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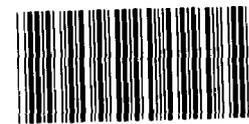
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Chairman, Committee On Energy
And Natural Resources
United States Senate**

**Synthetic Fuels Corporation's Use Of An Expert
Panel And A Staff Assistance Agreement**

The Chairman of the Senate Committee on Energy and Natural Resources requested that GAO review the propriety and evolution of the United States Synthetic Fuels Corporation's (SFC's) use of an expert advisory panel and the corporation's staff assistance agreement with the Environmental Protection Agency.

GAO found nothing to indicate that either the use of the panel or the agreement with the Environmental Protection Agency was unauthorized under the Energy Security Act. GAO believes, however, that an earlier announcement of the formation of the panel to the SFC board and executives and earlier direction to panel members on the useful scope of the panel's deliberations would have been more prudent.



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**GAO/RCED-83-52
FEBRUARY 2, 1983**

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-209655

The Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate

Dear Mr. Chairman:

In your letter of March 19, 1982, to the Chairman of the United States Synthetic Fuels Corporation (SFC), you expressed concern over the propriety of (1) SFC's establishing an outside expert advisory group and (2) an SFC agreement with the Environmental Protection Agency (EPA). These activities are two of the efforts SFC has undertaken since being established in 1980 by the Energy Security Act (ESA) to assist in the development of a United States synthetic fuels industry. The advisory group, referred to by SFC as a "study panel," was a one-time gathering of 12 academic, Government, and industry experts who met in May 1982 to provide information and ideas on synthetic fuels issues. The SFC/EPA agreement, normally referred to by SFC and EPA officials as a memorandum of understanding (MOU), is a February 1982 agreement between the organizations which enables SFC to obtain the temporary services of knowledgeable EPA employees. This letter summarizes the results of our review with additional details provided in appendix I.

In response to the concerns expressed in your letter (see appendix II) and subsequent discussions with your office, we focused our review on determining the origins and evolution of the study panel and EPA agreement activities. We reviewed available documents on the panel and EPA agreement and interviewed SFC representatives, panel members, and officials from EPA and the Heritage Foundation.

In summary, we found nothing to indicate that either the use of the panel or the EPA agreement was unauthorized under the Energy Security Act. We believe, however, that an earlier announcement of the panel activity to the entire Board of Directors and, at a minimum, to other senior SFC executives would have been more prudent. In addition, SFC should have advised the panel members earlier on the intended scope of the panel.

Initially, two SFC executives, the Chairman of the Board of Directors and the President, also a board member, developed the panel effort with the assistance of the Heritage Foundation. SFC later invited suggestions on the panel from SFC's three other board members and all other senior executives. But this did not occur until February 1982, after the originally planned January 1982 meeting was canceled because of snow and 6 months after the first discussion of the idea with Heritage Foundation executives in August 1981. SFC's Chairman stated that the late contact with the board was an unfortunate oversight. He explained that he thought that his staff had advised the other board members of the activity when, in fact, the staff had not.

SFC guidance to the panel was that the panel should discuss and report on whatever the experts considered important. No restrictions were placed on the panel's deliberations and few suggestions were made concerning the scope of panel reporting until the panel sought direction on a reporting format about halfway through the 3-day meeting. At that time, SFC's Vice President for Planning explained that suggestions which went beyond SFC's mandate would not be useful to SFC. He explained to us that SFC was not interested in developing adjustments or alternatives to its ESA charter. SFC's more explicit guidance regarding its ESA mandate occurred after the panel discussed potential changes to ESA. These discussions included areas ranging from questioning the need for SFC to expanding SFC's role. Even after this explanation about half of the panel's final report discussed areas outside the ESA, such as whether SFC was needed, whether SFC's role should be expanded, deregulation of natural gas prices, and the abolition of the windfall profits tax on crude oil.

The Vice President for Planning explained that the limited direction provided to the panel on the scope of its discussions was a conscious effort on SFC's part to help ensure complete intellectual freedom.

