Footnote 344

From: [redacted]
To: [redacted]
Cc:
Subject: Solyndra - Fab 2 Phase II Term Sheet (Redline from Phase I) 20100615.doc
Date: Tuesday, June 15, 2010 10:43:52 PM
Attachments: Solyndra - Fab 2 Phase II Term Sheet (Redline from Phase I) 20100615.doc

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[redacted]

In my earlier email, I should have included the attached redline of the Term Sheet that we distributed today.

Regards,

[redacted]

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[redacted]
VP - Business Development
SOLYNDRA, INC.
47700 Kato Road
Fremont, CA 94538
[redacted]

~~March 20, 2009~~

Draft of June 15, 2010

THIS WORKING DRAFT IS FOR DISCUSSION PURPOSES ONLY
AND HAS NOT BEEN APPROVED BY DOE OR FFB.
THIS WORKING DRAFT DOES NOT CONSTITUTE AN AGREEMENT BY DOE OR FFB OR A COMMITMENT BY DOE OR FFB TO ENTER INTO AN AGREEMENT AND IS SUBJECT TO REVIEW
AND CHANGE IN ALL RESPECTS.

[Date]

Solyndra, Inc.
Solyndra Fab 2 LLC
47700 Kato Road
Fremont, CA 94538

Re: Loan Guarantee Application of Solyndra, Inc. (the "**Application**")
LGPO Loan Number: ~~1013~~[_____]

Ladies and Gentlemen:

This term sheet (this "**Term Sheet**") outlines the principal indicative terms and conditions for a potential U.S. Department of Energy ("**DOE**") loan guarantee that relates to the Application of Solyndra, Inc. (the "**Applicant**") pursuant to Title XVII of the Energy Policy Act of 2005, as amended from time to time ("**Title XVII**").

Capitalized terms used but not defined in this Term Sheet have the meanings given to such terms in the final regulations located at 10 CFR Part 609 and any other applicable regulations from time to time promulgated by DOE to implement Title XVII (the "**Applicable Regulations**").

All provisions of this Term Sheet are subject to the following (the "**Program Requirements**"): (i) the provisions of Title XVII and the Applicable Regulations, and (ii) all DOE or FFB legal and financial requirements, policies, and procedures applicable to the Title XVII program from time to time.

This Term Sheet is for discussion purposes only and does not contain any representation or warranty of any kind on the part of DOE or any other party and does not constitute an offer or commitment by DOE or any other party to extend financing to the Project.

Set forth below in Part A hereof are the detailed terms and conditions under which DOE may enter into a Term Sheet with the Applicant.

Set forth below in Part B hereof are provisions for acceptance of this Term Sheet and certain additional provisions relating to this Term Sheet.

[Part A Begins on Next Page]

A. DETAILED TERMS AND CONDITIONS FOR LOAN GUARANTEE

The terms and conditions set forth herein are subject to change, amendment and revision. DOE reserves the right to propose further terms and conditions as it deems necessary, in its sole discretion, in the course of further due diligence and review by DOE and its counsel. This Term Sheet does not include additional terms and conditions as may be required by the ~~lenders to the Project, including the~~ Federal Financing Bank.

The Transaction Documents will contain the terms and conditions set forth in this Term Sheet, in addition to other standard provisions and such other terms and conditions as are agreed to between the parties. However, DOE reserves the right to propose to expand or consolidate the terms and conditions set forth in this Term Sheet as a condition to DOE's involvement in the proposed financing.

Parties

1. Borrower

Solyndra Fab 2 LLC, a Delaware limited liability company (the "**Borrower**") that is a special purpose entity formed solely for the purpose of developing, constructing, financing, owning operating and managing the ~~Project~~Fab 2 Facility.

2. Sponsor

Solyndra, Inc. (the "**Sponsor**"), which owns 100% of the equity interests in the Borrower.

3. Eligible Lender

Federal Financing Bank ("**FFB**"), an instrumentality of the United States government created by the Federal Financing Bank Act of 1973 that is under the general supervision of the Secretary of Treasury.

Project and Project Costs

4. Fab 2 Facility

The Fab 2 Facility (the "**Fab 2 Facility**") will be an approximately ~~420~~566 MW thin-film ~~omnifacial~~ solar photovoltaic manufacturing facility located in Fremont, California, which is expected to be constructed in two phases.

5. Phase I; Phase II

Phase I of the Fab 2 Facility will consist of three production lines and is expected to have a capacity of approximately ~~210~~283 MW ("**Phase I**"). Phase I is under construction with financing from FFB, pursuant to a loan guarantee from the DOE as set forth in a Common Agreement, dated as of September 2, 2009 (the "**Phase I Common Agreement**"), among the Borrower, the DOE as Credit Party and as Loan Servicer and U.S. Bank National Association, as Collateral Agent (the "**Collateral Agent**") and the documents specified in the Phase I Common

Agreement (together with the Phase I Common Agreement, the "**Phase I DOE Credit Facility Documents**").

Phase II of the Fab 2 Facility is expected to consist of an additional three production lines and to have a capacity of approximately ~~210~~283 MW ("**Phase II**"~~), and does not constitute part of the Project"~~).

The loan guarantee contemplated under this Term Sheet relates to Phase II only and associated facilities used in the operation of Phase I. ~~DOE acknowledges that the Sponsor intends to construct Phase II through a separate subsidiary of the Sponsor and finance such construction through separate third-party financing~~I. However, the parties expect to amend and restate the Phase I Common Agreement and certain other DOE Credit Facility Documents to provide for the financing of the Project and for the collateral associated with each of Phase I and Phase II to secure the Guaranteed Obligations with respect to Phase I and Phase II on a *pari passu* basis.

6. *Shared Facilities*

The Borrower expects to share certain facilities necessary for the operation of Phase II with Phase II (the "**Shared Facilities**"). Accordingly, the Loan Guarantee Documents shall ~~not prohibit~~contemplate the sharing of such Shared Facilities as long as DOE is satisfied that such sharing arrangements (i) do not adversely affect DOE's first priority security interest in the Collateral, (ii) otherwise satisfy the terms and conditions of the Loan Guarantee Documents that are intended to protect FFB's and DOE's respective interests in the Project, (iii) do~~es~~ not interfere with DOE's ability to complete the Project in case of default, and (iv) are otherwise consistent with the Program Requirements. ~~In connection with such proposed sharing arrangements, the Sponsor will provide such information as DOE may request in connection with the proposed financing of Phase II in order for DOE to confirm the requirements of this Section.~~

7. *Project; Project Plans*

The Borrower and the Sponsor will provide detailed project plans for the design, development, financing, construction, implementation, operation and management of Phase II of the Fab 2 Facility and the Shared Facilities (the "**Project**"), which will include the information described in Section C of Attachment ~~B (~~A2 (Requirements for Part II Application ~~Guidance~~Submission) to the ~~Instructions for Application for~~ Loan Guarantee Solicitation for Innovative Energy Efficiency, Renewable Energy and Advanced Transmission and Distribution Technologies, including without limitation the Engineering and Construction Plans, the Operating and Maintenance Plans, and the ~~Management~~ Project Plan described therein (collectively, the "**Project Plans**").

8. *Project Costs*

The Borrower and the Sponsor will provide detailed plans for financing all costs of the Project that may be incurred from time to time ("**Total Project Costs**").

The Borrower will apply Guaranteed Loan proceeds solely to pay those portions of Total Project Costs that are eligible for funding as "Project Costs" as defined in the Applicable Regulations ("**Eligible Project Costs**").

The Borrower and the Sponsor estimate as of the date of this Term Sheet that Total Project Costs will be an aggregate amount of ~~$733~~684,000,000 ("**Base Project Costs**"), consisting of:

(i) Eligible Project Costs in the aggregate amount of ~~$733~~684,000,000 ("**Eligible Base Project Costs**") (which for avoidance of doubt, includes approximately $~~62~~36,000,000 of budgeted contingency funds), and

(ii) Ineligible Project Costs, currently estimated at zero ("**Ineligible Base Project Costs**").

All Total Project Costs in excess of Base Project Costs are "**Overrun Project Costs**".

All Total Project Costs that are not Eligible Project Costs, including Ineligible Base Project Costs and Overrun Project Costs, are "**Ineligible Project Costs**" that must be financed by the Sponsor or from other sources other than the Guaranteed Loan.

9. Base Equity Commitment

The Sponsor will commit to provide equity to the Borrower ("**Base Equity**"), on terms and conditions satisfactory to DOE, in an amount (the "**Base Equity Commitment**") equal to the difference between (x) Base Project Costs, and (y) the Guaranteed Loan Amount.

The Sponsor will fund the Base Equity Commitment through a combination of one or more of the following (x) the contribution of real property and other assets to the Borrower, in an amount up to 10% of Eligible Base Project Costs, subject to DOE's review and valuation of such assets, (y) the contribution of cash as a common equity investment in the Borrower, and (z) the contribution of cash from the proceeds of unsecured subordinated loans made to the Borrower on subordination terms satisfactory to DOE in its sole discretion on the following schedule:

(a) the Sponsor will fund a portion of the Base Equity Commitment in an amount to be determined prior to the initial Disbursement of the Guaranteed Loan;

(b) thereafter, Eligible Base Project Costs will be funded 100% with proceeds of the Guaranteed Loan until aggregate Eligible Base Project Costs to date have been funded so that at least 27% of such Eligible Base Project Costs are funded with proceeds of the Base Equity Commitment and the remainder with proceeds of the Guaranteed Loan; and

(c) thereafter, Eligible Base Project Costs will be funded so that at least 27% of such Eligible Base Project Costs are funded with proceeds of the Base Equity Commitment and the remainder with proceeds of the Guaranteed Loan; and

(d) Ineligible Base Project Costs will be funded 100% with proceeds of the Base Equity Commitment.

The Sponsor will fund its required contributions of Base Equity monthly in advance such that the proceeds of the Guaranteed Loan shall at no time exceed 73% of the Eligible Base Project Costs incurred prior to or concurrently with the disbursement of such proceeds.

10. Overrun Equity Commitment

The Sponsor will commit to fund 100% of any Overrun Project Costs (the "**Overrun Equity Commitment**"). Sponsor ~~will~~ has agreed under the Phase I DOE Credit Documents to fund into a reserve account $30,000,000 of the Phase Overrun Equity Commitment, in six (6) consecutive monthly payments of $5,000,000 each, beginning in the 15th month after the Financial Closing Date (as defined below). Such funded amount would be made applicable to Overrun Project Costs under Phase II as well as Phase I. Upon Project Completion (as defined in Exhibit A), any remaining funded portion of the Overrun Equity Commitment will be released to the Sponsor.

Loan and DOE Guarantee

11. Guaranteed Loan

A loan from FFB (the "**Guaranteed Loan**") in the original principal amount (the "**Guaranteed Loan Amount**") of not more than 73% of Eligible Base Project Costs, up to a limit of the lesser of (x) 80% of Eligible Base Project Costs, and (y) $~~535,000~~478,800,000.

12. DOE Guarantee

An unconditional guarantee by DOE (the "**DOE Guarantee**") of 100% of the principal of and interest on the Guaranteed Loan (the "**Guaranteed Obligations**") in accordance with the Program Requirements.

13. Availability

Subject to the terms of the FFB Funding Agreements, disbursements of the Guaranteed Loan (each a "**Disbursement**") may be requested from time to time during the period (the "**Guaranteed Loan Availability Period**") from (x) the Financial Closing Date (as hereinafter defined), to (y) the date 32 months following the Financial Closing Date.

The proceeds of Disbursements will be used to pay Eligible Base Project Costs in accordance with a construction budget to be submitted by the Borrower, as certified by the Independent Engineer, a specified number of days prior to the applicable fiscal quarter (the "**Periodic Approved Budget**") and satisfaction of the other conditions precedent set forth in the Loan Guarantee Documents. Subject to the terms of the FFB Funding Agreements, FFB will make Disbursements to or as directed by the Borrower to pay Eligible Base Project Costs then due and payable, or reasonably expected to become due and payable within the next 30 days as contemplated by the Periodic Approved Budget, as soon as commercially practicable, and in any event within five business days following receipt of (i) a disbursement request from the Borrower, in sufficient detail and including wire transfer instructions and copies of invoices, and (ii) a disbursement approval notice from DOE.

14. Interest Rate

Subject to the terms of the FFB Funding Agreements, the interest rate on each Disbursement (the "**Interest Rate**") will be a rate per annum equal to the sum of (x) the single equivalent rate of the Disbursement repayment stream determined from Treasury's "Constant Maturity Treasury" curve, taking into consideration the shortest maturity Treasury bill being currently auctioned, up through the Constant Treasury Maturity rate corresponding to the period from the date of such Disbursement to the final maturity of the Guaranteed Loan, plus (y) a spread to be calculated as of the Disbursement date, to be determined in accordance with FFB policy guidelines.

All overdue amounts on the Guaranteed Loan will accrue interest at a default rate of interest to be determined, and be payable by the Borrower, in accordance with the FFB Funding Agreements.

15. *Interest Payments*

Interest will accrue from the first Disbursement and be due and payable in cash in arrears on each quarterly payment date thereafter as specified in the FFB Funding Agreements (a "**Quarterly Payment Date**").

16. *Principal Amortization and Maturity*

The outstanding principal amount of the Guaranteed Loan will be payable in equal quarterly installments commencing on the first Quarterly Payment Date occurring not less than 32 months following the Financial Closing Date (the -"**First Principal Payment Date**").

The final maturity of the Guaranteed Loan will be the seventh (7^{th}) anniversary of the Financial Closing Date.

17. *Prepayments of the Guaranteed Loan*

(a) Voluntary Prepayments. Subject to clause (c) below, borrowings under the Guaranteed Loan may be prepaid in whole or in part at any time.

(b) Mandatory Prepayments. Subject to clause (c) below, the Borrower will make mandatory prepayments of borrowings under the Guaranteed Loan with insurance proceeds or condemnation proceeds in accordance with criteria and conditions to be contained in the Loan Guarantee Documents.

(c) All Prepayments. All prepayments of the Guaranteed Loan

(i) are subject to the terms of the FFB Funding Agreements; and

(ii) will be applied to remaining scheduled amortization payments as set forth in the FFB Funding Agreements.

Any Guaranteed Loan amounts prepaid may not be re-borrowed, and after any prepayment no further Disbursements shall be made.

18. *DOE Fees*

The Sponsor or the Borrower will pay the following fees to DOE (collectively, the "**DOE Fees**") in addition to any fees payable to FFB or any other party:

(a) ~~an~~aggregate application ~~fee~~fees of $~~50~~100,000, which DOE acknowledges that it received in ~~full on May 15, 2008~~the amount of $25,000 on September 11, 2009 and in the amount of $75,000 on November 16, 2009;

(b) a facility fee equal to the sum of (x) ~~$1,625~~375,000, plus (y) ~~one-half~~three-quarters of one percent (0.~~50~~75%) of the Guaranteed Loan Amount, 20% of which is due and payable on the date that the Borrower and the Sponsor execute and deliver this Term Sheet, and 80% of which is due and payable on the Financial Closing Date;

(c) a fee for DOE's administrative expenses in servicing and monitoring the Project and the Loan Guarantee Documents during the construction, startup, commissioning and operation of the Project (the "**Maintenance Fee**") in an amount equal to $25,000 per year over the scheduled term of the Guaranteed Loan, which will be either (i) payable each year in advance, commencing upon the Financial Closing Date, in the amount specified in the Loan Guarantee Agreement, or (ii) if provided for in the Loan Guarantee Documents, at the Borrower's option may be paid as a one time fee on the Financial Closing Date in a lump sum amount equal to aggregate sum of such annual fees specified in the Loan Guarantee Documents for the entire term of the loan guarantee, discounted to net present value.

(d) if the Project experiences technical, financial, legal or other events which require the DOE to incur time or expenses (including third-party expenses) beyond standard monitoring of the Loan Guarantee Documents, DOE shall be entitled to payment of a fee (a "**Modification Fee**") reimbursing DOE in full for such amounts as DOE reasonably determines are its additional internal administrative costs, any costs associated in reviewing whether such events would alter the Credit Subsidy Cost (as defined below) as set forth in Section 19, and related fees and expenses of its independent consultants and outside legal counsel, to the extent that such third parties are not paid directly by the Borrower or the Sponsor.

19. Credit Subsidy Cost

The credit subsidy cost for the DOE Guarantee is the "cost of a loan guarantee", as set forth in section 502(5)(C) of the Federal Credit Reform Act of 1990 (the "**Credit Subsidy Cost**"). The final Credit Subsidy Cost amount will be determined by DOE in its sole discretion, subject to review and approval by the Office of Management and Budget ("**OMB**") prior to the Financial Closing Date.

DOE performs all accounting and other requirements related to any amendment, modification or waiver arising out of FCRA, including but not limited to: (i) analysis of the amendment, modification or waiver to determine whether it increases the costs of the Guaranteed Loan; and (ii) making a determination whether budget authority for any additional cost has been provided in advance in an appropriations act. In connection with changes to the terms of the transaction requested by the Borrower that constitute "modifications" as set forth in OMB Circular A-11, an increase of the Credit Subsidy Cost may be required to be paid by the Borrower.

Except if explicitly authorized by an Act of Congress, neither the Sponsor nor the Borrower shall use any funds obtained from the Federal Government, or from a loan or other instrument guaranteed by the Federal Government, to pay for Credit Subsidy Cost, administrative fees, or other fees charged by or paid to DOE pursuant to the Program Requirements.

Pursuant to Section 1705 of Title XVII ("**Section 1705**"), the Project may be eligible for funds made available under the American Recovery and Reinvestment Act of 2009, P.L. 111-5 (the "Recovery Act") to pay the Credit Subsidy Cost if the Project satisfies all of the requirements of Section 1705 and this Term Sheet.

20. *Collateral*

The Borrower's obligations under the Guaranteed Loan and the DOE Guarantee will be secured by a first-priority perfected security interest in the following (collectively, the "**Collateral**"):

(a) all equity interests in the Borrower and all subordinated debt, if any, payable by the Borrower;

(b) all real property interests of the Borrower, including without limitation the Fab 2 Facility site and buildings, the Shared Facilities, all leasehold or other property interests relating to front-end or back-end facilities, and all related fixtures, easements, rights-of-way and licenses;

(c) all personal and other property of the Borrower, including without limitation:

(i) all equipment comprising the Project, including all equipment located at the Fab 2 Facility or otherwise reasonably necessary for the continued operation of the Project and production and sales and products from the Project;

(ii) all inventory, including raw materials, works-in-progress and finished goods;

(iii) all revenues, accounts receivable, equity contributions, commitments and bank accounts of or payable to the Borrower, including without limitation the Project Accounts and all amounts therein;

(iv) all rights under the Intercompany Agreements and the other Project Documents, including rights to own and control the Shared Facilities as required pursuant to the Program Requirements;

(v) all intellectual property, licenses, general intangibles and goodwill;

(vi) all governmental approvals and permits for the Project; and

(vii) the proceeds of all insurance policies related to the Project or maintained by the Borrower;

(d) any other assets and other collateral as required under the Program Requirements; and

(e) all proceeds of the foregoing.

The security grants in the Collateral will be made under the Security Documents in favor of Collateral Agent for the benefit of the DOE ~~or FFB (as applicable) or agents designated by them to act~~. The Guaranteed Loan will not be subordinate to any loan or other debt obligation and the DOE will be in a first lien position, subject only to customary permitted liens, on all assets of the Project and all additional Collateral, including in connection with a sale of all or a portion of the

Collateral in a foreclosure sale or a transfer in lieu of foreclosure. The Collateral and all collateral under the First Priority DOE Credit Documents shall secure the Guaranteed Obligations referred to in this Term Sheet and the Guaranteed Obligations under the First Priority DOE Credit Documents on a *pari passu* basis.

21. Servicing Duties

Servicing duties with respect to the Guaranteed Loan will be performed in accordance with the Loan Guarantee Documents.

Transaction Documents

22. Loan Guarantee Documents

The agreements to be entered into with DOE and FFB in connection with the Guaranteed Loan shall be subject to FFB's separate requirements and are expected to also include the following, each of which must be satisfactory to DOE in form and substance (collectively, the "**Loan Guarantee Documents**"):

~~(a) a~~an Amended and Restated Common ~~Terms~~ Agreement among the Borrower, FFB and DOE, setting forth certain provisions common to the Loan Guarantee Agreement and the FFB Funding Agreements~~;~~

~~(b)~~(a) ~~the Loan Guarantee Agreement between the Borrower and DOE, setting forth certain~~, including reimbursement obligations and other provisions pursuant to the Program Requirements, including those specified in Exhibit B;

~~(c)~~(b) ~~the~~the Phase II DOE Guarantee, the execution of which shall be subject to (x) provision of statutory authority sufficient under FCRA and Title XVII; (y) consultation with the Department of the Treasury as to the terms and conditions thereof; and (z) receipt by DOE in an appropriations act of timely, unexpired and sufficient authority;

~~(d)~~(c) all documents and agreements necessary or desirable in connection with the making by FFB of the Guaranteed Loan (the "**FFB Funding Agreements**"), including without limitation:

(i) the Program Financing Agreement between the DOE and FFB;

(ii) the Phase II Note Purchase Agreement among the Borrower, DOE and FFB;

(iii) the ~~promissory note~~Phase II Promissory Note evidencing the Guaranteed Loan issued by the Borrower and payable to FFB; and

(iv) any other agreements required in connection with the funding of the Guaranteed Loan by FFB;

~~(e) subordination agreements with respect to payments from the Borrower to the Sponsor or any of its affiliates (the "Solyndra Affiliates");~~

~~(f)~~(d) ~~an equity contribution agreement~~ Phase II Equity Funding Agreement and evidence that the Base Equity Commitment has been fully funded or irrevocably committed as of the Financial Closing Date, in the form of letters of credit or other mechanisms satisfactory to DOE in its sole discretion;

~~(g)~~(e) ~~an agreement~~ an Amended and Restated Sponsor Support Agreement between the Sponsor and DOE providing for (i) management and support obligations for the Borrower; (ii) continuing ownership and control obligations of the Borrower's equity; (iii) direct payment of all Third-Party Sales Agreement amounts to a Sponsor account (the "**Master Revenue Account**") subject to a first-priority security interest in favor of the Borrower in that portion of the Master Revenue Account as is equal to the amount due under the Project Sales Agreement (net of any payments due to the Sponsor under the Project Documents) for the benefit of DOE and FFB; and (iv) assuring repayment to the Borrower of amounts paid by the Borrower to Sponsor or any of its affiliates (the "**Solyndra** ~~Affiliate~~**Affiliates**") in contravention of any term of the Loan Guarantee Documents;

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~~(h)~~(f) the Security Documents (as defined below); and

~~(i)~~(g) such other documents and agreements as may be required under the Program Requirements.

23. *Security Documents*

The Security Documents to be entered into in connection with the Guaranteed Loan are expected to include the following, each of which must be satisfactory to each of DOE in form and substance and include detailed terms and conditions necessary and appropriate to protect the interest of the United States in the case of default, including ensuring availability of all the intellectual property rights, technical data including software, and physical assets necessary for any person or entity, including DOE, to complete, operate, convey, and dispose of the defaulted Project (collectively, the "**Security Documents**"):

(a) ~~a stock pledge agreement~~An Amended and Restated Equity Pledge Agreement with respect to the equity of the Borrower;

(b) ~~a mortgage~~an Amended and Restated Construction and Permanent Deed of Trust with Assignment of Rents and Fixture Filing, and an Amended and Restated Leasehold Construction and Permanent Deed of Trust with Assignment of Rents and Fixture Filing, on all real property of the Borrower and all real property reasonably necessary for the operation of the Project, including without limitation the Shared Facilities;

(c) ~~agreements~~an Amended and Restated Collateral Agency Agreement, among other things, pledging the Project Accounts;

(d) ~~agreements~~an Amended and Restated Security Agreement, pledging:

~~(d)~~(i) the Intercompany Agreements and the other Project Documents and any agreements evidencing rights in any Shared Facilities;

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(ii) all intellectual property rights of the Borrower, including without limitation all licenses, general intangibles and goodwill;

(iii) all governmental approvals, licenses and permits for the Project; and

(iv) all insurance policies maintained by the Borrower or related to the Project;

~~(e)~~ consents from counterparties to specified Project Documents, including the Sponsor, the Operator, any provider of key intellectual property, and any party to the Construction Contract or any major subcontract thereof, each as designated by DOE as being material to the success of the Project (together with the Borrower, parties to key Third-Party Sales Agreements, and parties to key Third-Party Materials Supply Agreements, each as designated by DOE, the **"Major Project Participants"**)~~and from any applicable governmental authorities, as appropriate~~, with respect to the collateral assignment to DOE and FFB (as applicable) of any Project Documents~~, governmental approvals and licenses~~ and the transfer thereof following an event of default;

~~(f) agreements pledging all intellectual property rights of the Borrower, including without limitation all licenses, general intangibles and goodwill;~~

~~(g) agreements pledging all governmental approvals, licenses and permits for the Project;~~

~~(h)~~(e) ~~agreements pledging all insurance policies maintained by the Borrower or related to the Project,~~ and

~~(i)~~(f) all other agreements and instruments necessary to create a first-priority perfected security interest under applicable law in the Collateral.

The Borrower will pay all costs in connection with the pledge, perfection and maintenance of the Collateral and the Security Documents, including without limitation, registration, notarization, and filing fees and charges.

24. Project Documents

The Borrower will enter into all agreements necessary for the consummation of the Project (the **"Project Documents"**), each of which must be in form and substance satisfactory to DOE, including without limitation the following:

(a) Sales Agreements. An ~~agreement~~Amended and Restated Project Sales Agreement, between the Sponsor and the Borrower pursuant to which the Sponsor will purchase all output of the Project (the **"Project Sales Agreement"**~~). It is anticipated that the price per unit of output during each fiscal month will be equal to the average sales price per unit received by the Sponsor during such month of its sales of comparable units during the relevant period under arms-length sales by the Sponsor to third parties (the "Third-Party Sales Agreements"). The Project Sales Agreement will provide for the sales and marketing of the output of the Project, and appropriate remedies for failure of the Sponsor to accept output.~~"), having substantially the same terms as the existing agreement.

(b) Materials Supply Agreements. An ~~agreement~~Amended and Restated Materials Supply Agreement between the Sponsor and the Borrower pursuant to which the Sponsor will supply to the Borrower all raw materials, commodities and other supplies required to operate the Project to the Borrower (the **"Project Materials Supply Agreement"**) ~~on non-discriminatory terms with a pass-through of the pricing under arms-length purchases by the Sponsor without any administrative markup of such materials, commodities and supplies from third parties (the "Third-Party Materials Supply Agreements"). The Project Materials Supply Agreement will provide for customary inspection and testing~~

~~procedures, predetermined quantity, quality and scheduling of deliveries, and mitigation of input risks (including due to increase in commodity prices, unavailability of supply, and supplier credit risk). The Sponsor will use commercially reasonable efforts to seek from the counterparties to material Third Party Materials Supply Agreements an agreement to give to DOE notice of, and opportunity to cure, any Sponsor payment default thereunder.~~having substantially the same terms as the existing agreement.

(c) Operations and Maintenance Agreement. An ~~agreement~~Amended and Restated Operations and Maintenance Agreement, between the Borrower and ~~an entity to be formed (the "~~Solyndra Operator~~") that is a~~ LLC (the "**Operator**") a wholly-owned subsidiary of the Sponsor, pursuant to which the Operator will provide certain operation and maintenance services to the Project (the "**O&M Agreement**"). ~~The O&M Agreement will provide for a detailed scope of services, provision of adequate staffing and expertise, payment of a fixed annual fee and reimbursement only of reasonable and documented expenses, customary operator performance standards and payments with respect to breaches thereof, subject to customary limits, and guarantee by the Sponsor of all obligations of the Operator")~~ and having substantially the same terms as the existing agreement with adjustments to the fees to take into account the Project. The obligations of the Operator under the O&M Agreement will be guaranteed by the Sponsor under an Amended and Restated Guarantee in favor of the Borrower.

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(d) Intellectual Property License. ~~A license from~~An Amended and Restated Intellectual Property License Agreement between the Sponsor ~~to~~and the Borrower providing an irrevocable, non-exclusive, fully paid-up license or sub-license allowing the Borrower to utilize all intellectual property rights owned or licensed by the Sponsor as required to construct, operate and use the Project (the "**Project IP License Agreement**")~~. The Project IP License Agreement will provide for appropriate protection, maintenance~~ and ~~enforcement of rights in favor of the Borrower to licensed technology (including all patents, patent applications, related know-how and trade secrets, related copyrights and any other related intellectual property rights) owned or licensed by the Sponsor, and will include without limitation (i) a license to the Borrower, (ii) appropriate rights to sublicense the licensed technology, (iii) appropriate rights to modify and combine the licensed technology, and (iv) appropriate rights with respect to ownership of improvements. The rights and licenses set forth in the preceding sentence shall be limited in each case to the construction, operation and use of the Project. Appropriate rights for item (iv) above shall be limited to a license to the Borrower for any improvements developed by the Borrower, on~~having substantially the same terms ~~and conditions~~ as the ~~other licensed technology.~~existing agreement.

(e) Equipment Supply Agreement. An ~~agreement~~ Amended and Restated Equipment Supply Agreement between the Sponsor and the Borrower providing for the supply of the production equipment for the Fab 2 Facility at an agreed fixed price for equipment supplied by the Sponsor and at pass-through pricing for equipment supplied by third parties (the "**Project Equipment Supply Agreement**"). ~~The Project Equipment Supply Agreement will provide for a detailed scope of work (including services and spare parts), appropriate provisions regarding ownership and risk of loss, appropriate performance standards and remedies for default, the Borrower and DOE testing and inspection rights,~~

~~and delivery milestones.~~") and having substantially the same terms as the existing agreement with adjustments to the pricing to take into account the additional equipment for Project. *[Alternative is a new Equipment Supply Agreement and a separate parts supply agreement that functions on a go forward basis.]*

(f) Engineering and Architectural Services Agreement. A contract for construction engineering and architectural services between the Sponsor (which will be assigned to the Borrower) and CH2M Hill, including subcontracts with Studios Architecture, Degenkolb Engineers, Kier Wright and any other subcontracts thereunder (the "**Engineering and Architectural Services Agreement**"). The Engineering and Architectural Services Agreement will provide for customary milestones, deliverables, incentives and penalties and contain such other provisions as are deemed by DOE's independent engineering advisor (the "**Independent Engineer**") to be necessary or desirable for the Project. ~~To the extent that the Engineering and Architectural Services Agreement is inconsistent with the requirements of this Term Sheet, the Sponsor will use commercially reasonable efforts to amend the Engineering and Architectural Services Agreement as may be requested by DOE.~~

(g) Construction Contract. A construction contract for the Phase II of the Fab 2 Facility between ~~the Sponsor (assigned to the~~ Borrower) and ~~a construction contractor anticipated to be~~ Rudolph and Sletten, including any subcontracts thereunder (the "**Construction Contract**"). The Construction Contract will provide for customary milestones, deliverables, incentives and penalties and contain such other provisions as are deemed by the Independent Engineer to be reasonably necessary for the Project.

~~(h) All additional agreements reasonably necessary for the transportation of raw materials, commodities and other supplies required to operate the Project and of the output of the Project.~~

~~(i)~~(h) All agreements with parties other than the Sponsor that are reasonably necessary for the joint development of equipment used for the Project.

~~(j) All agreements regarding the Shared Facilities that are necessary for the consummation of the Project.~~

~~(k)~~(i) Confirmation of existence of valid and binding non-disclosure and assignment of invention agreements with all employees of the Borrower and the Sponsor.

~~(l)~~(j) Other Agreements as may be identified by DOE's further due diligence.

The Loan Guarantee Documents, the Security Documents, and the Project Documents are collectively referred to as the "**Transaction Documents**".

