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MEETING WITH FRANK ZARB
and JIM CONNOR
MONDAY, JULY 7, 1975
2:30 p.m.
(Mr. Connor's Office)

JHC —

Connors
office has
called for
our response
on the attached.

P.



THE WHITE HOUSE

WASHINGTON

THURSDAY, June 26, 1975

MEMORANDUM FOR : JIM CANNON
JIM CAVANAUGH
FROM : DICK ALLISON
SUBJECT: Energy Finance Options Paper
for the President - Friday

Last night, on the way in from Butler, the Vice President urged me to make sure of the following:

- That the options presented to the President in the paper planned for tomorrow include both
 1. The original proposal which is currently being staffed and is due into Connors' office by close of business today, where the capitalization is \$10 billion and the borrowing authority \$100 billion, as well as
 2. What he and I understand to be the latest Zarb/Morton version of the Energy Finance Corporation, capitalized at \$5 billion dollars.

Date: June 18, 1975

Time: .

FOR ACTION:

Phil Buchen
Jim Cannon *
Jim Lynn
Jack Marsh
Bill Seidman
Frank Zarb**

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date:

WEDNESDAY, JUNE 25

Time:

12 NOON

SUBJECT:

ENERGY RESOURCES FINANCE CORPORATION

ACTION REQUESTED:

HIGH PRIORITY

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

*Jim Cannon: Insure the use of members of the Domestic Council who would not be on either Energy Resources Council or Economic Policy Board.

**Frank Zarb: Members of the Energy Resources Council

SPECIAL NOTE: Insure there is no duplication of staffing.

INCLUDE IN REPLIES INDIVIDUAL REVIEWS AND ANALYSIS OF EACH OF THE PEOPLE YOU STAFF IT TO.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President



THE WHITE HOUSE
WASHINGTON

TO: ~~JIM CONNOR~~ *The President*
FROM: ~~RICH DONNELLY~~ *Roger Nelson - Frank Zins*
SUBJECT: Energy Resources Finance Corporation

The attached memorandum with attachments proposes that there be a new initiative toward achieving the energy independence goals announced in the State of the Union Message.

The proposal has two main features which are

- That a corporation be established which would assist in the financing of energy and energy-related projects on terms flexible enough to permit substantial acceleration of these projects - assuming in the process any additional risks inherent in such acceleration.

- That the corporation be given special powers to receive expedited and final treatment by all Federal agencies involved in any regulatory determination which might affect a certified project deemed by the corporation as being of critical importance to the national goal of energy independence.

Issues

The basic premise of this proposal is that the existing mechanisms, governmental and private, are not working and will not work in sufficient time to achieve the energy independence goals.

Attached for review are:

Tab 1 - A summary of the current economic situation and statement of the problem.

Tab 2 - A summary outline of the proposed Corporation - its purpose, investment objectives, financing plan, organizational structure and summaries of several typical potential projects and how they could be financed.

Tab 3 - A summary of the principal objections to the Corporation - both from within the Administration and from executives in industry and finance - with suggested responses to these objections.

Tab 4 - Draft legislation.

Decision

Should an Energy Resources Finance Corporation with extraordinary financial and administrative powers be proposed?

APPROVE _____

DISAPPROVE _____

If this initiative is approved, should it be announced in a major forum such as a joint session of Congress or a national television speech?

APPROVE _____

DISAPPROVE _____

To: *The President*
From: *Roger Matar & Frank Zorb*

MEMORANDUM RE: ENERGY RESOURCES FINANCE CORPORATION

Summary:

The Nation is at or approaching an economic crossroads which offers an opportunity for a major new Administration initiative.

Faced with rapid erosion of economic activity, quite correctly the Administration's initial efforts to date have been focused on a range of measures designed to arrest and turn the accelerating downward spiral of business activity. Although the first signs of an upturn may be imminent, high unemployment persists, and will continue to persist long into any recovery. We must continue to attack this intolerable employment problem. At the same time, as the economy turns we must turn our immediate attention to the elimination of these energy and resource related bottlenecks which fueled the recent inflation and threaten to reappear in any sustained upturn. Energy shortages would seriously impede and could abort any recovery and would present an unacceptable threat to our national security and foreign policy objectives.

PROGRESS TOWARD ENERGY GOALS LAGGING

Evidence to date suggests that we are alarmingly stalled on efforts to implement the Administration's energy self-sufficiency goals. Congress has not moved on the Administration's proposed energy legislation and shows few signs of producing a meaningful compromise bill. Investment spending which must precede the development of new and expansion of old sources of energy is seriously lagging. The Federal Government abounds in thoughts, plans and schemes to attack this problem, but unfortunately there is an abundance of equally strongly held views and rationalization as to why such plans will not work. ~~The net~~ result is inaction.

A POSITIVE INITIATIVE

Timing is the key to most successful ventures, and the present energy stalemate presents a unique opportunity to announce a major new Administration initiative via the formation of a proposed Energy Resources Finance Corporation. To date, Administration backed economic measures, while stimulative to the economy, have had no impact on increasing our productivity or improving our competitive position in



the world. Efforts to hold back the inflationary impact of these programs by keeping a tight rein on the size of the federal deficit have been courageous and increasingly successful, but have the unfortunate side effect of casting the Administration in a negative tone. The President has stood firm against a runaway deficit recognizing the inevitable inflationary implications, but the Administration program lacks the positive counter-balance of an affirmative effort that will channel expenditures in an inflation-fighting, job-producing manner.

THE ENERGY RESOURCES FINANCE CORPORATION

The Corporation is cast in a philosophical and structural framework that reflects a deep-seated belief in the free enterprise system.

- it would work through, not around or as a replacement for private enterprise;
- it is not conceived as a "bail out" mechanism, designed to perpetuate uneconomic operations. Rather, the entire focus is on the creation of new energy and related natural resources

and transportation capacity and capability, vital to renewed productive efficiency and national energy self-sufficiency;

- it would have a limited life, with no new financial commitments after five years. Consistent with its catalytic, bridge financing role, it would by law, go out of business when its mission is completed;
- in addition to its financing role, it would have legal powers designed to at the very least, shorten, and in some cases eliminate, the myriad of regulatory impediments which currently impede and stall energy-related investment; and
- it would be formed to attack current problems, designed to have a finite lifespan and therefore should be able to attract the type of entrepreneurial, managerial talent from the private sector that led to the success of World War II synthetic rubber plant and Manhattan-type projects.