In addition, we found contrasting opinions on the panel's purpose and on the political and technical balance of the original group of experts who were scheduled for the January meeting. Two individuals, one from the Heritage Foundation and one from the panel, stated that the purpose of the panel was to reanalyze the need for a Federal role in the synthetic fuels area. Twelve others from SFC and the panel stated that the purpose was to obtain outside input on generic synthetic fuels issues considered important by the experts. This might include a discussion of whether a Federal role was warranted. With respect to the balance issue, most SFC executives and panel members described the January 1982 panel group and the slightly different group of experts, which eventually met in May 1982, as well-balanced groups. A few SFC executives, one Heritage Foundation executive,

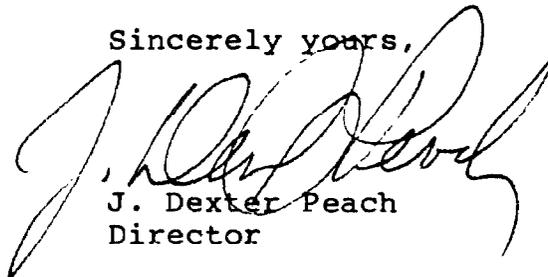
and one panel member, however, described most of the members from the January 1982 panel as politically conservative or generally "free market" thinkers.

With respect to the EPA agreement, we found that little activity has occurred and none is presently planned. EPA and SFC completed a memorandum of understanding on February 9, 1982, which provides for the temporary assignment of EPA employees to SFC. Nevertheless, with the exception of a Presidential management intern who worked at SFC in the spring of 1981 prior to the MOU, no EPA employees have been assigned to SFC. Furthermore, neither SFC nor EPA currently anticipates a need for the temporary assignment of EPA employees to SFC because SFC has established its own environmental office and has begun staffing it.

A draft of this report was provided to SFC, and the relevant draft sections were provided to EPA and the Heritage Foundation for comment. SFC and EPA responded to our request for comments by writing that they had no comments on the draft. A Heritage Foundation Vice President stated that the draft accurately reflected statements made by Foundation representatives and, as a consequence, the Foundation would not be providing written comments on the draft sections.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days from the date of this report. At that time we will send copies to the Chairman of SFC, the Administrator of EPA, the President of the Heritage Foundation, the Chairman of the Senate Committee on Governmental Affairs, the Chairman of the House Committee on Energy and Commerce, the Chairman of the House Committee on Government Operations, and other interested parties. We will also make copies available to others upon request.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read "J. Dexter Peach".

J. Dexter Peach
Director



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ABBREVIATIONS

EPA	Environmental Protection Agency
ESA	Energy Security Act
MOU	memorandum of understanding
SFC	Synthetic Fuels Corporation



SYNTHETIC FUELS CORPORATION'S USE OF AN
EXPERT PANEL AND A STAFF ASSISTANCE AGREEMENT

The Synthetic Fuels Corporation (SFC) held its expert advisory panel meeting in May 1982, and on February 9, 1982, SFC completed its agreement with the Environmental Protection Agency (EPA) to establish a mechanism to use EPA employees at SFC. These two efforts were undertaken by SFC as it began operations under the Energy Security Act (ESA).

The panel meeting was a gathering of 12 energy experts who provided SFC with information and ideas on synthetic fuels issues. The idea was initially developed by two senior SFC executives with the assistance of the Heritage Foundation. Later, other SFC executives were advised of the panel. SFC invited the panel members to address any issues the members considered important. Later, SFC explained that only those ideas that were within SFC's legislative mandate would be useful. Nevertheless, the panel discussed and wrote about issues which went beyond SFC's legislative mandate.

The SFC/EPA agreement is a memorandum of understanding (MOU) between the two organizations. It has not been used and SFC does not currently plan to use it to obtain EPA expert staffing on a temporary basis because SFC has instead established and begun staffing its own environmental office.

A draft of this report was provided to SFC, and the relevant draft sections were provided to EPA and the Heritage Foundation for comment. SFC and EPA responded to our request by writing that they had no comments. A Heritage Foundation Vice President stated that the draft accurately reflected statements made by Foundation representatives.

This appendix provides a more detailed discussion of the origin and development of SFC actions regarding the study panel and the agreement with EPA.

OBJECTIVES, SCOPE,
AND METHODOLOGY

Our review focused on the origins and evolution of the study panel and EPA agreement activities, which evolved at SFC during the period of August 1981 to May 1982. We reviewed available documents on the selection and use of the expert panel and the EPA agreement. We did not examine the personal financial disclosure forms completed by panel members but instead relied on the SFC's review of the forms. This review was made by SFC's Ethics Officer whose ongoing responsibility includes similar reviews for SFC board members and executives. We also interviewed SFC board members, senior executives, and other officials; EPA officials; executives from the Heritage Foundation; and 8 of the 12 advisory panel members who met in May 1982. This review was performed in accordance with generally accepted government audit standards.

