



ROBERT J. BIRGENEAU  
Chancellor  
Professor of Physics

200 California Hall #1500  
Berkeley, CA 94720-1500  
TEL: 510-642-7464  
FAX: 510-643-5499  
E-MAIL: [chancellor@berkeley.edu](mailto:chancellor@berkeley.edu)  
April 6, 2007

Mr. Jamie Court  
Mr. John Simpson  
The Foundation for Taxpayer  
and Consumer Rights  
1750 Ocean Park Boulevard, # 200  
Santa Monica, CA 90405

Dear Mr. Court and Mr. Simpson:

Thank you for your letter of 12 March 2007 regarding the planned creation of the Energy Biosciences Institute. As you are clearly aware, the issue of global warming and the technical solutions to address this challenge are of importance to all of humanity, and we are pleased that BP has given the University of California Berkeley the opportunity to advance research in this important field. The precise structure of the EBI and the details of its research program are still being formulated, but we are committed to ensuring that that the research will be done to world class standards and in conformity with the many UC and Berkeley policies covering matters such as intellectual property, conflict of interest, and academic freedom.

Our proposal to BP was developed in an open, not a secretive, way. Even before we received the formal request for proposals from BP, the potential availability of the research opportunity offered by BP and the process of developing an EBI proposal were made known to the campus through the Academic Senate and in email communication to the entire faculty.

Although nothing in the EBI arrangement has yet been finally negotiated, rest assured that our proposal does not give BP exclusive control over research carried out at Berkeley. Proposed research plans will be written by faculty members, not by BP. According to the proposal, research directions will be shaped and the selection of research plans to be funded will be selected by an executive committee consisting almost entirely of academics (the current expectation is that this executive committee will consist of 6 Berkeley faculty, one faculty member from the University of Illinois at Urbana-Champaign (UIUC, which, along with Lawrence Berkeley National Laboratory is partnering with UC Berkeley on this project), and one BP researcher).

Intellectual Property (IP) rights to inventions discovered by faculty of the research universities (UCB and UIUC) will be owned by these universities. Even if IP rights are licensed to BP, the research universities will retain their usual "reserved rights", namely, to use the results for our own purposes (that is, to further the University's mission of teaching, research and public service) and to transfer the rights to

others in the nonprofit sector for their own purposes. These are the standard policies for industry-sponsored research at research universities.

We have proposed that BP have a time-limited first right to negotiate a license to IP arising from specific research scopes of work funded by BP through the EBI. This too is standard practice for industry-sponsored research at research universities. Any IP that BP does not license can be offered to other companies. If BP is granted a commercial license then it will be required to diligently develop and commercialize the licensed rights to address the relevant market need.

With respect to the use of UC Berkeley's name or trademarks in BP advertising, it is standard for university-industry contracts to stipulate that each party must seek approval from the other party before using the other party's names and trademarks in any advertisement or press release, that references the agreement, or any product or service resulting from the agreement. We expect to include such a term in the agreement with BP.

You admonish UCB to live up to the recently issued white paper on the social responsibilities of universities with respect to the deployment of innovations for the public benefit. I assure you that we are aware of these responsibilities, they are part of our conception of Berkeley's mission, and we do indeed live up to them. Our Assistant Vice Chancellor for Intellectual Property and Industry Research Alliances, Carol Mimura, was one of the authors of the paper you reference; she in fact authored the very passage that you quote. She is our key negotiator for the EBI contract.

We are confident that when the EBI contract is completed, you will see that it represents an extraordinary opportunity to mobilize some of the best scientific minds and technical expertise available to tackle one of the planet's greatest threats, and that it will do so in a manner entirely consistent with the values of a public university. We welcome your interest in our effort and believe that when you have a chance to see the program in its fullness this summer that your concerns will have been effectively addressed.

With warm regards.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Birgeneau". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert J. Birgeneau