Several of the concerns and objections to such a project, voiced within the Administration and elsewhere. (Tab 3) have some merit. On balance, however, it appears that the refutation judgments carry the day. We could go on for months or years refining the pros and cons -- but delay beyond the early part of the summer will put the project that much closer to 1976, and the political attack and legislative blockage which predictably will emerge as a matter of Presidential politics.

An early public announcement of the concept of the plan and a Presidential decision to submit enabling legislation, will mobilize the considerable talents within the Administration in a concerted program to enlarge, flesh out and improve the precise scope and structure of the Corporation as outlined in the attached documents. With the galvanizing effect of such a decision now, we can accomplish the necessary reviews and consultations and have a final program and legislative package ready within a month.

I.

ECONOMIC BACKGROUND AND THE PROBLEM

The consensus view is that the U.S. economy has bottomed and that the first signs of an upturn will become evident in the third and fourth quarter. High unemployment persists, however, and any major improvement in employment rates will seriously lag the general recovery.

Congress, impatient with high unemployment and with the political support of labor, now threatens further spending programs designed to stimulate short term employment goals. Indeed much of the counter-cyclical monetary and fiscal stimulus to date has been focused on short lead time demand stimulation. Very few, if any, of the stimulative efforts have been focused on the critical problems of increasing productivity and alleviating the energy and related natural resource and transportation shortages and bottlenecks which contributed so significantly to the excessive inflation rates of recent years. While we can be encouraged by the prospect of recovery from recently depressed levels of economic activity, our next set of problems will be associated with increasing our efforts at solving the unemployment situation,

while maintaining a sustained rate of recovery-- both without the reoccurrence of inflation.

The President recognized the pervasive economic impact of the reoccurrence of energy related shortages and the attendant national security risks by designating, in his State of the Union Message, the development of energy resources as the Nation's first priority. The Administration energy independence goals established in that message require by 1985 a new or additional

200 nuclear power plants

250 coal mines

150 coal fired power plants

30 oil refineries

20 synthetic fuel plants

and many thousand new oil and gas wells.

FINANCING CAUSES DELAYS

It is projected, as a rough approximation, that this program will require capital investment in energy facilities of \$700 to \$850 billion between 1975 and 1985. Unfortunately, results to date indicate little forward movement. In fact, in 1974, there were 235 coal

and nuclear plants delayed or cancelled, representing 114,000 megawatts of nuclear capacity and 74,000 megawatts of coal. Whereas there were a range of regulatory and tax impediments, market price uncertainties and technological difficulties which contributed to this erosion, in a recent survey "financing problems" were cited as the primary or contributing cause of nearly 70% of the nuclear cancellations and deferrals and 45% of the coal plant decisions.

At present, largely as a result of Congressional inaction and resultant uncertainty, no detailed national energy plan exists which establishes yearly nationwide and regional goals as benchmarks for the investment flows necessary for domestic energy resource development. It is difficult, therefore, to identify, and more importantly, quantify and rank the precise roadblocks to achievement of your energy self-sufficiency goals.

Of prime importance are the myriad of federal, state and local rules, requirements, regulatory commissions, etc., all of which conspire to increase the cost of new projects, make the investment returns uncertain, and leave unclear the shifting "rules of the ball game" to the point where play

does not commence.

Administration efforts to clarify, simplify and/or preempt this regulatory morass must be redoubled. Realistically, however, with little hope of Congressional cooperation, this promises to be an extremely time-consuming process, with at best an uncertain prospect of success. It is on the theory of a simultaneous effort to open up a financing reservoir which in itself can be used as a weapon to resolve this impasse, that the proposal for the Energy Resources Finance Corporation is predicated.

II. PURPOSE AND PROPOSED INVESTMENT STRATEGY OF THE CORPORATION

Armed with a charter with features akin to a traditional investment bank, English merchant bank or development bank, the Corporation would act as a financing vehicle designed to catalyze the private sector into undertaking the massive scale of investment needed to achieve the Administration's energy independence goals of the next decade. Through this broad-gauge charter, the Corporation would be empowered to provide capital through equity investment, loans and loan guarantees to elements of the private enterprise system -- corporations, partnerships, consortia and/or subsidiaries of the Corporation itself, formed to implement national energy goals.

It is intended that the Corporation would also be empowered to provide financing that would create or rebuild the supporting elements necessary to deliver energy raw materials or energy to converters and end users. Thus critical investments could be made in the energy related portion of our transportation system and to relieve bottlenecks that might occur in other raw materials or finished products (pipe, drilling rigs, etc.) necessary to complete an energy development system.

It is contemplated, in order to encourage the commercialization of a number of synthetic fuel projects,

new surface or underground in situ mining techniques, and other advanced technologies, that the Corporation or its subsidiaries would be empowered to guarantee not only financial investments but also to enter into price guarantees and/or take or pay contracts for certain quantities of energy product over a fixed period of time. The absolute dollar risk of such guarantees would be limited, however, as the final charter of ERFCO should emphasize its mission as a profit making entity as a kind of development bank, not an agent for subsidy in disguise. Other specific needs for direct subsidy (such as oil storage) should be financed through the budget or by direct linkage to specific potential revenue sources (such as Elk Hills). It took our country sixty years to move its energy dependence from wood to coal, and another sixty years to move from coal to oil. We now contemplate a highly capital intensive move from oil to nuclear and/or coal based fuels in less than one-third that time. ERFCO would provide the financial bridge and impetus that this compressed timetable requires. ERFCO will provide financing with terms flexible enough to permit substantial acceleration of energy development projects. In so doing, it will by definition accept the additional risks inherent in such

acceleration - risks which are presently delaying or deterring initiatives from the private sector.

AREAS FOR INVESTMENT

Within the context of an overall national energy policy and plan, Corporation financing would be undertaken where private sector financing was not available on economically acceptable terms or in adequate amounts. Currently such financial bottlenecks have slowed or arrested private investment in at least three broad areas:

- 1) Large scale projects, with long lead times, where present delay stems partly because of technical uncertainty and partly because capacity will not be needed unless first stage projects are completed. Uranium fuel enrichment plants are typical of this situation. Prudent commercial investors will want to wait for greater proof of technical feasibility and development of actual market demand, with a resulting time delay that is inconsistent with our energy independence timetable. If we wait to build this enrichment capacity until enough nuclear

power plants are on stream to assure demand, we will have extended periods of imbalance or shortage while long lead time enrichment capacity is rushed to completion. (See illustrative example at end of this section.) The scale and complexity of relatively simple coal mine expansion is vastly enlarged when the necessity for development of delivery systems is included in the project. Coal slurry pipelines, electrified railway connections, improved railbeds, large capacity coal hopper cars and other elements of a total system will require a scale of financing that lends itself to the large resources of the Corporation.