SFC--A CHANGING NEW ORGANIZATION

SFC's panel and EPA efforts are only two of the activities SFC has undertaken during a period of significant change and transition. The panel effort was initiated in August 1981 and culminated in a May 1982 panel meeting. Initial discussions between SFC and EPA concerning the use of EPA employees occurred in the spring of 1981 and resulted in a February 1982 agreement. During these time periods, SFC acquired a new board of directors and a new organizational structure. During these periods, SFC was also declared fully operational by President Reagan, and SFC appointed several new executives.

After the Energy Security Act became law on June 30, 1980, then-President Carter appointed SFC's first board of directors in October 1980. The board immediately activated SFC by hiring officers and staff and later began soliciting proposals for assistance. Following the November 1980 election and subsequent change in administrations, the initial board resigned. The then-Senior Vice President and General Counsel became Acting Chairman and managed the staff until mid-May 1981, when Mr. Edward E. Noble became Chairman. Four other board members were confirmed by the Senate on September 11, 1981, and formally sworn in on October 28, 1981. On February 9, 1982, President Reagan declared the SFC fully operational and more recently, in August 1982, the two remaining board positions were filled to complete the seven-member SFC board.

During the summer and fall of 1981, SFC also underwent organizational and personnel changes. In October 1981, the board adopted a new organization plan which established five senior executive positions reporting directly to the SFC President. Three of these positions--the General Counsel and Secretary, the Senior Vice President for Projects, and the Vice President for External Relations--were eventually filled by individuals who had been acting in these respective positions since at least August 1981. Executives serving in an acting capacity in the other two positions--the Vice President for Administration and Treasurer and the Director of Planning--were replaced by a new Vice President and new Director on November 9, 1981, and January 4, 1982, respectively. The current titles for these two positions are the Vice President for Administration and Treasurer, and the Vice President for Planning.

The SFC resource commitment to the panel activity involved periodic part-time efforts of SFC executives and staff and an expenditure of approximately \$14,000. The expenditures were for panel members' hotel accommodations and travel expenses, and an honorarium fee provided to each panel member. The EPA agreement involved the periodic part-time effort of SFC executives and staff.

PANEL ORIGINS

Chairman Noble initiated the SFC expert panel concept in the summer of 1981. He explained that he had used similar consulting groups over the years in the private sector and considered such input useful. On August 7, 1981, the Chairman and Mr. Victor A. Schroeder, SFC's President, met with Heritage Foundation executives at SFC's request. The Chairman stated that he wanted to take advantage of the Foundation's administrative expertise at setting up such expert groups. The Chairman explained that he was aware of the Heritage Foundation's expertise through his past association with the Foundation. He also explained that the Foundation's critical views on Federal synthetic fuels efforts could prove useful in helping develop a panel which would provide constructive, critical information and ideas. He added that SFC did not request suggestions or ideas on the panel effort from any other outside organizations.

On August 19, 1981, as a followup to the SFC/Heritage Foundation meeting and subsequent discussions, Foundation officials suggested a format for the panel and proposed 17 possible participants for a group they titled the "Synthetic Fuels Advisory Commission." Two Heritage Foundation officials developed the list. These officials explained that their suggestions for panel members were chosen on the basis of their (the Foundation's officials') prior association with the nominees and the nominees' knowledge/expertise. Messrs. Noble and Schroeder told us that they also contributed suggestions for the panel members, some of whom were eventually listed in the August 1981 memorandum. They said that, using this list and the names of a few other experts whom they considered knowledgeable, they made the final selections for the panel meeting planned for January 22 to 25, 1982. This meeting was canceled because of snow on January 21, 1981, and eventually held in May 1982.

INTERNAL COMMUNICATION
ABOUT PANEL ACTIVITIES

As mentioned earlier, SFC initiated the panel effort with the assistance of the Heritage Foundation in August 1981 but did not advise the other three board members and did not involve other SFC executives in the activity until several months later, in January/February 1982. SFC documents, dated in December 1981 and January 1982, indicate that the panel was to report to the Board of Directors and others at SFC. Nevertheless, from August 1981 until January 1982, the panel effort was managed in SFC by Messrs. Noble and Schroeder, and the effort was implemented by their staffs with no other board member involvement and only limited involvement or awareness of other SFC senior executives.

