17524

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-202463

March 24, 1981

Not made available to public reading

The Honorable Don Fuqua
Chairman, Committee on Science
and Technology
House of Representatives

Dear Mr. Chairman:

By letter dated March 4, 1981, you and Congressmen Larry Winn and Hamilton Fish submitted a joint request for our legal opinion concerning the possible shifting of Department of Energy (Energy) synthetic fuels commercial demonstration projects to the Synthetic Fuels Corporation (Corporation), presumably after the President determines that the Corporation is established and fully operational. Specifically, you inquired whether there are legal impediments to the Corporation assuming the Government's obligations under the demonstration contracts to which Energy is now a party, the citations to the specific provisions of law constituting impediments, if any, and the reasons why they may be impediments. In addition, you make specific reference to five projects, namely, the SRC-I, SRC-II, Memphis Gas, Conoco High-btu gas and ICGG High-btu gas projects.

As you know, Energy may provide financial assistance for synthetic fuels commercial demonstration projects under two separate authorities: (1) the Federal Nonnuclear Energy Research and Development Act of 1974 (Nonnuclear Act), as amended, 42 U.S.C. § 5901 et seq. (1976 and Supp. III); and (2) the Defense Production Act Amendments of 1980, Pub. L. No. 96-294, Title I, Part A, approved June 30, 1980, 94 Stat. 617, by delegation from the President in Executive Order No. 12242, 45 Fed. Reg. 65175 (October 2, 1980). In addition, these types of projects have been funded both from appropriations from the Energy Security Reserve established by the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980, Pub. L. No. 96-126, approved November 27, 1979, 93 Stat. 954, 970, and from regular appropriations to Energy from the General Fund of the Treasury. Because of these factors, we have classified the synthetic fuels demonstration projects into three separate categories, which we treat separately, because the potential legal impediments affecting the transfer of projects to the Corporation differ for the three arrangements. The categories are:

(1) Projects receiving financial assistance from Energy pursuant to the Nonnuclear Act out of appropriations from the General Fund of the Treasury;

(2) Projects receiving financial assistance from Energy pursuant to the Defense Production Act Amendments of 1980 out of appropriations from the Energy Security Reserve; and

016153

(3) Projects receiving financial assistance from Energy pursuant to the Nonnuclear Act out of appropriations from the Energy Security Reserve.

It is our understanding that all of the five projects referred to in your letter are in category (1).

In view of the time constraints we have not been able to obtain the views of Energy or other elements of the Administration on the questions posed. Nevertheless, subject to that caveat, we have arrived at the follow-ing conclusions:

(1) Legal impediments exist to shifting projects in category (1) from Energy to the Corporation, which require enactment of legislation;

(2) Adequate legal provisions have already been made in contemplation of an orderly transition to the Corporation of projects in category (2); and

(3) The major transition issues have been addressed and guidelines statutorily established for projects in category (3).

DISCUSSION

We believe that it is necessary both that Energy have authority to transfer its responsibilities and that the Corporation have authority to as-sume the transferred responsibilities associated with the synthetic fuels demonstration projects before a transfer can be legally made. Accordingly we address the authority of Energy as well as that of the Corporation. In addition, throughout the discussion we quote the more significant provisio of law, as requested, in order to be as specific as practicable to facili-tate the development of legislation by the Congress, if desired.

Authority of Energy to Transfer Project Responsibilities

The Department of Energy is authorized to use various forms of Federal assistance and participation "to establish and vigorously conduct a compre-hensive, national program of basic and applied research and development, i cluding but not limited to demonstrations of practical applications, of al potentially beneficial energy sources and utilization technologies ***." Subsection 3(b)(1) of the Nonnuclear Act, 42 U.S.C. § 5902(b)(1).*/ Of course, these energy sources and utilization technologies include those as-sociated with synthetic fuels.

*/ Citations are to the 1976 edition of the United States Code unless otherwise indicated.

The authorized forms of Federal assistance and participation include, but are not limited to, joint Federal-industry corporations; contractual arrangements with non-Federal participants; contracts for the construction and operation of Federally owned facilities; Federal purchases or guaranteed price of the products of demonstration plants; Federal loans to non-Federal entities; incentives to individual inventors; and Federal loan guarantees and commitments for alternative fuel demonstration facilities. Subsection 7(a) of the Nonnuclear Act, as amended, 42 U.S.C. § 5906 (1976 and Supp. III).