- 2) Projects which require financing that is structured to defer interest charges and loan repayments until the project is completed and on stream. The Corporation would be able to extend such terms or as an alternative might actually build and then lease or sell the facility. The construction and lease purchase of a nuclear power plant to a utility would be typical of this category of investment. The Corp-

oration could, through a subsidiary, cause this plant to be built and would "carry it" until completion, when it could be either sold or leased to the user utility. The limited availability of this capital through the Corporation (relative to total national needs) would allow the Corporation to require certain state and local regulatory concessions as a quid pro quo to quality for financing, providing a potential lever toward regulatory change currently unavailable in the existing environment. The FNP (Floating Nuclear Plant) illustrations at the end of this section add a siting flexibility which together with financing availability offers further lead time savings.

- 3) Projects which are either demonstrational in nature or are uncertain as to commercial feasibility. Such projects could bear a much higher degree of investment risk and would be limited to an amount equivalent to the equity capital of the Corporation. They would be undertaken as "second stage" efforts, after development financing by ERDA and/or R&D

sponsored by private industry. Such projects might presently be in areas such as coal gasification and liquification, in situ shale oil recovery, and eventually in more advanced thermal and solar type projects. (Illustrative example at the end of this section covers high BTU gasification plants.)

ERFCO is designed to take over where the Energy Research and Development Administration stops. The latter will continue to play the key role in financing energy research and development as well as pilot or demonstration type projects. In this role, ERDA will be the principal agent for whatever subsidy is necessary to achieve our energy independence goals.

AUTHORIZED CAPITALIZATION

Structure:	<u>Billions</u>
Capital Stock - (Equity Subscribed by U.S. Treasury)	\$ 10
Borrowing Authority (including guarantees)	<u>\$ 100</u>
	\$ 110

The capital stock or equity of the Corporation (\$10 billion) would be subscribed by the U.S. Treasury. In addition, the Corporation would be authorized to issue and have outstanding up to \$100 billion of notes, debentures, bonds, guarantees or other evidence of indebtedness. These obligations would be fully guaranteed by the U.S. Government. The terms and timing of all Corporation borrowings would be subject to approval by the Secretary of the Treasury and would be accomplished by the Federal Financing Bank. These obligations would be available for purchase by any federally chartered or regulated commercial bank savings and loan association or mutual savings bank. Obligations of the Corporation would be eligible for purchase by the Federal Reserve Open Market Committee and would be lawful investments and may be

accepted as security for all fiduciary, trust and public funds, the investment or deposit of which is under the authority or control of the U.S. ERFCO's actual cash requirements would be staggered over a ten year term. There would be little need for large amounts of cash in the initial year, which would also be the most difficult period from a Federal deficit financing viewpoint. Pressure in the capital markets from this source would thus be mitigated.

GENERAL POWERS AND TERMS

The Corporation would have the broadest powers to carry out its operations and to establish subsidiary corporations for special purposes. It would cease to make new loans or investments after a five-year term, and would be empowered and required after five years to monitor and fund prior commitments and to begin a program of liquidation and sale of all its assets within ten years.

SPECIAL EXPEDITING POWERS

Each energy-related project which is certified by the Corporation as being of critical importance to the national goal of energy independence would receive expedited and final treatment by all Federal departments

and agencies. Upon receipt of the certification for a project, every Federal department and agency so notified would have six months to make any administrative or regulatory determination which might affect the certified project. Once the administrative or regulatory determination is made, it would be final. No rules, regulations, laws, orders or other administrative or legal actions made after six months from the date of certification may have any adverse impact on the certified project.

MANAGEMENT

Management of the Corporation would be vested in a Board of Directors consisting of five persons appointed by the President with the advice and consent of Congress. All five would be independent public members, serving full time as senior executives and directors of the Corporation. Of the five, all of whom would serve staggered terms, not more than three could be members of one political party and not more than one could be from any Federal Reserve District. The President would, with the advice and consent of Congress, appoint one of the five as Chairman and Chief Executive Officer.

POLICY FRAMEWORK

The Corporation, its Board of Directors, and the Chief Executive Officer, would devise an investment strategy designed to implement the national energy and related resource and transportation policy and program set forth by the President and his delegated agent(s). At present, according to the Energy Reorganization Act of 1974, the Energy Resources Council has central coordinating responsibility in the development of this policy. The Federal Energy Administration and the Energy Research and Development Administration have key statutory roles in the development of overall energy strategy. The Corporation would, subject to Presidential direction, attempt to make investment commitments that expedite the national energy goals put forth by these agencies. The Energy Resources Council would serve as policy adviser to the Board of the Corporation.

ILLUSTRATIVE EXAMPLES

1. Uranium Fuel Enrichment Plants

To support the goal of 200 new nuclear power plants by 1985 (with additional plants thereafter) and to compete for foreign markets, new uranium fuel enrichment capacity will be required by 1983 and additional increments of capacity will have to come on line every year or two thereafter.

To date, three plants have been built and owned by the U.S. Government (ERDA). However the Administration is now reviewing whether the next increment of capacity should be Government-owned or private. Whatever the outcome of this decision, it is possible that the subsequent increments of additional nuclear fuel enrichment capacity will be private and use the new centrifuge fuel enrichment technology now under development by ERDA. Investments of \$1 billion or more annually may be required for the necessary centrifuge plant capacity.

Attractive proposals using the centrifuge separation methods have already been presented to ERDA by Garrett Corporation, ENI-Atlantic Richfield, and others.

Other interested companies are expected to appear with new proposals. It is possible that three or four competitive centrifuge projects could be initiated in the next few years. If this occurs, each project could begin on a relatively small scale, but be susceptible to capacity additions once the initial stage is technically settled and markets have developed. Estimated costs for the first stage of a centrifuge project generally range from \$250 to \$500 million. Eventually, a plant of an economically viable size might cost \$800 million to \$1 billion.

