to increase its energy generating capacity by approximately 53 gigawatts a year, enough energy to power approximately 50 million homes.¹³⁵

Green Energy Offers Only the False Hope of Energy Independence

The President often argues that green energy development is necessary because America cannot rely on foreign sources of energy. At a Georgetown University speech in March 2011, he lamented, “Presidents and politicians of every stripe have promised energy independence, but that promise has so far gone unmet”¹³⁶ and stated he has a plan, namely the green energy agenda, to decrease dependence on foreign sources of energy. However, the President’s argument rests on the mistaken belief that America is necessarily beholden to foreign nations. According to energy expert Robert Bryce:

In all, the United States produces about 74 percent of the primary energy it consumes, a fact seldom mentioned by the many neoconservatives and energy posers who have been sounding the alarm about the evils of foreign energy And it’s that power availability that has turbocharged the American economy and made it into a powerhouse.¹³⁷

Moreover, the Congressional Research Service reports that the U.S. now has the largest energy resources of any country on the planet.¹³⁸ Accordingly, it appears that another path towards energy independence is to utilize our abundant domestic resources to their fullest capacity. Such an approach would eliminate the false need to completely overhaul our energy sector, as advocated by the President. Unfortunately, in addition to advocating for green energy, the Obama Administration has put in place barriers that prevent the expeditious development and utilization that is essential to the extraction and commoditization of these domestic resources.¹³⁹ As detailed in the Committee’s May 2011 report, red tape, regulatory barriers, and permitioriums on production have effectively prevented the United States from moving toward energy independence.¹⁴⁰ Ironically, the State Department and other federal agencies are actively promoting the development of traditional energy sources in foreign countries.¹⁴¹

¹³⁵ CAMPBELL *supra* note 132.

¹³⁶ President Barack Obama, Address at Georgetown University A Secure Energy Future (Mar. 30, 2011).

¹³⁷ BRYCE *supra* note 128 at 78.

¹³⁸ Glover *supra* note 67.

¹³⁹ *Supra* Section II.

¹⁴⁰ Committee Report *supra* note 73.

¹⁴¹ See e.g. Global Shale Gas Initiative (GSGI) <http://www.state.gov/s/ciea/gsgi/index.htm> (last visited Sept. 14, 2011).

China Benefits From U.S. Pursuit of Green Energy

Despite the dominance of fossil fuels in China's energy mix, China does have a healthy renewable energy industry.¹⁴² This industry is aided by the fact that China has a near monopoly on rare earth minerals, which gives the country a significant incentive to invest in and promote the widespread utilization of green technologies.¹⁴³ Rare earth metals are essential components of the most popular green technologies like hybrid and electric cars, wind turbines, and solar panels. For example, Neodymium is used in magnets for wind turbines and Lanthanum is used in hybrid automobile batteries.¹⁴⁴ Not surprisingly, China is well aware of its strategic position in this arena and recently instituted a policy restricting the ability of foreign technology companies to obtain rare earth metals.¹⁴⁵ There is some concern that this policy could essentially force U.S. manufacturers of green technologies to locate in China so that they may gain access to these resources.¹⁴⁶

Access to rare earth metals is not the only competitive advantage that China holds over green technology. Cheap labor and production costs make China the top green technology producer. In an effort to compete with these companies and foster domestic manufacturing of green technologies, the Obama Administration has heavily subsidized manufacturers of wind and solar technology. The failure of green manufacturers to compete even when heavily subsidized, raises questions as to whether the solar industry in the United States could ever be self sustaining.

While it is clear why China, which controls 90 percent of the world market for these rare earth materials, would promote the use of green technologies, it is not clear why President Obama would, effectively, encourage reliance on China for access to these materials, in lieu of using domestically available and affordable resources. In short, a forced movement toward green energy will not lead to a new era of energy independence, but rather will make our country more reliant on China and could also encourage the off-shoring of green jobs.