The forms of Federal assistance for synthetic fuels projects authoriz by subsection 305(b)(1)(A) of the Defense Production Act of 1950 (Defense Production Act), as added by the Defense Production Act Amendments of 1980 94 Stat. 619, classified to 50 U.S.C. App. § 2095(b)(1)(A), include contra for purchases of, or commitments to purchase, synthetic fuel for Governmen use for defense needs; loan guarantees; and loans.

In pursuing its objectives, Energy must coordinate nonnuclear program with the heads of relevant Federal agencies in order to minimize unnecessa duplication of programs, projects, and research facilities. 42 U.S.C. § 5903a. Aside from coordination, however, the Congress directed that:

> "In the exercise of his responsibilities *** [the Secretary of Energy] shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The [Secretary] shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that--
>
> "(1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and
>
> "(2) such assignments shall be carried out under such guidance as the [Secretary] deems appropriate." (Emphasis added.)

Subsection 104(i) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5814(i).

In addition, recent relevant Energy appropriation acts have included the following general provision:

> "From this appropriation, transfers of sums may be made to other agencies of the government for the performance of work for which this appropriation is made." (Emphasis added.)

Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980, Pub. L. No. 96-126, approved November 27, 1979, 93 Stat. 954, 973; Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1981, Pub. L. No. 96-514, approved December 12, 1980, 94 Stat. 2957, 2976.

Therefore, in general, the Secretary of Energy does have authority to assign to other executive agencies, with their consent, specific progra or projects in energy research and development as appropriate. This could also include transfer of related Energy funds.

We have limited this conclusion to "in general," because we are aware of at least one exception. The exception is Energy's authority to provide Federal loan guarantees and commitments for alternative fuel (including sy thetic fuels) demonstration facilities under section 19 of the Nonnuclear Act, since subsection (q) thereof provides:

> "No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after [February 25, 1978]." 42 U.S.C. § 5919(q) (Supp. III).

As a minimum, none of the five projects listed in the first paragraph of your letter should be affected by the exception in section 19 of the No nuclear Act. Although we have not had an opportunity to review the fundin arrangements in detail, it is our understanding that none of the five projects received Federal loan guarantees. Rather, each is in the nature of joint venture, funded in part by Energy and in part by private industry through cooperative agreements.

Authority of Corporation to Assume Transferred Project Responsibilities

Even though Energy can, in general, assign programs or projects to "other executive agencies," the other agency must have authority to assume the project obligations assigned and to undertake their implementation.

We therefore now turn particularly to the provisions of the United States Synthetic Fuels Corporation Act of 1980 (Synthetic Fuels Corpora Act)**/, which is Part B of Title I of the Energy Security Act, Pub. L. No. 96-294, approved June 30, 1980, 94 Stat. 633, classified to 42 U.S. § 8702 et seq.

We have identified several provisions of the Synthetic Fuels Corporation Act which could impede the transfer of Energy synthetic fuel commercial demonstration projects to the Corporation, in the absence of other legislation authorizing the transfers. This is particularly true an objective is continued Federal assistance to and participation in suc projects comparable to the extent and manner which now exists.

The first concern is the status and relationship of the Corporation to the Federal Government, since Energy's authority to assign specific programs or projects is limited to "other executive agencies" and Energy' authority to transfer appropriated funds is limited to "other agencies of the government." We doubt that the Corporation can satisfy either cate gory for the purposes here.

Congress identified the Corporation in its "Findings and Purpose" provision in subsection 100(b)(2)(C) of the Energy Security Act, supra, 94 Stat. 617, classified to 42 U.S.C. § 8701 (b)(2)(C), as "a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects." The seven members of the Board of Directors of the Corporation are appointed by the President by and with the advice and consent of the Senate. Subsection 116(a)(2) of the Synthetic Fuels Corporation Act, supra, 94 Stat. 636, classified to 42 U.S.C. § 8712 (a)(2). The primary source of Corporation funds is the issuance of notes or other obligations of the Corporation "solely to the United States of America acting by and through the Secretary of the Treasury" in an authorized aggregate principal amount of $20 billion plus potential future additional authorizations not to exceed $68 billion. Subsections 151(a)(1) and 126(c)(11) of the Act, supra, 94 Stat. 667 and 649, classified to 42 U.S.C. §§ 8751(a)(1) and 8722(c)(11). And "[a]ll contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit." Subsection 131(c) of the Act, supra, 94 Stat. 655, classified to 42 U.S.C. § 8731(c).