Without limiting any of the requirements set forth above and consistent with the existing Phase I agreements, each agreement between the Borrower and the Sponsor or any Solyndra Affiliates, including without limitation the Project Sales Agreement, the Project Materials Supply Agreement, the O&M Agreement, the Project IP License Agreement, and the Project Equipment Supply Agreement (the "**Intercompany Agreements**"), will contain the following provisions:

(i) a term no shorter than twelve months after the term of the Guaranteed Loan;

(ii) payment terms no less favorable to the Borrower than the applicable Solyndra Affiliate would extend to an unaffiliated third party;

(iii) provisions assuring that the Solyndra Affiliate will provide (or purchase) the goods or services that are the subject of such Intercompany Agreement to the Borrower on a non-discriminatory basis, subject to customary reconciliation and true-up provisions;

(iv) calculation of pricing and allocation of any reimbursable costs based on actual third-party amounts without any administrative markup or additional fees;

(v) DOE right to receive notices of default and other material events and DOE cure rights for Borrower breach;

(vi) appropriate force majeure provisions protecting the Borrower;

(vii) limited termination rights in favor of the Solyndra Affiliate;

(viii) DOE step-in rights, consent rights and termination rights following the occurrence of an event of default;

(viii) pass-through to the Borrower of warranties;

(ix) indemnification by the Solyndra Affiliate of the Borrower and DOE;

(x) collateral assignment to DOE and DOE step-in rights;

(xi) provisions protecting the Borrower's interests in any intellectual property necessary or desirable for the Project;

(xii) customary insurance naming the Borrower and DOE as loss payees or additional insureds;

(xiii) waiver of set-off; and

(xiv) such other provisions as DOE determines are reasonably necessary to protect the Borrower's and DOE's interests.

25. *Development Costs; No Development Fees*

At least 60 days prior to the Financial Closing Date, the Borrower shall provide to DOE evidence satisfactory to each of them of the development costs for the Project (not including technology development costs, general administrative and overhead costs or other Ineligible Project Costs) incurred to date and paid by the Borrower or the Sponsor in respect of which the Borrower seeks credit as Base Equity.

The Borrower shall not pay, and Eligible Project Costs shall not include, any commission or fee to any Solyndra Affiliate (x) for furnishing guarantees, counter-guarantees or similar credit support for any obligations undertaken in connection with the Project, or (y) with respect to or in connection with the development, construction, financing or operation of the Project.

26. Subordination

All fees, dividends, debt service, and any other amounts payable by the Borrower to any Solyndra Affiliate other than (i) scheduled payments under the O&M Agreement, (ii) payments in the ordinary course of business under the Project Materials Supply Agreement and the Project Equipment Supply Agreement, and (iii) proceeds of Third-Party Sales Agreements received by the Borrower on account of sales of equipment attributable to Solyndra or another Solyndra Affiliate shall be subordinated upon the occurrence of an event of default to the payment of all amounts due in respect of the Guaranteed Loan. All subordination arrangements shall be in form and substance satisfactory to DOE.

Any additional indebtedness incurred by the Borrower (to the extent permitted under the Loan Guarantee Documents) will be subordinated to the full repayment of the Guaranteed Loan, subject to customary exceptions.

Financial Closing, Loan Disbursements and Conditions Precedent

27. Conditions Precedent to Financial Closing Date

The financial closing of the Guaranteed Loan is subject to closing conditions as are usual and customary for financings of this type, as are required under the Program Requirements or as are otherwise deemed appropriate by DOE for this transaction in particular, including without limitation satisfaction as of the date of such financial closing (the "**Financial Closing Date**") of the following conditions precedent (with respect to such Financial Closing Date, the "**Initial Conditions Precedent**"), each of which must be to the satisfaction of DOE in its sole discretion:

(a) Due Diligence Review. DOE shall have completed its due diligence review of the Project and all other matters related thereto, and the results thereof shall be satisfactory to DOE, including that no material issues exist with respect to the Project under the laws of the State of California or any subdivision or local jurisdiction thereof;

(b) Organization of Project Parties. Delivery of organizational documents in form and substance satisfactory to DOE for each of the Borrower, the Sponsor, the Operator and other Major Project Participants as may be requested by DOE;

(c) Company Certificates. Delivery of secretary's certificates, resolutions and good standing certificates in form and substance satisfactory to DOE;

(d) Transaction Documents. Execution and delivery of all Transaction Documents, in form and substance satisfactory to DOE, together with evidence that such Transaction Documents contain (i) all terms and conditions DOE deems reasonable and necessary to protect the interest of the United States and (ii) are in full force and effect;

(e) Debt Repayment. Repayment of any existing indebtedness and other obligations of the Borrower (other than the obligations under the Phase I DOE Credit Documents) and release of associated liens encumbering any Collateral (other than liens under the Phase I DOE Credit Documents), other than customary permitted liens;

(f) Security Interests. Evidence of perfection of all requisite security interests in the Collateral;

(g) Base Equity. Satisfactory evidence that (i) the Borrower has received, or will have, the amount of Base Equity required for the term on the Guaranteed Loan; and (ii) that all Base Equity was, or will be, applied towards Eligible Base Project Costs;

(h) Legal Opinions and Similar Documents. Delivery of such legal opinions, reliance letters, and similar documents as DOE may request;

(i) Environmental Review. Delivery of environmental site assessments and associated reliance letters and satisfaction of any additional environmental requirements (including required mitigations) in accordance with DOE policy from time to time;

(j) Permits. All environmental, regulatory and other permits and approvals then required for the Project shall be in place and not subject to waiting periods or appeal;

(k) Real Estate. Acquisition of all real estate rights (including easements) then required for the Project and delivery of related ALTA surveys, title insurance policies, purchase agreements and related documents;

(l) Financial Statements. Delivery of any financial statements and compliance certificates then required to be delivered, not later than ~~fifteen (15)~~an agreed to number of business days prior to the Financial Closing Date;

(m) Project Plans. Delivery of updated Project Plans, certified by the Independent Engineer as being satisfactory;

(n) Earthquake Risk Report. Delivery of an earthquake risk report for the areas on which the Fab 2 Facility and any other Project facilities will be built, prepared by an independent geologist satisfactory to DOE;

(o) Base Case Projections. Delivery of base case projections with respect to the Borrower, including all assumption used therein, demonstrating required minimum coverage ratios, certified by the Independent Engineer as being satisfactory;

(p) Development Costs Audit. Receipt of all information with respect to development costs previously incurred and credited to Base Equity and specifying the portion of such development costs that constitute Eligible Base Project Costs, all certified as being satisfactory in a development costs audit prepared by the Independent Engineer;

(q) Construction Budget. Delivery of a construction budget and schedule, certified by the Independent Engineer as being satisfactory;

(r) Notice to Proceed. Delivery of evidence that the Borrower has issued (or is issuing concurrently on the Financial Closing Date) a notice to commence construction under the Construction Contract;

(s) Independent Engineer's Report. Delivery of a report and associated closing certificate from the Independent Engineer with respect to all engineering and construction aspects of the Project and the Shared Facilities, including an analysis of the roles and capabilities of all Major Project Participants;

(t) Insurance. Receipt of satisfactory evidence, including without limitation a report and associated closing certificate from the Borrower's insurance advisor that the Borrower has obtained the Required Insurance (as defined below);

(u) Market Studies. Delivery of a report from the Borrower's marketing advisors and, if applicable, DOE's marketing advisors, including (i) a forecast of the U.S. and global markets for photovoltaic panels for the period ~~2009~~2010 to 2016, taking into account the effect of low-cost energy alternatives, (ii) an analysis of the market for any product to be produced by the Project and relevant economics justifying such analysis, and (iii) an analysis of the effects on sales and gross margins of any reduction or elimination of tax and other economic incentives currently available for the products of the Project;

(v) Credit Rating. Delivery of a credit rating from a nationally recognized rating agency dated no earlier than 30 days prior to the Financial Closing Date reflecting the revised Term Sheet as if the Project does not have a Federal guarantee;

(w) Intellectual Property. Evidence that the Borrower and the Sponsor have all intellectual property rights necessary for the Project;

(x) Supply Agreements. Evidence of sufficient availability and reasonable pricing of consumables and materials supply to the Project, including the existence of multiple alternative suppliers;

(y) Exchange Risk. Evidence that the Sponsor has a commercially reasonable strategy with respect to foreign exchange risk under the Third-Party Sales Agreements;

(z) Availability of Funds. Evidence that the Guaranteed Loan Amount, when combined with other funds committed to the Project, including the Overrun Equity Commitment and other contingency funds, will be available and sufficient to carry out the Project;

(aa) Possession of Collateral. Delivery of an updated listing and description of assets associated, or to be associated, with the Project and any other asset that will serve as Collateral, including appropriate data as to the value of the assets and the useful life of any physical assets, including with respect to real property assets listed, delivery of an appraisal that is consistent with the "Uniform Standards of Professional Appraisal Practice," promulgated by the Appraisal Standards Board of the Appraisal Foundation, and performed by licensed or certified appraisers;

(bb) Review of Credit Subsidy. OMB review and approval of DOE's calculation of the Credit Subsidy Cost of the DOE Guarantee as of the Financial Closing Date;

(cc) Payment of Credit Subsidy: Payment in full of the Credit Subsidy Cost in accordance with the Program Requirements;

(dd) Payment of DOE Fees. Payment of all DOE Fees due as of the Financial Closing Date; and

(ee) Financial Information. No less than 30 days prior to the Financial Closing Date, the Borrower shall provide updated project financing information if the terms and conditions of the financing arrangements changed between the date of execution of the

Term Sheet and the Financial Closing Date, and the ~~parties hereto~~Transaction Documents shall ~~amend this Term Sheet~~be appropriately modified to reflect the revised terms and conditions in ~~the~~ such event ~~such revisions occur~~.

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28. *Conditions Precedent to Each Periodic Approved Budget*

The approval of each Periodic Approved Budget, is subject to the satisfaction of the following conditions precedent as are usual and customary for financings of this type or as are otherwise deemed appropriate by DOE for this transaction in particular, including without limitation of the following conditions precedent (the **"Periodic Conditions Precedent"**), each of which must be to the satisfaction of DOE in its sole discretion:

(a) Representations and Warranties. All representations and warranties shall be true and correct and no default or event of default shall have occurred and be continuing;

(b) No Material Adverse Change. No event shall have occurred or could reasonably be expected to occur with respect to the Project or any Major Project Participant that could reasonably be expected to have a material adverse effect on the Project;

(c) Performance Metrics. Satisfactory evidence, including without limitation confirmation by the Independent Engineer, that the Sponsor has achieved and maintained specified efficiency, yield levels, and other performance metrics for the existing thin-film ~~omnifacial~~ solar photovoltaic manufacturing facility referred to as "Fab 1";

(d) Disbursement Proceeds. Evidence that the proceeds of all Disbursements to be made with respect to such Periodic Approved Budget will be needed for Eligible Project Costs that have been or will be incurred, together with a description in sufficient detail of such Eligible Project Costs, as certified by the Independent Engineer;

(e) Construction Progress. A construction progress report detailing achievement of specified construction milestones, as certified by the Independent Engineer;

(f) Cost Overruns; Funds Available to Complete the Project. A certification by the Independent Engineer that the funds available to the Borrower are sufficient to pay all remaining Total Project Costs, including without limitation identified Overrun Project Costs;

(g) No Litigation. No legal or arbitral proceedings are pending or threatened against any Major Project Participant that could reasonably be expected to have a material adverse effect on the Project;

(h) No Change in Law. No change in law has occurred that could reasonably be expected to have a material adverse effect on the Project;

(i) Lien Waivers. Demonstration that (i) any unpaid balances or unsettled claims with contractors or suppliers, if any, have been adequately paid and that those being contested or negotiated in good faith are provisioned to the reasonable satisfaction of DOE, and (ii) all mechanics liens or other liens of such contractors or suppliers have been released to the reasonable satisfaction of DOE;

(j) Certificates. Receipt of all necessary certifications and delivery of officer's certificates and other customary certificates;

(k) Legal Opinions. Delivery of such legal opinions, reliance letters, and similar documents as DOE may request;

(l) DOE Fees. Payment of all DOE Fees and other fees and expenses payable to DOE, its counsel, and its advisors that are then due in connection with the Project;

(m) Governmental Requirements. Satisfaction of (i) all requirements and approvals pursuant to the Program Requirements, and (ii) all other statutory, regulatory, or other governmental requirements of general applicability to Title XVII applicants;

(n) Governmental Approvals. Copies of all material governmental approvals, permits or consents not previously delivered required for construction or operation of the Project and such other governmental approvals, permits or consents as DOE may reasonably request or as may be required under the Transaction Documents;

(o) Prior Disbursements. Evidence that the proceeds of all Disbursements made with respect to the immediately preceding Periodic Approved Budget have been applied as set forth in such Periodic Approved Budget or as otherwise approved by DOE; and

(p) Additional Documents. Such other documents, certifications or consents relating to the Project or the matters contemplated by the Transaction Documents as DOE may reasonably request.

29. Conditions Precedent to Each Disbursement Date

Each Disbursement of a Guaranteed Loan, including the initial Disbursement, is subject to the satisfaction as of the date of such Disbursement (the "**Disbursement Date**") of the following conditions precedent, which must be to the satisfaction of DOE in its sole discretion:

(a) Disbursement Request and Invoices. Receipt of a disbursement request from the Borrower, in sufficient detail and including wire transfer instructions and copies of invoices, together with Borrower certification as to the satisfaction of conditions precedent;

(b) Periodic Conditions Precedent. The Periodic Conditions Precedent shall have been satisfied and shall remain satisfied as of the Disbursement Date;

(c) DOE Fees. Payment of all DOE Fees and other fees and expenses payable to DOE, its counsel, and its advisors that are due as of such Disbursement Date in connection with the Project; and

(d) Base Equity. Immediately following such Disbursement Date, the aggregate amount of Base Equity shall equal or exceed 27% of the proceeds of the total Eligible Base Project Costs previously funded or to be funded with the current Disbursement.

Project Accounts

30. Project Accounts in General

The Borrower will establish and maintain such bank accounts as required by DOE for the management of Project-related funds and security (collectively, the "**Project Accounts**"). The Project Accounts are expected to be the same Project Accounts established under the Phase I

DOE Credit Documents with any appropriate modifications and subaccounts to take into account Phase I and Phase II.

All Project Accounts will be established with, and subject to the control of DOE or agents designated by them to act.

The Borrower will pay all related fees associated with the establishment and maintenance of the Project Accounts, including those related to the compensation of any account management agents as may be required by DOE in its sole discretion.

31. Construction Account

Subject to the requirements of the FFB Funding Agreements, the proceeds of borrowings under the Guaranteed Loan, the cash proceeds of the Base Equity Commitment and the Overrun Equity Commitment will be deposited into a construction account (the "**Construction Account**"). Funds on deposit in the Construction Account and the proceeds of borrowings under the Guaranteed Loan will be used to pay Eligible Project Costs in accordance with the approved construction budget and the Periodic Approved Budget.

32. Project Revenue Account

The Borrower will establish a revenue account (the "**Project Revenue Account**"). All amounts payable under the Project Sales Agreement or any other revenues and other amounts received by the Borrower (other than Mandatory Prepayments as described above and amounts permitted to be deposited in the General Account) will be deposited in the Project Revenue Account. The Borrower will also establish a deposit account (the "**General Account**") into which miscellaneous amounts received by the Borrower may be deposited with the written agreement of the DOE and used for purposes agreed to in writing with the DOE.

33. Debt Service Reserve Account

The Borrower will establish for the Guaranteed Loan and DOE Guarantee a debt service reserve account (the "**Debt Service Reserve Account**") and fund such Debt Service Reserve Account from the Construction Account in an amount (the "**Debt Service Reserve Requirement**") equal to the succeeding six months of scheduled principal, interest and fees under all indebtedness and similar obligations of the Borrower, including principal, interest and fees scheduled to be due with respect to the Guaranteed Loan and otherwise due to DOE or FFB ("**Debt Service**").

The Borrower may substitute a letter of credit or other alternative form of security in form and substance satisfactory to DOE to replace the Debt Service Reserve Account.

Funds in the Debt Service Reserve Account will be used to pay Debt Service if funds are not available in the Project Revenue Account to make such payments.

34. Cash Flow Waterfall

Amounts in the Project Revenue Account will be applied as follows (the "**Cash Flow Waterfall**"):

(1) First, once each month an amount sufficient to pay budgeted operations and maintenance costs due or reasonably expected to become due within the next month, including without limitation all applicable taxes, payments under the O&M Agreement, the Project Equipment Supply Agreement and the Project Materials Supply Agreement;

(2) Second, as required under the Loan Guarantee Documents, amounts sufficient to pay all amounts payable to FFB and DOE under the Loan Guarantee Documents, will be transferred to a debt service payment account ~~established~~ (the "**Debt Service Payment Account**") established for payment of all accrued interest and principal of borrowing on the Guaranteed Loan, and all other costs, fees and expenses arising under the Loan Guarantee Documents, when due and payable;

(3) Third, once each quarter an amount sufficient to replenish the Debt Service Reserve Account up to the Debt Service Reserve Requirement will be transferred to the Debt Service Reserve Account; ~~and~~

(4) Fourth, once each month, into a warranty reserve account (the "**Warranty Reserve Account**"), an amount sufficient to replenish the Warranty Reserve Account up to $10,000,000; and

(5) Fifth, once each quarter commencing on the date set forth in the Loan Guarantee Documents, any remaining amounts in the Project Revenue Account will be transferred to a distribution suspense account (the "**Distribution Suspense Account**") and available for distribution to or as directed by the Borrower subject to the conditions described below with respect to Restricted Payments.

35. *Restricted Payments*

The Borrower will not be permitted to pay any dividends, management or any other fee, interest on subordinated debt, or any other payment or distribution to its equity holders or other similar payments ("**Restricted Payments**") other than from funds on deposit in the Distribution Suspense Account on ~~ten (10) business days~~ prior written notice to DOE as specified in the Collateral Agency Agreement, but not more often than once each fiscal quarter, and then only if the following conditions are satisfied:

(1) both Physical Completion and Operational Completion (as defined in Exhibit A) have occurred;

(2) no default or event of default under the Loan Guarantee Documents exists or would exist after giving effect to any such Restricted Payment; and

(3) the Debt Service Reserve Account is funded to an amount not less than the Debt Service Reserve Requirement; and either *[Discuss any adjustments]*

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   (A) Each of the following conditions is satisfied ("Option A"):

      (i) the Borrower has made at least one scheduled principal payment of the Guaranteed Loan; and

      (ii) the historical 12-month Debt Service Coverage Ratio (as defined below) is at least 1.50 to 1 and the projected 12-month Debt Service Coverage Ratio is at least 1.50 to 1; or

(B) Each of the following conditions is satisfied ("Option B"):

(i) The Borrower has accumulated an amount in excess of, and immediately after payment of such Restricted Payment will retain an amount not less than, an amount equal to the succeeding nine (9) months of Debt Service in (x) the Debt Service Reserve Account, and (y) the Distribution Suspense Account; and

(ii) (ii) The Borrower at the same time applies an amount (the "**Prepayment Amount**") equal to the amount of such Restricted Payment to the voluntary prepayment of the Guaranteed Loan, with such Prepayment Amount allocated to the prepayment of principal in the maximum possible amount when taken together with any associated make-whole premiums or discounts (it being understood that (x) if there is an associated premium, the principal amount prepaid would be less than the Prepayment Amount, and (y) if there is an associated discount, the principal amount prepaid would be greater than the Prepayment Amount).

Representations, Covenants and Defaults

36. Representations and Warranties

The Loan Guarantee Documents will contain such customary and appropriate representations and warranties regarding the Borrower and the Sponsor (to the extent applicable) as are ~~usual~~substantially consistent with the representations and ~~customary for financings of this kind~~warranties in the Phase I Common Agreement or are otherwise deemed appropriate by DOE for this transaction in particular (with customary qualifications and exceptions), including without limitation:

(a) due organization and valid existence;

(b) good standing;

(c) power and authority;

(d) single-purpose nature of the Borrower; no prior business activity other than related to the Project;

(e) no subsidiaries of the Borrower;

(f) capitalization, ownership and organization;

(g) solvency;

(h) enforceability of Transaction Documents;

(i) no conflicts;

(j) material agreements;

(k) no litigation;

(l) debt;

(m) no judgments or orders;

(n) no force majeure;

(o) no defaults;

(p) compliance with law and Program Requirements;

(q) regulatory matters;

(r) no corrupt or prohibited practices;

(s) disclosure and projections, Project Plans;

(t) title to properties;

(u) no liens;

(v) operation of business;

(w) Borrower ownership and sufficiency of Project assets and Shared Facility assets and necessary assignments;

(x) existing agreements;

(y) availability and adequacy of utility and technology rights and other services;

(z) rights to intellectual property;

(aa) perfection and priority of security interests;

(bb) taxes;

(cc) creditor consents and government permits and approvals;

(dd) financial statements;

(ee) environmental and safety matters;

(ff) labor matters and employment agreements;

(gg) ERISA matters;

(hh) accuracy of representations and warranties in other Project Documents;

(ii) Project contracts;

(jj) no event having a material adverse effect; and

(kk) full disclosure.

37. Financial Covenants, Defaults and other Agreements

The Loan Guarantee Documents will contain provisions regarding compliance at all times after the occurrence of the Project Completion Date with the following financial tests, as calculated from the Borrower's or Sponsor's, as applicable, audited annual or unaudited quarterly financial statements:

(i) a covenant that the ratio of the Borrower's Cash Flow Available for Debt Service to Debt Service (**"Debt Service Coverage Ratio"**), must be not less than 1.20 to 1, it being agreed that as used herein **"Cash Flow Available for Debt Service"** means, for any period, net income plus depreciation and amortization plus/minus changes in working capital plus interest and fees paid, minus capital expenditures;

(ii) an agreement that

(a) the following events constitute "**DSRR Increase Triggers**": (x) prior to the occurrence of the Project Completion Date, the ratio of Sponsor indebtedness to Sponsor tangible net worth is greater than 0.50 to 1, or (y) after the occurrence of Project Completion, Sponsor tangible net worth is less than $175,000,000;

(b) if at any time a DSRR Increase Trigger is determined to have occurred, then

(x) the Debt Service Reserve Requirement increases as of the date of such determination to an amount equal to the succeeding nine (9) months of Debt Service, and

(y) any DSRA Deficiency will be funded (A) by transfer immediately upon the date of such determination to the Debt Service Reserve Account from the Distribution Suspense Account of all amounts therein, up to the amount of such DSRA Deficiency, and (B) by deposit within 30 days after the date of such determination into the Debt Service Reserve Account of additional amounts necessary to fund any remaining DSRA Deficiency;

it being agreed that as used herein, "**DSRA Deficiency**" means (x) prior to the date on which the Debt Service Reserve Account is first required to be fully funded up to the amount of the Debt Service Reserve Requirement, zero, and (y) thereafter, the excess of the then-applicable Debt Service Reserve Requirement over the amount then funded in Debt Service Reserve Account; and

(c) the Debt Service Reserve Requirement shall remain at such increased level until the date thereafter on which a DSRR Increase Trigger has not occurred for four (4) consecutive Quarterly Payment Dates, whereupon the Debt Service Reserve Requirement decreases to an amount equal to the succeeding six (6) months of Debt Service;

it being agreed that for purposes of this Section 37(ii), (x) Sponsor indebtedness includes actual debt for borrowed money, capital leases and other indebtedness, and contingent obligations for any of the foregoing, but excludes obligations of the Sponsor with respect to this Project, and (y) Sponsor tangible net worth includes amounts classified as either common equity or preferred equity of the Sponsor; and

(iii) a default that if any event shall have occurred or can be reasonably expected to occur with respect to the Sponsor that could reasonably be expected to have a material adverse effect on the ability of the Sponsor to perform its obligations under any Transaction Document to which it is party, subject to appropriate cure periods.

38. *Affirmative Covenants*

In addition to the other covenants described herein, the Loan Guarantee Documents will contain such affirmative covenants as are ~~usual and customary for financings of this kind~~substantially consistent with the affirmative covenants in the Phase 1 Common Agreement or as are otherwise deemed appropriate by DOE for this transaction in particular (with customary qualifications and exceptions) from the Borrower and, as indicated below by the designation "(both)" and as otherwise appropriate, the Sponsor, including without limitation regarding:

(a) use of proceeds;

(b) conduct of the Project substantially in accordance with the Project Plans;

(c) maintenance of corporate existence and separateness of the Borrower, the Sponsor and the Operator; (both)

(d) construction, operation and maintenance of the Project;

(e) maintenance of security interests; (both)

(f) performance of Transaction Documents to which it is party and material agreements to which each is party; (both)

(g) provision of financial statements and financial reporting and customary compliance certificates; (both)

(h) provision of a description of any material changes to any existing, and copies of any new, material Third-Party Sales Agreement or Third-Party Materials Supply Agreement; (both)

(i) provision of construction budgets and construction progress reports;

(j) provision of periodic operating budgets and reports;

(k) provision of default notices and other material events and information;

(l) maintenance of and compliance with permits, licenses, approvals and consents in connection with the Project; (both)

(m) compliance with laws and Program Requirements in connection with the Project; (both)

(n) environmental and safety matters, including without limitation with respect to compliance with the National Environmental Policy Act of 1969 (NEPA);

(o) maintenance of Required Insurance and application of proceeds thereof; (both)

(p) payment of taxes, fees, etc.; (both)

(q) maintenance of adequate accounting, management information and cost control systems; (both)

(r) maintenance of independent auditors acceptable to DOE; (both)

(s) maintenance of books and records and inspection thereof, including such records as are necessary to facilitate an effective and accurate audit and performance evaluation of the Project as required by the Program Requirements; (both)

(t) maintenance of properties and title thereto;

(u) maintenance of intellectual property; (both)

(v) maintenance of Project Accounts;

(w) compliance with debarment regulations; (both)

(x) provision to DOE and its representatives and advisors of access to the project site and ancillary facilities at all reasonable times in order to monitor the performance of the Project; (both)

(y) disclosure and management of construction cost overruns;

(z) change orders;

(aa) further assurances (both); and

(bb) a Sponsor covenant to cause the Borrower to perform its obligations (without implication that this covenant creates any guarantee or direct obligation of the Sponsor for such Borrower obligations).

39. *Negative Covenants*

In addition to the other covenants described herein, the Loan Guarantee Documents will contain such negative covenants as are ~~usual and customary for financings of this kind~~substantially consistent with the negative covenants in the Phase I Common Agreement or as are otherwise deemed appropriate by DOE for this transaction in particular (with customary qualifications and exceptions), from the Borrower including without limitation regarding:

(a) no material change to the Project or engaging in other lines of business;

(b) no incurrence of additional debt or guarantees;

(c) no granting of additional liens;

(d) no dividends and other restricted payments;

(e) no acquisitions and dispositions of assets or capital expenditures;

(f) no merger, consolidation, or similar action;

(g) no lease transactions;

(h) no investments;

(i) no formation of subsidiaries;

(j) no changes to charter or organization documents;

(k) no issuance of equity;

(l) no changes to capital structure (including the issuance of any options, warrants, or other rights with respect thereto);

(m) no termination, amendment or waiver any provision of any Project Documents to which it is party; (both)

(n) no entering into transactions with affiliates, other than pursuant to Transaction Documents on an arm's length basis;

(o) no entering into new material agreements;

(p) no hedging transactions, other than as specifically permitted or required;

(q) no material modifications of the Project Plans or budget without the prior written consent of the DOE in consultation with the Independent Engineer;

(r) no hazardous materials;

(s) no changes in fiscal year.

40. Events of Default

The Loan Guarantee Documents will include such events of default as are ~~usual and customary for financings~~substantially consistent with the Events of ~~this kind~~Default in the Phase I Common Agreement or as are otherwise deemed appropriate by DOE for this transaction in particular (with customary materiality qualifications, exceptions and grace periods), including without limitation:

(a) failure to make payments when due;

(b) default under any other indebtedness of the Borrower (other than the Guaranteed Loan);

(c) breach of representations and warranties under any Loan Guarantee Documents;

(d) breach of covenants under any Loan Guarantee Documents;

(e) failure to fund when required or other default with respect to the Base Equity Commitment or the Overrun Equity Commitment;

(f) failure of the Project to achieve Physical Completion (as described on Exhibit A) by the First Principal Payment Date;

(g) breach or termination of any Project Document, including without limitation the Project IP License Agreement;

(h) loss or impairment of government permits or approvals by any Major Project Participant that could reasonably be expected to have a material adverse effect on the Project;

(i) bankruptcy, insolvency and dissolution of (x) the Borrower, the Sponsor or the Operator, or (y) to the extent it could reasonably be expected to have a material adverse effect on the Project, any other Major Project Participant;

(j) judgments against any Major Project Participant that could reasonably be expected to have a material adverse effect on the Project;

(k) certain ERISA events;

(l) occurrence of specified force majeure events and continuation thereof for 180 days;

(m) impairment of security interests in Collateral;

(n) invalidity or unenforceability of Transaction Documents;

(o) material suspension of construction or operations or abandonment of the Project;

(p) physical destruction of any of the Project facilities that could reasonably be expected to have a material adverse effect on the Project and that has not been repaired with the proceeds of insurance within a specified number of days;

(q) acceleration under any other indebtedness of the Sponsor in excess of a specified threshold;

(r) breach by the Sponsor of any material obligation under a Third-Party Sales Agreement or Third-Party Materials Supply Agreement to the extent such breach could reasonably be expected to have a material adverse effect on the Project;

(s) failure to maintain financial ratios (as specified above);

(t) failure of the Sponsor to own and control 100% of the equity interests in the Borrower; and

(u) Without the prior written consent of DOE, a Change of Control of the Sponsor occurs, it being agreed that as used herein, "**Change of Control**" means (x) prior to a Sponsor IPO, a change such that the Sponsor stockholder group on the Financial Closing Date fails to own in excess of 50% of the outstanding voting stock of the Sponsor, and (y) after a Sponsor IPO, a change such that any person or group, other than pre-IPO stockholders, acquires in excess of 50% of the voting stock of the Sponsor.

41. *Remedies*

Upon the occurrence of an event of default, the Loan Guarantee Documents will include ~~usual and customary~~ remedies as are substantially consistent with the remedies in the Phase I Common Agreement as well as such additional subrogation or other rights as may be required under the Program Requirements to allow DOE to complete, maintain, operate, lease or otherwise dispose of the Project or any Collateral or otherwise protect the interests of the United States or the public interest.

Additional Provisions of Loan Guarantee Documents

42. *Required Insurance*

The Borrower will maintain or cause to be maintained in full force and effect at all times the following insurance (the "**Required Insurance**") with financially sound insurers and reinsurers as is customarily required by lenders to project financings, as approved by DOE:

(i) appropriate coverage of all properties and business required for the Project, including the Shared Facilities, against loss or damage;

(ii) appropriate liability coverage;

(iii) appropriate delayed start-up and business interruption coverages, to the extent available on commercially reasonable terms; and

(iv) appropriate reinsurance of the foregoing.

Each such policy (other than liability policies) will name DOE as loss payee to the extent of the aggregate amounts outstanding of the Guaranteed Loan. Each insurance policy will provide for

30 days' written notice to DOE prior to termination or expiration of any coverage and such other endorsements as DOE may reasonably require.

43. *Governing Law and Jurisdiction*

~~All Loan Guarantee Documents and Security Documents (other than any Security Documents required to be governed by local law) will be governed by the federal laws of the United States of America and not the law of the several states.~~

The choice of law provision in the Financing Documents and any other Transaction Document to which DOE is a party (other than (i) documents to which FFB is a party, as to which the governing law shall be in the form required by FFB, and (ii) the Security Documents, as to which the governing law shall be the appropriate local law), shall be as follows:

This Term Sheet shall be governed by, and construed and interpreted in accordance with, the Federal law of the United States of America. To the extent that Federal law does not specify the appropriate rule of decision for a particular matter at issue, it is the intention and agreement of the parties hereto that the law of the State of New York (without regard to any choice of law provision that would require the application of the laws of another jurisdiction) shall be adopted as the governing Federal rule of decision.

[Part B Begins on Next Page]

B. PROCEDURE FOR ACCEPTANCE OF TERM SHEET AND ADDITIONAL PROVISIONS

1. Expiration of Term Sheet

This Term Sheet and the terms offered herein will expire on the date 30 days after the date of this Term Sheet, unless the Contracting Officer agrees in writing to extend the expiration date. Such extension may be subject, at DOE's sole discretion, to modification of the terms hereof.