The Obama Energy Hypocrisy: While Discouraging Fossil Fuel Use Domestically, the Administration Invests in Traditional Energy Sources Abroad

Despite having access to vast supplies of domestic natural gas reserves, the Obama Administration continues to create uncertainty about U.S. natural gas production while aggressively promoting its production abroad. The U.S. Environmental Protection Agency (EPA), Department of Energy (DOE), and the Department of the Interior, as well as their allies in the environmental lobby, have taken aim at the natural gas industry and more specifically the practice of hydraulic fracturing (fracking).¹⁴⁷ These agencies have signaled their respective interest in regulating fracking and are working on policies that will constrain the domestic industry.¹⁴⁸

¹⁴² CAMPBELL *supra* note 132.

¹⁴³ Tatyana Shumsky, *Testing Their Metals*, WALL ST. J., Sept. 12, 2011.

¹⁴⁴ *Id.*

¹⁴⁵ Keith Bradsher, *Chasing Rare Earths, Foreign Companies Expand in China*, N.Y. TIMES, Aug, 24, 2011.

¹⁴⁶ *Id.*

¹⁴⁷ *See* Committee Report *supra* note 73.

¹⁴⁸ *Id.*

Meanwhile, the State Department actively promotes the process of hydraulic fracturing as a ground-breaking technology through the Global Shale Gas Initiative (GSGI). The GSGI helps “countries seeking to utilize their unconventional natural gas resources to identify and develop them safely and economically.”¹⁴⁹ To date, countries such as China and India use the program to promote natural gas exploration.¹⁵⁰ Accordingly, through this initiative, the U.S. is helping our competitors expand their domestic production of natural gas, while other federal bureaucrats in the Obama Administration work to hinder our own ability to do the same.

In addition to the GSGI program, other federal agencies are working to promote expanded international use of fossil fuels. On April 18, 2011, the U.S. Export-Import Bank, an independent agency of the federal government, announced a \$2.84 billion loan for a project to expand and upgrade an oil refinery¹⁵¹ in Cartagena, Colombia.¹⁵² The money would go to Reficar, the Colombian national oil company.¹⁵³ This is the second largest project that the U.S. Export-Import Bank has ever financed.¹⁵⁴ Previously, the bank loaned \$3 billion to finance a liquid natural gas project in Papua, New Guinea.¹⁵⁵

Other entities within the Obama administration have also promoted the extraction of traditional energy sources in foreign countries. For example, in August 2009, the U.S. loaned \$2 billion to Brazil’s state-owned oil company, Petrobras, to finance exploration of offshore oil reserves.¹⁵⁶ On March 19, 2011, President Obama reiterated his commitment to Brazilian offshore drilling. He stated, “We want to help with technology and support to develop these oil reserves safely, and when you’re ready to start selling, we want to be one of your best customers.”¹⁵⁷ The assistance to Brazil occurred while the Bureau of Ocean Energy Management (BOEMRE) was imposing first a moratorium, followed by a permitiorium on the domestic oil industry.¹⁵⁸

It appears that when presented with the option of promoting domestic energy to create American jobs and foreign investment in these sources, the Obama Administration would rather choose to assist foreign economies than our own.

¹⁴⁹ Global Shale Gas Initiative *supra* note 142.

¹⁵⁰ *Id.*

¹⁵¹ A new oil refinery has not been built in the United States since 1995.

¹⁵² Terence P. Jeffrey, *U.S. Gov’t Agency Plans \$2.84 Billion Loan for Oil Refinery – in Colombia*, CNSNEWS.COM Apr. 18, 2011.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Review and Outlook, *Obama Underwrites Offshore Drilling*, WALL ST. J., Aug. 18, 2009.

¹⁵⁷ President Barack Obama, Address at CEO Business Summit in Brasilia, Brazil (Mar. 19, 2011).

¹⁵⁸ See Committee Report *supra* note 73.

PART III: FORCING A GREEN ENERGY TRANSITION WAS ECONOMICALLY FLAWED FROM THE START

It is Counterproductive to use Green Energy Mandates as a Jobs Program

Proponents of green energy present it as a win-win situation: we can help the environment and create jobs. According to the President, using the government to force a transition to green energy will result in “creating untold numbers of new jobs and new businesses right here in the United States.”¹⁵⁹ From a political perspective, it is easy to see why the President consistently emphasizes green jobs: the unemployment rate is still above 9 percent and, according to a June 2011 report from the Bureau of Labor Statistics, the percentage of working adults is now lower than at any other point during the recession at 58.2%. Moreover, the U.S. labor force is experiencing the longest average duration of unemployment in the nation’s history.¹⁶⁰ However, it is not at all clear that a policy favoring “green jobs” of the future will help Americans get back to work today.