**/ Any references to "the Act" in this portion of the discussion only are to the Synthetic Fuels Corporation Act.

Nevertheless, in general, the "Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment." Subsection 117(c) of the Act, sup 94 Stat. 638, classified to 42 U.S.C. § 8713(c). In addition, subsectio 175(g) of the Act, supra, 94 Stat. 677, classified to 42 U.S.C. § 8775(g provides that

> "Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States."

Furthermore, subsection 175(a) of the Act, supra, 94 Stat. 676, classifi to 42 U.S.C. § 8775(a), provides that:

> "No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in [the Synthethic Fuels Corporation Act]."

In neither case is there express provision authorizing treatment of the Corporation as an "executive agency" for the purposes of transferring authority over Federally assisted projects to it or as an "agency of the government" for the purpose of transferring related appropriated funds to it.

Moreover, there are provisions which may preclude, or at least discourage, such transfer or reassignment of responsibilities. Subsection 119(b) of the Act, supra, 94 Stat. 639-640, classified to 42 U.S.C. § 8715(b), provides:

> "(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.
>
> "(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority."

Thus the Synthetic Fuels Corporation Act prohibits transfers of power, functions or authority to the Corporation by means of either delegation or use of a reorganization plan.

In light of these provisions, we believe the status and relationshi of the Corporation to the Federal Government require that the transfer o Energy synthetic fuels commercial demonstration projects to the Corporat be accomplished by legislation.

Secondly, under existing law, no transfers may be made to the Corporation without its consent. The authority of the Secretary of Ener to assign specific programs or projects even to "other executive agencie is only "with their consent." 42 U.S.C. § 5814(i). In addition, under section 168 of the Synthetic Fuels Corporation Act, supra, 94 Stat. 672-673, classified to 42 U.S.C. § 8768, the Corporation "shall be liable fo contract claims only if such claims are based upon a written contract to which the Corporation is an executing party."

The objectives of Energy, particularly under the Nonnuclear Act, ma not coincide with those of the Corporation. Section 125 of the Syntheti Fuels Corporation Act, supra, 94 Stat. 644, classified to 42 U.S.C. § 87 establishes "a national goal of achieving a synthetic fuel production ca bility equivalent to at least 500,000 barrels per day of crude oil by 19 and of at least 2,000,000 barrels per day of crude oil by 1992, from dom resources." In addition, subsection 131(b)(2) of the Act, supra, 94 Sta 655, classified to 42 U.S.C. § 8731, provides in part:

> "The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125." (Emphasis added.)

Consequently, it may not be safely assumed that the Corporation would willingly assume responsibility for all synthetic fuels commercial demon stration projects heretofore financially assisted by Energy if they are viewed as "most advantageous in meeting the national synthetic fuel prod tion goal."

Thirdly, "the Corporation shall not provide any financial assistanc except as specifically permitted***." Subsection 171(a)(2) of the Synth Fuels Corporation Act, supra, 94 Stat. 673, classified to 42 U.S.C. § 87 (a)(2). Subsection 131(b)(2) of that Act, supra, 94 Stat. 655, classifi to 42 U.S.C. § 8731(b)(2), requires that the Board of Directors give pre ence in the selection for financial assistance to:

"(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuels products; and

"(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

"(i) price guarantees, purchase agreements, or loan guarantees;

"(ii) loans; and

"(iii) joint-ventures."

In addition, subsection 131(p) of the Act, supra, 94 Stat. 657, classified to 42 U.S.C. §8731(p), provides:

"The Corporation shall not award financial assistance in the form of loans * * * or joint ventures * * * unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project."

The Nonnuclear Act does not provide such financial assistance prioriti For example, it is our understanding that each of the five projects referre to above and in your letter is in the nature of a joint venture, the form o financial assistance given the lowest priority under the Corporation's gove ing law. These statutory priorities in the awarding of financial assistanc may prevent the Corporation from continued funding of any of these projects should they be transferred to the Corporation.

Moreover, even if the Corporation should overcome the statutory hurdle of the funding priorities and decide to provide financial assistance for a project through the form of a joint venture, the projects transferred may n be able to satisfy the particular statutory requirements under which the Co poration may provide financial assistance through a joint venture. For exa subsection 136(a) of the Synthetic Fuels Corporation Act, supra, 94 Stat. 6 classified to 42 U.S.C. § 8736(a), provides, in part, that:

"*** the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement."