2. Acceptance of Term Sheet and Payment

Please express your agreement with the terms and conditions contained in this Term Sheet no later than the expiration date set forth above by signing this Term Sheet in the signature block below and returning to DOE an executed counterpart of this Term Sheet.

Payment to DOE of the portion of the Facility Fee in the amount of ~~$860,000~~ ____________, 20% of which is due ~~and payable~~ on the date that the Borrower and the Sponsor execute and deliver this Term Sheet, and the remaining amount (adjusted, if applicable, by the final loan amount) which is due and payable on the Financial Closing Date. The Facility Fee should be paid by wire transfer as follows:

U.S. Treasury Department
ABA No. 0210-3000-4 TREASNYC/CTR/BNF=D89000001
OBI=LGPO Loan No. 1013 – Facility Fee

3. Conditional Commitment

When this Term Sheet has been executed and delivered by all parties it will constitute a conditional commitment in accordance with §609.8(b) of the Applicable Regulations.

4. Indemnity

The Borrower and the Sponsor, jointly and severally, shall indemnify and hold harmless the United States, including DOE and FFB, and their respective designees, agents, and contractors, and all of their respective directors, officers and employees (each, an "**Indemnified Person**") in connection with any losses, claims, damages, liabilities or other expenses to which such Indemnified Person may become subject arising out of or relating to (i) this Term Sheet, the provision of the financing and DOE Guarantee contemplated hereby or the use or intended use of the proceeds thereof, or (ii) any claim at any time with respect to the Sponsor or any of its directors, officers and employees and agents with respect to misappropriation of trade secrets, infringement of intellectual property rights, or any other business activities of the Sponsor; provided, however, that such indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results from the gross negligence or willful misconduct of the Indemnified Person. This indemnity obligation shall survive the execution of the Loan Guarantee Documents and the expiration or other termination of the Guaranteed Loan.

5. Independent Consultants and Outside Legal Counsel

The Borrower and the Sponsor each reaffirm that

(i) They are responsible for paying the fees and expenses of DOE's independent consultants and outside legal counsel in connection with the Project under all circumstances, without recourse to DOE by the consultant, counsel, the Sponsor, or the Borrower;

(ii) DOE shall not be financially liable to such independent consultant or outside legal counsel for any services rendered or expenses incurred in connection with the Project under any circumstances whatsoever, including whether a closing occurs or under circumstances in which the Sponsor or the Borrower fails to pay such fees and expenses;

(iii) The Sponsor and the Borrower will acknowledge and pay all fees and expenses represented by periodic invoices for services rendered to DOE with respect to the Project upon their periodic presentation thereof by DOE's independent consultants and outside legal counsel, including prior to or at closing (if any);

(iv) If the Sponsor or the Borrower fails to pay such fees and expenses for any services rendered or expenses incurred in connection with the Project or to otherwise comply with the provisions of an agreement with such independent consultant or outside legal counsel, DOE may discontinue work on the Application and the Project (whether or not a conditional commitment exists);

(v) While such services shall be rendered for the benefit of DOE in connection with the Project, the invoices of DOE's independent consultants and outside legal counsel working on the Project will be the sole responsibility of the Borrower and the Sponsor, notwithstanding that DOE is the client of such independent consultants and outside legal counsel; and

(vi) Each of the Borrower and the Sponsor specifically disclaims any inference of confidential, fiduciary or other client relationship (including an attorney-client relationship) between the Borrower or the Sponsor and such independent consultant or outside legal counsel as a result of this arrangement and shall not interfere with DOE's relationship (including any attorney-client relationship) with such independent consultants or outside legal counsel, including DOE's ability to terminate.

6. *Reimbursement of Expenses*

Without limiting the generality of the immediately preceding Section, and in addition to any obligations of the Borrower and the Sponsor under (i) the letter agreement with R.W. Beck, Inc., engineering advisor to DOE, and (ii) the fee letter with Morrison & Foerster LLP, outside legal counsel to DOE, dated ~~December 11, 2008~~ __________, 2010, each of which remains in full force and effect in accordance with its terms, the Borrower and the Sponsor, jointly and severally, shall be liable to pay or reimburse DOE for all reasonable expenses incurred by DOE in connection with this Term Sheet and the negotiation, execution and implementation of the financing contemplated by this Term Sheet, including without limitation fees and expenses for outside legal counsel, business advisers and consultants, notarization costs, travel expenses, post-closing costs of reproducing and binding document sets, and other such out-of-pocket expenses incurred by DOE, including any costs of collecting any amount due hereunder. Such payment or reimbursement shall be due and payable upon the Borrower's or the Sponsor's receipt of DOE's request therefor from time to time and upon the extension or termination of this Term Sheet or execution of the Loan Guarantee Documents. Such payment or reimbursement shall be due whether or not this Term Sheet expires without renewal or is canceled or the Loan Guarantee Documents are executed or any Disbursement of the Guaranteed Loan is made thereunder.

7. Cooperation

The Borrower and the Sponsor will cooperate fully with DOE and its representatives and advisors with respect to its due diligence investigation of the Project, including without limitation providing prompt and complete access to employees, engineers, accountants, facilities, books and records and contracts of the Borrower and the Sponsors, as well as such other information as may be requested by DOE or its representatives or advisors.

8. Reporting Requirements

The Borrower will provide the following documents and information to DOE beginning on the date on which a conditional commitment exists:

(a) Within three (3) business days of the Borrower obtaining knowledge of such change, notice of any previously unreported material change to the information contained in the Borrower's application for the DOE Guarantee, including without limitation, any material change in (i) the descriptions relating to the construction and operation of the Project and related plans and contractors; (ii) the conclusions of the Borrower's engineer's report; (iii) the status of Project related applications or approvals for governmental permits and authorizations; and (iv) the potential environmental impact of the Project; and

(b) At all times, any other information regarding the Borrower or the Project reasonably requested by DOE.

9. Binding Nature; Survival

This provisions of Part B of this Term Sheet are binding on the parties hereto and shall survive any termination or expiration of this Term Sheet.

10. Governing Law

~~This~~The Term Sheet shall be governed by, and construed and interpreted in accordance with, the ~~federal laws~~Federal law of the United States of America ~~and not the law of the several states~~. To the extent that Federal law does not specify the appropriate rule of decision for a particular matter at issue, it is the intention and agreement of the parties hereto that the law of the State of New York (without regard to any choice of law provision that would require the application of the laws of another jurisdiction) shall be adopted as the governing Federal rule of decision.

11. Counterparts

This Term Sheet may be executed in separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Such executed counterparts may be delivered electronically, with the original to be delivered promptly thereafter.

[Signatures Appear on Next Page]

Very truly yours,

U.S. DEPARTMENT OF ENERGY

By: ______________________________
Dr. Steven Chu, Secretary of Energy

ACCEPTED AND AGREED TO
as of the date of this Term Sheet:

SOLYNDRA, INC.

By: ______________________________
Christian M. Gronet, Chief Executive Officer

SOLYNDRA FAB 2 LLC

By: Solyndra, Inc., its sole Member

By: ______________________________
Christian M. Gronet, Chief Executive Officer

Exhibit A
to Term Sheet

Definition of Project Completion Date

The "**Project Completion Date**" shall be deemed to have occurred as of the date set forth in a notice from DOE to the Borrower and the Sponsor stating that all of the following have been achieved to DOE's satisfaction:

(a) **Physical Completion.** All facilities and equipment necessary for the Project to operate as contemplated under the Project Plans (i) shall have been completely constructed, installed, completed, tested, and commissioned, all utilizing first-class standards of workmanship and materials and in accordance with the Project Plans and the terms of applicable construction agreements, (ii) shall be operating in accordance with applicable guidelines, (iii) shall have been accepted and paid for, as evidenced by the Borrower having issued final acceptance certificates relating to each of the major engineering, procurement and construction contracts, and (iv) are being properly operated and maintained in all respects;

(b) **Operational Completion.** During a specified test period, the Project shall pass a continuous operational reliability test and other performance tests specified by DOE in consultation with the Independent Engineer;

(c) **Financial Completion.** During a specified period, the Borrower shall have generated specified minimum sales revenue, net income and Cash Flow Available for Debt Service, and shall have made at least one principal payment on the Guaranteed Loan;

(d) **Legal Conditions.** The Borrower shall have met all of its financial and other contractual obligations through the Project Completion Date, all Transaction Documents shall be in full force and effect and not in default, all representations and warranties in each Loan Guarantee Document shall be true and correct no event of default or potential shall then exist under any Loan Guarantee Document, and DOE shall have received satisfactory opinions from the Borrower's legal counsel, and from DOE's legal counsel, with respect to certain matters.

Exhibit B
to Term Sheet

Loan Guarantee Agreement Requirements

(from Applicable Regulations)

The DOE Loan Guarantee Agreement shall include the following requirements and conditions:

(d) Pursuant to Section 6.09.10(d) of the Applicable Regulations, prior to the execution by DOE of a Loan Guarantee Agreement, DOE must ensure that the following requirements and conditions, which must be specified in the Loan Guarantee Agreement, are satisfied:

(1) The Project qualifies as an "Eligible Project" under the Act and is not a research, development, or demonstration project or a project that employs Commercial Technologies in service in the United States;

(2) The Project will be constructed and operated in the United States, the employment of the new or significantly improved technology in the Project has the potential to be replicated in other commercial projects in the United States, and this technology is or is likely to be available in the United States for further commercial application;

(3) The face value of the debt guaranteed by DOE is limited to no more than 80 percent of total Project Costs.

(4) (i) Where DOE guarantees 100 percent of the Guaranteed Obligation, the Guaranteed Loan shall be funded by FFB;

> (ii) Where DOE guarantees more than 90 percent of the Guaranteed Obligation, the guaranteed portion cannot be separated from or "stripped" from the non-guaranteed portion of the Guaranteed Obligation if the loan is participated, syndicated or otherwise resold in the secondary market;
>
> (iii) Where DOE guarantees 90 percent or less of the Guaranteed Obligation, the guaranteed portion may be separated from or "stripped" from the non-guaranteed portion of the Guaranteed Obligation, if the Guaranteed Loan is participated, syndicated or otherwise resold in the secondary debt market;

(5) The Borrower and other principals involved in the Project have made or will make a significant equity investment in the Project;

(6) The Borrower is obligated to make full repayment of the principal and interest on the Guaranteed Obligations and other Project debt over a period of up to the lesser of 30 years or 90 percent of the projected useful life of the Project's major physical assets, as calculated in accordance with generally accepted accounting principles and practices. The non-guaranteed portion of any Guaranteed Obligation must be repaid on a pro-rata basis, and may not be repaid on a shorter amortization schedule than the guaranteed portion;

(7) The loan guarantee does not finance, either directly or indirectly, tax-exempt debt obligations, consistent with the requirements of section 149(b) of the Internal Revenue Code;

(8) The amount of the DOE Guarantee, when combined with other funds committed to the Project, will be sufficient to carry out the Project, including adequate contingency funds;

(9) There is a reasonable prospect of repayment by Borrower of the principal of and interest on the Guaranteed Obligations and other Project debt;

(10) The Borrower has pledged Project assets and other collateral or surety, including non project-related assets, determined by DOE to be necessary to secure the repayment of the Guaranteed Obligations;

(11) The DOE Loan Guarantee Agreement and related documents include detailed terms and conditions necessary and appropriate to protect the interest of the United States in the case of default, including ensuring availability of all the intellectual property rights, technical data including software, and physical assets necessary for any person or entity, including DOE, to complete, operate, convey, and dispose of the defaulted project;

(12) The interest rate on any Guaranteed Obligation is determined by DOE, after consultation with the Treasury Department, to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar obligations of comparable risk guaranteed by the Federal government;

(13) Any Guaranteed Obligation is not subordinate to any loan or other debt obligation and is in a first lien position on all assets of the Project and all additional collateral pledged as security for the Guaranteed Obligations and other Project debt;

(14) There is satisfactory evidence that Borrower and FFB or other Holders are willing, competent, and capable of performing the terms and conditions of the Guaranteed Obligations and other debt obligation and the DOE Loan Guarantee Agreement, and will diligently pursue the Project;

(15) The Borrower has made the initial (or total) payment of fees for the Administrative Cost of Issuing the DOE Guarantee for the construction and operational phases of the Project (Third Fee);

(16) FFB, other Holder or servicer has taken and is obligated to continue to take those actions necessary to perfect and maintain liens on assets which are pledged as collateral for the Guaranteed Obligation;

(17) If Borrower is to make payment in full for the Credit Subsidy Cost of the loan guarantee pursuant to section 1702(b)(2) of the Act, such payment must be received by DOE prior to, or at the time of, closing;

(18) DOE or its representatives have access to the Project site at all reasonable times in order to monitor the performance of the Project;

(19) DOE, FFB, or other Holder and Borrower have reached an agreement as to the information that will be made available to DOE and the information that will be made publicly available;

(20) The prospective Borrower has filed applications for or obtained any required regulatory approvals for the Project and is in compliance, or promptly will be in compliance, where appropriate, with all Federal, state, and local regulatory requirements;

(21) Borrower has no delinquent Federal debt, including tax liabilities, unless the delinquency has been resolved with the appropriate Federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996;

(22) The DOE Loan Guarantee Agreement contains such other terms and conditions as DOE deems reasonable and necessary to protect the interest of the United States; and

(23)(i) The Lender is an "Eligible Lender", as defined in §609.2 of the Applicable Regulations, and meets DOE's lender eligibility and performance requirement contained in §§609.11 (a) and (b) of the Applicable Regulations; and

(ii) The servicer meets the servicing performance requirements of §609.11(c) of the Applicable Regulations.

(e) Pursuant to Section 6.09.10(e) of the Applicable Regulations, the DOE Loan Guarantee Agreement must provide that, in the event of a default by the Borrower:

(1) Interest accrues on the Guaranteed Obligations at the rate stated in the DOE Loan Guarantee Agreement or Loan Agreement, until DOE makes full payment of the defaulted Guaranteed Obligations and, except when debt is funded through the Federal Financing Bank, DOE is not required to pay any premium, default penalties, or prepayment penalties;

(2) Upon payment of the Guaranteed Obligations by DOE, DOE is subrogated to the rights of the Holders of the debt, including all related liens, security, and collateral rights and has superior rights in and to the property acquired from the recipient of the payment as provided in §609.15 of the Applicable Regulations.

(3) FFB or any other servicer acting on DOE's behalf is obligated to take those actions necessary to perfect and maintain liens on assets which are pledged as collateral for the Guaranteed Obligations.

(4) The holder of pledged collateral is obligated to take such actions as DOE may reasonably require to provide for the care, preservation, protection, and maintenance of such collateral so as to enable the United States to achieve maximum recovery upon default by Borrower on the Guaranteed Obligations.

(f) Pursuant to Section 6.09.10(f) of the Applicable Regulations, the DOE Loan Guarantee Agreement must contain audit provisions which provide, in substance, as follows:

(1) FFB or any other Holder or other party servicing the Guaranteed Obligations, as applicable, and the Borrower, must keep such records concerning the project as are necessary to facilitate an effective and accurate audit and performance evaluation of the project as required in §609.17 of the Applicable Regulations.

(2) DOE and the Comptroller General, or their duly authorized representatives, must have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the Borrower, FFB or other Holder, or other party servicing the Guaranteed Obligations, as applicable. Examination of records may be made during the regular business hours of the Borrower, FFB or other Holder, or other party servicing the Guaranteed Obligations, or at any other time mutually convenient as required in §609.17 of the Applicable Regulations.

(g) Pursuant to Section 6.09.10(g) of the Applicable Regulations, the DOE Loan Guarantee Agreement must contain provisions providing that (1) FFB or other Holder may sell, assign or transfer a Guaranteed Obligation to another Eligible Lender that meets the requirements of §609.11 of the Applicable Regulations. Such Eligible Lender to which a Guaranteed Obligation is assigned or transferred, is required to fulfill all servicing, monitoring, and reporting requirements contained in the DOE Loan Guarantee Agreement and these regulations if the transferring Eligible Lender was performing these functions and transfer such functions to the new Eligible Lender. Any assignment or transfer, however, of the servicing, monitoring, and reporting functions must be approved by DOE in writing in advance of such assignment.

(2) The Secretary of Energy, or the Secretary's designee or contractual agent, for the purpose of identifying Holders with the right to receive payment under the guarantees shall include in the DOE Loan Guarantee Agreement or related documents a procedure for tracking and identifying Holders of Guarantee Obligations. These duties usually will be performed by the servicer. Any contractual agent approved by the Secretary to perform this function cannot transfer or assign this responsibility without the prior written consent of the Secretary.

PHASE I OF SOLYNDRA FAB 2 FACILITY

Summary of Terms and Conditions for DOE Loan Guarantee

Table of Contents

From: [redacted]
To:
Cc:
Subject: Solyndra Data Room & Finance-Oriented Documentation
Date: Wednesday, June 16, 2010 8:25:09 PM

[redacted]

Thank you and your team for committing so much concentrated time to Solyndra yesterday. We appreciate the opportunity to introduce our team to you and to provide a first-hand impression of our organization. Many issues were addressed at a high level (or rapid pace), and we expect that you and your colleagues will drill down on various topics over the coming weeks. I look forward to working with you to facilitate access to information to satisfy your due diligence requirements.

You will find all of yesterday's presentation materials loaded in the IntraLinks Data Room in a folder named "Fremont Due Diligence-June 15, 2010." Due to the sensitive nature of the customer information presented in the two Excel workbooks yesterday, I have limited access to these customer files to you, [redacted] Please let me or [redacted] know when you might like to extend access to additional people, including the new financial analyst that will be joining [redacted]

I believe that it was [redacted] who suggested that a detailed review of the Sponsor financials, cash requirements and projections would be important to evaluate the credit that underlies the sales/offtake agreement between the Project and the Sponsor. We are ready to present the Solyndra, Inc. forecast when you are. Please let me know when it would be convenient to arrange a session with our CFO and his staff. [redacted] and I are planning a trip to Washington and perhaps we could begin that review process with an in-person session at LGPO.

Thank you,

[redacted]

****

[redacted]

VP - Business Development
SOLYNDRA, INC.
47700 Kato Road
Fremont, CA 94538

[redacted]

returning this message to the sender and delete all copies.
Thank you for your cooperation.

Footnote 345

From: [redacted]
To:
Subject: RE: Solyndra
Date: Tuesday, June 22, 2010 10:17:00 AM

Thanks. I am just doing the work order for MoFo. I will say due diligence and term sheet to be completed in 4 months (we can of course talk with them as soon as the procurement folks actually execute an agreement with them).

From: [redacted]
Sent: Tuesday, June 22, 2010 10:14 AM
To: [redacted]
Subject: RE: Solyndra

[redacted]

[redacted] shall do it within 2 weeks maximum, and RW Beck has to be officially retained again and from that point 4 weeks. But as soon as MOFO is engaged we have to go and sit down with them to revisit Loan 1 and strategize about loan 2. Call me if you have more questions. Thanks.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

From: [redacted]
Sent: Tuesday, June 22, 2010 10:11 AM
To: [redacted]
Subject: RE: Solyndra

Do you have a sense of when those drafts will be provided (a best guess is fine)?

From: [redacted]
Sent: Tuesday, June 22, 2010 10:09 AM
To: [redacted]
Subject: RE: Solyndra

[redacted]

I would say that 3 months, starting the moment we receive drafts from the EI and market advisors, is a reasonable assumption.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

From: [redacted]
Sent: Tuesday, June 22, 2010 9:57 AM
To: [redacted]
Subject: RE: Solyndra

[redacted] – What is the general time frame for completion of due diligence and negotiation of a term sheet? 3 months?

[redacted]

From: [redacted]
Sent: Monday, June 21, 2010 6:11 PM
To: [redacted]
Cc: [redacted]
Subject: Solyndra
Importance: High

[redacted]

Please let me know when MOFO and RW Beck become officially retained as advisors so I can proceed to organize meetings with them. Thanks.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

From: [redacted]
To:
Subject: RE: Solyndra
Date: Wednesday, June 23, 2010 10:47:00 AM

[redacted] – MoFo is now signed up. We can start work with them at this point.

[redacted]

From: [redacted]
Sent: Tuesday, June 22, 2010 10:14 AM
To: [redacted]
Subject: RE: Solyndra

[redacted]

[redacted] shall do it within 2 weeks maximum, and RW Beck has to be officially retained again and from that point 4 weeks. But as soon as MOFO is engaged we have to go and sit down with them to revisit Loan 1 and strategize about loan 2. Call me if you have more questions. Thanks.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

From: [redacted]
Sent: Tuesday, June 22, 2010 10:11 AM
To: [redacted]
Subject: RE: Solyndra

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To: [redacted]
Subject: RE: Solyndra

[redacted]

I would say that 3 months, starting the moment we receive drafts from the EI and market advisors, is a reasonable assumption.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

From: [redacted]
Sent: Tuesday, June 22, 2010 9:57 AM
To: [redacted]
Subject: RE: Solyndra

[redacted] – What is the general time frame for completion of due diligence and negotiation of a term sheet? 3 months?

[redacted]

From: [redacted]
Sent: Monday, June 21, 2010 6:11 PM
To: [redacted]
Subject: Solyndra
Importance: High

[redacted]

Please let me know when MOFO and RW Beck become officially retained as advisors so I can proceed to organize meetings with them. Thanks.

Regards,

[redacted]

Senior Investment Officer
Loan Guarantee Program
US Department of Energy
[redacted]

Footnote 346

Microsoft Outlook

From: [redacted]
Sent: Tuesday, July 13, 2010 5:00 PM
To: [redacted]
Subject: MEMO Energy Loan Guarantee Update Meeting 071310
Attachments: MEMO Energy Loan Guarantee Update Meeting 071310.docx

Hey [redacted]

Please find attached a summary memo of the loan guarantee meeting early today; I wrote relatively long since it's the first one and it helped to clarify my thinking/background on the issues as well as set the stage for reviewing each issue/decision point down the road. Let me know if I left anything out/misunderstood something, this is definitely an important program and I'm happy to assist in any way possible with EP's involvement in approval and oversight!

Best,
[redacted]

MEMORANDUM
July 13, 2010

To: [redacted]
From: [redacted]
Re: Update meeting with Energy Branch regarding DOE Loan Guarantee Program

Overview: This memorandum provides you with a brief summary of the key issues and further steps from the July 13, 2010 meeting with Energy Branch staff regarding updates on the DOE Loan Guarantee Program, including [redacted]

The meeting covered several decision points and issues related to projects that have already been committed for loan guarantees, or projects with commitments expected in the coming months:

1. [redacted]
   - [redacted]
   - [redacted]

2. [redacted]
   - [redacted]

3. [redacted]

- [redacted]

4. **Solyndra Phase II** – Energy Branch staff expressed concern regarding a second loan guarantee commitment to Solyndra (scheduled for the Credit Review Board in September) due to financial trouble in the project's parent company. While a second loan guarantee to Solyndra could create economies of scale necessary to bring down manufacturing costs for solar technology, the proposal could add stress to the parent company, jeopardizing the existing loan guarantee and the second phase proposal.
   - **Further Steps**: Energy Branch staff will continue to investigate concerns regarding stresses on Solyndra's parent company, and the effect of the proposed second loan guarantee.

5. [redacted]

6. [redacted]

In addition to the specific concerns outlined above, Energy Branch staff provided brief updates on several proposals nearing loan guarantee approval, with an accompanying spreadsheet offering an overview of the size and application timeframe of each project.

Footnote 347

From: [redacted]
To: [redacted]
Cc: [redacted]
Subject: Memo Draft
Date: Friday, September 17, 2010 12:33:38 PM
Attachments: 091710 Memo on Solyndra Monitoring vs.docx
Importance: High

All,

Please find a draft of the memo attached. I've tried to integrate all information received. However, I have not included any discussion of Fab 2.2 (beyond indicating that the application is in).

I can receive and integrate comments, but suggest that everyone track their changes.

Scott, this doesn't contain your latest change (yet).

Ove, will a revised draft to you by 4pm work on your side?

Regards,
[redacted]

[redacted]

-----Original Message-----
From: [redacted]
Sent: Friday, September 17, 2010 12:07 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Re-estimate Diligence Questions & Deliverable

Please see below for draft text on legal/contractual risk:

The Borrower has not reported any breaches of loan documentation or project documents and the DOE is not aware of any such breaches. The DOE's outside counsel is currently reviewing loan and project documentation for any potential defaults. At this time, there have been no modifications made to the loan or project documents that materially change the legal or contractual risk as of the Project's closing date.

Thanks,
[redacted]

-----Original Message-----
From: [redacted]
Sent: Friday, September 17, 2010 9:47 AM
To: [redacted]
Cc: [redacted]

Subject: RE: Re-estimate Diligence Questions & Deliverable

FYI-I will incorporate [redacted] write up into the memo.

[redacted]

-----Original Message-----
From: [redacted]
Sent: Friday, September 17, 2010 9:44 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Re-estimate Diligence Questions & Deliverable

Thanks [redacted] As for [redacted] I'm presuming they'll be providing input for future iterations of this analysis, so I think it would be good to get them involved earlier than later.

-----Original Message-----
From: [redacted]
Sent: Thursday, September 16, 2010 9:52 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Re-estimate Diligence Questions & Deliverable

[redacted] and Team,

Attached is my attempt to capture the technical status and issues surrounding the Solyndra project. It turned out to be about a page of text and a page of pictures. If this is too long then perhaps I can edit it down to one page. Please review and get me any comments in the morning.

[redacted] - Please take some extra time to ensure that what I've captured is correct based on our current knowledge.

[redacted] - would it be ok for me to circulate this to RWB for them to verify the information as well?

[redacted]

[redacted]

-----Original Message-----
From: [redacted]
Sent: Thursday, September 16, 2010 5:25 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Re-estimate Diligence Questions & Deliverable

Solyndra Team, please find attached draft sections for Solyndra's loan review memo. Included sections are a background table, a project status update, and a management update.

[redacted], per the outline of the memo you've drafted, the project status update can be dropped into your draft template. In addition to the four categories outlined in [redacted] email below, Frances had asked for an assessment of management risk and legal/contractual risk. [redacted] or [redacted] should be providing some language on the legal/contractual risk, which I think can be included into the "compliance with terms of the credit agreement" section of the draft template. [redacted] indicated that he would be circulating his technical risk assessment to the team later today or tomorrow.

Once the team has reviewed the draft that we're circulating to this group at noon, we can circulate to Frances later in the day.

Thanks,
[redacted]

-----Original Message-----
From: [redacted]
Sent: Friday, September 03, 2010 12:37 PM
To: [redacted]
Cc: [redacted]; Frantz, David; [redacted]
Subject: Re-estimate Diligence Questions & Deliverable

All -
In diligencing Solyndra for the annual re-estimate, we are conducting an analysis which will include several topics. We ask that you review the list below and provide a written analysis consisting of several short paragraphs by Wednesday COB, of the following topics. Please let us know as soon as possible, if you think some other member of the Solyndra Task Force is suited to provide additional input for these topics:

1. Technical /construction [redacted]): risk to project completion

2. Market / business risk [redacted]: market price risk, near term impact (3 months) of pricing versus competition

3. Cash Flow/Liquidity [redacted]: project & Solyndra Inc. cash flow position

4. Counterparty risk [redacted] - construction partner financial risk (Solyndra Inc.)

In order to assure that all are working off of the same baseline, we will send, in a separate email, referenced financials, credit paper, and most recent Solyndra answer to OMB questions. We will also forward, upon receipt, Solyndra's response to DOE's technical questions that were submitted yesterday.

Any additional monitoring and closing docs are available on eDocs. Please let us know if you have any questions. We appreciate your attention to this matter.

[redacted]
U.S. Department of Energy

1000 Independence Ave SW, 4H-051
Washington, D.C., 20008
[redacted]

DRAFT

TO:

FROM:

SUBJECT: Periodic Loan Review Report

DATE: September 17, 2010

A periodic loan review report of each project is required on an annual basis under LGO's Credit Monitoring and Management Procedures (Policy No. CM-IX.6). The purpose of this report is to summarize all the monitoring activities and the rationale behind any credit actions recommended for the project. This memo is organized in the following sections:

- Executive Summary;
- Project Overview;
- Status of the Project;
- Financial Condition and Credit Assessment;
- Other Relevant Information;
- Compliance with Terms of the Credit Agreement; and
- Next Steps / Action Items.

I. Executive Summary

The Solyndra Fab 2 transaction involves a $535 million loan for the capacity expansion of Solyndra, Inc.'s ("Solyndra" or the "Sponsor") manufacturing capabilities. Solyndra produces thin-film omnifacial solar modules for commercial rooftop applications. The transaction closed in September 2009 and was the first loan guarantee to be issued under Title XVII of the Energy Policy Act of 2005.

Since the closing of the loan approximately one year ago, the project's implementation has proceeded on schedule and on budget. Consistent with the Sponsor's plans, Solyndra, Inc., also submitted an application for an additional loan guarantee in the amount of $469 million for the Phase 2 expansion of the Fab 2 facility.

Over the past year, the photovoltaic module market has undergone rapid change, resulting in downward price pressure of solar modules. Concurrently, incentives driving the early adoption of PV solar generation have been reduced or are being reduced in Europe. In addition, the market has experienced periods of overcapacity during the past 12 months. The confluence of these factors has affected PV module manufacturers' ability to raise capital in the equity markets and has called into question the long-term health of the PV solar module market. Accordingly, DOE has initiated increased monitoring of the Solyndra transaction and has adjusted the internal risk rating downward to reflect future market uncertainty.

II. Project Overview

Solyndra developed and is currently in the process of scaling high volume manufacturing the unique, high performance, PV panel design, which provides electrical energy production utilizing a thin film technology. Solyndra's cylindrical design and "air flow panel packaging" enable improved collection of all available light. According to Solyndra, this provides the company with cost and performance advantages that are valued in the marketplace. Solyndra is currently constructing a 650,000 sq. ft. manufacturing facility in Fremont, California (Fab 2 - Phase 1). When complete, the facility will produce PV panels capable of producing in excess of 230 MW of production capacity.[1] The cost of the project is $733 million of which $533 million is being funded through a Title XVII loan guarantee. The transaction was structured as a non-recourse project finance loan with Solyndra Fab 2, LLC (hereafter, the "Borrower"), a special purpose entity, serving as the Borrower. Solyndra, Inc., a development stage company, is the project Sponsor and sole counterparty for Solyndra Fab 2, LLC. In addition to its base equity commitment of $198 million, Solyndra Inc., is also providing a $30 million cost overrun equity commitment and an unlimited completion guarantee.

The relationship between Solyndra, Inc., and Solyndra Fab 2, LLC, is governed by several agreements including a supply agreement, a sales agreement, intellectual property licensing agreement, an O&M agreement, an equipment supply agreement, and a construction contract. At completion, the Borrower will manufacture panels for delivery to Solyndra, Inc., which in turn, will fulfill requirements of its order book. The transaction structure is depicted in Exhibit 1 below.

Exhibit 1: Transaction Structure

[redacted]

Under the terms of the loan guarantee, Solyndra Fab 2, LLC may Borrower [redacted] of the project costs as they are incurred up to a maximum loan amount of $535 million. The Sponsor prefunded its equity

[1] This estimate has been revised upward by the Sponsor to 283 MW/year.

contribution of $198 million through the deposit of funds in a cash reserve account, contribution of land, improvements and other capitalized development costs. The Sponsor is also responsible for 100% of any costs incurred in connection with the development of Phase 1 in excess of the estimated aggregate Phase 1 project cost of $733 million. Of this commitment, Solyndra is required to fund an additional cash reserve account of $30 million in six consecutive monthly payments of $5 million, commencing in December 2010.

The availability period for the guaranteed loan facility ends on May 15, 2012. The maturity date of the loan is August 15, 2016. Principal payments will be made in equal quarterly installments beginning on May 15, 2012 and will continue each quarter until the loan is paid in full on the maturity date. As of January 2, 1010, the Borrower had made draws totaling $140.9 million, which will accrue interest at rates ranging from 2.5% to 2.8% per annum.