One characteristic of “green jobs” often touted by the Obama Administration is the fact that green industries rely heavily on manpower, a trait that “makes them especially alluring when it comes to government-led job creation” measured in terms of jobs “created or saved.”¹⁶¹ However, in studies boasting green job creation, there is a troubling and consistent preference for inefficiency.¹⁶² This is contrary to the fundamental economic principal that high labor productivity is a measurement of an efficient and healthy economy.¹⁶³ A national policy that favors energy sources that are labor intensive and produce energy less efficiently essentially diverts resources away from investment and towards these low efficiency jobs. According to a leading expert, an economy based on “high paying, low-productivity jobs ... would require an economic structure unknown in human history.”¹⁶⁴

While the energy sector is a very large source of employment (as noted above), it is a mistake to treat the energy industry as a government jobs program. Dr. David Montgomery, senior vice president at NERA Economic Consulting and a former CalTech professor, has explained:

It is a fundamental error in policymaking and economics to design or justify federal support for new energy technologies as a jobs program. It subverts the entire purpose of government involvement

¹⁵⁹ President Barack Obama, Remarks by the President on America’s Energy Security (Mar. 30, 2011).

¹⁶⁰ Bureau of Labor Statistics, Employment Situation Summary, *Table A-1. Employment status of the civilian population by sex and age* (June 8, 2011) available at <http://www.bls.gov/news.release/empst.t01.htm>.

¹⁶¹ Liz Wolgemuth, *The Truth and Green Jobs*, U.S. NEWS AND WORLD REPORT, Mar. 25, 2009.

¹⁶² *Witnesses Provide Various Definitions of Green Jobs Before House Workforce Panel*, DAILY LABOR REPORT, Apr. 4, 2009, 60.

¹⁶³ *Green Jobs and Red Tape: Assessing Federal Efforts to Encourage Employment: Hearing Before the Subcomm. On Investigations and Oversight of the H. Comm. on Science, Space, and Technology*, 112th Cong. (2011) (testimony of W. David Montgomery).

¹⁶⁴ Andrew P. Morriss et. al., *7 Myths About Green Jobs*, PERC Policy Series, No. 44, 2009 available at <http://www.perc.org/files/ps44.pdf>.

in R&D, and is the greatest single cause of the continued failure of energy technology programs.¹⁶⁵

However, even accepting the premise that it is appropriate to base a jobs program on green energy development, the Administration fails at this objective.

The economic flaws in the theory undergirding green jobs is demonstrated in the failure of the effort to actually create a significant number of jobs. As a campaign promise, President Obama said he would help America create five million green jobs within ten years.¹⁶⁶ Evaluating this promise in July 2011, the Pulitzer Prize winning *Politifact* found that the President was far from fulfilling this goal.¹⁶⁷ Citing a White House estimate that 225,000 green jobs have been created or saved, *Politifact* states: “Even if the 225,000 number is accurate, it’s clear that President Obama has a long way to go in fulfilling his pledge to create 5 million green jobs.”¹⁶⁸

Federal Subsidization Will Not “Spark” a Green Energy Industry in America

Advocates of subsidizing green energy often argue that high upfront costs and subsidization are necessary in order to assist a fledgling industry get started.¹⁶⁹ The President claims that green energy spending will “spark new jobs, industries and innovations,” which will mean a “country that is safer, that is healthier, and that’s more prosperous.”¹⁷⁰ The implication in the use of the term “spark” is that we must invest in these companies now to help them become viable on their own. This implication, however, relies on the erroneous premise that the green energy sector is an “infant industry.” That is, “there are infant industries that deserve protection so that they can grow up to become national champions.”¹⁷¹

However, while the magnitude and ambition of the Obama administration’s environmental agenda is unprecedented, the federal government has been subsidizing green energy for decades. Since 1948, taxpayers have expended billions on such projects in the form of research and development spending.¹⁷² Professor Andrew Morriss of the University of Alabama explains: “We know the infant industries argument doesn’t work because we’ve tried it for 200 years in different places around the world and it never works. The infants never grow up, they just get bigger and cry louder and demand more protection.”¹⁷³ Furthermore, MIT professors Thomas H. Lee, Ben Ball, Jr., and Richard Tabors have noted that with regard to

¹⁶⁵ Montgomery Testimony *supra* note 164.