In order to encourage private industry to enter the fuel enrichment business, substantial Federal help will be required. In addition to ERDA technical assistance and Government arrangements to assure markets for the fuel coming from the private plants and to provide loaned uranium fuel if the new plant construction falls behind schedule, some form of guarantee may be required for the estimated 75% of project costs which would be financed with debt. To encourage private involvement in Uranium enrichment, the Corporation could provide guarantees for the debt associated with the first few centrifuge projects. Guarantees in the range of \$200-

300 million per plant for the first stage might be anticipated. If the debt associated with the later stages of a \$1 billion plant also had to be guaranteed, the total exposure might be \$600-700 million per plant. Once a plant is operating efficiently, markets have been secured and any technical problems are resolved, it might then be provided that the guarantee would be phased out and the project would then be totally financed by private industry and the private capital market.

2. Nuclear Power Plants

As noted above, the construction of 200 new nuclear power plants by 1985 is a national goal encountering significant problems because of cancellations and deferrals of new plant construction. Consequently, the Nation's ability to increase the proportion of electricity produced from domestic non-fossil fuels is in jeopardy.

While the reasons for delays in these plants are usually varied and complex, a few are common to most. First, many of the utilities are experiencing financial difficulties which limit their capacity to continue investing in capital-intensive nuclear plants. Typically,

state public utility commissions are not being helpful in this regard. As an extreme example, construction has been stopped on two plants because of finances after each was more than 45% completed. Secondly, an ever-increasing number of delays are being caused by the licensing process, despite Administration proposals to speed up this process.

These delays and cancellations may require that further increments of electricity will have to be supplied by short lead time oil-consuming combustion turbines in the early 1980's unless significantly lower electricity consumption growth rates occur over the next few years.

Taking numerous actions to increase the number of new nuclear power plants (as well as coal-fired) coming into service in the early 1980's will be an important function of the Corporation. One proposed method of increasing the number of nuclear plants available by the early 1980's involves support for the concept of Floating Nuclear Plants ("FNP"). The FNP is a complete nuclear power generating station comprised of proven systems and equipment and standardized in design to allow repetitive factory manufacture on an assembly-line basis. Following assembly, the plant is towed to its operating location

where it is moored--floating within a basin surrounded by a protective structure. This concept has the following advantages:

- standardized, proven design
- factory manufacture
- better quality assurance and control
- greater assurance of high plant reliability
- 3-4 years shorter plant/site lead time
- siting flexibility
- minimized environmental and societal impact
- lower capital and generation costs

Each Floating Nuclear Power plant could provide electricity from domestic nuclear fuel and eliminate the need for the equivalent of 12 million barrels of oil per year (about \$140 million annually, at today's import price).

In conjunction with Public Service Electric and Gas Company of New Jersey ("PSE&G"), Westinghouse has been developing a method of designing, licensing and producing a FNP. PSE&G has ordered four plants and expended \$30 million in the licensing effort. Westinghouse has already invested \$100 million in the manufacturing facility. However, the general downturn in the utility industry has caused PSE&G to defer the introduction of

the first plant from 1980 to 1985. The complications of licensing such a first-of-a-kind concept have discouraged other utilities from ordering the FNP. The result has been a suspension in construction of the Westinghouse factory and delay of implementation of the FNP concept and its oil savings benefits for five years.

To expedite its Floating Nuclear Power plant program, Westinghouse has proposed that the Government order four FNP's with the first to be delivered by the end of 1981. In turn, the Government would sell the four plants to one or more operating utilities upon completion. The result of this action would be recovery of three years on the Westinghouse FNP manufacturing schedule and the reduction of oil consumption through the earlier introduction of the four plants. In addition, the new floating plant concept would be generally proven and made available to the utility industry three years earlier. Implementation of this program could demonstrate Federal Government leadership and direction in the nuclear area, thereby causing other companies to begin producing and using FNP. (One other company has taken some preliminary steps.) If successful, the

scale of this program could be expanded several-fold, as a complement to an accelerated program for additional, conventional nuclear plants.

To effect this program, the Corporation would have to invest about \$2.5 billion for the plants and capitalized interest payments over a ten year period. This capital investment would be returned to the Corporation by the purchasing utility(ies) at the end of this period.

In the course of providing or withholding financing for these nuclear plants and others, the Corporation might obtain a de facto Federal override in the areas of fuel adjustment clauses, regulatory lags, peak pricing and other matters and generally encourage state public utility commissions to begin to act more responsibly in electric price and return on investment considerations. Also, direct Federal involvement could be useful in expediting solution of safety and environmental questions.

3. High BTU Gasification Plants

Proven natural gas reserves have recently been declining as production has exceeded new discoveries.

At the same time, reserves dedicated to interstate gas pipeline companies have declined more rapidly than total reserves because gas producers find it much more profitable to sell their gas intrastate, thereby removing this gas from the interstate market. In fact, drilling for sales to intrastate markets is at a near record level. Today the reserves dedicated to interstate markets are equal to about nine years of usage at current rates of consumption.

Faced with dwindling reserves and a declining production rate, the gas pipeline companies have been aggressively seeking new sources of supply to enable them to serve at least their highest priority customers. Because of the decreasing supplies of domestic natural gas and the high cost of imported liquified natural gas, some pipeline companies have plans to initiate synthetic natural gas ("SNG") development projects. This is consistent with the national goal of 20 synthetic fuel plants by 1985.

The Lurgi-methanation process for making high BTU gas from coal uses a combination of proven technologies which have been used in other countries for many years.

As a consequence, the construction of commercial-sized plants could begin in the very near future. Although there are currently plans for more than 10 plants to produce high BTU gas from coal in the U.S., none of these projects has, as yet, proceeded to construction. The six projects at the most advanced stages of planning include:

- * El Paso Natural Gas Company plant in New Mexico
- * American Natural Gas Company plant in North Dakota
- * The Transwestern plant (Pacific Lighting and Texas Eastern Transmission venture) in New Mexico
- * Pan Handle Eastern plant in Wyoming
- * Northern Natural Gas plant in Montana
- * Natural Gas Pipeline Co. plant in North Dakota

Each of these proposed plants would have the capacity to produce about 250 million cubic feet ("MCF") of SNG per day. The estimated cost of a 250 MCF/day plant has doubled in the last 18 months to about \$800 million for the "hardware" (excluding interest on construction financing and anticipated working capital needs of another \$200-300 million). Because the capitalizations of the gas pipeline companies who propose to build these plants are small in relation to the cost of a plant,

potential investors are deeply concerned by the apparent financial risks of a possible SNG plant failure.