On a stand-alone basis, the Borrower is required to maintain a debt service reserve account in an amount equal to six months of scheduled payments of principal, accrued interest and fees. Additionally, if prior to Phase 1 completion, the ratio of Solyndra, Inc.'s indebtedness to tangible net worth is greater than 0.5 to 1.0 or if after completion Solyndra, Inc.'s tangible net worth is less than $175 million, then the Borrower will be required to increase the amount of the debt service reserve from six months to nine months of principal accrued interest fees. This increased debt service reserve level will be required to be maintained until such time as four consecutive quarters have passed in which the applicable conditions that triggered the increased debt service reserve has not occurred.

The loan guarantee facility is secured by a first priority security interest in all property and assets of the Borrower, including all personal property and all real property. In addition, Solyndra, Inc. has granted a first priority security interest in all its equity interest in the Borrower and in a funding account that contains Solyndra, Inc.'s required equity contribution to cover the balance of the cost of development of Phase 1 and that will contain the required $30 million reserve for cost overruns.

III. Status of the Project

The project (Fab 2 - Phase 1) relies on the success achieved in Fab 1, the venture funded commercial scale line that is currently ramping up production. The current status of Fab 1 and Fab 2 is described below.

Fab 1

Key performance metrics of Fab 1 include throughput, panel efficiency, reliability and yield.

- [redacted]

Exhibit 2: Previously Forecasted Production for Fab 1

[redacted]

Moving forward we will continue to monitor the output of Fab 1 as well as the throughput of the CIGS tools.

[redacted]

Exhibit 3: Efficiency Comparison

[redacted]

[redacted]

[redacted]

Fab 2 – Phase 1

[redacted]

IV. Financial Condition and Credit Assessment

Current Financial Condition

Solyndra, Inc. delayed its planned IPO in early 2010 due to a perception that the timing was inappropriate. Instead, the company raised raised $175 million in convertible notes from existing investors, with all but a few minor investors participating. [redacted]

- [redacted]

As of 9/30/10, the entire balance of the loan will have been drawn. Expected cash position after that draw is approximately $70 million. Average monthly cash burn rate from operations of the company was about $15 million in the first remainder of the year. Current payables are approximately $90 million, which represents roughly three months of all operating expenses (excluding depreciation). Receivables at the end of 2nd quarter were about $40 million. Therefore, the difference accounts for around $50 million, representing two to three months of cash burn. Looking strictly at cash, it appears that the company will need to raise additional cash in four to six months to remain solvent.[2] If the company is unable to continue to stretch payables, that timeframe could be compressed by one month or more. Additionally, the company indicated that the total construction cost of Fab 2 - Phase 1 is more than is being charged to the project under the fixed price construction contract, thereby leading to another source of cash burn.

[redacted]

[2] Solyndra's plan for raising additional capital is discussed in the Credit Assessment section that follows.

Exhibit 4: 2nd Quarter 2010 Cash Margin

[redacted]

[redacted]

Exhibit 5: Price Premium Q3 2009 through Q3 2010

[redacted]

[redacted]

Credit Assessment

Based on its analysis, the LGO believes that the future financial condition of the Borrower will be affected by: the financial condition of Solyndra, Inc., the Borrower's sole counterparty; the realization of the technical parameters established by the Sponsor's new plan; and the trends in the marketplace, which have undergone considerable turmoil since financial closing. The evolution of the marketplace, in particular, has led to a degradation of the Sponsor's financial strength. Market uncertainty, competition, and price pressures have weakened Solyndra's niche appeal, requiring downward price adjustments to increase sales. Although the company maintains that Solyndra still enjoys competitive advantages in its target market, existing competitive rivalry, caused in part by the Chinese pricing tactics has reduced the company's price premium for the short-term at least. Additionally, the market turmoil has weakened valuations in the solar sector, ultimately leading to the Sponsor delaying its IPO plans. As a result, Solyndra's recent capital raise relied exclusively on existing investors.

[redacted]

- [redacted]
- [redacted]
- [redacted]

Exhibit 6: Forecasted ASP Adjustment

[redacted]

- [redacted]
- [redacted]

[redacted]

Exhibit 7: Internal Risk Rating Matrix

[redacted]

Based on current market conditions, the LGO is making a downward adjusting the rating on Solyndra from [redacted], suggesting that default risk is present, but a limited margin of safety remains. While the company is currently meeting its financial and performance obligations with respect to the project, its capacity to service the DOE debt will depend on its ability to realize technical performance metrics embodied in the revised financial plan. Credit quality could be further affected by a continued deterioration of the solar module market and the inability of Solyndra, Inc. to raise needed capital in the equity markets. However, the Borrower's realization of the technology performance metrics will serve to mitigate the LGO's current concerns regarding the market, resulting in increased credit quality.

V. Other Relevant Information

Other relevant information regarding the Borrower includes the following:

- The Sponsor has submitted a loan application for $469 million for Phase 2 of the Fab 2 project. The LGO is proceeding with due diligence on this loan application, but is mindful of the company's current challenges.
- In order to address the market challenges, the Sponsor has initiated the development of two new distribution channels. One involves a "demand pull" strategy wherein the company is working with project developers in responding to RFPs and identifying opportunities where Solyndra's performance advantages will be valued. The second opportunity involves the Federal sector, which represents a significant potential customer. The LGO believes these initiatives are warranted. However, the LGO is mindful of the time it will take for these initiatives to meaningfully affect demand.

VI. Compliance to Terms of the Credit Agreement

The Borrower has not reported any breaches of loan documentation or project documents and the DOE is not aware of any such breaches. The DOE's outside counsel is currently reviewing loan and project documentation for any potential defaults. At this time, there have been no modifications made to the loan or project documents that materially change the legal or contractual risk as of the project's closing date.

VII. Next Steps / Action Items

The project should be placed on credit watch for increased monitoring activities. Specific action items include:

- **Liquidity Tracking:** The LGO will focus on understanding the liquidity position of the parent, the implications of Fab 1 operating performance for the project and the company, and the risks to the projections
  - Company has indicated that it is currently revising the short-term (3 year) operating projections and will share them with DOE when complete; and
  - The LGO will begin reviewing monthly financial results from Fab 1 and Solyndra, Inc. Monthly reports should include both financial and operational data to provide insight into company performance and validity of longer-term forecast of Fab 2.
    - In short-term, the LGO will review payables and inventory positions to determine if actual financial situation is worse than that implied just by cash position.
  - The LGO should develop a short-term cash flow model to assess ongoing risks. Of particular concern. Sensitivities will be conducted on:
    - ASP assumptions;

        - Production levels;
        - Sales levels (inventory build);
        - Yield metrics; and
        - Module efficiency.
    - The LGO should consider monthly (or more frequent) calls with senior management to stay apprised of the situation.

- **Fab 2 – Phase 1 Model Revision:** The LGO should continue assessing the Fab 2 - Phase I project in light of revisions to module pricing, efficiency assumptions and throughput assumptions.
    - Baseline viability of the project needs to be reestablished under alternative scenarios.
    - Decisions on how to address short-term issues will hinge on findings from this analysis.

- **Review of Technical Performance Metrics:** The LGO should direct RW Beck to undertake a detailed examination of Solyndra's panel efficiency road map. Panel efficiency, along with other technical performance inputs, will materially impact future financial performance. Independent verification of Solyndra's revised forecast inputs is required.

- **Pricing Validation:** The LGO will evaluate further the Sponsor's pricing projection and assumed premium.

Footnote 348

From: [redacted]
To:
Subject: RE: Active Project Schedules
Date: Thursday, October 28, 2010 1:34:00 PM

First time I heard I was not working on it. Well played by [redacted], I guess.

-----Original Message-----
From: [redacted]
Sent: Thursday, October 28, 2010 1:13 PM
To: [redacted]
Subject: RE: Active Project Schedules

Solyndra 2 is not happening because Solyndra 1 is in trouble and is being restructured. [redacted] seems to be doing the Solyndra 1 stuff???

****
[redacted]
Loan Programs Office
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
[redacted]

-----Original Message-----
From: [redacted]
Sent: Thursday, October 28, 2010 12:18 PM
To: [redacted]
Subject: FW: Active Project Schedules

-----Original Message-----
From: [redacted]
Sent: Thursday, October 28, 2010 12:17 PM
To: [redacted]
Subject: RE: Active Project Schedules

[redacted] - [redacted] Also, what happened to Solyndra?

[redacted]

Footnote 353

Microsoft Outlook

From:	Kelly, Allison K.
Sent:	Wednesday, May 19, 2010 3:54 PM
To:	Olmos, Margaret C.; Murtha, Katherine; Rosalsky, Gregory E.
Subject:	RE: FOR VET: Solyndra (POTUS event on May 26)

This concerns me:

April 2010: An Independent Audit By PricewaterhouseCoopers Reported That Solyndra Was At Risk Of Failing. "Revolutionary companies are often lauded for their daring. But what about those that don't quite make it? Solyndra, one of the solar industry's most feted, financed, and generally gawked-at companies is at risk of failing, according to an independent audit by PricewaterhouseCoopers. The auditor noted its concerns about Solyndra as part of the company's S-1 filing for a possible initial public offering on the stock markets. PWC pointed out that Solyndra has lost a great deal of money, leaving its future as a 'going concern' at risk, especially if the company can't match the prices of other solar cell manufacturers. That risk goes without saying for every solar company around today; none have an assured future. But the risk is magnified for Solyndra because of its unusual approach. Rather than a flat solar panel, Solyndra sells round tubes that contain a rolled solar cell — the shape of each tube is close to that of a commercial fluorescent light, though at a smaller scale... Other companies have had the same idea, but Solyndra has so far been the only one to risk doing it. For its daring, the company has been amply rewarded with almost a billion dollars in venture funding and loans. But while financiers love an original approach, it may not fly in a more down-to-earth market of flat panel makers. In the same S-1, Solyndra notes that at a sale price of $3.24 per watt, its tubed solar panels cost 66 percent more than a standard silicon panel. That's a huge gap at this point in the game. Worse, Solyndra is losing money even at $3.24." [BNET, 4/6/10]

From: Olmos, Margaret C.
Sent: Wednesday, May 19, 2010 12:20 PM
To: Murtha, Katherine; Kelly, Allison K.; Rosalsky, Gregory E.
Subject: FW: FOR VET: Solyndra (POTUS event on May 26)

Just an update –this is for the CA trip next Wednesday

From: Leger, Daniella G.
Sent: Wednesday, May 19, 2010 12:14 PM
To: Jarvis-Shean, Elizabeth; Terry, Joelle L.; DL-WHO-VETTING
Subject: RE: FOR VET: Solyndra (POTUS event on May 26)

Huzzah

Daniella Gibbs Léger
Director of White House Message Events
[redacted] *(office)*

From: Jarvis-Shean, Elizabeth
Sent: Wednesday, May 19, 2010 12:13 PM
To: Terry, Joelle L.; DL-WHO-VETTING
Cc: Leger, Daniella G.
Subject: RE: FOR VET: Solyndra (POTUS event on May 26)

We used them in SOTU, so just need to update.

From: Terry, Joelle L.
Sent: Wednesday, May 19, 2010 12:02 PM
To: DL-WHO-VETTING
Cc: Leger, Daniella G.
Subject: FOR VET: Solyndra (POTUS event on May 26)

Solyndra
47700 Kato Road
Fremont, CA
Chris Gronet, CEO

- Received first DOE loan guarantee($535M)
- Fab 2 to employ 1000 long-term, 3000 in construction
- Highly automated production facility

Description: Last September, the Department of Energy closed its first Recovery Act loan guarantee - $535 million to Solyndra, Inc. for construction of a new manufacturing facility to produce the company's signature cylindrical solar photovoltaic panels – and ground was broken on the then-empty field. Today, the project is an active project site employing over 1,000 workers, making it one of the biggest Recovery Act employers. Solyndra estimates that ultimately the new plant will create 3,000 construction jobs total, and lead to as many as 1,000 permanent jobs once the facility opens. Hundreds more will install Solyndra's solar panels on rooftops around the country. Over its lifetime, the first phase of the facility could manufacture up to 7 gigawatts of solar panels, which can generate electricity equivalent to 3 or 4 coal fired power plants. This plant will produce about as many new solar panels as the US produced in 2005. The project will introduce into large-scale commercial operation a new and highly innovative process for manufacturing a breakthrough design for photovoltaic panels. Solyndra's panels will be primarily used in the fast-growing market for large, flat rooftops. In addition to the active construction site, Solyndra also has a state-of-the-art 300,000 square foot automated manufacturing complex where existing manufacturing operations are already underway. New Media has previously visited the existed facility and was provided access for filming of the manufacturing space. The Solyndra project is the epitome of the Administration's focus on leveraging private capital, investing in innovation and driving job growth across the supply chain through strategic Recovery Act investments. The company has been able to use the loan guarantee to leverage hundreds of billions in private capital, the project is benefiting suppliers across the country who are contributing to the significant construction work and the innovative solar tubes are creating demand for export to countries around the world.

Footnote 355, 358

[redacted]

From: Klain, Ronald A.
Sent: Monday, May 24, 2010 8:05 AM
To: Jarrett, Valerie; Deseve, G. Edward; Deseve, G. Edward
Subject: Re: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

We'll look at it. Obviously, if the company were robustly well financed without our help, they wouldn't have needed our funding -- so the "going concern" letter and its inability to file an S1 doesn't worry me per se. That said, we clearly need to make sure that they are stable and solid.

----- Original Message -----
From: Jarrett, Valerie
To: Klain, Ronald A.
Sent: Mon May 24 06:10:33 2010
Subject: Fw: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

As you know, a Going Concern letter is not good. Thoughts?

----- Original Message -----
From: Steve Westly [redacted]
To: Jarrett, Valerie
Sent: Mon May 24 03:10:53 2010
Subject: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

Valerie:

Congratulations on the historic progress the administration has made on health care and financial reform.

We're excited to have the president in San Francisco Tuesday night, and I'm looking forward to seeing him at the dinner for Senator Boxer at the Getty's home.

A number of us are concerned that the president is visiting Solyndra. The press has reported that the company has had to restate earnings--and there is an increasing concern about the company because their auditors, Coopers and Lybrand, have issued a "going concern" letter (See below). Many of us believe the company's cost structure will make it difficult for them to survive long term. The company is burning through capital at a rate of over $10.0 M per month from Q1-Q3 according to its own S-1 filing--and over $20 million a month including op ex and cap ex. This is a very large red flag.

A number of their executives are looking for opportunities at other solar companies, and we've heard that the bankers listed on the S-1 (Goldman and Morgan Stanley) do not plan to move forward with the IPO.

Could you perhaps check with DOE to make sure they're comfortable with the company? I just want to help protect the president from anything that could result in negative or unfair press. If it's too late to change/postpone the meeting, the president should be careful about unrealistic/optimistic forecasts that could haunt him in the next 18 months if Solyndra hits the wall, files for bankruptcy, etc.

Lastly, we like the CIGS space, but do not have investments in CIGS related companies.

Thanks.

Steve Westly
Managing Partner
The Westly Group
[redacted]

PS It's this statement in paragraph three that I wanted to draw to your attention

"In fact their auditors PriceWaterhouse Coopers, have just issued what's known as a "going concern" opinion about the company".

Silicon Valley Frontlines
In-the-Trenches Consulting to Startup and Emerging Growth Companies

Solyndra's IPO - Not a "Going Concern", But Hoping It's a Big Success!
As I've noted before, there are many companies now in the backlog of IPO's filed but not yet completed. One of them, the cleantech company Solyndra, is worth taking a closer look at because of its rather unique characteristics. This high-profile solar panel business has raised a whopping $961 million in venture financing since it began and has been in registration since mid-December last year. It's looking to raise about $300 million from the public offering. Sound like a lot? Well, yes, but they need a lot!

Since introducing it's unique cylindrical components and related panels Solyndra has grown revenues from zero in 2007 to $6 million in 2008 and to $100 million in 2009 - astonishing growth but for the unfortunate fact that it still costs the company a lot more to make the panels than they can sell them for. For that $100m in 2009 revenues it cost them $162m to manufacture the product - and then another $115m to develop, market, sell and cover overheads. So for those at home keeping score they spent $277m to produce that $100m in revenues. It's still better - relatively speaking - than the $228m they spent in 2008 to produce just that $6m in revenues ....

This is not a typical business, even for the sometimes-extreme Valley! Here's a company whose products are clearly state-of-the-art but where, after raising and spending almost a billion dollars, the true economics of producing and selling them are yet to materialize. In fact their auditors PriceWaterhouse Coopers, have just issued what's known as a "going concern" opinion about the company. To backtrack for a second, all companies looking to go public via an IPO have to file an S-1 registration statement with the SEC which has to include three years worth of detailed, audited financial statements along with an additional two years of summary financial information, assuming the company has been around that long. As part of those statements the auditors issue an opinion, basically saying that those statements fairly represent the historical financial position and results of the business.

While this opinion is largely a rear-view mirror look the auditors are required to do some procedures to determine whether it is able to operate as a "going concern" in the future as a viable stand-alone business. The typical approach - and rule of thumb - is that it is is a going concern if it has enough cash on hand to run the business for twelve months from the date of the audit opinion (in essence, the date the auditors sign off on the period they just audited). The auditors won't be able to assume future additional financing (including the IPO) because that may not happen. Nor can they assume some rapid growth or improvement in the business that suddenly makes it cash-flow positive. The most likely thing is that it continues as it just left off in the most recent year. So lets look at some of those numbers.

In the year ended January 2, 2010 it spent $170m in cash just running its daily operating activities (basically the loss it incurred in selling the $100m of product plus its operating expenses and various other adjustments). It also had to build it's production facilities and make other capital investments - which totaled another $175m. So there's almost $350m - millon! - of cash consumed in one year.

How did they finance that, because the money came from somewhere? Well, they raised $336m in venture financing (part of the $96m I mentioned above) which included converting some existing loans into equity (an ownership stake) and took on an additional $140m in debt. That debt is worth looking at - its money they have borrowed against a $535m loan facility guaranteed by the Department of Energy and is money coming from the Federal government's economic stimulus and recovery commitments. It has to be used for the building of Solyndra's second production plant in the Valley (those of you who regularly travel on Highway 880 in Fremont will see the first plant right by the Eastern side of the road) and which Solyndra itself must finance at least 27% on its own in addition to the DOE guaranteed loans.

At the end of 2009 where did all this leave the company? Well, it had $50m cash in the bank (it also had $151m of further cash on the balance sheet, but that cash is restricted and can't be used for regular operations). And the customers who bought the $100m in products still owed it $34m in remaining payments for them. Against that it owed $105m in current liabilities (payments for product costs, purchases, etc) and $140m in long term debt (the money borrowed above). Not exactly a lot of net cash on hand to pay the existing bills and then run the 2010 operations.

When you look at all the numbers, and you add to that the complexity of the business, the risk factors (their S-1 lists 24 pages of them!) in the technology and the marketplace, then on a pure business analysis you have to agree with the auditors - they are not a going concern. It's also not unusual for a Silicon Valley early stage company (and it is still very early in the development of this technology and it's market) to be in this position. In fact, that's exactly why they need an IPO - to raise the money for growth and to get to cash flow positive from operations. But it's pretty unusual for a company to take the step they just did - publishing an open letter to their customers and suppliers to explain why, in their view, this is not a problem.

To take a closer look at their SEC filing, click here.

I'm rooting for this company. It's in the forefront of developing new energy solutions we desperately need. They claim that "by the end of 2012, we will be able to deliver photovoltaic systems that produce electricity on commercial rooftops at rates that are competitive with the retail price of electricity in key markets on a non-subsidized basis". I'd love to see that! They employ 800 people, mostly in the Valley. Many of those people are in manufacturing - a segment hard hit since 2000. That number will increase with their second plant and further production ramp up. This is the kind of business the Valley needs, and needs to be successful. And the country needs the technology.

Still, a lot of people will have to make some pretty big bets to pull this off!

Posted by Philip Smith on April 04, 2010 at 09:14 PM in Cleantech

Footnote 359-363

[redacted]

[redacted]

From: Deseve, G. Edward
Sent: Monday, May 24, 2010 10:05 AM
To: Klain, Ronald A.
Subject: FW: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential--will you send to ron

I talked to Matt as well. The short term problem is very understandable. The longer term with Europe such a large share of their market could be problematic. But, as you note, that is what risk is about.

-----Original Message-----
From: Rogers, Matt [redacted]
Sent: Monday, May 24, 2010 10:03 AM
To: Deseve, G. Edward
Subject: FW: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential--will you send to ron

Here's the loop

Matt Rogers
Senior Advisor to the Secretary for Recovery Act Implementation U.S. Department of Energy
1000 Independence Avenue, SW Washington, DC 20585
Assistant: [redacted]

-----Original Message-----
From: Klain, Ronald A. [redacted]
Sent: Monday, May 24, 2010 10:01 AM
To: OConnor, Rod; Rogers, Matt
Cc: Deseve, G. Edward
Subject: RE: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential--will you send to ron

Thanks! This looks fine to me. TPs would be a good thing.

-----Original Message-----
From: OConnor, Rod [mailto:Rod.OConnor@hq.doe.gov]
Sent: Monday, May 24, 2010 9:56 AM
To: Klain, Ronald A.
Subject: FW: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential--will you send to ron

Ron-
Bottom line is that we believe the company is okay in the medium term, but will need some help of one kind or another down the road. I know Brandon and Liz talked through the going concern issue last week. Matt's summary is below. We are putting together talking points on this which I will send over-let me know if you need more.

-----Original Message-----
From: Rogers, Matt
Sent: Monday, May 24, 2010 9:17 AM
To: OConnor, Rod

Cc: Hurlbut, Brandon
Subject: RE: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential--will you send to ron

The "going concern" letter is standard for companies pre-IPO. The letter says in short that the company needs more capital to keep going long-term, which is why they are planning to tap the public markets. We will see these with all the pre-IPO companies that we fund and is not a general concern.

There are three, related economic concerns that are important. The price for solar panels has fallen significantly as the cost of silicon has fallen, reducing the margin that Solyndra can earn. In addition, the European market for their product (2/3 exported to Europe) is weak with the financial issues in Europe, especially in Spain. They have been counting on an energy bill to pass, including a renewable energy standard to ensure adequate US market size.

The good news is that the loans that we made are allowing the company to increase revenues and reduce production costs significantly, helping them remain competitive in a tough market. If Europe goes south and we don't see an energy bill here, they will face issues in the 18-24 month window, but the company should be [illegible] going into the fall with their new facilities on line.

Matt Rogers
Senior Advisor to the Secretary for Recovery Act Implementation U.S. Department of Energy
1000 Independence Avenue SW Washington, DC 20585
Assistant: [redacted]

-----Original Message-----
From: Klain, Ronald A. [redacted]
Sent: Monday, May 24, 2010 8:38 AM
To: OConnor, Rod; Rogers, Matt
Subject: FW: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

Can you guys look at this ASAP and get back to me.

-----Original Message-----
From: Jarrett, Valerie
Sent: Monday, May 24, 2010 6:11 AM
To: Klain, Ronald A.
Subject: Fw: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

As you know, a Going Concern letter is not good. Thoughts?

----- Original Message -----
From: Steve Westly <steve@westlygroup.com>
To: Jarrett, Valerie
Sent: Mon May 24 03:10:53 2010
Subject: Wanted to share some concerns about the President's visit to Solyndra: Please keep confidential

Valerie:

Congratulations on the historic progress the administration has made on health care and financial reform.

We're excited to have the president in San Francisco Tuesday night, and I'm looking forward to seeing him at the dinner for Senator Boxer at the Getty's home.

A number of us are concerned that the president is visiting Solyndra. The press has reported that the company has had to restate earnings--and there is an increasing concern about the company because their auditors, Coopers and Lybrand, have issued a "going concern" letter (See below). Many of us believe the company's cost structure will make it difficult for them to survive long term. The company is burning through capital at a rate of over $10.0 M per month from Q1-Q3 according to its own S-1 filing--and over $20 million a month including op ex and cap ex. This is a very large red flag.

A number of their executives are looking for opportunities at other solar companies, and we've heard that the bankers listed on the S-1 (Goldman and Morgan Stanley) do not plan to move forward with the IPO.

Could you perhaps check with DOE to make sure they're comfortable with the company? I just want to help protect the president from anything that could result in negative or unfair press. If it's too late to change/postpone the meeting, the president should be careful about unrealistic/optimistic forecasts that could haunt him in the next 18 months if Solyndra hits the wall, files for bankruptcy, etc.

Lastly, we like the CIGS space, but do not have investments in CIGS related companies.

Thanks..

Steve Westly
Managing Partner
The Westly Group
[redacted]

PS It's this statement in paragraph three that I wanted to draw to your attention

"In fact their auditors PriceWaterhouse Coopers, have just issued what's known as a "going concern" opinion about the company."

Silicon Valley Frontlines
In-the-Trenches Consulting to Startup and Emerging-Growth Companies

Solyndra's IPO - Not a "Going Concern", But Hoping It's a Big Success!
As I've noted before, there are many companies now in the backlog of IPO's filed but not yet completed. One of them, the cleantech company Solyndra, is worth taking a closer look at because of its rather unique characteristics. This high-profile solar panel business has raised a whopping $961 million in venture financing since it began and has been in

registration since mid-December last year. It's looking to raise about $300 million from the public offering. Sound like a lot? Well, yes, but they need a lot!

Since introducing it's unique cylindrical components and related panels Solyndra has grown revenues from zero in 2007 to $6 million in 2008 and to $100 million in 2009 - astonishing growth but for the unfortunate fact that it still costs the company a lot more to make the panels than they can sell them for. For that $100m in 2009 revenues it cost them $162m to manufacture the product - and then another $115m to develop, market, sell and cover overheads. So for those at home keeping score they spent $277m to produce that $100m in revenues. It's still better - relatively speaking - than the $228m they spent in 2008 to produce just that $6m in revenues ....

This is not a typical business, even for the sometimes-extreme Valley! Here's a company whose products are clearly state-of-the-art but where, after raising and spending almost a billion dollars, the true economics of producing and selling them are yet to materialize. In fact their auditors PriceWaterhouse Coopers, have just issued what's known as a "going concern" opinion about the company. Track back for a second, all companies looking to go public via an IPO have to file an S-1 registration statement with the SEC which has to include three years worth of detailed, audited financial statements along with an additional two years of summary financial information, assuming the company has been around that long. As part of those statements the auditors issue an opinion, basically saying that those statements fairly represent the historical financial position and results of the business.

While this opinion is largely a rear-view mirror look the auditors are required to do some procedures to determine whether it is able to operate as a "going concern" in the future as a viable stand-alone business. The typical approach - and rule of thumb - is that it is is a going concern if it has enough cash on hand to run the business for twelve months from the date of the audit opinion (in essence, the date the auditors sign off on the period they just audited). The auditors won't be able to assume future additional financing (including the IPO) because that may not happen. Nor can they assume some rapid growth or improvement in the business that suddenly makes it cash-flow positive. The most likely thing is that it continues as it just left off in the most recent year. So let's look at some of those numbers.

In the year ended January 2, 2010 it spent $170m in cash just running its daily operating activities (basically the loss it incurred in selling the $100m of product plus its operating expenses and various other adjustments). It also had to build its production facilities and make other capital investments - which totaled another $175m. So there's almost $350m - millon! - of cash consumed in one year.

How did they finance that, because the money came from somewhere? Well, they raised $336m in venture financing (part of the $961m I mentioned above) which included converting some existing loans into equity (an ownership stake), and took on an additional $140m in debt. That debt is worth looking at - its money they have borrowed against a $535m loan facility guaranteed by the Department of Energy and is money coming from the Federal government's economic stimulus and recovery commitments. It has to be used for the building of Solyndra's second production plant in the Valley (those of you who regularly travel on Highway 880 in Fremont will see the first plant right by the Eastern side of the road) and which Solyndra itself must finance at least 27% on its own in addition to the DOE guaranteed loans.

At the end of 2009 where did all this leave the company? Well, it had $50m cash in the bank (it also had $151m of further cash on the balance sheet, but that cash is restricted and can't be used for regular operations). And the customers who bought the $100m in products still owed it $34m in remaining payments for them. Against that it owed $105m in current liabilities (payments for product costs, purchases, etc) and $140m in long term debt (the money borrowed above). Not exactly a lot of net cash on hand to pay the existing bills and then run the 2010 operations.

When you look at all the numbers, and you add to that the complexity of the business, the risk factors (their S-1 lists 24 pages of them!) in the technology and the marketplace, then on a pure business analysis you have to agree with the auditors - they are not a going concern. It's also not unusual for a Silicon Valley early stage company (and it is still very early in the development of this technology and it's market) to be in this position. In fact, that's exactly why they need an IPO - to raise the money for growth and to get to cash flow positive from operations. But its pretty unusual for a company to take the step they just did - publishing an open letter to their customers and suppliers to explain why, in their view, this is not a problem.

To take a closer look at their SEC filing, click here.

I'm rooting for this company. It's in the forefront of developing new energy solutions we desperately need. They claim that "by the end of 2012, we will be able to deliver photovoltaic systems that produce electricity on commercial rooftops at rates that are competitive with the [illegible] electricity in key markets on a non-subsidized basis". I'd love to see that. They employ [illegible] people, mostly in the Valley. Many of those people are in manufacturing - a segment hard hit since 2008. That number will increase with their second plant and further production ramp up. This is the kind of business the Valley needs, and needs to be successful. And the country needs the technology.

Still, a lot of people will have to make some pretty big bets to pull this off!

Posted by Philip Smith on April 04, 2010 at [illegible] in Cleantech

Footnote 365

From: Bill Stover [redacted]
Sent: Saturday, May 22, 2010 3:13 PM
To: Steve Mitchell
Subject: RE: RE: Your Schedule

Generally holding up well. We had 2 ½ hours in front of [redacted] team yesterday. You can pulse him on how he felt that went. My take is that [redacted] and myself presented the company effectively.

My task today is getting back to you on stock recommendation.

I trust your luggage made it !

Bill Stover
SVP, CFO

[redacted]

From: Steve Mitchell [redacted]
Sent: Saturday, May 22, 2010 8:13 AM
To: Bill Stover
Subject: Re: Your Schedule

I've met Obama already. Cost me 2300 bucks and a lot in taxes. He doesn't need to meet me (and although my ego would enjoy it) I don't need to meet him. What does need to occur is him to see our company and those panels as a national asset that should have preference on government buildings and in tax related incentives on American soil. But thanks for the offer.

Is everything still holding up?

From: Bill Stover [redacted]
To: Steve Mitchell
Sent: Sat May 22 08:23:05 2010
Subject: Your Schedule

Steve,
I trust that you've heard we have President Obama touring Solyndra Wednesday morning, and wanted to make sure you've had the opportunity to adjust your schedule as necessary.

Bill Stover
SVP, CFO

[redacted]

Any review, disclosure, copying, distribution, or use of this e-mail communication by others is strictly prohibited.

If you are not the intended recipient, please notify us immediately by returning this message to the sender and delete all copies.

Thank you for your cooperation.

Footnote 366

From: Tom Baruch [redacted]
Sent: Tuesday, August 10, 2010 7:46 PM
To: [redacted]
Cc: Brian Harrison; Steve Mitchell
Subject: RE: RE: NCPV Hotline - August 10, 2010

Dave,

Getting business from Uncle Sam is a principal element of Solyndra's channel strategy. When Obama visited Solyndra in June, 2010, Chris Gronet spoke very openly to Obama about the need for installation of Solyndra's rooftop solar on U.S. government buildings. I heard Obama actually promise Chris that he would look into it when he returned to Washington. The point is that the government has to pay for energy no matter what. The capital funding to deploy a lot of rooftop solar on government buildings (say $300million) just falls off the table in Washington anyway.

I also believe he Sierra Club could act as a major change agent to get solar deployed as a cost parity play with the alternative GHG-belching coal-fired power plants. The Sierra Club could easily deploy more than 1 million people to this kind of mission. I recently agreed to work with [redacted] as a member of the Campaign Cabinet of the Sierra Club's Climate Recovery Partnership. Working together with DOE, DOI and other agencies, we should be able to get a lot of Solyndra's rooftop solar deployed throughout the U.S government building/energy infrastructure. I'd like to get a storyline together with Solyndra to make a case for the U.S. Government adoption of Solyndra's product capability. We need to do a better job of telling our story in Washington especially as relates to the threat of competition from China, Inc. I am stunned by the lack of knowledge of our representatives in Washington about China's plans to "dump" pcSi solar in the U.S. market. This has been confirmed by Solyndra's Washington lobbyist, Steve McBee.