¹⁶⁶ Create 5 million “green jobs,” PolitiFact.com, <http://www.politifact.com/truth-o-meter/promises/obameter/promise/439/create-5-million-green-jobs/> (last visited Sept. 20, 2011).

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ David Sirota, *Green energy, the cost-efficient option*, SALON, Sept, 21, 2011 available at http://www.salon.com/news/david_sirota/2011/09/21/green_energy_truth.

¹⁷⁰ THE WHITE HOUSE, PLAYING TO WIN: THE GLOBAL CLEAN ENERGY RACE (2011) available at http://www.whitehouse.gov/sites/default/files/uploads/clean_energy_report_vpotus.pdf.

¹⁷¹ The False Promise of Green Energy, Book Forum video, The Cato Institute, available at <http://www.cato.org/event.php?eventid=7999>.

¹⁷² Deborah D. Stine, *The Manhattan Project, the Apollo Program, and Federal Energy Technology R&D Programs: A Comparative Analysis*, CRS REPORT FOR CONGRESS June 30, 2009, Table B-5 and B-6; see also Sissine *supra* note 8 at Table 1.

¹⁷³ The False Promise of Green Energy *supra* note 172.

government investment in energy, "the experience of the 1970s and 1980s taught us that if a technology is commercially viable, then government support is not needed, and if a technology is not commercially viable, no amount of government support will make it so."¹⁷⁴

The Green Energy Experiment: Imprudent and Ill-Fated from the Beginning

In addition to raising energy prices, the President has directed a significant amount of taxpayer dollars to the subsidization of green technologies. On June 15, 2010, President Obama commented from the Oval Office: "the transition to clean energy has the potential to grow our economy and create millions of jobs – but only if we accelerate that transition. Only if we seize the moment."¹⁷⁵

In an effort to seize this moment, the President's \$825 billion¹⁷⁶ stimulus enacted in February 2009 heavily subsidized green initiatives, including both renewable energy and energy efficiency efforts. The stimulus included \$90 billion¹⁷⁷ in clean energy investments with "more than \$45 billion provided in appropriations for energy programs, mainly for energy efficiency and renewable energy."¹⁷⁸ The largest sum of stimulus money for green projects was allocated to the Department of Energy, which received at least \$22.8 billion in funding for research and development, manufacturing grants, grants for state and local governments, and loan guarantees for renewable energy.¹⁷⁹

Green stimulus appropriations were also provided to the Department of Defense, the General Services Administration, the Environmental Protection Agency, the Department of Labor, the Department of Transportation, the Department of Housing and Urban Development, and the Department of Education, among other Federal agencies.¹⁸⁰ The primary uses for this funding include green retrofitting of buildings, the procurement of green vehicles, training for green energy employees, and other efforts intended to "reduc[e] energy consumption or greenhouse gas emissions."¹⁸¹ A large portion of the Federal funding for green energy initiatives comes in the form of tax breaks and credits, as the stimulus "also provides more than \$21 billion in energy tax incentives, primarily for energy efficiency and renewable energy."¹⁸² As we all know, these subsidies were all paid for by adding to our national debt, at a time when the solvency of the U.S. federal government is in peril.

In addition to instituting an institutional preference for green energy, the President has determined that the transition to the green economy take place in an expedited timeframe. The President's 2011 State of the Union Address set a goal that "by 2035, 80 percent of America's

¹⁷⁴ THOMAS H. LEE, ENERGY AFTERMATH: HOW WE CAN LEARN FROM THE BLUNDER OF THE PAST TO CREATE A HOPEFUL ENERGY FUTURE, 167, 1990.

¹⁷⁵ President Barack Obama, Remarks by the President to the Nation on the BP Oil Spill (June 15, 2010).