The principal factor delaying commercialization of this technology is the inability of the regulated gas utilities to obtain new plant financing. This problem arises as a result of the prevailing FPC pricing regulations for gas transmitted through interstate pipelines and the political uncertainties and technical risks which could lead to further plant cost escalation and major construction delays.

In the recent case of Transwestern, the FPC ruled on its first SNG application. Here the Commission decided that it would not give advance approval to a gas price which would, in effect, guarantee that the investors would earn an adequate return on investment. This unfavorable ruling has made it virtually impossible for the gas utilities to acquire necessary financing for the proposed plants and increases the need for Federal financial help.

In order to expedite the construction of the first high BTU gas plants, the Corporation could agree to participate in the construction of several plants. It

could finance this construction until the plants had been through their initial proving periods -- in essence, the Corporation could thereby assume a major portion of the risk of cost overruns and technical problems. Once the proving periods were over, the Corporation could then lease the completed, proven plants to the various pipeline companies. The capital eventually committed per plant would be at least \$1 billion.

Using this major financing commitment and Government involvement as a lever, the Corporation could help overcome the many major governmental impediments to high BTU gasification projects. Most importantly, the FPC might be convinced to permit gas prices which would allow the gas pipeline companies to pay fair lease payments on plants constructed with Federal Government involvement. Also, surface mining permits, pollution control arrangements, water allocation priorities and other government-related problems might be more expeditiously resolved if a Government Corporation were "out in front."

At the same time the Corporation, or ERDA, could contract for an experimental in situ gasification project

from deep coal mines to determine costs of this method of gas production. Once this is proven, which would take about four years, it could be undertaken by private corporations.

4. Some Other Potential Investments

Coal slurry pipelines

Nuclear fuel reprocessing plants

High temperature gas reactors

Electrification of railways

Shale oil production plants

Coal liquefaction plants

Coal-fired power plants

100-ton coal hopper cars

Medium-BTU gasification plants

Breeder reactors

Regional high voltage electric transmission
grids

Surface and underground coal mines

Uranium mines and mills

Oil and gas pipelines

Geothermal power plants

Oil refineries

Offshore drilling rigs

New railbeds

Large-capacity coal shovels and draglines

New railroad locomotive units

Oil-to-coal power plant conversion projects

Pumped-storage hydroelectric plants

Western water systems

III. PRINCIPAL OBJECTIONS AND CONCERNS RELATIVE TO THE ESTABLISHMENT OF THE CORPORATION AND RELATED THOUGHTS:

1. There really is no financing problem. Regulatory restrictions, inadequate regulated returns, environmental inhibitions, OSHA dictates, etc., all conspire to create a cost add-on and aura of uncertainty that have retarded investment decision-making. Eliminate the redundant and conflicting regulations, create a Federal preemption of rate-making, and investment capital will become available.

There is no denying that excessive restrictions and regulatory overkill are key factors. However, the prospect of legislative movement in this area is remote. We cannot afford to lessen our efforts to eliminate redundant and overly restrictive regulation, nor can we afford to delay investment until this legislative and administrative logjam breaks. The Corporation, with its financial clout, can become a major new forcing lever.

2. The proposed Corporation will be just another government bureaucracy. Government cannot run anything

well and this proposed entity will be no exception.
It will create a life of its own and constitute
another permanent layer of inefficiency.

The Manhattan-District project, Synthetic Rubber Corporation, TVA, Comsat, and NASA are prime examples of the exceptions to this generally valid assertion. The proposed structure of the Corporation -- its broad mandate, limited term of existence, and management and Board structure are all designed to attract a type of goal-oriented entrepreneurial management from the private sector. As in any undertaking, management will be the key factor determining success or failure and the entire design and assigned mission are oriented toward attracting such management.

3. Such a Corporation will be interpreted as "throwing in the towel" on free enterprise -- another step in the "socialization" of our system.

Political realities indicate that, with high unemployment the legislative process will throw more, not fewer roadblocks in the path of free enterprise. Without such a bridge mechanism, the private enter-

prise system, its hands tied, will increasingly fail to deliver adequate energy to satisfy public demands. Private enterprise will be tagged as the culprit, charged with failure, and the ultimate political solution could be to substitute government takeover, ownership, and control.

4. The Corporation is a mechanism for credit allocation by government. Other credit users will be pushed off the bottom rung of the ladder. Unless the "free market" is allowed to allocate credit on the basis of optimum financial return, misallocation will occur.

Energy is a national security as well as economic problem. The highest return to the nation cannot be measured in financial return on individual investments. Free market will allocate only where return is commensurate with financial risk. Given the time frame of our energy independence goals, government must take some of the risks that prevail at these early stages of development, if the President's goals are to be achieved. Product price uncertainty and technological risk are prime causes of financing

difficulties. The passage of time may resolve these risks, but our timetable for the nation requires investment now.

5. Financing is a problem only because of the risk-reward rates of energy projects. The proposed Corporation will merely solve a cash flow problem with a balance sheet adjustment, incurring large liabilities that will not be paid out because of inadequate returns.

Perhaps -- but if this proves to be true then the ultimate subsidation of these costs represents the price of national security and energy independence. Hopefully the Corporation will have a "balanced portfolio" where the high risk - high loss investments are limited and the bulk of the program is concentrated in debt investments or guarantees in projects that will eventually have a satisfactory payout.

6. The raising of this amount of capital by the government, will add to projected "crowding" in financial markets - resulting in a resumption of high interest

rates and credit starvation for less well-endowed borrowers.

The borrowing will be coordinated by the Federal Financing Bank. The use of credit guarantees, as well as a staggered need for funds over the life of the Corporation will allow a measure of time to elapse before the entire amount of capitalization is funded. Residual dislocations are the price to be paid for designation of energy as priority national objective.

7. Any attempt to circumvent regulatory procedures by giving special expediting powers to the Corporation will be strongly opposed by environmentalists, consumer advocates, etc.

The purpose of the expediting power is to eliminate the "red tape"; time delay aspects of regulations, not legitimate consumer protection. Surveys indicate that while the public is in favor of the "protective" aspects of regulations, they are increasingly impatient with red tape and unnecessary redundancy and bureaucratic delay.

8. From a political viewpoint, once legislation is introduced to form the Corporation, it will be impossible to avoid expansion of its charter -- to the point where it becomes a Christmas tree for financing in many segments of the economy -- a massive and obviously impractical national credit allocation entity.

This is a political judgement and certainly a risk. If the bill gets perverted, there is always the veto.