Best.

Tom

-----Original Message-----
From: [redacted]
Sent: Tuesday, August 10, 2010 10:30 AM
To: Tom Baruch
Cc: [redacted]
Subject: Fw: NCPV Hotline - August 10, 2010

Tom,

Note that [redacted] got a 15 MW order at an Air Force base. Frankly I'm surprised, as those sites tend to be relatively unconstrained on space and so [redacted] is unlikely to be the low bidder. I wonder if 'buy American' rules held sway here. If so, might Solyndra prioritize federal government business, where it could have an 'unfair advantage'?

They may already be doing this, but if it's in fact an effective strategy, perhaps they ought to elevate its priority to the top. (No currency risk nor credit risk, either!). Do they have a salesperson who is specifically dedicated to gov't business? (Which, as you know, is a different animal than commercial sales).

[redacted]

Sent from my Verizon Wireless BlackBerry

-----Original Message-----
From: [redacted]
Date: Tue, 10 Aug 2010 10:50:24
To: [redacted]
subject:NCPV Hotline - August 10, 2010
NCPV Hotline August 10, 2010

^^^^^^

[redacted]

^^^^^^

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Footnote 367, 368

From: Chris Gronet [redacted]
Sent: Thursday, June 17, 2010 6:52 PM
To: Steve Mitchell
Subject: RE: RE: next steps

We (the exec com) are closed on gov't relations reporting into [redacted]. [redacted] is disappointed but is willing to work with this structure.
Also closed on asking [redacted] to taking on the acting role for VP N Am Sales (while we conduct the search and consider him for the role as well).

Chris Gronet
CEO
Solyndra, Inc.
47700 Kato Road
Fremont, CA 94538 USA
[redacted]

From: Steve Mitchell [redacted]
Sent: Thursday, June 17, 2010 9:07 AM
To: [redacted]; Chris Gronet
Subject: Fw: next steps

Let's discuss. The white house offer to help may cut this short but it could be done in conjunction.

From: Steve McBee [redacted]
To: Steve Mitchell
Sent: Thu Jun 17 06:19:55 2010
Subject: RE: next steps

Steve, have reviewed the materials sent over by Tom and we've also done a bit of additional diligence on our side. The CDA investments are powerful and I think will provide significant credibility and urgency to the need for the US government to step into deeper support for the broader industry, as well as directly to Solyndra.

The CDA investments, as well as the other external factors you and Tom have mentioned that are threatening company viability, in my view require direct and aggressive engagement with Washington. Advise the following steps:

1. **Substantiation.** We need to substantiate and crystallize the significance of the CDA investments to both Solyndra *and* the broader industry. We need to be tight in defining the extent to which the CDA investments are upping the stakes on domestic industry and putting immediate pressure on Solyndra's viability – and how the CDA action represents only the most recent step in an ongoing pattern that, if not reversed by some type of US action, will leave the US without a competitive position in this space shortly.
2. **Outreach.** Once we've got a handle on task 1, authorize us (McBee) to perform quiet and surgical outreach with both company supporters and thought leaders on Capitol Hill and in the Administration to lay the groundwork for a broader assault by the company. We can test the narrative, socialize leaders in Washington to the consequences of inaction, and create some appetite to move out with a fix.
3. **Define the fix.** We need to define "the ask" – is it Solyndra-specific (a DOD framework agreement) or industry wide (incentives, mandates, etc) or both? I think at some level it has to be a combination as, again, we'll be most successful if we position this as an industry problem for which Solyndra, as a frontier company, is the

bellwether and is taking the initial and at present most acute pain. We should perform task 3 in conjunction with task 2, but I do not believe that the company should go to the Hill with a specific ask until we have conditioned the environment in advance. Our advance work will also yield useful feedback that will allow us to zero in on a fix that is supportable.

4. **Engagement**. Assuming we have fully substantiated our arguments re task 1, get the right level of response as part of task 2, and have identified the fix outlined in task 3, we will need company officials to engage the US government directly to articulate the problem, raise the stakes around lack of inaction, and advance a solution that allows the industry – and in the near term Solyndra – to stay competitive in the face of global competitive pressure.

My advice is to move quickly on this – to get items 1-3 at a minimum done during the month of July before Congress adjourns (and Washington effectively shuts down) for the month long August congressional recess.

Key on our side is to make sure that we fully establish/protect your credibility as it relates to what will effectively be your opening (and probably closing) argument – that the company's viability is threatened primarily (entirely) because of aggressive and persistent action by the Chinese government. Most importantly is that Solyndra, as the industry leader represents only the first domino, and that unless the US government up's its response to anti-competitive Chinese maneuvers, the entirety of the innovative/domestic solar manufacturers will be strangled in their crib.

All of that requires us to articulate specifically how the company is being undercut in the market. It's worth noting in this context that there is a lot of chatter in the beltway (fanned by your domestic competitors) around your cost structure, which is also something we'll need to discuss and address.

Below are example questions designed to help pull together evidence in support of our position and to hopefully make the point that a consortium of US manufacturers is likely facing similar issues. The point we want to drive is that while Solyndra may be first to be impacted because we are further along, unless the federal government steps up, the US will be without a competitive position in this space shortly.

- What is the current market share of the Chinese manufacturers [redacted] in those markets in which Solyndra and its first-moving US competitors currently participate (US, EU specifically)?
    - Data back to Q1 2009 would be most useful to demonstrate the Chinese's recent entry and expanding market share

- What is Solyndra's manufacturing cost trajectory over the next 18-24 months?
    - (If available) How does this curve compare with the Chinese [redacted] and domestic competitors possibly facing similar price pressure?

- What is the variance between assumptions included in the company's LGP application/S-1 filing and current real-world pricing?

- How much, if at all, has the European debt issue affected Solyndra sales into the EU (currently their largest share of commercial sales)?
    - Has Solyndra and/or other US manufacturers registered foreign-currency exchange losses on par with the Chinese?

If you're down for this plan, I will get a team on it right away (to include myself). I'm prepared to play hard here and I think you should also – key is to make sure we've got our facts in order as I think communicating the implications of the CDA investments and Solyndra's vulnerability as a result has the potential to be explosive particularly given the trajectory of the energy policy discussion in Washington over the past several wks. We need to come correct out of the blocks –

Thoughts??

From: Steve Mitchell [redacted]
Sent: Wednesday, June 16, 2010 2:39 PM
To: Steve McBee
Cc: Support Staff
Subject: RE: next steps

Steve,

Anything we need to be talking about?

Steve

From: Steve McBee [redacted]
Sent: Monday, June 14, 2010 7:39 AM
To: Steve Mitchell
Cc: Support Staff
Subject: next steps

Steve, based on the info Tom has sent over I'm doing a bit of quiet outreach in an effort to provide best alternatives re next steps.

Advise that we cancel our call today and instead let me come back to you in the next couple of days via mail about how we might proceed after we've had some discussions on the Hill. I can follow up w/ you directly after the email to discuss. OK w/ you?

STEVE MCBEE PRESIDENT
[redacted]
WASHINGTON, DC 20004
601 Pennsylvania Avenue, NW
Suite 800 - North Building
WWW.MCBEESTRATEGIC.COM

Footnote 369, 370, 371, 374, 375

From:	Ken Levit [redacted]
Sent:	Friday, June 25, 2010 9:29 PM
To:	Steve Mitchell
Subject:	Re: Re: solyndra.jpg

He's a bit pessimistic on the loan.

He knows you're doing everything humanly imaginable.

We should get that dod thing enacted into law if there's an energy bill. Is Solyndra working it?

----- Original Message -----
From: Steve Mitchell [redacted]
To: Ken Levit
Sent: Fri Jun 25 16:25:46 2010
Subject: Re: solyndra.jpg

Please do. How is George on this?

----- Original Message -----
From: Ken Levit [redacted]
To: Steve Mitchell
Sent: Fri Jun 25 16:22:18 2010
Subject: Re: solyndra.jpg

We could work on that.

----- Original Message -----
From: Steve Mitchell [redacted]
To: Ken Levit
Sent: Fri Jun 25 16:23:01 2010
Subject: Re: solyndra.jpg

Get them to buy our panels. All they have to do is do some US content type of requirements for DOD procurement.

----- Original Message -----
From: Ken Levit [redacted]
To: Steve Mitchell
Sent: Fri Jun 25 16:17:43 2010
Subject: Re: solyndra.jpg

Seriously. I can only imagine. Issue came up in Harry Reid staff meeting too. Wild.

----- Original Message -----
From: Steve Mitchell [redacted]
To: Ken Levit
Sent: Fri Jun 25 16:15:10 2010
Subject: Re: solyndra.jpg

Ugh. Trust me. I feel it.

----- Original Message -----
From: Ken Levit [redacted]
To: Steve Mitchell [redacted] George Kaiser
Sent: Fri Jun 25 16:10:34 2010
Subject: solyndra.jpg

This picture is hanging in the White House, in the stair well in the West Wing. Gosh...no pressure.

Footnote 372, 373, 376

From: George Kaiser [redacted]
Sent: Saturday, June 26, 2010 11:33 PM
To: Ken Levit; Steve Mitchell; [redacted]
Subject: RE: solyndra.jpg

I think the immediate issue is getting the DOD to see some urgency in buying product though, of course, the subsidy legislation would also be lovely.

From: Ken Levit [redacted]
Sent: Saturday, June 26, 2010 2:11 PM
To: Steve Mitchell; [redacted]; George Kaiser
Subject: Re: solyndra.jpg

Steve--Let me know if there's a way we can help if that legislation has a shot. We further developed a few relationships this week on energy which could be helpful. A lot of key people are rooting for Solyndra so I think the landscape would be sympathetic.

From: Steve Mitchell [redacted]
To: [redacted] Ken Levit [redacted]; George Kaiser [redacted]
Sent: Fri Jun 25 20:43:41 2010
Subject: Re: solyndra.jpg

Absolutely.

From: [redacted]
To: Ken Levit [redacted]; Steve Mitchell; [redacted] George Kaiser
Sent: Fri Jun 25 20:03:21 2010
Subject: RE: solyndra.jpg

Helps us get them to straighten the DOD out and thus we can sell a mountain of MW's to them...

Far more important than another loan

From: Ken Levit
Sent: Fri 6/25/2010 4:10 PM
To: [redacted]
Subject: solyndra.jpg

This picture is hanging in the White House, in the stair well in the West Wing. Gosh...no pressure.

Footnote 378

From:	Brian Harrison [redacted]
Sent:	Wednesday, August 04, 2010 5:55 PM
To:	Tom Baruch
Cc:	Steve Mitchell
Subject:	RE: RE: Welcome
Attachments:	image001.jpg

Tom

Thank you for the note and the kind words. I am excited about the opportunities ahead of Solyndra. The challenges are formidable but I am ready to attack them head on.

I just got back from my last days of summer vacation and will be in the office Thursday and Friday before officially hitting the gound 100% on Monday. One of the items high on my agenda is to get the fund raising organized. Solyndra has a very, very powerful resource available to us through the board member contacts and connections. Your point is spot on that to effectively leverage this vast network we need to be organized and coordinated. My objective is to have a plan defined by the end of next week, August 13.

I will work with your office to set up a time for a phone discussion on either Thursday or Friday.

Regards, Brian

From: Tom Baruch [redacted]
Sent: Monday, August 02, 2010 12:32 PM
To: Brian Harrison
Cc: Steve Mitchell
Subject: Welcome

Dear Brian,

First and foremost, please allow me to welcome you to Solyndra. I am incredibly excited about having you on board. Your background in engineering and cost control is a perfect roadmap for our future success at Solyndra. In addition, there are so many other opportunities to leverage your background in marketing and sales to achieve a dominant position for Solyndra as the most profitable player in solar energy products. My experience says that we were only one person away from success at Solyndra. I am thrilled to know you will be the catalyst for making a difference.

By way of introduction, I want to offer you the power of my relationships in the Washington, DC and the nonprofit sector as you angle to achieve the optimum channel control for Solyndra. Specifically, I work on the National Advisory Council for Innovation and Entrepreneurship with Sec'y Locke and others in the U.S. Department of Commerce; the US Manufacturing Competitive Initiative in the Council on Competitiveness; the Sierra Club's Climate Recovery Partnership with [redacted]; and other groups as well.

I'd like to have a brief discussion with you about some ideas I have in relation to the above work. Most importantly, I'd like to get your guidance about who to work with at Solyndra to coordinate moving forward with any of the ideas you want to implement. I believe the opportunity with the Sierra Club is especially tempting. I have seen them move mountains when it comes to effective action for the climate.

I understand that one of our most important priorities is to conclude the current convertible financing. There are several investor candidates that I have been bringing forward pending the resolution of the CEO position. There are two impressive candidates from Singapore. Now that you are on board, I would like to start making introductions of investors to Solyndra. Because I could only attend the last board meeting by phone, it was hard for me to hear everything. I heard at one time or another that the point person on the financing was one or all of: you; Bill Stover; Steve Mitchell; and, [redacted] I'd like to get clarity from you about how to go forward with the introduction of prospective investors.

Brian, you can best reach me by cell at [redacted]. If we fail to contact via cell, I will ask my assistant, [redacted] to hook us up this week.

I look forward to working with you.

Best,

Tom Baruch
Founder & Managing Director

CMEA
CAPITAL

One Embarcadero Center, Suite 3250
San Francisco, CA 94111
[redacted]

Footnote 379, 380

From: Tom Baruch [redacted]
Sent: Tuesday, August 17, 2010 2:16 PM
To: [redacted] Brian Harrison
Cc: Steve Mitchell; [redacted]
Subject: RE: RE: Cleantech Blog and China
Attachments: image001.jpg

Dear John,

I am delighted to see you engaged so deeply with a multifaceted challenge of matching our capabilities at Solyndra with the opportunities to excel in Washington. What Solyndra is doing cuts through many of the programs and policies which are championed by the leaders of the "innovation economy" who see it as the salvation of the American economy on the global stage. To the extent I am working on the latter issue with Sec'y Locke at DOC, I will be sure to look for your guidance regarding the role of Solyndra.

One of the most important places to draw the line is with respect to the issue of dumping of solar panels in the USA. I know Steve McBee is well versed on this issue. It is good to hear you are fully engaged with his organization. Surprisingly, I have found that our California Senators Boxer and Feinstein are less than fully informed on this issue. In a recent interaction of an associate with Senator Boxer, the Senator expressed surprise about the China dumping issue. I suspect this issue will require industry-wide attention in the long run. The Semiconductor Industries Association was very effective when Japanese "dumping" of semiconductors was front and center in the 1980's. I recently spoke with [redacted] who was President of SIA at the time and until very recently. [redacted] can be available to us.

The Gov't procurement strategy is very specific to Solyndra. It sounds like you have it well covered. I'd love to spend some time with the person charged with the articulation of our Gov't procurement strategy to make sure that whatever message I communicate in Washington is completely consistent with Solyndra's message of economic justification to our customers.

I think we can find a seam of influence at the grass roots level that will take us well beyond what we could accomplish on our own. I have some ideas we should discuss for integration of this idea with my own activities.

Thanks for your offer to get together again. I will work with my assistant, [redacted] to arrange a time for us to meet. As I mentioned, I will also be in Washington, DC on September 1 and am available to meet with anyone you recommend.

Thanks for everything you are doing to lead this important effort.

Best,

Tom

From: [redacted]
Sent: Tuesday, August 17, 2010 12:53 AM

To: Brian Harrison; Tom Baruch
Cc: Steve Mitchell; [redacted]
Subject: RE: Cleantech Blog and China

Hi Tom,

Thanks for the note to Brian. We are fully engaged with Steve and his team on Federal policy issues and using Steve and his team to develop relationships with policymakers and key stakeholders, such as NGOs.

In July, [redacted] and I had a long strategy session with Steve and [redacted] (our dedicated McBee person) in DC to discuss what McBee had been doing for Solyndra, what they could do going forward and our strategy going forward. I also gave them a deep overview of the business and our challenges as I see them so they were completely up to speed. As a result of that meeting, McBee was to prepare a number of documents, one of them was a list of NGOs that they had relationships with and that would be supportive of our general policy initiatives. The goal was to begin developing relationships with these entities so that we will have their support on a long term basis as well as for particular policy initiatives of the moment. These is something that I was very effective in developing at [redacted] and which I mentioned to Steve and [redacted] will be an important part of Solyndra's strategy going forward. [redacted] has been on vacation for the last two weeks and this item from McBee is still outstanding...but we and they are on it.

You should be aware that we are in constant contact with McBee. [redacted] speaks to [redacted] at least every other day if not every day. She has been assisting us on the Fed Manufacturing Tax Credit, our viability issues and messaging to the Hill, and our broader relationship building on the Hill. [redacted] attended several meetings that [redacted] and I had in DC in August and September. They have been involved in every step of the development and execution of our Gov't Procurement strategy, including [redacted] flying out to Fremont 2 weeks ago to participate in person in a number of Gov't Affairs and Comm strategy sessions. McBee's role in the execution of our Gov't Procurement strategy will be with high-level policymakers that they know well in the DOD, DOE, White House, and key Chairman on the Hill like Norm Dicks (House Defense Appropriations Sub Comm Chr) and Jeff Bingaman (Senate Energy Comm Chr). [redacted] Those efforts are defined and underway.

In short, they are fully briefed and in the loop on our business and activities, they have been an integral part of our strategy development around Federal Policy initiatives, NGO development, Gov't procurement, and they have a defined role and responsibilities. We have weekly gov't affairs calls that they are a part of. We are working hard to develop and define clear gov't affairs strategies that are aligned with our business goals and then leverage the intelligence, contacts and abilities of our internal and external resources to execute against these. So far so good.

Please feel free to reach out to me if you have any questions on our GA strategy or relations with McBee. I think that it is critical that our activities in DC and with NGOs are coordinated and aligned with our business objectives. As part of that, I think it is important that there are not too many voices "speaking" on behalf of the company. Going forward in DC and with NGOs those 'voices' are Brian, [redacted]

I will discuss with Brian, but maybe at the next Board meeting we can give the Board a review and update on our strategy and developments to date.

As always Tom, thank you for thinking of Solyndra and please don't hesitate reaching out to us as you see opportunities for development and improvement.

Best regards,

[redacted]

From: Brian Harrison
Sent: Sunday, August 15, 2010 10:48 AM
To: Tom Baruch
Cc: Steve Mitchell; [redacted]
Subject: RE: Cleantech Blog and China

Tom

Thanks for the note. I had a briefing with [redacted] Thursday on Solyndra government affairs and US legislative issues so I am up to speed on the big issues. [redacted] can you respond to Tom and let him know what interaction Solyndra has had with Steve McBee? [redacted] is on vacation this week so his response may be a little slower than usual.

Regards, Brian

From: Tom Baruch [redacted]
Sent: Sunday, August 15, 2010 4:09 AM
To: Brian Harrison
Cc: Steve Mitchell
Subject: Cleantech Blog and China

Brian,

Our Washington lobbyist, Steve McBee, has a good handle on this issue. I hope to see Steve when I am in DC on September 1. I believe we may have a voice on representing Solyndra's competitive advantage in rooftop solar with McBee and the Sierra Club (noted in an earlier email to you from me). Whenever you are ready, I'd like to compare notes on this issue with you. I also recommend you connect with Steve McBee. He may be an underused resource. I do know Steve Mitchell connected with Steve McBee during his recent active participation with Solyndra

Best,

Tom

Cleantech Blog

Why China has already overtaken the U.S. in cleantech

Posted: 13 Aug 2010 04:41 PM PDT

It's been fashionable to debate whether China will some day surpass the U.S. in clean technology. Yet, after reviewing some of the metrics that really matter, one could conclude that it already has.

At least this was my thesis in moderating **a recent Haas School of Business event** at U.C. Berkeley in California that explored whether China would become a green economy leader.

China has already surpassed the U.S., I argued (**as reported elsewhere**), and pointed to the following:

1. **IPOs:** According to data we collected at the Cleantech Group, in 2009 (the last full year for which data was available as of this writing), China accounted for **almost three quarters of all cleantech IPO proceeds worldwide**, well ahead of the U.S., which had only 26%; and to date in 2010, the top three cleantech IPOs of the year have all been Chinese companies

2. **M&As:** The top region for cleantech M&A activity in 2009 was Asia (35% of total), followed by Europe (31%) and North America (26%), according to our same research above

3. **Solar:** 7 of the 10 largest solar manufacturers in the world by production volume are now Asian, #2 being China's Suntech Power, which in 2009 surpassed even Japan's Sharp, the longtime leader. This according to a roundup by respected photovoltaic trade pub Photon International (subscribers only; order the back issue **here**.)

4. **REEs:** China holds a monopoly on rare earth elements (REEs), critical raw materials for wind turbines and electric motors such as those used in electric vehicles like the Tesla and hybrids like the Prius. It controls 97 percent of commercially available rare earth element supplies, and has recently begun to reduce the amount it exports (at Cleantech Group, we produced the authoritative report on the subject, précis **here**.)

5. **Stimulus:** The amount of stimulus funding China has allocated to clean technologies, including water, waste and other non-energy cleantech infrastructure, is 4 times that of the U.S. (221 billion vs. ~60 billion)

6. **R&D:** There's been a **doubling of private R&D** in China in recent years; China could soon surpass the U.S. in R&D spending, according to Lund University in Sweden

7. **Speed:** China is making decisions quickly, and isn't encumbered by democratic process. This January, China announced intentions to build a 2 GW $5B concentrating solar thermal plant. In the words of Bill Gross of eSolar (**by way of Tom Friedman**), the company whose technology was selected, "in less time than it took the U.S. DOE to do stage 1 of an application review for a 92 MW project in New Mexico, China approved, signed and is ready to begin construction this year on a 20 times bigger project."

8. **Nukes:** If you don't already consider nuclear a clean energy technology, **you should**. China is expecting to build some 50 new nuclear reactors by 2020, and is already **hard at work on half of them**; the rest of the world combined might build 15

9. **Investment:** A recent report by Breakthrough Institute called ***Rising Tigers, Sleeping Giant*** claims China, South Korea and Japan have already collectively passed the United States in the production of virtually all clean energy technologies, and over the next few years, these countries will be expected to out-invest the United States.

If this trajectory holds, the majority of cleantech-related jobs, tax revenues and cleantech commercialization bragging rights will go to Asian, mostly Chinese, companies. The interesting question for us at Kachan & Co. is what commercial opportunities will this eventuality ultimately create for others elsewhere? How can the U.S. and other jurisdictions leverage the Chinese cleantech juggernaut?

Obviously, some companies will benefit from the establishment of joint ventures with Asian companies. And there WILL be local manufacturing jobs, especially when the rising cost of oil makes overseas shipping from Asia less cost-effective—one of the reasons China's Suntech is setting up **local U.S. manufacturing in Arizona**, for example. But where are the less obvious opportunities?

We have thoughts. **Contact us** to discuss.

Tom Baruch
Founder & Managing Director

CMEA

One Embarcadero Center, Suite 3250
[redacted]

Google Inc., 20 West Kinzie, Chicago IL USA 60610

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Thank you for your cooperation.

Footnote 381, 382, 383

From: Tom Baruch [redacted]
Sent: Saturday, September 18, 2010 8:48 PM
To: Steve Mitchell
Subject: FW: FW: White House Meeting
Attachments: image004.jpg

Steve,

Notwithstanding the two attached requests/offers, I never even got the courtesy of a response. So, I assume they don't want my help.

i will be at the White House helping some of our other portfolio companies this coming week.

Can you give me any guidance about what is going on? I am happy to try you via cell phone whenever it works for you, if you prefer.

Best,

Tom

From: Tom Baruch
Sent: Thursday, September 09, 2010 10:34 PM
To: [redacted]
Cc: 'Brian Harrison'
Subject: White House Meeting

[redacted]

I will be back in Washington, DC on September 21 and 22, 2010. If I do schedule a meeting at the White House, are there some specific agenda items I can pursue on behalf of Solyndra? I am sure the subject of Solyndra will come up in any event. Please give me your guidance.

Best,

Tom

From: Tom Baruch
Sent: Friday, September 03, 2010 2:50 PM
To: Brian Harrison; [redacted]
Subject: FW:

Let me know when and if I can get a message to him in the WHouse.

Tom Baruch
Founder & Managing Director

CMEA

One Embarcadero Center, Suite 3250
San Francisco, CA 94111
[redacted]

From: [redacted]@Who.eop.gov]
Sent: Friday, September 03, 2010 11:05 AM
To: Tom Baruch
Subject:

Hey Tom, it's Rahm – great seeing you the other day, apologies that it was so short. If you are ever in DC please let me know.

Footnote 384, 385

From: George Kaiser [redacted]
Sent: Monday, October 04, 2010 12:03 PM
To: Ken Levit
Subject: FW: Solyndra Update

Dismal report. See reference to new chief of staff as well.

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:27 PM
To: George Kaiser
Cc: [redacted]; Steve Mitchell
Subject: FW: Solyndra Update

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:24 PM
To: Steve Mitchell
Subject: Solyndra Update

George,

I spent a day with management and Goldman Sachs last week to discuss Solyndra, get a better understanding of the state of the business right now, hear Brian Harrison's down load after almost 2 months on the job and I then attended the full board meeting the following day. Unfortunately the update was not encouraging. As you know, the current shareholders bridged the company with $175 million early this summer with an understanding that Solyndra needed an additional $175 to $225 million to reach cash flow break even and that this money would need to be raised by the end of the year. This was based on a base case revised business plan that the company (along with the investors) set out in early spring when we were reacting to the dramatic decline in ASP as China started to dominate the solar market. Last week we were presented an updated business plan that still shows the company running out of money by the end of the year; however, it requires an additional $300 million for Solyndra to reach cash flow breakeven.

This is driven by several issues, including the company's failure to meet the spring projections in each of the last two quarters, but the primary driver is a revised working capital assumption. The other plan adjustments are ASP reduction of 5%, slower Fab 2 ramp, bill of materials and R&D reduced and sales and marketing increased. Brian has imposed several cost cutting measures that early indications had Solyndra stretching its cash into February, however, the reality of our unsold inventory this quarter ([redacted] and our AR collection period has pulled the cash need back to the end of the year. The new plan leaves all other production parameters the same and Brian is quick to point out that he is still getting his head around these assumptions and cannot with certainty underwrite these.

Brian has visited all of our major US customers and has reached the same conclusion that I reached last spring which is that our customers who understand Solyndra's product and the rooftop market love the product – typically they lead with a Solyndra only solution. However, we have done such a poor job developing our markets and we don't have channels robust enough to absorb all of our current production (much less all of the Fab 2 output which is the basis for slowing down Fab 2's ramp).

Instead of appropriately developing the sales channels for our specific markets (low load, low slope highly engineered rooftops – which is a very big market and no one else can be on these rooftops), Gronet and his team relied heavily on the European distributors to absorb our panels – and we were deeply discounting the panels at the end of each quarter to sell out. The distributors are the worst customer for Solyndra as they take our panels in inventory and do not develop the appropriate end users (this was driving some of the customer satisfaction issues earlier in the year). This channel stuffing started in 2010 as we were responding (poorly) to the Chinese pricing (China went from 10% to 50% of the worldwide solar market in an 18 month period). This quarter management realized that our distributor partners had [redacted] of unsold inventory in the channel and they made the decision to start letting this inventory sell through [redacted]

Goldman does not believe that a financial investor with make an investment in Solyndra without seeing two good quarters of performance – pricing strength was a nice surprise but missing both sales and production targets is a bad fact pattern. Q4 and Q1 are the seasonal low period for solar installations as snow and weather prevent projects from being installed in some of the biggest solar markets in the world (Germany, New Jersey, Canada, and Belgium). We are gaining traction in southern Europe, however, the sales cycle in Italy, Greece, Spain and France is 9 to 18 months versus 3 to 6 months in the more mature solar markets. Accordingly, a financial investor will be very hard to attract in Q4.

Bridging the company through Q1 or Q2 is a dangerous prospect as well as it takes $100 million to get the company through Q1 and over $150 million (in total) to get through the first 6 months of 2011 and the company will likely have a tough Q1. Goldman is going to go out to the bigger financial investors who can write a significant check and the current investors (primarily Argonaut and Madrone) have indicated that we would most likely participate in a fully funded plan (so Goldman is looking for an investor to write a $150 to $200 million check). The revised plan requires $200 million to reach ebitda positive (but peak cash need is $300 million).

Goldman is more hopeful that a strategic or large industrial will be interested in making an investment. They are adamant that any of these groups would want this to be a control transaction (i.e. either buy out the current investors – which would not get everyone whole; or invest directly in the company for at least 51%). Goldman has about 20 industrial strategics and 6 solar strategics they are going out to. They consider [redacted] as the most likely investor, however, there have been several investments made by strategics in struggling clean energy companies and they have been surprised by the ultimate investor each time [redacted]

Obviously this is very disappointing news and not what I want to be reporting back to you – for that I am sorry. It is incredibly frustrating as Solyndra does have a differentiated product and our customers that understand its differentiation are big fans. As mentioned above, the company failed to develop the appropriate market channels in 2009 and the "going concern" statement that was issued by E&Y in connection with the S-1 clearly spooked the market and got the rumors going. We fought the S-1 filing but ultimately caved as we were the only hold out against going public – what happened with the Chinese manufacturers would have occurred anyway – but we did ourselves no favors by putting out very confusing cost information with no ability to refute the bloggers.

We are not just sitting back and hoping that Goldman can pull a rabbit out of the hat. Management has been working on several different scenarios over the weekend and we have a call at 2pm tomorrow to discuss these and start to formulate a strategy. The leading thought is too dramatically slow down Fab 2, essentially finish it and put it on ice for a year, skinny down our funding requirement (I don't know those figures yet) and spend

2011 further developing our market channels and bring Fab 2 online one year late. This requires a concession from the DOE – which they should do as it protects jobs and is a far better solution than handing them the keys in January. However, it is the federal government and this could become politically charged very quickly. We are also planning to ask the DOD to execute a purchase order to buy our panels – DOD has 3X the rooftops of Wal-mart and is the biggest consumer of electricity in the US (and wants to buy solar panels). We are still exploring the right way to approach this without getting bogged down in all of the government pitfalls (the US needs a Premier for just one day). The current thinking is that the White House chief of staff is the right person to approach – obviously big changes in that role and they have asked who has strong connections there.

This is obviously still very half baked but we are trying to act with a sense of urgency and I want to be as transparent to you as possible and get your feedback, thoughts and direction as well. I will update you after tomorrow's call and we have a full board meeting on Wednesday (phone) to hopefully set a back up course if Goldman fails.

Two things to note, the DOD has the capacity to easily sign a 300MW three year purchase order for our panels – this would have to be through a "carve out" that occurs outside of the traditional RFP process through GSA. This would be incredibly difficult to pull off but we are preparing the proposal (no special pricing high or low, just market pricing and the DOD is expected to buy more solar panels than this over the next 3 years – that is not confirmed). Second, we are going to have to update the DOE within the next 10 days as this plan is materially different than our loan agreement contemplates and we require a variance. If DOE decides to withhold funding on the Fab 2 loan this would bring all of this too a head much sooner as the DOE draws cover a good portion of our overhead as well.

Steve

Footnote 386, 387, 388

From: Steve Mitchell [redacted]
Sent: Wednesday, October 06, 2010 6:15 PM
To: Ken Levit; George Kaiser
Cc: [redacted]
Subject: Re: Solyndra Update

Ken,

I will get you the lobbyist information. I know nothing about Washington politics but the WH probably gets hundreds if not thousands of requests a week. I think they were just hoping that George may have a more direct pathway for getting a meeting set up. I've warned them that we probably don't and that all of our Washington efforts have always been around philanthropy but that I would ask.

From: Ken Levit [redacted]
Sent: Wednesday, October 06, 2010 12:27 PM
To: Steve Mitchell; George Kaiser
Cc: [redacted]
Subject: Re: Solyndra Update

Sorry to jump in... But what's the story w Solyndra lobbyists? Who are they again? Can they not get a DoE meeting or reach out to WH? I'd rather consult with them for them to do this than have this come from us. It's really quite hard to engineer an ask like that to WH Chief of Staff from GKFF or GBK. Our relationship is based on completely different issues. George may feel differently but I think it's real tricky.