It is our understanding that the Department of Energy is funding far more than 60 percent of the total costs for one or more of the five projects referred to in your letter.

Lastly, there may be other provisions of the Synthetic Fuels Corporati Act which conflict with particular clauses in the individual agreements ass ciated with projects desired to be transferred from the authority of Energy to the Corporation. We have not examined these individual agreements. One example where further attention may be directed is in the area of patent provisions. In light of the discussion above, however, it may well be that these transfers may necessitate a fairly comprehensive renegotiation of exi ing project agreements.

Impact on Different Categories of Projects

The situation discussed above applies most appropriately to projects w have classified as category (1), that is, projects receiving financial assi ance from Energy pursuant to the Nonnuclear Act out of appropriations from General Fund of the Treasury. It is our understanding that all of the five projects mentioned in your letter are in category (1). We believe the lega impediments described require the enactment of legislation before category projects may be shifted from Energy to the Corporation.

Projects funded by Energy through the Energy Security Reserve are in a different status, because of the enactment of other statutory provisions ad dressing their transfer to the Corporation. This includes both category (2 projects, which receive financial assistance from Energy pursuant to the De fense Production Act Amendments of 1980 out of appropriations from the Ener Security Reserve, and category (3) projects, which receive financial assist ance from Energy pursuant to the Nonnuclear Act out of appropriations from the Energy Security Reserve.

An understanding of the use of appropriations to Energy from the Energ Security Reserve for the funding of projects and related restrictions and activities requires an integration of provisions in the following statutes under the heading "Department of Energy, Alternative Fuels Production":

The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980, Pub. L. No. 96-126, approved November 27, 1979, 93 Stat. 954, 970-971;

The Supplemental Appropriations and Rescission Act, 1980, Pub. L. No. 96-304, approved July 8, 1980, 94 Stat. 857, 880-881; and

The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1981, Pub. L. No. 96-514, approved December 12, 1980, 94 Stat. 2957, 2975.

Additional relevant provisions are contained in section 121 of H.J. Res. 61 Making Continuing Appropriations for the Fiscal Year 1981, Pub. L. No. 96-3 approved October 1, 1980, 94 Stat. 1351, 1357-1358.

The most significant provision for our purposes here is the following language from the Supplemental Appropriations and Rescission Act, 1980, su 94 Stat. 881:

> "Upon the establishment of a 'United States Synthetic Fuels Corporation' (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head [Department of Energy, Alternative Fuels Production] shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: Provided, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided

by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation.

"Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein."

It is evident that many of the concerns earlier pointed out regarding project transfers have been addressed and resolved in the foregoing statutory language with respect to projects funded by Energy through the Energy Security Reserve.

We believe that adequate legal provisions have already been made in contemplation of an orderly transition to the Corporation of project in category (2), that is, projects receiving financial assistance from Energy pursuant to the Defense Production Act Amendments of 1980 out of appropriations from the Energy Security Reserve. Aside from the above-quoted language from the Supplemental Appropriations and Rescission Act 1980, the Defense Production Act Amendments of 1980 contained language designed to minimize any transfer difficulties. Subsection 305(a)(1)(B of the Defense Production Act, as added by the Defense Production Act Amendments of 1980, 94 Stat. 619, classified to 50 U.S.C. App. § 2095(a (1)(B), specifically states that:

"The President shall exercise the authority granted by this section--

* * * * *

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980."

Consequently, in delegating certain responsibilities to the Secretary of Energy in Executive Order No. 12242 (September 30, 1980), including the relevant here, the President included the following provisions:

"1-107. The Secretary of Energy shall exercise the functions delegated to him under Section 305 of the Defense Production Act of 1950, as amended, in a manner consistent with an orderly transition to the separate authorities established pursuant to the

United States Synthetic Fuels Corporation Act of 1980, as provided by Section 305(a)(1)(B)(iii) of the Defense Production Act of 1950, as amended."

"1-109. No new awards for purchases or commitments for financial assistance shall be made under the provisions of this Order after the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational. That determination is to be made in accord with Section 305(k) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2095(k)), and in accord with the appropriations to the Departments of Energy and the Treasury pursuant to the Supplemental Appropriations and Rescission Act, 1980 (P.L. 96-304; 94 Stat. 857, 880-882)."