9. We ought to delay announcement of the Corporation until we have had a chance to investigate, analyze and document a number of investment opportunities that might be undertaken by the Corporation.

There is no doubt that such an investigation would add to the precision of the decision to establish the Corporation. However, there is also no doubt that to have any validity, such a study would require from six months to a year. Even then, many of the potential projects would not be available for analysis, because their very creation awaits the availability of the type of financing

ERFCO promises. Such a delay risks substantial costs.

- from a substantive viewpoint, an impaired national security and/or weakened international bargaining posture. We are already far behind our energy independence timetable. Twenty months after the oil embargo and nearly six months after the State of the Union energy message, we have had virtually no movement on the alternative energy source part.

- from a political viewpoint, Senator Bentsen, Senator Jackson, John Connally and a number of others are talking more widely of the need for an ERFCO-type entity. A blurred, unfocused or ill-conceived initiative could doom the whole concept.

6/4/75

A BILL

To establish the Energy Resources Finance Corporation, a United States Government Corporation with authority to make loans to and provide financing for those sectors of the national economy which are of critical importance to the development of domestic sources of energy and the attainment of energy self-sufficiency for the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby created, a body corporate with the name "Energy Resources Finance Corporation" (herein called the Corporation). That the principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the Board of Directors. This Act may be cited as the "Energy Resources Finance Corporation Act of 1975".

Findings and Purposes

Sec. 2. The expeditious achievement of energy self-sufficiency for the United States is a goal which, in the judgment of the Congress, is essential to the success of the national economy and to the maintenance of national security. It is the purpose of this Act to provide for the allocation of capital to those sectors of the national economy which are of critical importance to the development of domestic sources of energy or

the attainment of energy self-sufficiency by the United States.

Management of the Corporation

Sec. 3. The Corporation shall have capital stock of \$10,000,000,000, subscribed by the United States of America, payment for which shall be subject to call in whole or in part by the Board of Directors of the Corporation.

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000,000,000 for the purpose of making payments upon such subscription when called.

Sec. 4. The management of the Corporation shall be vested in a Board of Directors consisting of five persons appointed by the President by and with the advice and consent of the Senate. The President shall designate one of such appointees as Chairman of the Board and chief executive officer and shall have the power at any time and from time to time to designate a new Chairman from among the members of the Board. Of the five members of the Board, not more than three shall be members of any one political party and not more than one shall be appointed from any Federal Reserve district. Each Director shall devote working time not otherwise required by the business of the United States principally to the business of the Corporation. Before entering upon his duties, each of the Directors so appointed and each officer of the Corporation shall take an oath faithfully to discharge the duties of his office. Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation

as an employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof. Initially, two of the Directors shall be appointed for three-year terms, two for two-year terms, and one for a one-year term. Thereafter, upon the expiration of any Director's term, such Director or his successor shall be appointed for a three-year term or until such Director's successor is appointed and qualified. Whenever a vacancy shall occur among the Directors so appointed, the person appointed to fill such a vacancy shall hold office for the unexpired portion of the term of the Director whose place such person is selected to fill. Directors, officers, attorneys, agents, or employees of the Corporation shall be subject to all provisions of law governing the conduct in office of employees of the Departments and Agencies of the United States Government.

Sec. 5. The Corporation shall have power to adopt, alter, and use a corporate seal, which shall be judicially noticed; to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; to define their authority and duties, require bonds of

them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys and agents; and to prescribe, amend, and repeal, by its Board of Directors, bylaws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, including the selection of such executive officers not otherwise provided for herein, together with provision for such committees and the functions thereof, as the Board of Directors may deem necessary for facilitating its business under this Act. The Board of Directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the government. The Corporation may request and shall be entitled to receive from any board, commission, independent establishment, or executive department of the government, including any field service thereof, information necessary for the conduct of the Corporation's affairs. With the consent of any such board, commission, independent establishment, or executive department, the Corporation may make use of services, facilities, officers, and employees thereof in carrying out the provisions of this Act.

Functions of the Corporation

Sec. 6. (a) In order to achieve the purposes of this Act, the Corporation is authorized and empowered, upon such terms and conditions as it may determine, to provide financial assistance to any business concern:

(1) to enable such concern to finance facilities construction, conversion, or expansion, or the acquisition of equipment, plant, machinery, supplies, or materials;
or

(2) to provide such concern with working capital;
or

(3) to aid such concern in the payment of current debts or obligations.

As used in this Act the term "business concern" shall mean any individual, corporation, company, association, firm, partnership, society, public authority, or other entity which is engaged in the development, manufacture, supply, importation, exportation, procurement or production of goods or services in the United States and which is deemed by the Board of Directors to be essential, by itself or as part of a larger industrial grouping, to the achievement of energy self-sufficiency by the United States, or the long-term security of energy sources and supplies for the United States, and the term "financial assistance" shall mean the provision of loans, the furnishing of guarantees, the purchase of capital stock, or any other advance or extension of funds or credit by the Corporation to a business concern.

(b) In providing financial assistance under subsection (a), the Board of Directors shall determine that equivalent financing is not available on similar terms from other sources.

(c) No financial assistance may be provided under subsection (a) unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(d) Financial assistance provided by the Corporation under subsection (a) may be made upon such terms, and subject to such restrictions, as shall seem to the Board of Directors to be commensurate with the needs of the recipient, and may be renewed or extended by the Board of Directors as it may determine.

(e) Each loan made under subsection (a) shall bear interest at such rate as the Board of Directors of the Corporation may determine, giving considerations to the need and capacities of the recipient as well as to the Corporation's need to sustain continuing operations out of returns on investment.

(f) Except as provided in subsection (g) hereof, all loans or purchases of obligations under the foregoing provisions shall be, in the opinion of the Board of Directors, of such sound value, or so secured, as to reasonably assure retirement or repayment, and may be made or effected either directly or in cooperation with banks or other lending institutions. Such loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose. The Corporation, under such conditions as it shall prescribe, may take over

or provide for the administration and liquidation of any collateral accepted by it as security for such loans. In no case shall the aggregate amount of advances made under this section to any one business concern or affiliated business concerns exceed at any one time 5 per centum of (1) the authorized capital stock of the Corporation plus (2) the aggregate principal sum of the obligations of the Corporation authorized to be outstanding.

(g) To the extent of its paid-in-equity capital, the Corporation may make high-risk loans or direct investments, or provide product price guarantees, which in the opinion of the Board of Directors will further the purposes of this Act. The Board of Directors shall create such reserves as may be necessary to meet contingent liabilities which may be created under this subsection (g).