From: Steve Mitchell [redacted]
To: Steve Mitchell [redacted]; George Kaiser [redacted]
Cc: [redacted] Ken Levit
Sent: Wed Oct 06 12:17:34 2010
Subject: RE: Solyndra Update

George,

We had another call last night and we continue to eliminate Plan B options that we don't beleive the DOE will support (we need the DOE to continue funding draws on the loan or Solyndra's issues are accelerated). To be clear, Goldman is still marching forward and following today's board call they will start approaching financials and strategics this week. [redacted] is apparently teed up to call [redacted] this week or next [redacted] However, the company and shareholders feel it is necessary to have a plan B mapped out if we cannot find an outside investor to provide capital for the fully funded plan. In addition, in light of the circumstances and the revised business plan that was adopted last week, we are obligated (and should anyway) to communicate the revised circumstances with the DOE.

The most viable Plan B option is shaping up to be a plan in which Solydnra shuts down Fab 1 and uses the Fab 1 equipment to finish lines 2 & 3 of Fab 2. Line 1 is complete and the company will conserve capital by not paying for the additional equipment. DOE ends up with a finished Fab 2 for the same capital. This pushes Solyndra's ramp out for about 6 months and gives us much needed time to continue to develop the market channels that we need to develop (Brian is in Europe and he continues to believe that we have a product that customers want - we just need to partner better with the appropriate partners).

This plan is still shaping up but it appears to push off the need for any additioanal capital until March (they cautioned this could be Feb or April as this firms up) and that the additional capital for this plan would be approximately $100 to $125 million. This capital would enable us to reach cash flow break even and the 2013 ebitda run rate would be in the range of $200 million. I should have much better numbers later today but I wanted to give you the headline numbers we were looking at last night. We have significant asks of the DOE (continue to fund under the current funding schedule, push off payment for another year (May 2013 instead of May 2012, pay for any additional credit subsidy, change amortization from 5 years to 7 years, do not hold $30 million in completion reserves). In exchange, Solyndra will contribute Fab 1 equipment to Fab 2, provide a full corporate guaranty and give the DOE a security in the intellectual property as well.

Jonathan is spending the week in Fremont assisting the finanacial team in all modelling - this gives us complete access to all of the assumptions that are being made as we underwrite the vaibiity of any new plans. I will attend all negotiations and meetings with the DOE and any other government agencies. We are trying to schedule a meeitng with the DOE next Thursday. In addition, the consensus is that a meeting with the new White House Chief of Staff is the best avenue to approach the administration for support on the DOE front and for assistance in securing any type of procurement committments form the government or the military. Both [redacted] and [redacted] mentioned that you and or Ken Levit may have a fairly good relationship there. Are you open to helping Solyndra secure a meeting - the desired date would be next Friday if at all possible but I will firm that up as we hear from the DOE.

We have a board meeting today and another run through the various scenarios as the numbers are firmed up. I will provide another update and we should probably sit down for an hour later this week if you can. If not, I will give you all the details you need via emails.

Steve

From: Steve Mitchell
Sent: Mon 10/4/2010 10:05 PM
To: George Kaiser
Cc: [redacted]
Subject: RE: Solyndra Update

George,

Jamie McJunkin from Madrone and I had our call with management today to go over plans that would be an alternative option for the company in the event Goldman Sachs is not successful in securing an outside investment [redacted] participated as well). These plans are very much a work in process and we are still largely eliminating various options that would not work. In every case Solyndra needs a plan that will garner the support of the DOE as any diversion from the current business plan would be in violation of the debt covenants.

The leading option appears to a plan in which Solyndra uses the Fab 1 equipment to finish the final two lines of Fab 2 (the first line of Fab 2 is complete). The company would then ramp up Fab 2 over 2011 with production heavily weighted to the 2nd half of 2011. This gives them time to develop the appropriate sales and marketing channels to justify the ramped production and greatly reduces the overhead required to operate two facilities. This also gives the DOE the same security they would have if we completed Fab 2 with new equipment, however, under a slower ramp - in exchange we would be requesting a deferred and longer amortization schedule and that they continue to fund under the current funding schedule. The downside is that on a fully ramped basis the company has app. [redacted] less of production capacity - but a much more efficient overhead structure as Fab 1 is too small to reach the appropriate efficiencies. We don't know the capital need that this plan requires, nor do we have a clear picture of the financial projections of such a plan.

We have another call at 4pm tomorrow and I will update you again as this starts to shape up but I don't see a reason to meet until we have something more definitive to discuss.

Steve

From: George Kaiser
Sent: Mon 10/4/2010 7:05 AM
To: Steve Mitchell
Cc: [redacted]
Subject: RE: Solyndra Update

Let's set up a meeting after the board meeting unless you feel it should be between the call and the board meeting.

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:27 PM
To: George Kaiser
Cc: [redacted] Steve Mitchell
Subject: Fw: Solyndra Update

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Subject: Solyndra Update

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This is obviously still very half baked but we are trying to act with a sense of urgency and I want to be as transparent to you as possible and get your feedback, thoughts and direction as well. I will update you after tomorrow's call and we have a full board meeting on Wednesday (phone) to hopefully set a back up course if Goldman fails.

Two things to note, the DOD has the capacity to easily sign a 300MW three year purchase order for our panels – this would have to be through a "carve out" that occurs outside of the traditional RFP process through GSA. This would be incredibly difficult to pull off but we are preparing the proposal (no special pricing high or low, just market pricing and the DOD is expected to buy more solar panels than this over the next 3 years – that is not confirmed). Second, we are going to have to update the DOE within the next 10 days as this plan is materially different than our loan agreement contemplates and we require a variance. If DOE decides to withhold funding on the Fab 2 loan this would bring all of this too a head much sooner as the DOE draws cover a good portion of our overhead as well.

Steve

Footnote 389, 390

From: Steve Mitchell [redacted]
Sent: Wednesday, October 06, 2010 7:36 PM
To: George Kaiser; Ken Levit
Cc: [redacted]
Subject: FW: Solyndra Update

Here are the groups we are using. This gives a little color around lobbyists and the Recovery Act as well.

From: [redacted]
Sent: Wednesday, October 06, 2010 2:26 PM
To: Steve Mitchell; [redacted]; Bill Stover
Subject: RE: Solyndra Update

Steve McBee's firm are our high-level political/policy consultants. McAllister and Quinn is another firm that serves as our workhorses for the many meetings required with the Defense Department, GSA, individual military bases and Congress to get from few/no government sales to the magnitude of sales we're after. Both of them have access into the WH and DOE, McBee has more.

Due to the very sensitive nature of the items I believe we intend to discuss, I'm hesitant to inform any of our outside consultants of our facts to the extent necessary for them to really help. The de facto ban via full public disclosure of topics and documents related to Recovery Act programs discussed with lobbyists is an obstacle to any registered lobbyist's formal involvement in meetings, but it is secondary to the concern of opening the vault of information. Everyone in Washington will be trying to access Pete Rouse for the next few weeks and if Mr. Kaiser has a long personal relationship with him he'll get to the head of the line and we would not need to grapple with the issues above. If that's not feasible or we are willing to bring the McBee folks fully in the loop then we could use their services for the task, though I have serious concerns with sharing such info with McBee's firm.

I hope this is helpful, and I'm glad to answer questions.

From: Steve Mitchell [redacted]
Sent: Wednesday, October 06, 2010 2:55 PM
To: [redacted]; Bill Stover; [redacted]
Subject: RE: Solyndra Update

Thanks. Are we following up with the guy from the White House who called Gronet after Obama visited the factory in May?

From: [redacted]
Sent: Wednesday, October 06, 2010 1:47 PM
To: Steve Mitchell; Bill Stover; [redacted]
Subject: Re: Solyndra Update

[redacted]

Please lay out for Steve our washington consultants and the extent and strength of their contacts at the high levels of the Administration.

Steve,

I am sure that they are not as strong as George's. I also believe that George (and/or you as his proxy) should be part of the Solyndra team at such a meeting. An owner presence I believe is key to understanding the problems, to appreciating the actions we are taking to insure the success of the company and to receiving a positive response.

We should plan to circle up after Joe provides the back up for you.

[redacted]

Footnote 391

From: Steve Mitchell [redacted]
Sent: Wednesday, October 06, 2010 6:54 PM
To: Ken Levit
Subject: let's discuss

Ken, I get that this seems economic and for profit on many levels (because it is) but GKFF does have as part of its policy mission a focus on alternative energy. Solyndra is an instance where we put our money where our mouth is, investing $400MM in the leading solar company in the US. This represents a shining example of a public-private partnership to jumpstart an entirely new industry that America can lead. Unfortunately, the Chinese took unfair, anticompetitive measures to sink Solyndra and the rest of the industry. All we are asking is that the WH helps us soften some of the terms of the DOE financing we received and work with us to give Solyndra the runway needed to take off (i.e. help us get some orders with DOD and others – which Obama offered to do in May). If they don't, it will be a tragic failure of not just one high-potential company, but of an Obama effort to nurture an industry of the future. AND GKFF will have $400m less to pursue other charitable initiatives and the kind of high-risk investments this country needs for new job creation.

Does it sound like I'm pleading, because I am!

Footnote 392, 393, 394

From: George Kaiser [redacted]
Sent: Friday, October 08, 2010 12:58 PM
To: Steve Mitchell; Ken Levit
Cc: [redacted]
Subject: RE: Solyndra Update

As we discussed briefly, I think the same political calculus holds for the DOD. Why don't you pursue your contacts in the WH to follow up on the casual comment during the plant visit and we can possibly reinforce the effort so long as it is in the form of "I thought you should know, in case it comes up" rather than "can you help with this."

Keep us up to speed.

From: Steve Mitchell
Sent: Wednesday, October 06, 2010 3:07 PM
To: George Kaiser; [redacted]
Cc: [redacted]
Subject: RE: Solyndra Update

Understood. The WH meeting is more about assistance in selling panels to the government than it is about getting the DOE loan revised. The WH has offered to help in the past and we do have a contact within the WH that we are working with. I think the company is hoping that we have some unnatural relationship that can open bigger doors – I've cautioned them that no one really has those relationships anymore.

From: George Kaiser
Sent: Wednesday, October 06, 2010 3:04 PM
To: Steve Mitchell; 'ken[redacted]
Cc: [redacted]
Subject: RE: Solyndra Update

I question the assumption that WH is the path to pursue when both of your issues are with DOE. I doubt whether Rouse/Browner would intervene and, if they did, I am concerned that DOE/Chu would resent the intervention and your problem could get more difficult. I would see an appeal as only a last resort and, even then, questionable. We need to discuss.

From: Steve Mitchell
Sent: Wednesday, October 06, 2010 1:15 PM
To: 'ken[redacted]; George Kaiser
Cc: [redacted]
Subject: Re: Solyndra Update

Ken,

I will get you the lobbyist information. I know nothing about Washington politics but the WH probably gets hundreds if not thousands of requests a week. I think they were just hoping that George may have a more direct pathway for getting a meeting set up. I've warned them that we probably don't and that all of our Washington efforts have always been around philanthropy but that I would ask.

From: Ken Levit [redacted]
Sent: Wednesday, October 06, 2010 12:27 PM
To: Steve Mitchell; George Kaiser
Cc: [redacted]
Subject: Re: Solyndra Update

Sorry to jump in... But what's the story w Solyndra lobbyists? Who are they again? Can they not get a DoE meeting or reach out to WH? I'd rather consult with them for them to do this than have this come from us. It's really quite hard to engineer an ask like that to WH Chief of Staff from GKFF or GBK. Our relationship is based on completely different issues. George may feel differently but I think it's real tricky.

From: Steve Mitchell [redacted]
To: Steve Mitchell [redacted]; George Kaiser [redacted]
Cc: [redacted]; Ken Levit
Sent: Wed Oct 06 12:17:34 2010
Subject: RE: Solyndra Update

George,

We had another call last night and we continue to eliminate Plan B options that we don't beleive the DOE will support (we need the DOE to continue funding draws on the loan or Solyndra's issues are accelerated). To be clear, Goldman is still marching forward and following today's board call they will start approaching financials and strategics this week. [redacted] is apparently teed up to call [redacted] this week or next [redacted] However, the company and shareholders feel it is necessary to have a plan B mapped out if we cannot find an outside investor to provide capital for the fully funded plan. In addition, in light of the circumstances and the revised business plan that was adopted last week, we are obligated (and should anyway) to communicate the revised circumstances with the DOE.

The most viable Plan B option is shaping up to be a plan in which Solydnra shuts down Fab 1 and uses the Fab 1 equipment to finish lines 2 & 3 of Fab 2. Line 1 is complete and the company will conserve capital by not paying for the additional equipment. DOE ends up with a finished Fab 2 for the same capital. This pushes Solyndra's ramp out for about 6 months and gives us much needed time to continue to develop the market channels that we need to develop (Brian is in Europe and he continues to believe that we have a product that customers want - we just need to partner better with the appropriate partners).

This plan is still shaping up but it appears to push off the need for any additioanal capital until March (they cautioned this could be Feb or April as this firms up) and that the additional capital for this plan would be approximately $100 to $125 million. This capital would enable us to reach cash flow break even and the 2013 ebitda run rate would be in the range of $200 million. I should have much better numbers later today but I wanted to give you the headline numbers we were looking at last night. We have significant asks of the DOE (continue to fund under the current funding schedule, push off payment for another year (May 2013 instead of May 2012, pay for any additional credit subsidy, change amortization from 5 years to 7 years, do not hold $30 million in completion reserves). In exchange, Solyndra will contribute Fab 1 equipment to Fab 2, provide a full corporate guaranty and give the DOE a security in the intellectual property as well.

Jonathan is spending the week in Fremont assisting the finanacial team in all modelling - this gives us complete access to all of the assumptions that are being made as we underwrite the vaibiity of any new plans. I will attend all negotiations and meetings with the DOE and any other government agencies. We are trying to schedule a meeitng with the DOE next Thursday. In addition, the consensus is that a meeting with the new White House Chief of Staff is the best avenue to approach the administration for support on the DOE front and for assistance in securing any type of procurement committments form the government or the military. Both [redacted] and [redacted] mentioned that you and or Ken Levit may have a fairly good relationship there. Are you open to helping Solyndra secure a meeting - the desired date would be next Friday if at all possible but I will firm that up as we hear from the DOE.

We have a board meeting today and another run through the various scenarios as the numbers are firmed up. I will provide another update and we should probably sit down for an hour later this week if you can. If not, I will give you all the details you need via emails.

Steve

From: Steve Mitchell
Sent: Mon 10/4/2010 10:05 PM
To: George Kaiser
Cc: [redacted]; ken[redacted]
Subject: RE: Solyndra Update

George,

Jamie McJunkin from Madrone and I had our call with management today to go over plans that would be an alternative option for the company in the event Goldman Sachs is not successful in securing an outside investment [redacted] participated as well). These plans are very much a work in process and we are still largely eliminating various options that would not work. In every case Solyndra needs a plan that will garner the support of the DOE as any diversion from the current business plan would be in violation of the debt covenants.

The leading option appears to a plan in which Solyndra uses the Fab 1 equipment to finish the final two lines of Fab 2 (the first line of Fab 2 is complete). The company would then ramp up Fab 2 over 2011 with production heavily weighted to the 2nd half of 2011. This gives them time to develop the appropriate sales and marketing channels to justify the ramped production and greatly reduces the overhead required to operate two facilities. This also gives the DOE the same security they would have if we completed Fab 2 with new equipment, however, under a slower ramp - in exchange we would be requesting a deferred and longer amortization schedule and that they continue to fund under the current funding schedule. The downside is that on a fully ramped basis the company has app. 80 to 100MW less of production capacity - but a much more efficient overhead structure as Fab 1 is too small to reach the appropriate efficiencies. We don't know the capital need that this plan requires, nor do we have a clear picture of the financial projections of such a plan.

We have another call at 4pm tomorrow and I will update you again as this starts to shape up but I don't see a reason to meet until we have something more definitive to discuss.

Steve

From: George Kaiser
Sent: Mon 10/4/2010 7:05 AM
To: Steve Mitchell
Cc: [redacted] ken[redacted]
Subject: RE: Solyndra Update

Let's set up a meeting after the board meeting unless you feel it should be between the call and the board meeting.

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:27 PM
To: George Kaiser
Cc: [redacted]; Steve Mitchell
Subject: Fw: Solyndra Update

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:24 PM
To: Steve Mitchell
Subject: Solyndra Update

George,

I spent a day with management and Goldman Sachs last week to discuss Solyndra, get a better understanding of the state of the business right now, hear Brian Harrison's down load after almost 2 months on the job and I then attended the full board meeting the following day. Unfortunately the update was not encouraging. As you know, the current shareholders bridged the company with $175 million early this summer with an understanding that Solyndra needed an additional $175 to $225 million to reach cash flow break even and that this money would need to be raised by the end of the year. This was based on a base case revised business plan that the company (along with the investors) set out in early spring when we were reacting to the dramatic decline in ASP as China started to dominate the solar market. Last week we were presented an updated business plan that still shows the company running out of money by the end of the year; however, it requires an additional $300 million for Solyndra to reach cash flow breakeven.

This is driven by several issues, including the company's failure to meet the spring projections in each of the last two quarters, but the primary driver is a revised working capital assumption. The other plan adjustments are ASP reduction of 5%, slower Fab 2 ramp, bill of materials and R&D reduced and sales and marketing increased. Brian has imposed several cost cutting measures that early indications had Solyndra stretching its cash into February, however, the reality of our unsold inventory this quarter [redacted] and our AR collection period has pulled the cash need back to the end of the year. The new plan leaves all other production parameters the same and Brian is quick to point out that he is still getting his head around these assumptions and cannot with certainty underwrite these.

Brian has visited all of our major US customers and has reached the same conclusion that I reached last spring which is that our customers who understand Solyndra's product and the rooftop market love the product – typically they lead with a Solyndra only solution. However, we have done such a poor job developing our markets and we don't have channels robust enough to absorb all of our current production (much less all of the Fab 2 output which is the basis for slowing down Fab 2's ramp).

Instead of appropriately developing the sales channels for our specific markets (low load, low slope highly engineered rooftops – which is a very big market and no one else can be on these rooftops), Gronet and his team relied heavily on the European distributors to absorb our panels – and we were deeply discounting the panels at the end of each quarter to sell out. The distributors are the worst customer for Solyndra as they take our panels in inventory and do not develop the appropriate end users (this was driving some of the customer satisfaction issues earlier in the year). This channel stuffing started in 2010 as we were responding (poorly) to the Chinese pricing (China went from 10% to 50% of the worldwide solar market in an 18 month period). This quarter management realized that our distributor partners had [redacted] of unsold inventory in the channel and they made the decision to start letting this inventory sell through – [redacted]

Goldman does not believe that a financial investor with make an investment in Solyndra without seeing two good quarters of performance – pricing strength was a nice surprise but missing both sales and production targets is a bad fact pattern. Q4 and Q1 are the seasonal low period for solar installations as snow and weather prevent projects from being installed in some of the biggest solar markets in the world (Germany, New Jersey, Canada, and Belgium). We are gaining traction in southern Europe, however, the sales cycle in Italy, Greece, Spain and France is 9 to 18 months versus 3 to 6 months in the more mature solar markets. Accordingly, a financial investor will be very hard to attract in Q4.

Bridging the company through Q1 or Q2 is a dangerous prospect as well as it takes $100 million to get the company through Q1 and over $150 million (in total) to get through the first 6 months of 2011 and the company will likely have a tough Q1. Goldman is going to go out to the bigger financial investors who can write a significant check and the current investors (primarily Argonaut and Madrone) have indicated that we would most likely participate in a fully funded plan (so Goldman is looking for an investor to write a $150 to $200 million check). The revised plan requires $200 million to reach ebitda positive (but peak cash need is $300 million).

Goldman is more hopeful that a strategic or large industrial will be interested in making an investment. They are adamant that any of these groups would want this to be a control transaction (i.e. either buy out the current investors – which would not get everyone whole; or invest directly in the company for at least 51%). Goldman has about 20 industrial strategics and 6 solar strategics they are going out to. They consider [redacted] as the most likely investor, however, there have been several investments made by strategics in struggling clean energy companies and they have been surprised by the ultimate investor each time [redacted]

Obviously this is very disappointing news and not what I want to be reporting back to you – for that I am sorry. It is incredibly frustrating as Solyndra does have a differentiated product and our customers that understand its differentiation are big fans. As mentioned above, the company failed to develop the appropriate market channels in 2009 and the "going concern" statement that was issued by E&Y in connection with the S-1 clearly spooked the market and got the rumors going. We fought the S-1 filing but ultimately caved as we were the only hold out against going public – what happened with the Chinese manufacturers would have occurred anyway – but we did ourselves no favors by putting out very confusing cost information with no ability to refute the bloggers.

We are not just sitting back and hoping that Goldman can pull a rabbit out of the hat. Management has been working on several different scenarios over the weekend and we have a call at 2pm tomorrow to discuss these and start to formulate a strategy. The leading thought is too dramatically slow down Fab 2, essentially finish it and put it on ice for a year, skinny down our funding requirement (I don't know those figures yet) and spend 2011 further developing our market channels and bring Fab 2 online one year late. This requires a concession from the DOE – which they should do as it protects jobs and is a far better solution than handing them the keys in January. However, it is the federal government and this could become politically charged very quickly. We are also planning to ask the DOD to execute a purchase order to buy our panels – DOD has 3X the rooftops of Wal-mart and is the biggest consumer of electricity in the US (and wants to buy solar panels). We are still exploring the right way to approach this without getting bogged down in all of the government pitfalls (the US needs a Premier for just one day). The current thinking is that the White House chief of staff is the right person to approach – obviously big changes in that role and they have asked who has strong connections there.

This is obviously still very half baked but we are trying to act with a sense of urgency and I want to be as transparent to you as possible and get your feedback, thoughts and direction as well. I will update you after tomorrow's call and we have a full board meeting on Wednesday (phone) to hopefully set a back up course if Goldman fails.

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Steve

Footnote 395

From: Steve Mitchell [redacted]
Sent: Thursday, October 07, 2010 1:34 AM
To: George Kaiser; Ken Levit
Cc: [redacted]
Subject: FW: Solyndra Update

Here are the groups we are using. This gives a little color around lobbyists and the Recovery Act as well.

From: [redacted]
Sent: Wednesday, October 06, 2010 2:26 PM
To: Steve Mitchell; [redacted]; Bill Stover
Subject: RE: Solyndra Update

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I hope this is helpful, and I'm glad to answer questions.

From: Steve Mitchell [redacted]
Sent: Wednesday, October 06, 2010 2:55 PM
To: [redacted]; Bill Stover; [redacted]
Subject: RE: Solyndra Update

Thanks. Are we following up with the guy from the White House who called Gronet after Obama visited the factory in May?

From: [redacted]
Sent: Wednesday, October 06, 2010 1:47 PM
To: Steve Mitchell; Bill Stover; [redacted]
Subject: Re: Solyndra Update

[redacted]

Please lay out for Steve our washington consultants and the extent and strength of their contacts at the high levels of the Administration.

Steve,

I am sure that they are not as strong as George's. I also believe that George (and/or you as his proxy) should be part of the Solyndra team at such a meeting. An owner presence I believe is key to understanding the problems, to appreciating the actions we are taking to insure the success of the company and to receiving a positive response.

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[redacted]

Footnote 397

BEGDOC = AVI-HCEC-0017803
ENDDOC = AVI-HCEC-0017803
BEGATTACH = AVI-HCEC-0017803
ENGATTACH = AVI-HCEC-0017803
OCR1 : From-
Sent:
To:
Subject:

[redacted]
Thursday, October 21, 2010 10:32 AM
[redacted] George [redacted] Ken Levit
Re: A couple of topics?

It really looks like a good list. Highlights early ed and energy, probably your two distinguishing areas of expertise of
interest to him.

With NEPI, I like the shout-out to Brad (and probably Knowles) as Barack likes Brad quite a bit. Should I ask Brad to put
together his paper (s)?

Subject to Joel's advice, it seems like an aside to Messina that sounds like "Jim, is there an effective, appropriate channel
to make the case to DoD for Solyndra product given the fact that the USG has an important stake in the company? No
desire to jump in front of process but seems like Administration has a legitimate interest in making sure the Solyndra
product has every opportunity to compete in the DoD process. Is there a person an appropriate person either at WH or
DoD who looks at these kinds of things? If so, how best to secure a conversation?"

..... Original Message .....
From: George Kaiser [redacted]
To: [redacted] Ken Levit [redacted]
Sent: Thu, Oct 2t, 2010 3:12 am
Subject: A couple of topics?

Tulsa Educate:

Many articles (bring copies) showing how green energy manufacturing from American designs is going overseas to China. A solar company we own can get orders from Spain and Belgium and Hungary but not from the DOD. What plans do you have to encourage green job companies with strong local manufacturing content in the US? What about the 30% credit applying to manufacture as well as installation here?

NEPI- Enhanced portfolio standard - bring Brad treatise and copy of report

I support tax on rich people- The Giving Pledge =

AVI-HCEC-0017803

<<< (Unspecified) / 1 >>>

Footnote 398

From: Ken Levit
Sent: Saturday, October 23, 2010 4:41 PM
To: 'George Kaiser'
Subject: RE: BHO

Read the report at 3 AM, won't admit refreshing my bberry every 10 minutes for most of the night.

Look forward to the download, to include details on [redacted] Messina, etc. Really glad it worked out as it did. I don't see how there could have been a better opportunity to get a forum like that with him. Incredible.

[redacted] etc, will be desperate to get your sense on [redacted] Obviously, we should ponder what the implications are on energy for Solyndra, NEPI, etc, perhaps with [redacted] Steve and even Tony.

-----Original Message-----
From: George Kaiser [redacted]
Sent: Saturday, October 23, 2010 12:28 AM
To: Ken Levit
Subject: BHO

[redacted]

Got a fair amount of points made and especially the connection. He volunteered before I said anything that we were the national model for ECE. I asked about [redacted] and he said what we wanted to hear. I talked in general about the Chinese and solar but didn't want to get too specific with him. Talked to Messina about government agencies bypassing the Buy American Act and he said they were drafting a directive. I never mentioned Solyndra directly. [redacted]

[redacted]

More when I get back.

Footnote 399, 400

From: George Kaiser
Sent: Friday, October 29, 2010 11:14 PM
To: Steve Mitchell
Subject: RE: RE: Information re Chinese competition for Solyndra

I gained more access than I expected. The President stayed for almost two hours and they seated me next to him at the table with a total of about 18 people. We spoke about numerous subjects (he started by saying we were the national model for early childhood education) including conventional and alternative energy. I did not name Solyndra specifically and don't know how good his staff work was but I did talk to him about the Chinese subsidy over the past nine months and the effect it was having on US solar and wind manufacturers and that - even though I strongly believe in free trade - I thought that a more aggressive trade policy with the Chinese was essential. I suggested that focusing on currency was not enough or even more effective than addressing direct subsidies outright. I then indicated that, without this kind of approach, we could have structural unemployment that would make "7% the new 4%" for unemployment because of the portion of our manufacturing base that has been outsourced to China during the past 15 years. He said that structural unemployment was one of the two things that keep him up at night (the other is nuclear proliferation). He said that these issues would be addressed aggressively at the G-20.

I also spoke with Jim Messina (deputy chief of staff to both Rahm Emanuel and Pete Rouse) who was chief of staff for the 2008 campaign and will soon resign to run the next campaign. I said that I understood that the Buy American Act was being bypassed by "agencies of government" (I didn't say specifically DOD) either by buying from "American" companies which sourced their supplies from abroad or by entering into power purchase agreements with third parties who in turn sourced their equipment from non-American suppliers. He seemed quite aware of that problem and said they were preparing a directive to deal with it. I can follow up with him on that subject during a trip to DC early next year if he is still in the White House (or with Pete Rouse).

I think Ken's idea for a DOD consultant sounds like a good one.

From: Steve Mitchell
Sent: Friday, October 29, 2010 3:44 PM
To: George Kaiser
Subject: RE: Information re Chinese competition for Solyndra

George,

How was last Friday night? Were you able to discuss solar, China or Solyndra?

Steve

From: George Kaiser
Sent: Saturday, October 16, 2010 8:57 AM
To: Steve Mitchell; [redacted]
Subject: Information re Chinese competition for Solyndra

I will be having dinner Friday night with Majority Leader Harry Reid and President Obama and a few others. Please give me some sound bytes I can use regarding unfair Chinese competition (and even the DOD opportunities). Here is a NYT article from today:

October 15, 2010

U.S. to Investigate China's Clean Energy Aid

By SEWELL CHAN and KEITH BRADSHER

The economic tension between the United States and China escalated on Friday, as the Obama administration pledged to investigate Beijing's subsidies to its growing clean energy industries while delaying a politically volatile report on the Chinese currency.

The approach — part carrot, part stick — reflected the delicate balance the administration is trying to strike in a campaign year by taking a newly assertive posture over China's trade and commercial policies, while pursuing delicate negotiations as an alternative to confrontation.

Hours after the Office of the United States Trade Representative announced an investigation into China's support for makers of wind and solar energy products, advanced batteries and energy-efficient vehicles, the Treasury Department said it would delay its semiannual report on foreign-exchange rates, which was due Friday, and could be critical of Beijing's efforts to keep its currency artificially low.

The Treasury delayed the last such report, due April 15, until July 8.

The United States last branded China a currency manipulator, a designation that could lead to retaliatory tariffs, in 1994. Successive administrations have since declined to do so, arguing that it would be counterproductive. But as China has been blamed for a loss of American jobs, members of Congress, and now administration officials, have become increasingly critical of Beijing's reluctance to permit greater exchange-rate flexibility. In June, Beijing agreed to do so, but then balked.

Still, since early September, the renminbi has risen by about 2.5 percent relative to the dollar, and a Treasury statement on Friday "recognized China's actions since early September to accelerate the pace of currency appreciation, while noting it is important to sustain this course."

The Treasury secretary, Timothy F. Geithner, has become more pointed in his criticisms of China, warning recently that China had set off a "damaging cycle" of "competitive nonappreciation" in which countries aimed to block their currencies from rising in value to support their exporters.

In its statement Friday, the Treasury said that by stimulating Chinese consumer spending and allowing the renminbi to rise in value, "China will make a significant positive contribution to the global rebalancing effort, help reduce pressure on those emerging market economies that have more flexible exchange rates, and provide a more level playing field for trading partners around the world."

On the trade subsidy challenge, the United States trade representative, Ron Kirk, said his office would investigate a complaint filed by the United Steelworkers, one of the nation's largest unions, on Sept. 9. The complaint asserted that China had violated its obligations under the World Trade Organization.

"This is a vitally important sector for the United States," Mr. Kirk said. "Green technology will be an engine for the jobs of the future, and this administration is committed to ensuring a level playing field for American workers, businesses and green technology entrepreneurs."

A spokesman for the Chinese embassy in Washington, Wang Baodong, called the steelworkers' allegations "unwarranted and of a protectionist nature, and it's not a right step by the U.S. side to decide to probe it." He said China's green technology industries conformed to W.T.O. rules and were a big contribution to sustained global development.

The A.F.L.-C.I.O, the United Steelworkers and the American Iron and Steel Institute, a trade group, all issued statements in support of the action.

The steelworkers union said that "President Obama showed again today that fighting for U.S. workers and their jobs is his top priority."

But the announcement drew a skeptical welcome from one prominent Democrat: Senator Charles E. Schumer of New York, an advocate of legislation that would threaten China with retaliation if it does not allow its currency to appreciate more quickly.

"The Obama administration is treating the symptom, but not the disease," said Mr. Schumer. "An investigation into China's illegal subsidies for its clean energy industry is overdue, but it's no substitute for dealing with China's currency manipulation."

The House of Representatives voted overwhelmingly last month to threaten China with tariffs on a broad range of Chinese exports to the United States.

The administration's decision represents a shift toward a more confrontational policy toward China, but may not produce quick changes in Chinese policies.

The administration said that it would investigate the steelworkers union's petition for 90 days, after which it might seek bilateral consultations with China that could lead to the filing of a W.T.O. case against China. If the United States files a case, a W.T.O. panel would typically not issue a preliminary decision for more than a year. If the decision goes against China, the Chinese government could then delay any implementation of sanctions for another couple of years through appeals.