¹⁷⁶ See *Estimated Impact of the American Recovery and Reinvestment Act on Employment and Economic Output from April 2011 Through June 2011*, Congressional Budget Office, Aug. 2011.

¹⁷⁷ COUNCIL *supra* note 7.

¹⁷⁸ Sissine *supra* note 8.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 16.

¹⁸² *Id.* at Summary.

electricity will come from clean energy sources.”¹⁸³ This goal is unrealistic based on pure technological feasibility.

The Green revolution represents a fundamental departure from the way our economy has functioned since the industrial revolution. Energy Secretary Chu has opined that “shifts in energy supplies take decades, typically half a century.”¹⁸⁴ The President is advocating for an even more ambitious timeframe. In addition to being unproven, green technology is also barely a factor in the nation’s current energy mix. In contrast to the vast reserves of fossil fuels in the U.S., discussed in Part II,¹⁸⁵ the latest data demonstrates that renewable¹⁸⁶ energy only satisfies eight percent of total energy consumption.¹⁸⁷ When you subtract out hydroelectric energy and geothermal energy, wind and solar energy combined provide less than 1% of our nation’s energy resources.¹⁸⁸

Despite the inconsequential amount of energy now obtained from renewable sources, the Administration contends that a transition to “green” energy is possible and will be economically advantageous.

Lessons from Europe

European nations have been aggressively pushing green energy for years and the Obama Administration sought to use them as an example. On January 16, 2009, President Obama stated:

And think of what’s happening in countries like Spain, Germany and Japan, where they’re making real investments in renewable energy. They’re surging ahead of us, poised to take the lead in these new industries. This isn’t because they’re smarter than us, or work harder than us, or are more innovative than we are. It’s because their governments have harnessed their people’s hard work and ingenuity with bold investments – investments that are paying off in good, high-wage jobs – jobs they won’t lose to other countries.¹⁸⁹

This nationalistic appeal has come back to haunt the Obama Administration as the European experience with green energy initiatives has proven to be a failure.

¹⁸³ President Barack Obama, State of the Union Address (Jan. 25, 2011).

¹⁸⁴ Chris Zwicke, *Energy Secretary Chu Fields Questions at ECO:nomics*, Erb Institute, Mar. 9, 2010, available at <http://erb.umich.edu/erbperspective/2010/03/09/energy-secretary-chu-fields-questions-at-economics/>.

¹⁸⁵ Committee Report *supra* note 73 at 7 (stating “U.S. proven reserves of oil total 19.1 billion barrels, reserves of natural gas total 244.7 trillion cubic feet, and natural gas liquids reserves of 9.3 billion barrels”).

¹⁸⁶ Renewable & Alternative Fuels, U.S. Energy Information Administration, <http://www.eia.gov/renewable/> (last visited Sept. 21, 2011) (defining renewable as Solar/PV, Geothermal, Waste, Wind, Biofuels, Wood, and Hydroelectric Power).

¹⁸⁷ Renewable Energy Consumption by Major Source, U.S. Energy Information Administration, http://www.eia.gov/totalenergy/data/annual/pdf/sec10_2.pdf (last visited Sept. 21, 2011).

¹⁸⁸ *Id.*

¹⁸⁹ Press Release, *President-elect Obama speaks on an American Recovery and Reinvestment Plan in Ohio*, Jan. 16, 2009.

A quick review of key countries demonstrates what the U.S. can expect if it is to continue to pursue the Obama Administration's green energy agenda. In every instance, government favoritism for the clean energy industry removes capital from other sectors of the economy that could have more effectively utilized it. This favoritism has meant a lack of resources to invest in more productive industries because it has been redirected toward green. The studies show what green jobs skeptics have long maintained: an increase in the number of green jobs is not indicative of a net increase in total jobs.¹⁹⁰

Spain. A well-documented study of the Spanish government's green jobs experiment conducted by Gabriel Calzada Álvarez and his colleagues at the Universidad Rey Juan Carlos produced results that the Obama Administration should find alarming. Published in March 2009, the study found that because resources were being funneled into the green energy sector, other more profitable parts of the economy suffered. Professor Calzada's study calculated that, ultimately, there were "2.2 jobs destroyed for every "green job" created."¹⁹¹ Due to the subsidies expended per worker in the renewable sector, government financing the creation of green jobs led to a reduction in overall employment opportunity at a rate of 9 jobs destroyed for every 4 added.¹⁹²