SFC's board and executives had many opportunities to discuss the panel activities. For example, between August 1981 and January 1982, SFC held 28 executive staff meetings, and from October 28,

1981, to January 1982, SFC held three meetings of its board which, at the time, consisted of three 3 other board members in addition to Messrs. Noble and Schroeder.

These other board members became aware of the panel at some time in January 1982. One board member learned of the panel activity during one of his frequent discussions of SFC activities with SFC's President. After learning of the panel effort, he sent a memorandum to fellow board members stating that he supported having an expert panel and that the board's direct access to, and involvement with, the process was essential. This memo was written on January 21, 1982, the day the panel meeting was canceled. The two other board members became aware of the panel after the cancellation.

Messrs. Noble and Schroeder stated that on February 16, 1982, when, as an informal group, the board first discussed the panel, board members who had recently learned of the panel expressed considerable displeasure over the breakdown in communication and the lack of their involvement. The Chairman explained that the late contact with the board was an unfortunate oversight in that he thought that his staff had advised the other board members of the activity when, in fact, they had not. He also explained that senior SFC executives were purposely not involved in the effort because SFC wanted completely unbiased outside information and ideas.

Most SFC executives could not remember specifically when they became aware of the panel effort. Nevertheless, excluding Messrs. Noble and Schroeder, only three of the seven other SFC senior executives and officials we questioned on the subject indicated that they may have been aware of SFC's active panel effort before December 1981. Others indicated that they became aware of the panel in late December 1981 or January 1982. Most executives explained that they became aware of the panel effort through unofficial channels such as informal discussions with other officials. The panel was not referred to in the minutes of the regular (normally at least weekly) meetings of SFC's executives until the February 11, 1982, meeting. Several SFC executives also stated that they were not actively involved in the effort until January 1982 or later.

One executive, the General Counsel, received a memorandum dated December 28, 1981, stating that the Chairman had decided to create a panel. At the General Counsel's request, an attorney on his staff wrote a draft memorandum which discussed the Chairman's authority to establish the panel, how outside group advice is obtained by Federal agencies, and how organizations protect against allegations of potential advisory group bias. The SFC General Counsel stated that he did not formalize this memorandum because it was his judgment that SFC's panel activities were clearly authorized activities under the ESA. He also stated that the administrative suggestions made by the Office of General Counsel on implementation,

such as requesting panel members' disclosure statements, were eventually incorporated into SFC's effort.

On January 4, 1982, SFC replaced its acting Director of Planning with a new Director, who later received the new title of Vice President for Planning. The new Director was given responsibility for the panel effort as one of his first projects because the panel was primarily considered an important planning effort. On January 19, 1982, all SFC senior executives were notified of the panel effort when they were invited to a reception for panel members. SFC executives expressed their first formal concerns about the panel shortly after the January meeting was canceled on January 21, 1982.

On January 22, 1982, the Vice President for Administration and Treasurer expressed his concerns over how SFC obtained expert advice. His memorandum emphasized that many individuals should be involved in suggesting panel members for such efforts. On February 5, 1982, SFC issued its first request to all major SFC offices for input on the panel effort. In response to this request, the Senior Vice President for Projects raised several questions including the following:

- "How were the 10 panel members selected, and, in fact, who are they?"
- "What are the policy attitudes of the panel members, and to what extent does the group represent divergent interests?"
- "How much staff involvement will be required in this effort?"

In addition, several executives reviewed the revised discussion outline for the rescheduled May 1982 meeting. One board member, who had recently learned of the panel, and two planning staff members suggested names of additional experts to supplement the initially selected group. SFC's Vice President for Planning explained that the group was enlarged from 11 to 12 members to guard against cancellations resulting in too small a group. Because of scheduling conflicts, two panel members from the January group could not attend the May meeting, and three individuals were added to replace them. According to the SFC Vice President for Planning, the title of the group was also changed from "Review Panel" to "Study Panel" to more correctly reflect the group's purpose.

In commenting on his lack of awareness of the panel activity, the Senior Vice President for Projects stated that such limited involvement in the panel effort was appropriate because he did not see a need to involve the entire staff. The Vice President for Administration and Treasurer, however, stated that while he fully supported the idea of obtaining outside expertise, he thought that

SFC's executives should have been advised earlier. He explained that he would have preferred to have been involved in the discussion of administrative panel matters. The General Counsel stated that too much SFC involvement in panel selection could have impaired the panel's independence.