W.T.O. dispute resolution panels do not have the authority to issue injunctions while they consider a case. So the current policies could stay in place through the entire W.T.O. dispute process, which can take several years.

Charlene Barshefsky, who was the trade representative under President Bill Clinton, said in an interview last month at a conference in Chengdu, China, that the Chinese government might have misunderstood the politics of clean energy exports.

"China is under the illusion that because they are the leaders in alternative energy, whether it's batteries or wind, they will necessarily be welcome in the U.S. market because of climate change concerns," she said.

Ms. Barshefsky said by e-mail on Friday that she was not surprised that Mr. Kirk had opened an investigation, but she cautioned that the possible filing of a W.T.O. case would depend on the strength of the union's complaint.

Chinese officials have maintained that their country follows W.T.O. rules. A common tactic in W.T.O. disputes is for a country being accused of trade violations to file counterclaims.

The difficulty for China in making a counterclaim is that the United States exports relatively little in clean energy products, particularly to China. So American programs to help clean energy industries are likely to count as domestic subsidies, in contrast to the export subsidies that China is alleged to have given.

Domestic subsidies are subject to less stringent W.T.O. rules than export subsidies, according to Carolyn B. Gleason, a lawyer in Washington who has specializes in W.T.O. cases.

The lead example of unfair Chinese trade practices in the United Steelworkers' petition involved China's restrictions on the export of rare earth minerals and two other obscure minerals, tungsten and antimony. China dominates the worldwide mining of all three.

Sewell Chan reported from Washington and Keith Bradsher from Hong Kong.

Footnote 405

From: Steve Mitchell [redacted]
Sent: Monday, November 08, 2010 3:58 PM
To: Ken Levit
Subject: Fw: Government Affairs Discussion
Attachments: Solyndra Government Affairs November 8

I have not read.

From: [redacted]
Sent: Monday, November 08, 2010 09:52 AM
To: Brian Harrison [redacted]; Steve Mitchell
Cc: [redacted]
Subject: Government Affairs Discussion

Brian and Steve,

In connection with our proposed discussion later today, please find attached a short summary of our major objectives/strategy on Fed Gov't Affairs. I will also forward to you the pitch that is being given to the head of the GSA for a visit to Solyndra in January.

I will wait to hear re a time for our call.

Best,

[redacted]

Solyndra Federal Government Affairs

November 8, 2010

New Solyndra Business Plan

The Solyndra announcement received a modest amount of press and blog coverage, but there have been no public statements from any Members of Congress. Members of Congress will return to Washington on November 15 to seat members who won special elections and begin negotiations on remaining must-pass items. The new Congress will be sworn in the first week of January, committees will be organized thereafter, and formal hearings are unlikely to begin before late January.

Solyndra government affairs staff has discussed the new business plan with our direct Congressional representatives – Rep. Stark and Sens. Feinstein and Boxer – as well as select allies such as Rep. Eshoo and staff to Chairman Bingaman of the Senate Energy Committee, who is the primary Congressional proponent of the loan guarantee program. With staff returning from elections/vacation this week, we will continue outreach to all major stakeholders – both parties' House and Senate leadership, bipartisan energy committee staff, all other offices with whom Solyndra has established a relationship, and any other members that raise a concern. We will continue to monitor reaction in Congress and with the Administration.

It is very unlikely that the House or Senate energy committees conduct any hearings before January, neither committee under Democratic control have an interest in doing so. The House and Senate energy committees will begin budget and oversight hearings in February – more than 2 months from now. Any Congressional critics that emerge have no good venue to make this an issue before it is 2 month old news. We are laying off roughly 2 to 4 percent of regular full time employees; critics of the loan program may point that out in future oversight hearings, so long as no new business crisis emerges that may be the worst of it on the Hill. Fear of investigations and subpoenas is premature, if not overblown.

Lame Duck

Congress will have a very focused agenda for the remainder of 2010: a budget continuing resolution or longer term agreement, business and individual tax extenders, and possibly the yearly defense policy bill. The President is pushing for Senate ratification of the START arms reduction treaty. No other significant legislation is expected to be considered. Solyndra will continue to quietly advocate for an extension of the ITC grant program, a manufacturing tax credit, and a stronger Buy American Act in Defense Department procurements. We have been working each of these issues for months and have strong allies and relationships; the consolidation news will not significantly affect our ability to lead these efforts. However, we do have a somewhat damaged brand; we must be cautious becoming involved in non-essential policy efforts and keep a low public visibility.

Procurement

Federal government procurement policy is established in Washington, but procurement project decisions are decentralized: Individual military bases decide for themselves whether to deploy solar, and GSA projects are administered regionally. Solyndra government affairs staff are pursuing white roof and rooftop solar policy mandates with DoD and GSA Washington staff, as well as in Congress. Government affairs is identifying military personnel with energy authority for individual military bases, especially in California, and arranging meetings with Solyndra government sales. Solyndra will soon install a GSA test system and we are pursuing a test opportunity on DOE headquarters. We have built a strong working relationship with GSA and are working to reschedule a site visit by the GSA Administrator in January, this may also include a 4 hour "working session" with the Administrator, Solyndra and key industry stakeholders (See attached outline). Solyndra government sales are addressing GSA Pacific Rim regional program managers in San Francisco today. Solyndra will be listed on the GSA schedule by December 1.

Most procurement opportunities come as bids on a solar subcontract from an energy service company, which has won the general bid from the public sector. Government affairs staff has introduced the company and technology to peers in the major ESCO's, and are building relationships for Solyndra sales with ESCO program managers. Government affairs and sales are jointly pursuing Solyndra qualification for a master contracting vehicle with the Navy for the Southwest region, and working to replicate it for the Southeast region.

Next Congress

The biggest policy priorities for Solyndra are the grant program extension and possible creation of a refundable tax credit for solar manufacturing equipment. If those objectives are not achieved in the lame duck session, they likely would not be addressed for months in the new Congress, until a larger energy bill is developed. Republican control of the House and slim margins in the Senate make an all-of-the-above approach to energy the most politically viable path to any energy bill. During the House climate debate, Republicans discussed possible support for an RPS-like "clean energy standard", which would include nuclear and possibly clean coal. A broad energy bill will seek to expand production and create jobs; solar can achieve significant results in such a bill – as will all competing forms of energy generation.

Summary Outline.....

Solyndra is pursuing the following objectives:

Short-term – lame duck Congress before January

1) Grant program extension: Extend the ITC grant program for at least 1 additional year in conjunction with SEIA (the national solar association) and the entire solar industry, working with consultants Washington Tax Group and McBee Strategic Associates.
2) Manufacturing tax credit: Create a short-term refundable tax credit for solar manufacturing equipment by leading a coalition of other US solar manufacturers (Uni-Solar, Schott), working with consultants Washington Tax Group and McBee.
3) Buy American expansion: Ensure that House-passed language applying the Buy American Act to PPA's with military facilities appears in final defense authorization bill by leading current coalition of US manufacturers, working with consultants McBee and McAllister & Quinn.
4) Consolidation: Discuss consolidation plan with all relevant Congressional stakeholders working with all Solyndra consultants to ensure information is presented accurately and all concerns are addressed.
5) Procurement: Continue relationship-building with GSA, Veterans Affairs, DoD, and individual facilities to establish cool roof and rooftop solar mandates within GSA, VA and DoD, and develop individual sales opportunities from GSA, VA and DoD procurements. McBee and McAllister.

Mid-Term (2011)

1) New Solyndra Business Plan: Continue vigilance to maintain strong relationships with key stakeholders and identify any members that harbor concerns or aspirations to politicize Solyndra consolidation and loan guarantee amendments. McBee and McAllister.
2) Procurement – with McBee, McAllister & Quinn
   a. Expand and replicate cool roof and rooftop solar mandates for military and civilian government facilities
   b. Increase solar deployment budget allocations
   c. Strengthen Buy American in procurement awards
   d. Develop sales opportunities at individual facilities
3) Energy Legislation – with McBee, Washington Tax Group
   a. Enact meaningful tax incentives, if not completed in lame duck. In a conservative Congress refundable, stimulative credits will face possibly insurmountable ideological opposition.
   b. Ensure preferable treatment for solar (ideally a solar carveout RES, significant preferences for distributed generation) in any RES bill
   c. Increase federal government mandates for renewable/solar energy use
   d. Remove civilian agency preclusion on long-term PPA's
4) China, trade and competitiveness – with McBee, Washington Tax Group

a. The potential benefit of Solyndra publicly joining calls for trade sanctions on China is outweighed by the actual harm it would do to prospective business opportunities there.
b. Solyndra will continue to privately educate policymakers on the significant level of Chinese subsidies to solar manufacturers, and their dramatic effect on US sales competition (e.g. customer financing) and non-US sales (eg. exports).
    i. Competing with China is the solar industry's strongest political argument in a conservative Congress and will support all our policy and procurement objectives.
    ii. Solyndra government affairs has established relationships with the US Steelworkers and Blue-Green Alliance, we are actively collaborating to enact the manufacturing credit and Buy American PPA expansion, and we have discussed with them and we both agree on Solyndra's private role supporting the trade case.
c. Solyndra will work with the US Trade Representative to ensure that USTR possesses a complete analysis of Chinese solar subsidies and their market effects, while privately/politically support its efforts to reduce them via trade negotiations or sanctions.
d. Direct trade action is unlikely to occur before 2012, with another year before it would tangibly affect commercial markets. USTR's has no practical influence on non-trade matters in Congress and elsewhere in the administration. Solyndra will be a private resource and supporter for USTR but take no public action on the trade case.

Footnote 406, 407

From: Steve Mitchell [redacted]
Sent: Wednesday, November 24, 2010 3:02 PM
To: [redacted] George Kaiser
Cc: [redacted] Ken Levit
Subject: Re: Solyndra Update

Frances, who is our day to day below Jonathan Silver, believes she can do everything we have asked of her without Chu's signature. We have yet to directly ask for a haircut on the debt. When I discussed that the concept was coming up with this concept she said it was something she could not do, but she didn't say if Chu or some other organization (congress, etc) would be required for such a change. We have been working with management to draw up strawman structures that may work - we have tried all sorts of variations that didn't discount he debt but bifurcated a portion behind a new investment liquidation preference. Goldman's indication is that would probably not be enough for a new investor and that they would require a haircut on the senior debt.

From: [redacted]
Sent: Wednesday, November 24, 2010 08:51 AM
To: George Kaiser; Steve Mitchell
Cc: [redacted] Ken Levit
Subject: RE: Solyndra Update

And have we gotten any clarity on what the DOE is "allowed" to do without significant additional govt approvals? Last time we talked about this I thought they were not allowed to reduce the debt outstanding or accept equity for debt outstanding without a lot of hoops and hearings?

From: George Kaiser [redacted]
Sent: Wednesday, November 24, 2010 8:45 AM
To: Steve Mitchell
Cc: [redacted]; Ken Levit
Subject: RE: Solyndra Update

What about DOD (and other governmental entity) sales efforts? Do the DOE people focus at all on how a Buy American plan could be a win win win for them and do they have any influence?

From: Steve Mitchell
Sent: Tuesday, November 23, 2010 8:27 PM
To: George Kaiser
Cc: [redacted] 'Ken Levit'
Subject: RE: Solyndra Update

Here is a reply all without the attachment if your email was blocked since the attachment is password protected.

From: Steve Mitchell
Sent: Tuesday, November 23, 2010 8:19 PM
To: George Kaiser
Cc: [redacted]; 'Ken Levit';

Steve Mitchell
Subject: Solyndra Update

George,

I had a good call with Brian Harrison and Bill Stover yesterday and wanted to send an update on the company's current situation.

Sales & Marketing: The company should sell between [redacted] this quarter – [redacted] would be below plan but would occur by choice as Brian has refused to sell into German distribution at low ball prices (if we don't sell it this quarter he believes we can move it next quarter). The dormant inventory in distributors hands has been worked down by Solyndra's sales team – [redacted] The most dramatic change is Brian's growing confidence that we can meet the capacity ramp in 2011. He and [redacted] (our new head of marketing) indicated that the change in market dynamics for our product over the last 3 months has been significant – he attributes this to the integrators understanding our product's application better (and valuing it) and the implementation of forward pricing so the integrator and end user feel they can design in a Solyndra solution to be installed 6 to 9 months out. The communication around shutting Fab 1 and consolidating operations into Fab 2 was apparently handled very well with customers and suppliers and the fall out there has been negligible. I asked Brian the direct question on his belief that the company can drive demand to meet [redacted] and he did not guaranty it but he does believe it is achievable. [redacted]

We have had a few good wins that Brian believes are indicative of our value proposition starting to resonate – under the CA renewable energy standards utilities must develop owned renewable energy production as well as buy power from 3rd party producers (requirements are for 50/50 self-generated to purchased energy production). So-Cal Edison had committed to bring online a 7MW installation to be installed on one of its own distribution centers (ProLogis owns the building – you may recall we have a 16MW installation with them next year). So-Cal Edison was installing crystalline silicon panels until they realized the roof was more load challenged than it had original thought – turns out Solyndra panels are the only panel that can go on this roof. So-Cal Edison called in somewhat of a panic and Brian is 95% certain we will install this project in Q1 at $2.45 per watt. Brian stated that more and more of these types of situations are occurring and that he believes momentum is starting to build.

Wal-Mart asked to come out to Fremont to see our facilities as more integrators were starting to pitch Solyndra products as Wal-Mart has highly engineered rooftops with sky lights. This is years in the making unfortunately, but the meeting went very well and Wal-Mart officials spent about 3.5 hours with Brian. There were some early discussions about Wal-Mart buying from Solyndra directly and then outsourcing the installation.

I realize much of the sales report is anecdotal. The key question that outside investors, the DOE and current investors are asking is can Solyndra develop the channels and create demand to meet the ramp up in capacity that occurs in 2011. I, and others, are talking to the company weekly to try and gauge this and will start speaking with customers again soon – but the inputs are primarily anecdotal sales evidence – the size of transactions, where they are occurring, new customers designing us in (for instance [redacted] was refusing to quote Solyndra panels in September and through Brian and [redacted] efforts they look to be a significant partner going forward) and forward looking orders. Brian assured me that we would not know factually significantly more in November or December than we did in September or October about Solyndra's ability to move 2011 output, but that the company would have a much better "feel" for it. He asserts that moving the capacity will not be without its challenges but that he is feeling much better about our prospects.

[redacted]

[redacted]

Although the consolidation message went well with customers and suppliers, the consolidation is just one more event of volatility that is unnerving Solyndra's employees and attrition is becoming an issue. The company has lost an average of 30 employees each of the last 4 months. Some of these would have been lost to the RIF anyway, however, several of them were employees that are part of the long term success of the technology. Apparently the job market in Silicon Valley is very hot right now and the employees we are losing are the primary bread winner in their household and the uncertainty of Solyndra's viability is forcing the decision to move on. The company is implementing a retention package for app. 100 key employees that will incent them to stay through the next 6 to 9 months which is a critical transition period – if the company fails to secure financing this is moot.

Financing: As you know, Goldman Sachs originally approached about 30 strategic investors to lead the app. $150 million of equity capital that Brian's revised plan calls for to reach cash flow breakeven (this requires not only the $150 million but the requested concessions from the DOE as well). The strategic investors have all passed. This was not surprising and beyond [redacted] none of the strategic investors engaged in any meaningful way – this is just way outside of the risk/return parameters for these investors.

We have now reached out to financial investors and we have had a better response from this group. Eight financial groups have opted to take meetings. [redacted] is the only one to pass after the initial meeting – they were initially very excited about the opportunity, however, they passed for the following stated reasons 1) they already have a failed CIGS investment in their fund and there is an emotional/mental block to investing in another CIGS player, 2) concern over future pricing declines beyond $2.00 per watt which would require an additional capital raise and 3) fear that the brand is hampered by the pulled IPO and negative press which will be a drag on the company's ability to meet its sales targets. Tough but honest feedback.

The company has met with [redacted] and has meetings scheduled with [redacted] reached back out to Solyndra to reengage on the opportunity. Goldman and management describe [redacted] as actively engaged in diligence – apparently [redacted] is hammering on capex costs for future growth (a valid concern) and to what extent can the capex per watt be reduced in future fabrication facilities [redacted]

The three primary questions that are being asked are 1) can the company drive demand to meet 2nd half of 2011 capacity expansion, 2) can the company continue to cut costs (this is getting the most favorable results) and 3) how does a new investor make the economics work. The first two issues are apparently fairly understood by the potential investors as their interest level has increased the 3rd question is receiving more focus. Basically they are indicating that with $535 million of DOE debt and $175 million of convertible debt (the june loan) even assuming the prior rounds of A through F are wiped out it is tough for them to see the types of returns they want to see on this type of investment. Assuming Solyndra hits its plan of $194 million of Ebitda in 2014 and assuming it trades at 8X Ebitda like its peers than the company has an enterprise value of $1.552 billion - $535 million of DOE debt leaves $1.017 billion of equity value. If the new money converts on an equal basis with our convertible debt it will own app. 46% of the equity X $1.017 billion equates to $469 million of equity value for the new investors or 3.12 MOIC. However, Solyndra will have reached its full manufacturing capacity by 2014 and a valid argument can be made that without growth prospects the company will be valued at 5X to 6X Ebitda or will have to raise additional capital (i.e. dilution) to reach a greater valuation multiple. At a 5.5X Ebitda multiple the enterprise value is $1.067 billion minus $535 million in debt resulting in a $532 million equity value – this results in $245 million in equity value for new investors and 1.6X invested capital. With the execution risk, historical failure to hit plans on budget and the reality of Chinese competition the interested investors are making the argument that they need better economics. Nobody has submitted a term sheet or detailed an outline of a deal, however, Goldman is telling us that interested investors are making the case that the DOE is going to have to equitize a portion of its debt or more likely need to haircut the debt by 40% or 50% and that the subordinated debt will need to take a haircut or sit behind liquidation preferences. Goldman and management continue to work with all parties and hopefully we will receive some indications of interest soon.

DOE: As you know, we reached out to the DOE in late September early October to discuss our revised business plan that included consolidating Fab 1 and Fab 2 operations, the need to raise an additional $150 million and the need to alter the terms of our loan agreement with the DOE. DOE funded the company's October draw of app. $10 million prior to our meeting in DC and following that meeting funded another $41 million for November. Key to the company's viability and assumption underlying the $150 million need is that DOE will continue to fund under the funding schedule outlined in the loan agreement. Our concern has been that they will withhold funding to try and force investors to contribute additional capital now. In our meeting in DC the DOE asked specifically to Argonaut's willingness to fund additional equity capital. I made it very clear that although we believe in the technology and have been incredibly supportive to date, the company needs a new investor with a strong balance sheet for it to effectively move forward. In the event that we are able to see real progress in cost cutting and demand creation and the company secures a strong lead investor that we are very open to making an additional investment (but I was very clear that we were not intending to save the day or underwrite the entire amount). At the time the DOE officials seemed okay with that response, however, as fund raising has been slow (in their minds, not mine as I never thought anyone would make an investment decision until January/February as the more time that passes the more vision they have as it relates to Fab 2 ramp up risk and demand creation) they seem to be getting increasingly nervous about continuing to fund the loan.

The DOE has had discussions with Goldman, Madrone and myself over the past two days. They directly asked Argonaut if we would fund a portion of their loan in December which I declined to do. They indicated that since this "crisis" occurred they are the only group funding the company and that they needed to be able to show their superiors and the OMB that the DOE is not the only group supporting Solyndra. I very politely pointed out that the crisis occurred with a 50% price decline from foreign competition and that we reached out to the DOE in April/May as soon as we learned of the revenue deficiencies facing the company and that the current investor group made a $175 million loan/equity contribution to the company over the past 6 months (the last payment of which was made on Oct. 1st) and that those dollars are behind the DOE's in the capital stack. This point seemed to very much resonate with them and in some ways they appear to be looking to us to give them the arguments to make so they could continue funding the loan. To reiterate the point, it is critical to Solyndra's survival that the DOE continue to fund the loan – if the DOE choses to withhold a draw on Dec 10th or Jan 10th it will shut the company down without financial intervention.

I spent a good amount of time with Goldman, Madrone and Bill Stover today discussing the possibility that DOE would elect not to continue funding under the loan agreement. None of them see that as a realistic outcome over the next two or three months (I'm less optimistic as I have no faith in my understanding (or anyone's for that matter) of the pushes and pulls driving decision making in Washington (i.e. do it now during a lame duck congress, do it now and have two years behind them before a new presidential election, get it funded and keep it alive past the next election, etc.). The DOE has funded app. $450 million of a $535 million and to pull the plug without us being materially outside of our covenants and effectively shut the company down while we are in the middle of fund raising, in Goldman's belief, causes more problems than it solves. In any event, the 10th of each month will be critical through February – the funding amounts fall off dramatically at that point. Assuming the DOE continues to fund loan draws the company has until February before it needs to raise capital (there is a lot of sensitivity around receivables and payables that could make this late January or early March). This could be extended by 30 to 60 days if Solyndra qualifies for the full $40 million manufacturing tax credits.

It isn't really an issue to be fleshed out in this email but under the terms of our subordinated debt we have a first lien security interest in everything Solyndra owns including Fab 1 and the intellectual property (excluding Fab 2). We are taking the time to understand the ramifications of an event in which the DOE decides to stop funding and what a Fab 1 only business plan would look like. This is obviously not an option we would want to pursue unless forced into it but I've asked the questions as to how much capital it would take to reach cash flow positive and what is expected Ebitda and cash flow at full capacity (which is approximately 135MW and $270 million in revenues). This route would only be taken if we were left with no other option (and it penciled out as an option we would want to pursue versus liquidation) and it would require a pre-packaged bankruptcy.

I've attached the financial metrics to the consolidation plan that was presented to the DOE. The password is sunshine (no caps). Please note the SG&A and Depreciation in 2011 are inflated by $126 million as a result of the write off of Fab 1 facilities – they negate each other in the Ebitda line.

Please let us know if what questions or comments you may have.

Steve

Footnote 408

From: George Kaiser [redacted]
Sent: Thursday, December 02, 2010 7:26 AM
To: Ken Levit
Subject: FW: Call [redacted]

He did that before. New agenda or did he just realize that I also supported the state GOTV fund? Anything we want from him at the moment?

Is there a strategy that has Boxer and Feinstein, led by Reid approach the DOE (or even DOD) to put in a good word for Solyndra or is that heavy handed and dangerous? Lobby to get the installers tax credit to apply to manufacturers?

From: [redacted]
Sent: Wednesday, December 01, 2010 3:34 PM
To: George Kaiser
Subject: Call [redacted]

He's calling to thank you for your support.

Footnote 409, 410, 411

From: George Kaiser
Sent: Monday, December 06, 2010 6:26 PM
To: 'Ken Levit'
Subject: RE: RE: Mecca

Agree. Also, concerned about tying ourselves too closely to that deal with the WH.

From: Ken Levit [redacted]
Sent: Monday, December 06, 2010 12:23 PM
To: George Kaiser
Subject: Re: Mecca

I prefer the one point message, given that it's the midnight hour. We can go back to the other (telecon w my friend [redacted] and Solyndra today) later.

From: George Kaiser [redacted]
Sent: Monday, December 06, 2010 12:20 PM
To: Ken Levit
Subject: Mecca

Should I bring up Buy American at all in our visit today?

Footnote 412

From: Steve Mitchell [redacted]
Sent: Monday, November 08, 2010 3:58 PM
To: Ken Levit
Subject: Fw: Government Affairs Discussion
Attachments: Solyndra Government Affairs November 8

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Best,

[redacted]

Solyndra Federal Government Affairs

November 8, 2010

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Most procurement opportunities come as bids on a solar subcontract from an energy service company, which has won the general bid from the public sector. Government affairs staff has introduced the company and technology to peers in the major ESCO's, and are building relationships for Solyndra sales with ESCO program managers. Government affairs and sales are jointly pursuing Solyndra qualification for a master contracting vehicle with the Navy for the Southwest region, and working to replicate it for the Southeast region.

Next Congress

The biggest policy priorities for Solyndra are the grant program extension and possible creation of a refundable tax credit for solar manufacturing equipment. If those objectives are not achieved in the lame duck session, they likely would not be addressed for months in the new Congress, until a larger energy bill is developed. Republican control of the House and slim margins in the Senate make an all-of-the-above approach to energy the most politically viable path to any energy bill. During the House climate debate, Republicans discussed possible support for an RPS-like "clean energy standard", which would include nuclear and possibly clean coal. A broad energy bill will seek to expand production and create jobs; solar can achieve significant results in such a bill – as will all competing forms of energy generation.

Summary Outline.....

Solyndra is pursuing the following objectives:

Short-term – lame duck Congress before January

1) Grant program extension: Extend the ITC grant program for at least 1 additional year in conjunction with SEIA (the national solar association) and the entire solar industry, working with consultants Washington Tax Group and McBee Strategic Associates.
2) Manufacturing tax credit: Create a short-term refundable tax credit for solar manufacturing equipment by leading a coalition of other US solar manufacturers (Uni-Solar, Schott), working with consultants Washington Tax Group and McBee.
3) Buy American expansion: Ensure that House-passed language applying the Buy American Act to PPA's with military facilities appears in final defense authorization bill by leading current coalition of US manufacturers, working with consultants McBee and McAllister & Quinn.
4) Consolidation: Discuss consolidation plan with all relevant Congressional stakeholders working with all Solyndra consultants to ensure information is presented accurately and all concerns are addressed.
5) Procurement: Continue relationship-building with GSA, Veterans Affairs, DoD, and individual facilities to establish cool roof and rooftop solar mandates within GSA, VA and DoD, and develop individual sales opportunities from GSA, VA and DoD procurements. McBee and McAllister.

Mid-Term (2011)

1) New Solyndra Business Plan: Continue vigilance to maintain strong relationships with key stakeholders and identify any members that harbor concerns or aspirations to politicize Solyndra consolidation and loan guarantee amendments. McBee and McAllister.
2) Procurement – with McBee, McAllister & Quinn
    a. Expand and replicate cool roof and rooftop solar mandates for military and civilian government facilities
    b. Increase solar deployment budget allocations
    c. Strengthen Buy American in procurement awards
    d. Develop sales opportunities at individual facilities
3) Energy Legislation – with McBee, Washington Tax Group
    a. Enact meaningful tax incentives, if not completed in lame duck. In a conservative Congress refundable, stimulative credits will face possibly insurmountable ideological opposition.
    b. Ensure preferable treatment for solar (ideally a solar carveout RES, significant preferences for distributed generation) in any RES bill
    c. Increase federal government mandates for renewable/solar energy use
    d. Remove civilian agency preclusion on long-term PPA's
4) China, trade and competitiveness – with McBee, Washington Tax Group

a. The potential benefit of Solyndra publicly joining calls for trade sanctions on China is outweighed by the actual harm it would do to prospective business opportunities there.
b. Solyndra will continue to privately educate policymakers on the significant level of Chinese subsidies to solar manufacturers, and their dramatic effect on US sales competition (e.g. customer financing) and non-US sales (eg. exports).
    i. Competing with China is the solar industry's strongest political argument in a conservative Congress and will support all our policy and procurement objectives.
    ii. Solyndra government affairs has established relationships with the US Steelworkers and Blue-Green Alliance, we are actively collaborating to enact the manufacturing credit and Buy American PPA expansion, and we have discussed with them and we both agree on Solyndra's private role supporting the trade case.
c. Solyndra will work with the US Trade Representative to ensure that USTR possesses a complete analysis of Chinese solar subsidies and their market effects, while privately/politically support its efforts to reduce them via trade negotiations or sanctions.
d. Direct trade action is unlikely to occur before 2012, with another year before it would tangibly affect commercial markets. USTR's has no practical influence on non-trade matters in Congress and elsewhere in the administration. Solyndra will be a private resource and supporter for USTR but take no public action on the trade case.

Footnote 413, 414

From: Steve Mitchell [redacted]
Sent: Saturday, July 17, 2010 1:35 AM
To: [redacted]
Subject: FW: Meetings for the week of July 19
Attachments: image001.jpg

From: Chris Gronet [redacted]
Sent: Thursday, July 15, 2010 7:55 PM
To: Steve Mitchell
Subject: RE: Meetings for the week of July 19

Tried your cell earlier.
Yes, lots of catch up. Meeting with GSA is now set for next Wed. [redacted] will attend. I am hosting some French dignitaries on the same day.

We have 4 sales VPs in training on Monday (including [redacted]).
We have good candidates coming in for 2 more segment leads [redacted] assuming [redacted] continues with Utilities.
I spoke with [redacted] this afternoon. He is still thinking things over and plans to talk to [redacted] in the morning.
[redacted] was in again today to meet with [redacted] likes him, believes he is a strategic thinker, but wonders if he can execute a strategy. Two references came back "average". So we will continue a worldwide search with [redacted]

[redacted] have searches going for Proj Dev and Proj Finance leads.

Chris Gronet
CEO
Solyndra, Inc.
47700 Kato Road
Fremont, CA 94538 USA
[redacted]

From: Steve Mitchell [redacted]
Sent: Thursday, July 15, 2010 1:01 PM
To: Chris Gronet
Subject: RE: Meetings for the week of July 19

He better be! How on earth have we not been a part of these projects from the beginning? Lots of catch up to do here. Let's get all over it.

From: Chris Gronet [redacted]
Sent: Thursday, July 15, 2010 2:49 PM
To: Steve Mitchell
Subject: FW: Meetings for the week of July 19

FYI below. 260 green projects in process for U.S. gov't buildings.

Jonathan Silver is trying to help.
[redacted] our VP Gov't Procurement, started last week, and I think he will be a star.

Chris Gronet
CEO
Solyndra, Inc.
47700 Kato Road
Fremont, CA 94538 USA
[redacted]

From: Silver, Jonathan [redacted]
Sent: Thursday, July 15, 2010 7:23 AM
To: 'bob.peck[redacted]
Cc: [redacted]
Subject: RE: Meetings for the week of July 19

Bob,
Thanks for your note. You and your team are doing amazing things!
I am copying Chris Gronet here. Chris is the CEO of Solyndra and I know your two teams will have a lot to discuss.
Best,
Jonathan

Jonathan Silver
Executive Director
Loan Programs
US Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585
[redacted]

From: bob.peck[redacted]
Sent: Thursday, July 15, 2010 10:20 AM
To: Silver, Jonathan
Cc: [redacted]
Subject: Re: Meetings for the week of July 19

Jonathan: nice to hear from you. I'd heard you were at DOE.

We're installing a lot of solar, not to mention green roofs, efficient heating and cooling, etc. You probably know we got $5.5B in Recovery Act funds mostly to upgrade and green our buildings; we have about 260 projects going.

Would be better for these people to meet our hands-on green project management people. I'll try to arrange. Can you give me a point of contact for the Solyndra people and we'll contact them directly.

ROBERT A PECK
COMMISSIONER
PUBLIC BUILDINGS SERVICE
U.S. GENERAL SERVICES ADMINISTRATION
1800 F STREET, NW, SUITE [illegible]
WASHINGTON, DC [illegible]
[redacted]

"Silver, Jonathan" [redacted]

07/14/2010 03:44 PM

To "bob.peck[redacted]
cc
Subject Meetings for the week of July 19

Bob,
Hope this finds you well.
As you may know, I am running the loan programs at the Department of Energy. We are responsible for the government's investments in all forms of clean energy: wind, solar, nuclear and the like. Very interesting.
One of our loan guarantee recipients is a company called Solyndra. They received a $500 million loan guarantee from us to build a state of the art manufacturing plant in California. Solyndra makes an advanced solar roof top array for large commercial facilities and is now installed in locations all over the United states and Europe.
Members of management will be in DC next week and would like to come talk with you about government buildings. Would you be willing to meet briefly with them? More on them below.
I would personally appreciate it.
Many thanks,
Jonathan

Jonathan Silver
Executive Director
Loan Programs
US Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585
[redacted]

[redacted] Senior Vice President, Corporate Development and General Counsel, and [redacted] Director of Government Relations at Solyndra would like to meet with you on July 21 or 22 to discuss policies that will increase government and military deployment of US-made solar panels. Solyndra manufactures 100% of its solar panels at its Fremont, California headquarters. Solyndra has one factory nearing full production, and received a $535 million loan guarantee from the Energy Department to build a second factory in Fremont. That factory will produce 250 megawatts of solar panels per year, and will begin producing panels later this year. Solyndra currently employs 1000 people in Fremont; through its US-centered supply chain it draws materials from businesses in 20 states, creating hundreds of jobs throughout the country. Its second factory will create an additional 1000 jobs in Fremont and with its US suppliers. Solyndra's solar panels are comprised of a series of cylindrical glass tubes. They are ideal for low-load, large, flat roofs and perform optimally with a cool-roof, white roof membrane. Solyndra is one of the very few solar panel manufacturers reaching large-scale production in the US. The company would like to work with you to promote policies that increase the use of solar energy technology throughout the government, and especially within the military, as a key driver to grow a domestic solar panel market for US manufacturers. Specific policy objectives would include extending Buy American Act requirements to energy supply contracts pursuant to power purchase agreements, and replicating the significant green building and solar requirements in place for new Marine Corp construction throughout the military.

