

United States Senate

October 19, 2022

The Honorable Asmeret Asefaw Berhe
Director
Office of Science
U.S. Department of Energy
1000 Independence Avenue Southwest
Washington, D.C. 20585

Dear Director Berhe:

I write today regarding the extremely alarming reports¹ that the United States Department of Energy allowed an innovative battery technology developed using American taxpayer dollars to be transferred overseas to a Chinese company.

After millions of our federal dollars were spent to support the work of U.S. scientists, researchers, and engineers in developing the vanadium redox flow battery, your agency permitted the sub-licensure and subsequent license transfer of that technology to a Chinese company based in Dalian, China. Even worse, the Department of Energy apparently allowed this license transfer to the foreign company while several U.S.-based companies have been unable to receive authorization from your agency to manufacture the batteries domestically. This is not only an unconscionable waste of U.S. resources and innovation that will now benefit a foreign adversary, it is apparently a violation of the Department of Energy's own licensing rules.

It is well known that the Chinese Communist Party routinely engages in various acts of corporate espionage and intellectual property theft to gain competitive advantages against American companies and institutions. However, such nefarious actions are unnecessary if your agency is grossly negligent in safeguarding U.S. taxpayer investments in innovative technologies and fails to perform appropriate due diligence when reviewing sub-licensing and license transfer requests. The American people deserve a full accounting from your agency of how this was allowed to happen, and so I respectfully ask that you provide a responsive written reply to the requests below no later than November 11, 2022:

¹ See "The U.S. Made a Breakthrough Battery Discovery – Then Gave the Technology to China," Courtney Flatt & Laura Sullivan (Aug. 3, 2022) available at <https://www.npr.org/2022/08/03/1114964240/new-battery-technology-china-vanadium>.

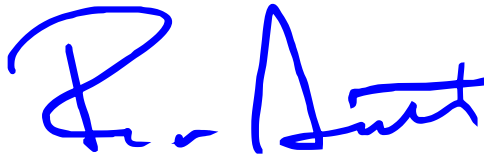
1. What is the total amount of federal money allocated, administered, or spent by the Department of Energy to support the research, development, and testing of the vanadium redox flow battery technology identified in the investigative report cited below?
2. Please define the Department of Energy's specific process for reviewing sub-licensing requests and license transfer requests.
 - a. Please provide a copy of any written policies, regulations, manuals, or instructional materials related to the Department of Energy's—
 - i. Sub-licensing processes; and
 - ii. License transfer processes.
 - b. Is the review process for sub-licensing requests the same if the applicant is a foreign-based entity?
 - i. If not, how is it different?
 - c. Is the review process for license transfer requests the same if the applicant is a foreign-based entity?
 - i. If not, how is it different?
 - d. How does the Department of Energy confirm compliance with U.S. manufacturing requirements for licenses and sub-licenses?
3. Has the Department of Energy conducted an investigation or audit of—
 - a. Sub-licensing requests processed by the agency since 2017?
 - i. If so, please identify—
 1. How many sub-licensing requests were granted for foreign entities?
 - a. How many foreign entities granted a sub-license by the Department of Energy are based in China?
 2. How many sub-licensing requests were denied for foreign entities?
 - b. License transfer requests processed by the agency since 2017?
 - i. If so, please identify—
 1. How many license transfer requests were granted for foreign entities?
 - a. How many foreign entities granted a license transfer by the Department of Energy are based in China?
 2. How many license transfer requests were denied for foreign entities?
4. What other federal agencies are consulted, if any, before a license transfer request is granted to a foreign entity?
 - a. Do any agencies in the Intelligence Community have a role to ensure that licenses are not transferred to our foreign adversaries?
5. Who is held accountable if a Department of Energy-funded patent or license violates U.S. manufacturing requirements articulated in the Department of Energy's rules and regulations?
 - a. How is the agency enforcing these obligations against foreign-owned entities?

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6. Are other U.S. federal agencies consulted in the licensing or patent approval process if the science, research, and technology has national security implications?
7. How will the Department of Energy ensure that taxpayer funded research will no longer be licensed to foreign entities who violate U.S. laws?

Thank you for your prompt attention to these requests, and for you responsive written reply no later than November 11, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rick Scott". The signature is stylized with a large initial "R" and a prominent "S".

Rick Scott
United States Senator