Italy. The Bruno Leoni Institute's Luciano Lavecchia and Carlo Stagnaro conducted a study to understand the impact of government efforts to promote green jobs in Italy. Their findings indicate that the value of creating green jobs is low when the factors associated with government support of the green energy sector are taken into account. They cite three paradigmatic problems with governmental initiatives to advance green jobs: the inherent decline in the overall potential for job growth, the creation of jobs that are only temporary, and the inevitable corruption and fraud tied to an industry that exists almost entirely on government subsidies. They find "the same amount of capital that creates one job in the green sector, would create 6.9 or 4.8 if invested in the energy industry or in the economy in general, respectively."¹⁹³ So the government handouts used to create one green energy job could create 6.9 traditional energy jobs or 4.8 jobs across the economy in general. The low number of green jobs created in Italy is not limited to only those jobs that will provide Italians with regular income; it includes temporary work. The study has found that the vast majority of jobs created in the green sector are not permanent, but temporary; approximately 80% of green jobs created will disappear once a project is finished.¹⁹⁴ Rising costs of green incentives have led to recent reforms by the Italian government to scale back the subsidy program.¹⁹⁵ For example, as the price of solar panels decreases with a decrease in demand for the panels Italy has found that its experiment requires reform as the incentives have become too costly and have over subsidized the sector.¹⁹⁶

¹⁹⁰ MORRISS *supra* note 22 at 139.

¹⁹¹ Gabriel Calzada Álvarez, et al., *Study of the effects on employment of public aid to renewable energy sources*, Universidad Rey Juan Carlos, Mar. 2009, 2.

¹⁹² *Id.* at 1.

¹⁹³ Luciano Lavecchia and Carlo Stagnaro, *Are Green Jobs Real Jobs?*, Bruno Leoni Institute, May 2010, 40.

¹⁹⁴ *Id.* at 27.

¹⁹⁵ Marco Bertacche and Alessandra Migliaccio, *Italy's Renewable Energy Incentives Need Overhaul, Enel's Conti Says*, BLOOMBERG, Feb. 8, 2011.

¹⁹⁶ *Italy Reveals Plan for Solar Incentive Cap*, businessGreen, Apr. 14, 2011 available at <http://www.businessgreen.com/bg/news/2043659/italy-reveals-plan-solar-incentive-cap>.

Denmark. A study on wind energy done by the Center for Politiske Studier (CEPOS) shows that, as a direct result of the Danish government's green energy initiatives, its citizens pay the highest prices for electricity in the European Union. In fact, because of "taxes and charges on electricity for Danish household, consumers make their electricity by far the most expensive in the European Union (EU)" according to the OECD.¹⁹⁷ These high taxes and the high cost of energy for the average Danish consumer are caused by the interference of the Danish government and its efforts to promote the renewable energy industry.

The costs of Denmark's reliance on wind power extend beyond high electricity rates as well. As the U.K.'s *Telegraph* reports, the Danish people have had enough with their government's push towards renewables: "People are fed up with having their property devalued and sleep ruined by noise from large wind turbines"¹⁹⁸ All the while, President Obama and the U.S. EIA have lauded Danes for their aggressive wind power program, claiming that the U.S. would do well to keep pace with their efforts.¹⁹⁹

The economic reality in Denmark tells a much different story. Denmark's GDP is approximately US \$270 million lower than it would be if the wind sector workforce was employed in other sectors of the Danish economy.²⁰⁰ The subsidy per wind energy worker in Denmark is equal to between 175% and 250% of the average wages in the manufacturing industry.²⁰¹ Additional problems arise from this over-subsidization, as "in the long run, creating additional employment in one sector through subsidies will detract labor from other sectors, resulting in no increase in new employment but only in a shift from the non-subsidized sectors to the subsidized sector."²⁰²