This e-mail and any accompanying attachments contain information that is confidential to Solyndra, Inc.
The information is intended solely for the use of the individual to whom it is addressed.
Any review, disclosure, copying, distribution, or use of this e-mail communication by others is strictly prohibited.
If you are not the intended recipient, please notify us immediately by returning this message to the sender and delete all copies.
Thank you for your cooperation.

Footnote 415, 416

To: [redacted] 'Brian Harrison'
Cc: [redacted] Steve Mitchell
From: Silver, Jonathan
Sent: Mon 8/29/2011 7:16:28 PM
Subject: RE: RE: Solar panel manufacturer

Brian.

Please see the email chain below. A discussion with GSA could potentially be productive.

Best,

Jonathan

Jonathan Silver

Executive Director

Loan Programs

US Department of Energy

1000 Independence Avenue, S.W.

Washington, DC 20585

[redacted]

From: [redacted]
Sent: Monday, August 29, 2011 3:02 PM
To: Silver, Jonathan
Cc: [redacted]

Subject: Fwd: Solar panel manufacturer

Jonathan - feel free to have someone from this company contact me; my contact info is below. We will put together a list of projects and associated GC's that have not yet purchased the solar panel requirement of our projects.

Thank you

[redacted]

Information Management Division

Office of Design and Construction

Public Buildings Service

U.S. GENERAL SERVICES ADMINISTRATION

1800 F Street NW, Room 3046

Washington, DC 20405

[redacted]

---------- Forwarded message ----------
From: [redacted]
Date: Mon, Aug 29, 2011 at 2:44 PM
Subject: Re: Solar panel manufacturer
To: "Robert Peck (P)" [redacted]
Cc: [redacted]
Jonathan Silver [redacted]

We will reach out to Jonathan Bob.

On Mon, Aug 29, 2011 at 12:50 PM, Robert Peck (P)[redacted] wrote:

[redacted]: Jonathan Silver runs a loan program at DOE focused on the renewable energy market. He tells me that a California company that manufactures solar panels is looking for business. Who could Jonathan have the company talk to about opportunities on our projects for this company? I told Jonathan that many if not most of our ARRA projects may have already contracted for their solar panels, where solar is a part of the project scope.

I'm copying Jonathan on this email so we can go through him directly to the company.

Jonathan: the company may already have some work on GSA projects, but even if so we'd be happy to see what other opportunities we might have for them.

Bob

ROBERT A. PECK

Commissioner, Public Buildings Service

U.S. General Services Administration

1800 F Street, NW

Washington, DC 20405

[redacted]

[redacted]

Assistant Commissioner for Project Delivery

Public Buildings Service

[redacted]

Footnote 417

From: George Kaiser [redacted]
Sent: Monday, October 04, 2010 12:03 PM
To: Ken Levit
Subject: FW: Solyndra Update

Dismal report. See reference to new chief of staff as well.

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:27 PM
To: George Kaiser
Cc: [redacted] Steve Mitchell
Subject: Fw: Solyndra Update

From: Steve Mitchell
Sent: Sunday, October 03, 2010 11:24 PM
To: Steve Mitchell
Subject: Solyndra Update

George,

I spent a day with management and Goldman Sachs last week to discuss Solyndra, get a better understanding of the state of the business right now, hear Brian Harrison's down load after almost 2 months on the job and I then attended the full board meeting the following day. Unfortunately the update was not encouraging. As you know, the current shareholders bridged the company with $175 million early this summer with an understanding that Solyndra needed an additional $175 to $225 million to reach cash flow break even and that this money would need to be raised by the end of the year. This was based on a base case revised business plan that the company (along with the investors) set out in early spring when we were reacting to the dramatic decline in ASP as China started to dominate the solar market. Last week we were presented an updated business plan that still shows the company running out of money by the end of the year; however, it requires an additional $300 million for Solyndra to reach cash flow breakeven.

This is driven by several issues, including the company's failure to meet the spring projections in each of the last two quarters, but the primary driver is a revised working capital assumption. The other plan adjustments are ASP reduction of 5%, slower Fab 2 ramp, bill of materials and R&D reduced and sales and marketing increased. Brian has imposed several cost cutting measures that early indications had Solyndra stretching its cash into February, however, the reality of our unsold inventory this quarter [redacted] and our AR collection period has pulled the cash need back to the end of the year. The new plan leaves all other production parameters the same and Brian is quick to point out that he is still getting his head around these assumptions and cannot with certainty underwrite these.

Brian has visited all of our major US customers and has reached the same conclusion that I reached last spring which is that our customers who understand Solyndra's product and the rooftop market love the product – typically they lead with a Solyndra only solution. However, we have done such a poor job developing our markets and we don't have channels robust enough to absorb all of our current production (much less all of the Fab 2 output which is the basis for slowing down Fab 2's ramp).

Instead of appropriately developing the sales channels for our specific markets (low load, low slope highly engineered rooftops – which is a very big market and no one else can be on these rooftops), Gronet and his team relied heavily on the European distributors to absorb our panels – and we were deeply discounting the panels at the end of each quarter to sell out. The distributors are the worst customer for Solyndra as they take our panels in inventory and do not develop the appropriate end users (this was driving some of the customer satisfaction issues earlier in the year). This channel stuffing started in 2010 as we were responding (poorly) to the Chinese pricing (China went from 10% to 50% of the worldwide solar market in an 18 month period). This quarter management realized that our distributor partners had [redacted]

Goldman does not believe that a financial investor with make an investment in Solyndra without seeing two good quarters of performance – pricing strength was a nice surprise but missing both sales and production targets is a bad fact pattern. Q4 and Q1 are the seasonal low period for solar installations as snow and weather prevent projects from being installed in some of the biggest solar markets in the world (Germany, New Jersey, Canada, and Belgium). We are gaining traction in southern Europe, however, the sales cycle in Italy, Greece, Spain and France is 9 to 18 months versus 3 to 6 months in the more mature solar markets. Accordingly, a financial investor will be very hard to attract in Q4.

Bridging the company through Q1 or Q2 is a dangerous prospect as well as it takes $100 million to get the company through Q1 and over $150 million (in total) to get through the first 6 months of 2011 and the company will likely have a tough Q1. Goldman is going to go out to the bigger financial investors who can write a significant check and the current investors (primarily Argonaut and Madrone) have indicated that we would most likely participate in a fully funded plan (so Goldman is looking for an investor to write a $150 to $200 million check). The revised plan requires $200 million to reach ebitda positive (but peak cash need is $300 million).

Goldman is more hopeful that a strategic or large industrial will be interested in making an investment. They are adamant that any of these groups would want this to be a control transaction (i.e. either buy out the current investors – which would not get everyone whole; or invest directly in the company for at least 51%). Goldman has about 20 industrial strategics and 6 solar strategics they are going out to. They consider [redacted] as the most likely investor, however, there have been several investments made by strategics in struggling clean energy companies and they have been surprised by the ultimate investor each time [redacted]

Obviously this is very disappointing news and not what I want to be reporting back to you – for that I am sorry. It is incredibly frustrating as Solyndra does have a differentiated product and our customers that understand its differentiation are big fans. As mentioned above, the company failed to develop the appropriate market channels in 2009 and the "going concern" statement that was issued by E&Y in connection with the S-1 clearly spooked the market and got the rumors going. We fought the S-1 filing but ultimately caved as we were the only hold out against going public – what happened with the Chinese manufacturers would have occurred anyway – but we did ourselves no favors by putting out very confusing cost information with no ability to refute the bloggers.

We are not just sitting back and hoping that Goldman can pull a rabbit out of the hat. Management has been working on several different scenarios over the weekend and we have a call at 2pm tomorrow to discuss these and start to formulate a strategy. The leading thought is too dramatically slow down Fab 2, essentially finish it and put it on ice for a year, skinny down our funding requirement (I don't know those figures yet) and spend

2011 further developing our market channels and bring Fab 2 online one year late. This requires a concession from the DOE – which they should do as it protects jobs and is a far better solution than handing them the keys in January. However, it is the federal government and this could become politically charged very quickly. We are also planning to ask the DOD to execute a purchase order to buy our panels – DOD has 3X the rooftops of Wal-mart and is the biggest consumer of electricity in the US (and wants to buy solar panels). We are still exploring the right way to approach this without getting bogged down in all of the government pitfalls (the US needs a Premier for just one day). The current thinking is that the White House chief of staff is the right person to approach – obviously big changes in that role and they have asked who has strong connections there.

This is obviously still very half baked but we are trying to act with a sense of urgency and I want to be as transparent to you as possible and get your feedback, thoughts and direction as well. I will update you after tomorrow's call and we have a full board meeting on Wednesday (phone) to hopefully set a back up course if Goldman fails.

Two things to note, the DOD has the capacity to easily sign a 300MW three year purchase order for our panels – this would have to be through a "carve out" that occurs outside of the traditional RFP process through GSA. This would be incredibly difficult to pull off but we are preparing the proposal (no special pricing high or low, just market pricing and the DOD is expected to buy more solar panels than this over the next 3 years – that is not confirmed). Second, we are going to have to update the DOE within the next 10 days as this plan is materially different than our loan agreement contemplates and we require a variance. If DOE decides to withhold funding on the Fab 2 loan this would bring all of this too a head much sooner as the DOE draws cover a good portion of our overhead as well.

Steve

Footnote 422

TO: Files

FROM: Portfolio Management

SUBJECT: Solyndra Fab 2 LLC – Annual Loan Review

DATE: September 17, 2010

A periodic loan review report of each project is required on an annual basis under LGO's Credit Monitoring and Management Procedures (Policy No. CM-IX.6). The purpose of this report is to summarize all the monitoring activities and the rationale behind any credit actions recommended for the project. This memo is organized in the following sections:

- Executive Summary;
- Project Overview;
- Status of the Project;
- Financial Condition and Credit Assessment;
- Other Relevant Information;
- Compliance with Terms of the Credit Agreement; and
- Next Steps / Action Items.

I. Executive Summary

The Solyndra Fab 2 transaction involves a $535 million loan for the capacity expansion of Solyndra, Inc.'s ("Solyndra" or the "Sponsor") manufacturing capabilities. Solyndra produces copper indium gallium selenide ("CIGS") based thin-film omnifacial solar modules for commercial rooftop applications. The transaction closed in September 2009 and was the first loan guarantee to be issued under Title XVII of the Energy Policy Act of 2005.

Since the closing of the loan approximately one year ago, the project's implementation has proceeded on schedule and on budget. Consistent with the Sponsor's plans, Solyndra, Inc., has also submitted an application for an additional loan guarantee in the amount of $469 million for the Phase 2 expansion of the Fab 2 facility.

Over the past year, the photovoltaic module market has undergone rapid change, resulting in downward price pressure of solar modules. Concurrently, incentives driving the early adoption of PV solar generation have been reduced or are being reduced in Europe. In addition, the market has experienced periods of overcapacity during the past 12 months. The confluence of these factors has affected PV module manufacturers' ability to raise capital in the equity markets and has called into question the long-term health of the PV solar module market. Accordingly, LGO has initiated increased monitoring of the Solyndra transaction and has adjusted the internal risk rating downward to B- from B+ previously to reflect future market uncertainty.

II. Project Overview

Solyndra developed and is currently in the process of scaling high volume manufacturing the unique, high performance, PV panel design, which provides electrical energy production utilizing a thin film technology. Solyndra's cylindrical design and "air flow panel packaging" enable improved collection of all available light. According to Solyndra, this provides the company with cost and performance advantages that are valued in the marketplace.

Solyndra is currently constructing a 650,000 sq. ft. manufacturing facility in Fremont, California (Fab 2 - Phase 1; the project DOE is financing). When complete, the facility will produce PV panels capable of producing in excess of 230 MW of production capacity.[1] The cost of the project is $733 million of which $533 million is being funded through a Title XVII loan guarantee. The transaction was structured as a non-recourse project finance loan with Solyndra Fab 2, LLC (hereafter, the "Borrower"), a special purpose entity, serving as the Borrower. Solyndra, Inc., a development stage company, is the project Sponsor and sole counterparty for Solyndra Fab 2, LLC. In addition to its base equity commitment of $198 million, Solyndra Inc., is also providing a $30 million cost overrun equity commitment and an unlimited completion guarantee.

The relationship between Solyndra, Inc., and Solyndra Fab 2, LLC, is governed by several agreements including a supply agreement, a sales agreement, intellectual property licensing agreement, an O&M agreement, an equipment supply agreement, and a construction contract. At completion, the Borrower will manufacture panels for delivery to Solyndra, Inc., which in turn, will fulfill requirements of its order book. The transaction structure is depicted in Exhibit 1 below.

[1] This estimate has been revised upward by the Sponsor to 283 MW/year.

[redacted]

Under the terms of the loan guarantee, Solyndra Fab 2, LLC may Borrower 73% of the project costs as they are incurred up to a maximum loan amount of $535 million. The Sponsor prefunded its equity contribution of $198 million through the deposit of funds in a cash reserve account, contribution of land, improvements and other capitalized development costs. The Sponsor is also responsible for 100% of any costs incurred in connection with the development of Phase 1 in excess of the estimated aggregate Phase 1 project cost of $733 million. Of this commitment, Solyndra is required to fund an additional cash reserve account of $30 million in six consecutive monthly payments of $5 million, commencing in December 2010.

The availability period for the guaranteed loan facility ends on May 15, 2012. The maturity date of the loan is August 15, 2016. Principal payments will be made in equal quarterly installments beginning on May 15, 2012 and will continue each quarter until the loan is paid in full on the maturity date. As of September 14, 2010, the Borrower had made draws totaling $401.8 million.

On a stand-alone basis, the Borrower is required to maintain a debt service reserve account in an amount equal to six months of scheduled payments of principal, accrued interest and fees. Additionally, if prior to Phase 1 completion, the ratio of Solyndra, Inc.'s indebtedness to tangible net worth is greater than 0.5 to 1.0 or if after completion Solyndra, Inc.'s tangible net worth is less than $175 million, then the Borrower will be required to increase the amount of the debt service reserve from six months to nine months of principal accrued interest fees. This increased debt service reserve level will be required to be maintained until such time as four consecutive quarters have passed in which the applicable conditions that triggered the increased debt service reserve has not occurred.

The loan guarantee facility is secured by a first priority security interest in all property and assets of the Borrower, including all personal property and all real property. In addition, Solyndra, Inc. has granted a first priority security interest in all its equity interest in the Borrower and in a funding account that contains Solyndra, Inc.'s required equity contribution to cover the balance of the cost of development of Phase 1 and that will contain the required $30 million reserve for cost overruns.

III. Status of the Project

The project (Fab 2 - Phase 1) relies on the success achieved in Fab 1, the venture funded commercial scale line that is currently ramping up production. The current status of Fab 1 and Fab 2 is described below.

[redacted]

[redacted]

[redacted]

[redacted]

Fab 2 – Phase 1

According to DOE's independent engineer, construction of the facility remains on time and on budget. However, the $65 million contingency funding is expected to be nearly exhausted at completion. Additionally, the Sponsor is spending $39 million for the three CIGS tools discussed above. The CIGS tool expenditures will tap the $30 million cost overrun facility and the unlimited Sponsor completion guarantee established under the financing structure.

IV. Financial Condition and Credit Assessment

Current Financial Condition

Solyndra, Inc. delayed its planned IPO in early 2010 due to a perception that the timing was inappropriate. Instead, the company raised $175 million in convertible notes from existing investors, with all but a few minor investors participating. Details include:

- Notes are secured by all company assets not pledged to DOE loan (i.e., Fab 1);
- Optional conversion of notes 10/1/10 at $50 million equity valuation (would wipe out all existing equity investments); and
- 12/1/10 maturity could be extended by agreement of lenders.

As of 9/30/10, the entire balance of the convertible notes will have been drawn, though not fully expended. Expected cash position after that draw is approximately $70 million. Average monthly cash burn rate from operations of the company was about $15 million in the first remainder of the year. Current payables are approximately $90 million, which represents roughly three months of all operating expenses (excluding depreciation). Receivables at the end of 2nd quarter were about $40 million. Therefore, the difference accounts for around $50 million, representing two to three months of cash burn. Looking strictly at cash, it appears that the company will need to raise additional cash in four to six months to remain solvent.[2] If the company is unable to continue to stretch payables, that timeframe could be compressed by one month or more. Additionally, the company indicated that the total construction cost of Fab 2 - Phase 1 is more than is being charged to the project under the fixed price construction contract, thereby leading to another source of cash burn.

Fab 1 production levels resulted in sales of approximately $156 million during the trailing 12 months ending in June 2010. Throughout this period, gross margins remained negative and are not expected to become positive until 3rd quarter 2011. As detailed in Exhibit 4, cash margins from operations were approximately ($2.71/W) in the 2nd quarter.

[2] Solyndra's plan for raising additional capital is discussed in the Credit Assessment section that follows.

[redacted]

Credit Assessment

Based on its analysis, the LGO believes that the future financial condition of the Borrower will be affected by: the financial condition of Solyndra, Inc., the Borrower's sole counterparty; the realization of the technical parameters established by the Sponsor's new plan; and the trends in the marketplace, which have undergone considerable turmoil since financial closing. The evolution of the marketplace, in particular, has led to a degradation of the Sponsor's financial strength. Market uncertainty, competition, and price pressures have weakened Solyndra's niche appeal, requiring downward price adjustments to increase sales. Although the company maintains that Solyndra still enjoys competitive advantages in its target market, existing competitive rivalry, caused in part by the Chinese pricing tactics has reduced the company's price premium for the short-term at least. Additionally, the market turmoil has weakened valuations in the solar sector, ultimately leading to the Sponsor delaying its IPO plans. As a result, Solyndra's recent capital raise relied exclusively on existing investors.

Under the LGO's risk framework, the LGO notes the following movements in Internal Risk Rating factors:

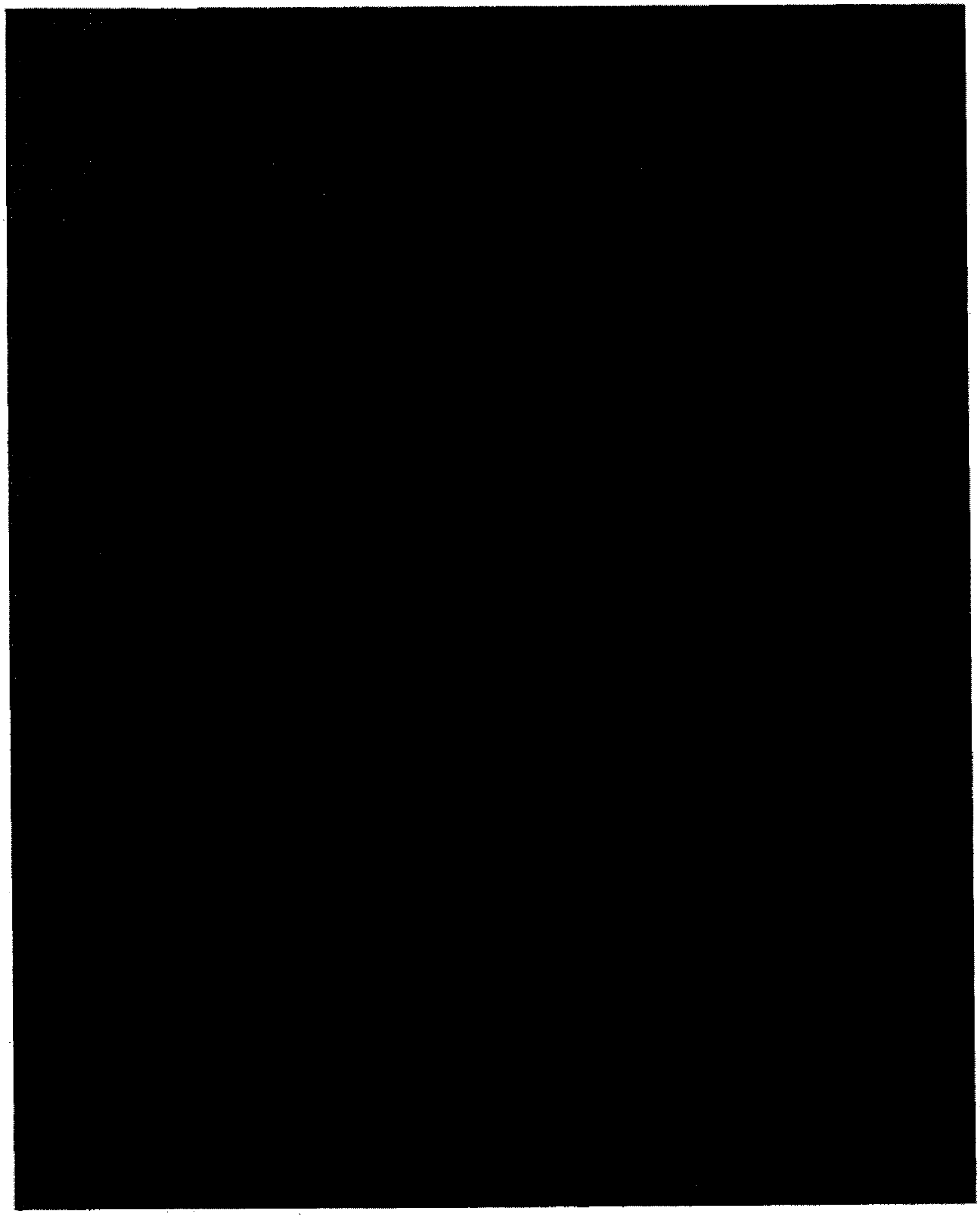
- **Sponsor Risk:** While the Sponsor has initiated management changes to focus the company on execution and cost containment, its ability to continue raising capital may be affected by current market conditions. Specific near-term challenges include:
  - The new CEO has indicated focus on three key areas: ramping production and sales; reducing costs; and implementing stricter processes and controls.
    - Indicated they may slow capex in order to conserve cash and better align production capacity with market acceptance;
    - Will substantially reduce R&D to reflect maturity of basic technology and ongoing need for incremental improvements; and
    - Will eliminate focus on doubling throughput rate of key deposition tools, and focus primarily on improving module efficiency.
  - The anticipated raising of $225 million in preferred equity in late 4th quarter 2010 or early 1st quarter 2011:
    - Convertible debt will convert at that time;
    - Anticipation of equity value between $50 million - $100 million, including outstanding debt that implies enterprise valuation of $600 million – $700 million;
    - Bankers are hired, anticipate road show around November; and
    - Are looking for lead strategic investor to help improve company presence, but pursuing financial investors as well.

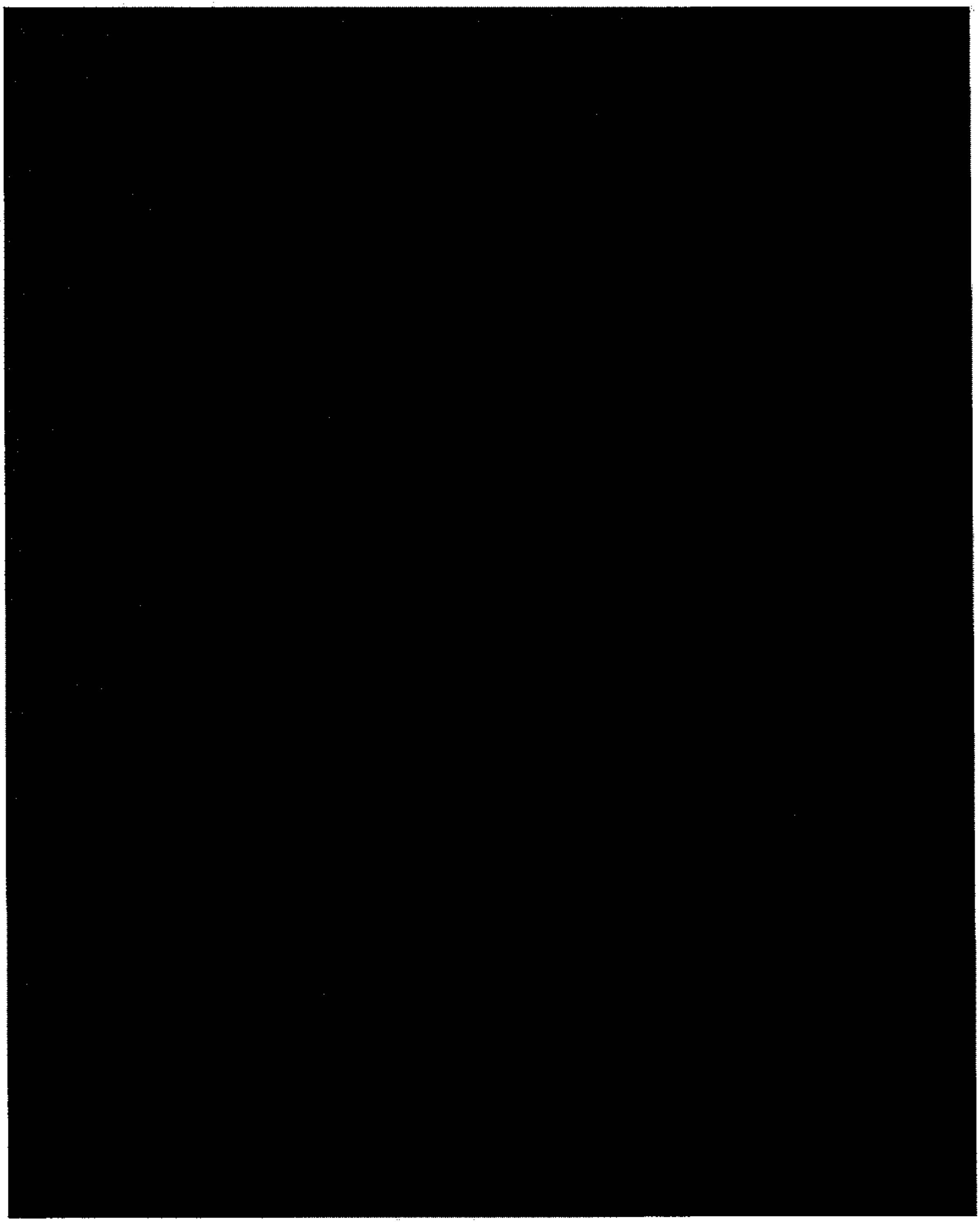
  Although completion of the facility does not rely on future equity raises, Solyndra, Inc. represents the Borrower's sole counterparty and therefore, loan repayments will depend on the continued viability of Solyndra, Inc.

- **Technology Risk:** Elements of Solyndra's Fab 1 results have proceeded according to plan. The Sponsor maintains that Fab 1 has achieved milestones well ahead of schedule and therefore, the technical performance of Fab 2 is expected to exceed the metrics set forth in the project financial model. The Sponsor is relying on this success to maintain debt service coverage ratios at the levels originally expected. Therefore, loan repayment faces greater exposure to technology risk given the deterioration of market pricing.

- **Market Risk:** Market risk has increased significantly since financial closing. The reasons for this heightened risk are three-fold:
  - Incentives driving demand have been or planned to be curtailed;
  - New capacity has been and continues to be added to the market; and
  - Solyndra's price premium realized has been lower than originally expected.

[redacted]





[redacted]

V. Other Relevant Information

Other relevant information regarding the Borrower includes the following:

- The Sponsor has submitted a loan application for $469 million for Phase 2 of the Fab 2 project. The LGO is proceeding with due diligence on this loan application, but is mindful of the company's current challenges.
- In order to address the market challenges, the Sponsor has initiated the development of two new distribution channels. One involves a "demand pull" strategy wherein the company is working with project developers in responding to RFPs and identifying opportunities where Solyndra's performance advantages will be valued. The second opportunity involves the Federal sector, which represents a significant potential customer. The LGO believes these initiatives are warranted. However, the LGO is mindful of the time it will take for these initiatives to meaningfully affect demand.

VI. Compliance to Terms of the Credit Agreement

The Borrower has not reported any breaches of loan documentation or project documents and the DOE is not aware of any such breaches. The DOE's outside counsel is currently reviewing loan and project documentation for any potential defaults. At this time, there have been no amendments made to the loan or project documents that materially change the legal or contractual risk as of the project's closing date.

VII. Next Steps / Action Items

The project should be placed on credit watch for increased monitoring activities. Specific action items include:

- **Liquidity Tracking:** The LGO will focus on understanding the liquidity position of the parent, the implications of Fab 1 operating performance for the project and the company, and the risks to the projections
  - Company has indicated that it is currently revising the short-term (3 year) operating projections and will share them with DOE when complete; and
  - The LGO will begin reviewing monthly financial results from Fab 1 and Solyndra, Inc. Monthly reports should include both financial and operational data to provide insight into company performance and validity of longer-term forecast of Fab 2.
    - In short-term, the LGO will review payables and inventory positions to determine if actual financial situation is worse than that implied just by cash position.
  - The LGO will develop a short-term cash flow model to assess ongoing risks. Of particular concern. Sensitivities will be conducted on:
    - ASP assumptions;

- o Production levels;
- o Sales levels (inventory build);
- o Yield metrics; and
- o Module efficiency.

– The LGO will consider monthly (or more frequent) calls with senior management to stay apprised of the situation.

- **Fab 2 – Phase 1 Model Revision:** The LGO will continue assessing the Fab 2 - Phase 1 project in light of revisions to module pricing, efficiency assumptions and throughput assumptions.
  - – Baseline viability of the project needs to be reestablished under alternative scenarios.
  - – Decisions on how to address short-term issues will hinge on findings from this analysis.
- **Review of Technical Performance Metrics:** The LGO will direct RW Beck to undertake a detailed examination of Solyndra's panel efficiency road map. Panel efficiency, along with other technical performance inputs, will materially impact future financial performance. Independent verification of Solyndra's revised forecast inputs is required.
- **Pricing Validation:** The LGO will evaluate further the Sponsor's pricing projection and assumed premium.

TO: **Files**

FROM: **Portfolio Management**

SUBJECT: **Solyndra Fab 2 LLC – Update to Annual Loan Review**

DATE: October 15, 2010

This serves as an update to the Annual Review completed on September 17, 2010.

Following discussions with Solyndra, Inc.'s senior management, it is clear that the company will be unable to raise the amount of equity capital required to fund planned growth. According to management, Q3 numbers were substantially under budget (volume and inventory-on-hand) resulting in guidance from Goldman Sachs that there are no prospects of raising additional equity capital in a tight market of the size required by Solyndra, Inc. ($300 million).

The impact of this development is that, while construction on FAB 2 continues to proceed slightly ahead of budget, the company will effectively run out of cash late November (if the DOE refuses to continue funding construction costs) or by the end of Q1 2011 (if the company is unable to raise any equity capital).

Solyndra has undertaken certain activities including scaling down its growth objectives, proposing to shut down FAB 1 and move needed tools and equipment into FAB 2, developing a targeted marketing and sales strategy, and tapping existing and new investors for additional $150 million. In addition, the DOE has been requested to make adjustments to certain of the loan terms.

In light of these development, Portfolio Management is recommending a further downgrade in Solyndra's credit rating to CCC.

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INDEPEPENDENT MARKET ADVISORY SERVICES

DOE LOAN GUARANTEE PROGRAM

RSCAP DE – RS04 – 00028, Solyndra, Inc.

FINAL REPORT

September 22, 2010

Prepared for:
U.S. Department of Energy

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