(h) The Corporation shall be subrogated to the rights of any third party receiving payments of interest or principal out of funds provided by the Corporation under a loan guarantee arrangement authorized hereunder. Guarantees of loans under subsection (a) shall be subject to such further terms and conditions as the Corporation may require to carry out the purposes of this Act.

(i) The probable ultimate net cost of all contingent obligations of the Corporation arising out of guarantees authorized hereunder shall be considered financial assistance or commitments for financial assistance for the purpose of computing the general

funds of the Corporation available for use in carrying out the purposes of the Act. The Corporation shall set aside such contingency funds as the Board of Directors shall deem appropriate to meet contingent liabilities.

(j) The Corporation may, in compliance with applicable laws governing transactions in securities, sell in public or private transactions all or any part of the common or preferred stock, capital notes, bonds or any other evidences of indebtedness or ownership acquired by the Corporation pursuant to this section.

Sec. 7. Subject to the terms and restrictions of Section 6 hereof, the Corporation shall be entitled to reply upon the recommendations of the Energy Resources Council, the Federal Energy Administration or the Energy Research and Development Administration, or their successors, in determining whether the provision of financial assistance to a business concern or any other act authorized hereunder, will further the purposes of this Act.

Sec. 8. In order to further the purposes of this Act, the Corporation is authorized and empowered, under such terms, conditions, and restrictions as the Board of Directors may determine, to make loans to, or contracts with States, municipalities and political subdivisions of States, to aid in financing projects authorized under Federal, State or municipal law.

Sec. 9. (a) When the Board of Directors shall determine that such action is necessary to achieve the purposes of this Act, the Corporation may create or organize subsidiary corporations

with such powers and authorities (not exceeding those of the Corporation) which may be required --

(1) to produce, acquire, carry, sell or otherwise deal in energy-related commodities and materials;

(2) to purchase and lease land, purchase, lease, build, operate and expand plants, and purchase and produce equipment, facilities, machinery, materials, and supplies;

(3) to lease, sell, or otherwise dispose of such land, plants, facilities and machinery in order to induce business concerns to engage in the foregoing activities.

(b) The powers of every corporation created or organized under this Section shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charters shall be valid only when similarly filed and published. No corporation created hereunder shall have succession beyond the authorized life of the Energy Resources Finance Corporation, unless the life of such corporation is extended beyond such time of termination pursuant to an Act of Congress.

Financing of the Corporation

Sec. 10. All moneys of the Corporation not otherwise employed may be deposited with the Treasurer of United States subject to check by authority of the Corporation, or in any Federal Reserve bank, or may, by authorization of the Board of

Directors of the Corporation, be used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Corporation. The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Corporation in the general performance of its powers conferred by this Act.

Sec. 11. In order to enable the Corporation to carry out the provisions of this Act, the Treasury Department, the Comptroller of the Currency, the Federal Reserve Board, the Federal Reserve banks, the Energy Resources Council, the Federal Energy Administration, the Interstate Commerce Commission, the Energy Research and Development Administration, the Civil Aeronautics Board, the Securities and Exchange Commission, the Federal Power Commission, the Nuclear Regulatory Commission, the Internal Revenue Service, and all other executive departments, agencies, boards, commissions, and independent establishments of the Federal Government whether or not specifically enumerated above, are hereby authorized and directed to make available to the Corporation, in confidence, such reports, records, or other information as they may have available relating to the condition of any applicant for financial assistance, or relating to individuals, associations, partnerships, or corporations whose obligations or securities are offered to or held by the Corporation as security in connection with the furnishing of such financial assistance, and to make examinations of such applicants for the confidential use of the Corporation. Every applicant for

financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations as the Corporation may require for the purposes of this Act, and shall further consent that any reports of examinations of the applicant by constituted authorities may be furnished by such authorities to the Corporation upon request therefor.

Sec. 12. (a) The Corporation is authorized and empowered to issue, and to have outstanding of any one time, notes, debentures, bonds or other obligations in the aggregate principal amount of \$100,000,000,000; such obligations shall contain terms as to maturity, redemption, priority and interest, and such other terms, as may be determined by the Board of Directors of the Corporation: Provided, That marketing arrangements for securities of the Corporation shall be made through the Federal Financing Bank, and the terms, time and marketing arrangements of any such offering shall be subject to the approval of the Secretary of the Treasury.

(b) The Federal Financing Bank shall be authorized to purchase, and upon request from the Corporation shall purchase, the securities or other evidences of indebtedness of the Corporation. The Federal Financing Bank may, at any time, sell any such securities or evidences of indebtedness of the Corporation so acquired.

(c) The notes, debentures, bonds, and other obligations of the Corporation --

(1) may be secured by assets of the Corporation in such manner as shall be prescribed by its Board of Directors;

(2) subject to the provisions contained in subsection (a) above, may be offered for sale at such price or prices as the Corporation may determine;

(3) shall be available for purchase by foreign investors; shall be qualified for purchase by any Federally chartered or regulated commercial bank, savings and loan association or mutual savings bank; and shall be eligible for purchase by the Federal Reserve Open Market Committee and any Federal Reserve bank; and

(4) shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof.

(c) In the event that the Corporation shall default in the payment of the principal of or interest on outstanding notes, debentures, bonds, or other such obligations, the Secretary of the Treasury shall upon request by the holders of such defaulted obligations pay the amount thereof, and there is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated a sum sufficient to pay such defaulted obligations. Thereupon, to the extent of the amounts so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such defaulted notes, debentures, bonds, or other obligations of the Corporation.

Sec. 13. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under any general bond-issuing authority granted, and the purposes for which securities may be issued under any general bond-issuing authority heretofore granted are extended to include any purchases of the Corporation's obligations hereunder. The Secretary of the Treasury may, at any time, sell any of the obligations of the Corporation acquired under this Section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

Sec. 14. The Corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

Sec. 15. In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the Treasury subject to delivery, upon order of the Corporation. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

Sec. 16. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as depository of public money and financial agent of the government, as may be required of it. Obligations of the Corporation shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

Sec. 17. (a) As used in this Section --

(1) The term "project" means any purpose for which financial assistance may be provided to a business concern under this Act.

(2) The term "Federal agency" means any department, agency or office of the United States Government including any independent regulatory agency.