Germany. A study from Germany's Rheinisch-Westfälisches Institut für Wirtschaftsforschung determined that the costs of green energy outweigh its benefits. According to the researchers, the German government's preference for green energy resulted in "massive expenditures that show little long-term promise for stimulating the economy, protecting the environment, or increasing energy security."²⁰³ The study found that there is an average price mark-up of approximately 2.2 cents per kilowatt from subsidization.²⁰⁴ As a direct result, consumers in Germany pay 19.4% more on average for their electricity. Government support for green energy through the implementation of wind and solar power incentives also caused household energy rates to increase by 7.5%.²⁰⁵ Subsidies for on-shore wind power are now up to 300% higher than the per kilowatt hour cost of traditional forms of energy.²⁰⁶ The German government subsidizes each worker in the German green energy sector by \$240,000.²⁰⁷ The cost

¹⁹⁷ Hugh Sharman, *Wind Energy: The Case of Denmark*, Center for Politiske Studier, Sept. 2009, 2.

¹⁹⁸ Andrew Gilligan, *An Ill Wind Blows for Denmark's Green Energy Revolution*, THE TELEGRAPH, Sept. 12, 2010.

¹⁹⁹ Kenneth P. Green, *Rotten Wind in the State of Denmark*, THE AMERICAN, July 18, 2011.

²⁰⁰ Sharman *supra* note 198 at 4.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ Manuel Frondel, et al., *Economic impacts from the promotion of renewable energies: The German experience*, Rheinisch-Westfälisches Institut für Wirtschaftsforschung, Oct. 2009, 4.

²⁰⁴ *Id.* at 6.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 5.

²⁰⁷ *Id.* at 7.

of maintaining a workforce in the green energy sector is incredibly expensive, the study finds, and cannot reasonably be said to be worth the price, as it “lowers the output potential of the economy and is hence counterproductive to net job creation.”²⁰⁸ Despite periods of rapid growth in the solar industry, German solar companies have begun to fail due to heavy losses from stark competition and over-subsidization.²⁰⁹ The very expensive and heavily subsidized photovoltaic market in Germany is one of the most expensive forms of energy but produces only small amounts of energy surviving only on the billions of dollars it receives from the German government.²¹⁰

The U.K. According to a study done by Verso Economics, as a result of government support of green energy initiatives and the implementation of the Renewables Obligation, taxpayers in the United Kingdom (U.K.) must pay for a large amount of subsidies that “effectively raise the market prices paid for electricity from renewable sources.”²¹¹ Despite this evidence to the contrary, and on the heels of a June analysis by the U.S. based Green Alliance in June²¹² that emphasized the pitfalls of unabated gas use to power electricity, U.K. Energy Secretary Chris Huhne recently outlined plans that will actually increase the U.K.’s shift towards clean energy.²¹³ Reports claim that “[e]nergy bills are likely to double within five years...” in the U.K. as a result.²¹⁴

In addition to raising prices of electricity to consumers, taxpayers are at a loss of approximately £1.1 billion in the UK and around £100 million in Scotland in particular for the 2009-10 year. According to these researchers, the UK’s green subsidy policies have managed to cost approximately 10,000 direct jobs in the UK and 1,200 jobs in Scotland for the 2009-10 year.²¹⁵ There is a clear net loss in the job market as a result of the government supporting green energy: “for every job created in the UK in renewable energy, 3.7 jobs are lost” elsewhere in the economy.²¹⁶ With “no net benefit from government support for the sector,” the study contends, there is no acceptable reason for the UK to continue such a program.²¹⁷

The job losses cited in the European studies above are an example of what 19th century French economist Frederic Bastiat called the economic fallacy of “the seen and the unseen.”²¹⁸ In each case, governments were able to point to jobs that are created as a result of diverting taxpayer funding to green energy; this effect of was readily seen. But in each instance, the

²⁰⁸ *Id.*

²⁰⁹ Spiegel Staff, *German Solar Firms Eclipsed by Chinese Rivals*, SPIEGEL ONLINE, Sept. 7, 2011 available at <http://www.spiegel.de/international/business/0,1518,784653,00.html>.

²¹⁰ *Id.*

²¹¹ Richard Marsh and Tom Miers, Executive Summary of *Worth the Candle? The Economic Impact of Renewable Energy Policy in Scotland and the UK*, Verso Economics, Mar. 2011, 1.

