



The Honorable Jeff Bingaman  
Chairman  
Senate Committee on Energy and Natural  
Resources

The Honorable Lisa Murkowski  
Ranking Member  
Senate Committee on Energy and Natural  
Resources

The Honorable Max Baucus  
Chairman  
Senate Committee on Finance

The Honorable Thad Cochran  
Ranking Member  
Senate Committee on Appropriations

The Honorable Daniel Inouye  
Chairman  
Senate Committee on Appropriations

The Honorable Charles Grassley  
Ranking Member  
Senate Committee on Finance

The Honorable Harry Reid  
Majority Leader  
United States Senate

The Honorable Mitch McConnell  
Minority Leader  
United States Senate

June 8, 2009

Dear Senate Leaders,

We want to thank you for your leadership in promoting renewable energy, and especially for the new renewable energy programs in the American Recovery and Reinvestment Act (ARRA). As you know, the renewable energy grant program in Section 1603, which allows those who qualify for renewable energy tax credits to secure instead a grant from the Treasury Department, is one of the most critically important such programs. We are writing now, however, to call to your attention a small but important drafting problem with the Section 1603 grants program, which has the effect of discouraging renewable energy investment by private equity funds.

Section 1603 includes language that expressly bars any partnership that includes investment from state pension funds, university endowments or other tax-exempt entities from participating in the grant program. Some assert that the provision was primarily intended to prohibit entities that are eligible for Clean Renewable Energy Bonds (CREBs) from also securing Section 1603 grants. However, as currently crafted, the impact extends well beyond the public power companies that qualify for CREBs. The impact of this provision is to deny access to the grant program for any renewable energy project that is

organized as a partnership and has raised any part of its capital from a private equity fund. Most renewable energy projects are owned by partnerships. Most private equity funds include among their investors state pension funds, university endowments or other tax-exempt entities. The grant prohibition applies regardless of how small or how indirect the participation of such tax-exempt investors. While we cannot be certain of the objectives behind the ban on cash grants in such situations, we do not believe the drafters intended such a sweeping impact.

There is no reasonable policy rationale for excluding renewable energy projects that have been funded partly by private equity funds, university endowments or state pension funds from the Section 1603 grant program. In fact, doing so would be contrary to the energy policy objectives powerfully articulated by the President and Congressional leaders, including legislative proposals now under consideration that would mandate substantial increases in renewable energy. Without investment from private equity funds, which currently have over \$400 billion in committed capital, it will be next to impossible to achieve the President's ambitious goal of doubling renewable energy production in the United States over the next three years.

The participation of private equity is especially important in the current economic environment where renewable energy developers are having difficulty raising capital, development is being scaled back, it is difficult to borrow money, and there is a several billion dollar shortfall in the supply of tax equity. We estimate that the provision rendering private equity funds ineligible for the Section 1603 grant program places more than ten billion dollars in new renewable energy development at risk.

The problem can be easily repaired by eliminating the ban on cash grants to projects that have state pension funds or similar tax-exempt entities as investors. Such projects already suffer a percentage reduction in the amount of grant for which they qualify equal to the percentage ownership by government and tax-exempt entities under Section 50 (b)(4)(D) of the IRS code. It is not clear why any additional limitation is required. Alternatively, the grant prohibition could be narrowed to extend only to entities that qualify for the CREBs program, though this would be less preferred.

We respectfully urge you to promote and support this small but important change to help foster the renewable energy investment that will be needed to meet the nation's economic, environmental and energy security objectives. Thank you for your attention to this critical issue.

Sincerely,



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CEO

American Wind Energy Association



Karl Gawell

Executive Director

Geothermal Energy Association



Rhone Resch

President and Chief Executive Officer

Solar Energy Industries Association



Douglas Lowenstein

President

Private Equity Council