"1-110. No award for a purchase or commitment for financial assistance shall be made which would preclude projects or actions initiated by the Secretary of Energy under the provisions of this Order from being transferable to the United States Synthetic Fuels Corporation."

45 Fed. Reg. 65175 (October 2, 1980). If these directions were followed by Energy, all category (2) projects should be readily transferable to the Corporation after the Presidential determination that the Corporation is fully operational, upon a majority vote of the Board of Directors of the Corporation.

In addition, we believe the major transition issues have been addressed and guidelines statutorily established for projects in category (3), that is, projects receiving financial assistance from Energy pursuant to the Nonnuclear Act out of appropriations from the Energy Security Reserve. The most significant factor here is the above-quoted language from the Supplemental Appropriations and Rescission Act, 1980.

The transfer of category (3) projects to the Corporation is not likely to be as neat and orderly as the transfer of category (2) projects. The Nonnuclear Act was enacted in 1974, substantially before the Synthetic Fuels Corporation Act of 1980. The Nonnuclear Act provides a funding mechanism for a greater variety of energy projects fulfilling a broader spectrum of purposes and with a far less structured order of priorities than does the Synthetic Fuels Corporation Act. Consequently, there are likely to be

category (3) synthetic fuels commercial demonstration projects that do not satisfy the eligibility requirements of the Synthetic Fuels Corporation Ac There may also be projects that satisfy the Corporation's eligibility criteria, but which the Corporation may not want to accept, because they are not fully compatible with the Corporation's goals. In addition, projects eligible for Corporation financial assistance may contain provisions in their financial agreements that Energy, but not the Corporation, could fulfill, yet the Corporation can accept these projects. The Supplemental Appropriations and Rescission Act, 1980, addresses and establishes guideline for the resolution of each of these matters.

Nevertheless, implementation of the statutory language still leaves considerable discretion in the interpretation and administration of its provisions, and the Board of Directors of the Corporation must still accept a transferable project by majority vote. Whether these issues with respect to category (3) projects will be smoothly and orderly resolved wil depend, to some extent, on how well the parties concerned exercise this discretion. Moreover, these issues are also common to category (1) projects, which were also provided assistance pursuant to the Nonnuclear Act.

Budgetary Treatment

It is implied in the third paragraph of your letter that the transfer of synthetic fuels commercial demonstration projects from Energy to the Corporation is a move "towards off-budget financing of commercial scale projects." If one objective of the transfer of the projects to the Corporation is off-budget financing of commercial scale projects, this objective will not be accomplished under existing legislation.

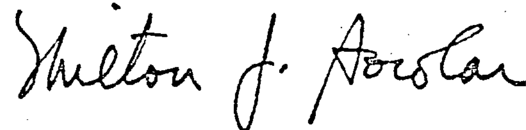
The Corporation obtains its primary funding, to the extent provided i advance in appropriation acts, by issuing notes or other obligations solel to the United States acting by and through the Secretary of the Treasury. Subsection 151(a)(1) of the Synthetic Fuels Corporation Act, *supra*, 94 Sta 667, classified to 42 U.S.C. § 8751(a)(1). Funds are authorized to be app priated without fiscal year limitation to the Secretary of the Treasury fo deposit in the Energy Security Reserve to purchase and retain notes and ot obligations of the Corporation. Subsection 195(a)(1) of the Synthetic Fue Corporation Act, *supra*, 94 Stat. 682, classified to 42 U.S.C. § 8795(a)(1)

Section 153 of the Synthetic Fuels Corporation Act, *supra*, 94 Stat. 6 classified to 42 U.S.C. § 8753, specifically addresses the issue of budget treatment and provides:

> "The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget."

Thus outlays for Corporation financing of synthetic fuels commercial scale projects will still be reflected in the Budget totals through the Departme of the Treasury and the Energy Security Reserve. The receipts and disburse ments of the Corporation are not included in the totals of the Budget to avoid charging the same expenses twice. Most of the funds for Corporation disbursements will come from sales of notes and obligations to the Secreta of the Treasury, who in turn will have charged the Energy Security Reserve appropriation account. In essence, the Secretary of the Treasury can be viewed as a middleman between the Corporation and the Energy Security Reserve, and there is, in fact, only one charge on the funds of the United States. Accordingly, although the receipts and disbursements of the Corpor ation are included in the Budget document for informational purposes only, the Corporation's financing of synthetic fuels commercial demonstration projects is not off-budget.

Sincerely yours,



Acting Comptroller General
of the United States