²¹² Green Alliance, *Avoiding Gas Lock-In*, (June 22, 2011), available at http://www.green-alliance.org.uk/grea_p.aspx?id=5857.

²¹³ Shanta Barley, *Chris Huhne Unveils Plans for Reform of UK Energy Market*, THE GUARDIAN, Dec. 16, 2010.

²¹⁴ Sean Poutler, *Energy Bills ‘to double in five years’ as customers are hit by switch to green power*, MAIL ONLINE, July 11, 2011.

²¹⁵ Marsh & Miers *supra* note 212 at 2.

²¹⁶ *Id.* at 1.

²¹⁷ *Id.*

²¹⁸ Frederic Bastiat, *Selected Essays on Political Economy*, <http://www.econlib.org/library/Bastiat/basEss1.html> (last visited Sept. 20, 2011).

negative consequences that resulted were less observable because they rely on counterfactual occurrences; these events – job creation and investment that do not take place – are the unseen effects. As Bastiat explained, “What is not seen is the work and the profits that would come from this same amount of money if it were left in the hands of the taxpayers themselves.”²¹⁹

Christopher DeMuth, a senior fellow at the American Enterprise Institute, noted that it is hard to observe all of the ways in which green initiatives distort economic behavior and destroy jobs. DeMuth notes they are stealthy and are not in the form “of taxes or scary headlines about public spending, but rather of higher prices for private goods and services and foregone employment and other opportunities. And these costs ... are usually invisible to citizens and voters.”²²⁰

In sum, governments across the world have committed to public policy follies that defy economic common sense by burdening citizens with higher energy costs and displacing and destroying jobs. The way green jobs policies have worked in practice is analogous to a policy that would tear down two neighboring homes to build one inferior house on an empty lot. No one is better off but the government is able to point to the one house it built while ignoring the other two it tore down.

²¹⁹ *Id.*

²²⁰ *Environmental Regulations, the Economy, and Jobs: Hearing before the Subcomm.on Env. and the Economy of the H. Comm. on Energy and Commerce, 112th Cong. (2011)* (statement of Christopher DeMuth, D.C. Searle Senior Fellow, American Enterprise Institute for Public Policy Research).

CONCLUSION

With U.S. growth rates well below desirable levels and our unemployment rate at a staggering 9.2%, it is critical for policymakers to give serious consideration to increasing economic opportunities for Americans. The Obama Administration's green energy agenda has had the opposite effect – it has worsened the state of an already struggling economy by over-regulating industries that foster job creation and misdirecting resources towards industries destined for failure.

The United States cannot afford to allow the President's energy agenda to continue. By sacrificing domestic carbon-based resources upon the altar of an ill-fated "green energy" experiment, the President has put our economic security in jeopardy. Furthermore, this experiment has wasted billions in taxpayer money at the expense of affordable, carbon-based energy sources today. This is a dangerous strategy that will drastically increase the price we pay for energy and harm economic recovery and job growth.

While there are clearly opportunities for green energy development, as pointed out in the Committee's May 2011 report,²²¹ the premature implementation of "green energy" technologies will come at too steep a price for our already-struggling economy.

To the extent that any "green jobs" have been created, this has only been accomplished by shifting resources that might have generated more productive jobs elsewhere in the economy. Many European countries have learned the hard way that propping up "green energy" industries comes at the expense of private sector growth and job creation, and we would be wise to learn from their mistakes.

With the right set of policies, we can create new jobs and help fuel an economic recovery benefiting all Americans. But the Administration's push to a "green energy" economy should not continue to be touted as a jobs program; it is a program that has destroyed jobs at a time when our economy needs them the most.

²²¹ Rising Energy Costs: An Intentional Result of Government Action, Staff Report, House Committee on Oversight and Government Reform, May 23, 2011.

About the Committee

The Committee on Oversight and Government Reform is the main investigative committee in the U.S. House of Representatives. It has authority to investigate the subjects within the Committee's legislative jurisdiction as well as "any matter" within the jurisdiction of the other standing House Committees. The Committee's mandate is to investigate and expose waste, fraud and abuse.

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