(3) The term "proceedings" shall mean all actions of a Federal agency, whether investigative, adjudicatory or rule-making in character, which are required prior to the approval or disapproval of any project.

(b) The Corporation shall have the authority, in connection with the commitment or extension of financial assistance to any business concern, to certify that the project to which such financial assistance is committed or provided is of critical importance to the achievement of the purposes of this Act.

(c) The certification described in subparagraph (b) above shall be issued by the Corporation only upon application therefore and then only after a satisfactory showing by the applicant that such certification is reasonably necessary to assure the expeditious completion of such project.

(d) Upon receipt of a certification pursuant to subparagraph (b) above, a business concern may present copies of the same to any Federal agency which is required by law to approve or disapprove all or any portion of the project, or any other related actions of the business concern which are necessary to the initiation, development or completion of the project.

(e) Any Federal agency receiving from a business concern a certification authorized under subparagraph (b) above shall forthwith commence all necessary proceedings which may be required for the approval or disapproval of all or any portion of the project, or of any actions of such business concern which as described in subparagraph (d) above, are related to a project, shall give such proceedings preference over all other questions pending before it, except other proceedings involving similar certifications, and shall complete all such proceedings and render a decision within six months from the date of submission of the certification to such Federal agency.

(f) With the approval of the Corporation, any Federal agency which receives a certification provided under subparagraph (b) may agree with the business concern submitting the certification to extend the time for completion of any proceeding, but only for the purpose of permitting the business concern to comply with requests from the agency for additional information concerning those aspects of

the project which fall within the jurisdiction of such agency.

(g) The provisions of other statutes of the United States notwithstanding, no Federal agency shall disapprove all or any portion of a project unless it finds that there is clear and convincing evidence that the completion of such project would have adverse consequences within the Federal agency's jurisdiction which outweigh the public interest expressed in the purposes of this Act. The protestants in any Federal agency proceeding shall have the burden to prove that the consequences of an approval by the Federal agency of all or any portion of the project would be to this extent adverse.

(h) Petitions for review of the Federal agency's decision may be filed under applicable law, but only in the United States Court of Appeals for the District of Columbia. Such judicial review shall be given priority over other pending matters to the extent permitted by the Court's docket.

(i) If any Federal agency shall fail to render a decision within the time allotted in this section on a project as to which a certification under subparagraph (b) above has been obtained by a business concern and duly submitted to such Federal agency, the record of any proceedings in this matter shall be certified by such Federal agency to the Secretary of the Treasury within 3 days after the end of its period for decision hereunder. The

Secretary of the Treasury shall review the record and all other material and information he deems relevant, and may approve, modify or disapprove the project in accordance with the public interest as defined herein. Projects approved by the Secretary of the Treasury pursuant to this subparagraph (i) shall be deemed final, and of the same force and effect as if approved by the Federal agency which certified the record of its proceeding to the Secretary of the Treasury. Final decisions of the Secretary of the Treasury pursuant to this subparagraph (i) shall be subject to review as provided by applicable law, provided, that petitions for review may be filed only in the United States Court of Appeals for the District of Columbia. Such judicial review shall be given priority over other pending matters and expedited to the maximum extent permitted by the Court's docket.

(j) Any decision on a project by any Federal agency or the Secretary of the Treasury, whether or not pursuant to this section, shall thereafter be binding upon the agency as well as the business concern. Unless the statutory standards on which such decision is based shall be thereafter modified, amended or repealed, such Federal agency may not modify its rules, regulations or procedures in such a way as adversely to affect the efficiency or economic viability of a project which has previously received approval by the Federal agency or the Secretary of the Treasury.

General

Sec. 18. The Corporation shall make and publish a quarterly report to the Congress stating the aggregate sums then outstanding as financing facilities, including a listing of the borrowers or recipients thereof and a brief description of the factors considered by the Board of Directors in extending the facilities; such report shall also contain a detailed report on other activities of the Corporation, if any, authorized under Sections 6 and 7 of this Act. The report shall further show the assets and liabilities of the Corporation as at the end of the Corporation's fiscal quarter next preceding the date of the report, and the number, functions and compensation of persons employed by the Corporation at annual salary rates exceeding \$1,500 per month.

Sec. 19. (a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances

or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) The report of each such independent audit shall be included in the appropriate quarterly report submitted to Congress under Section 15 of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities and surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

Sec. 20. (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other

obligation or coupon, issued by the Corporation, or (2) passes, utters or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, or coupon, purporting to have been issued by the Corporation, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Corporation, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation, or coupon issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious, or any person who willfully violates any other provision of this Act, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(c) Whoever, being connected in any capacity with the Corporation, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it, or (2) with intent to defraud the Corporation or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment,

or decree thereof, or (3) with intent to defraud, participate, share, receive directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, or (4) gives any unauthorized information concerning any future action or plan of the Corporation which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Corporation, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(d) No individual, association, partnership, or corporation shall use the words "Energy Resources Finance Corporation" or a combination of these words which a court of competent jurisdiction shall find reasonably likely to mislead or deceive, as the name or a part thereof under which he or it shall do business.

(e) The provisions of the United States Code, Title 18, Chapter 11, Sections 201 through 218, inclusive and Title 18, Chapter 23, Sections 431 through 433, inclusive, as extended to apply to contracts or agreements with the Corporation under this Act, which for the purposes hereof shall be held to include loans, loan guarantees, advances, discounts, and rediscounts; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor.

Sec. 21. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall not be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Termination

Sec. 22. Any other provision of this Act notwithstanding.

(a) The Corporation shall make no commitments for financial assistance after June 30, 1980, and shall after June 30, 1985, furnish no financial assistance pursuant to commitments made or entered into on or prior to June 30, 1980.

(b) After June 30, 1980, the Board of Directors of the Corporation shall commence all practical and reasonable steps to achieve an orderly liquidation of the Corporation's affairs, to the extent consistent with the purposes of this Act, on or prior to June 30, 1985. Such steps may include the sale or transfer to any agency of the United States, or the sale directly to the public, including any business concern, of all or any portion of the Corporation's assets.

(c) The authority conferred on the Corporation by this Act shall terminate on June 30, 1985, or at such earlier date as the President of the United States shall determine, and upon such termination, all assets or liabilities of the Corporation,

direct, contingent or otherwise, shall become assets and liabilities of the United States.

(d) The President may by Executive Order, extend the authorized life of the Corporation for additional three-year periods after June 30, 1985.