GUIDANCE ON PANEL SCOPE

SFC provided little advance direction to the panel on the scope of its efforts. The only guidance initially provided was that the panel should discuss and report on whatever it considered important. This guidance was provided through the initial invitation letters and through verbal direction at the meeting provided by Mr. Noble in his opening comments and the Vice President for Planning who periodically responded to panel members' questions, which arose during the deliberations. No restrictions were placed on the panel's deliberations and few suggestions were made concerning the scope of panel reporting until a panel member sought direction on a reporting format about halfway through the 3-day panel meeting. At that time, the Vice President for Planning explained that suggestions which went beyond SFC's mandate would not be useful. According to SFC's Vice President for Planning and other SFC executives, the limited direction to the panel on the scope of its discussions was a conscious effort on SFC's part to help ensure complete intellectual freedom.

Panel members and SFC executives stated that SFC did not provide direction to the panel except for the two broad discussion outlines which were provided with the invitation letters and the "set your own agenda" direction. While panel members' positions differed on the usefulness of this free-for-all approach to their deliberations, panel members' and SFC executives' statements, as well as the final panel papers, indicated that the panel spent a considerable amount of time discussing whether the Government should have a role in the synthetic fuels area. Approximately 20 percent of the final papers were allocated to discussions of whether SFC was needed. After a day and a half of panel debate and as the panel was splitting into two subgroups to document their positions, SFC's Vice President for Planning explained that any suggestions that went beyond SFC's charter would not be useful to SFC. The Vice President for Planning and the Deputy Inspector General also indicated that a basic disagreement among panel members over the need for SFC helped prevent the panel from producing a single consensus report and resulted instead in the two group discussion papers. Also, according to panel members and SFC executives, the experts spent time discussing how SFC can best implement the ESA and potential revisions to the act.

The 15-page document that resulted from the panel's deliberations discussed various economic aspects of synthetic fuels and the Federal role in the synthetic fuels area. The document was

separated into two position papers, one provided by each of the two panel subgroups which had developed during deliberations. The document provided approximately equal discussion of (1) whether a need exists for a Federal role in the synthetic fuels areas and, assuming such a role, the most appropriate one, and (2) how such a role should be best implemented. One paper, the majority group paper written by eight panel members, stated that "* * * there is an appropriate role for the government in synfuels promotion" and also suggested additional SFC activities beyond those mandated in ESA. The other paper, the minority paper written by the four other panel members, stated that "* * * the desirability of a Synthetic Fuels Corporation can be seriously questioned." The minority paper also briefly mentioned areas such as deregulation of natural gas prices, abolition of the windfall profits tax on crude oil, and the potential establishment of an oil-import tax. Each paper discussed how SFC can pursue its mandated role.

Panel members and SFC officials considered the panel useful because of the exchange of different ideas. The Chairman and another board member considered the panel output particularly thought provoking. For example, the board member stated that he considered the panel's discussion of pricing approaches and technology innovation useful. SFC has not precluded holding panels in the future but does not currently plan to reconstitute the May 1982 study panel.

DIFFERENCES OF OPINION ON PANEL PURPOSE AND INITIAL BALANCE

Two important differences of opinion surfaced during our review. Key individuals initially involved in the panel effort disagreed on the panel's original purpose. In addition, SFC executives had different opinions on the degree of balance provided by the members composing the original January 1982 panel group.

The Heritage Foundation Vice President, who assisted SFC in setting up the panel in August 1981, stated that the panel's original purpose was to analyze the Federal role in the synthetic fuels area. While most panel members explained that the panel was created to provide ideas on generic synthetic fuels issues, one member was unsure of the panel's purpose and another explained that the panel was created to assess the role of SFC. Messrs. Noble and Schroeder explained that the purpose was to obtain input on generic synthetic fuels issues that the experts considered important. Several SFC internal documents and letters to the panel members dating back to December 18, 1981, as well as statements by other SFC executives, support the position that the panel was created to obtain input on generic issues. Furthermore, according to SFC officials and panel members, members were contacted by SFC, not the Heritage Foundation.

Panel members also differed over the composition of the original January 1982 panel group. Several SFC executives, and most panel members, stated that the January panel group and May panel group (which had three new members) represented broad cross sections of appropriate experts. However, two SFC executives thought that the original January 1982 panel was not as broadly conceived or balanced as the May 1982 panel. One panel member described the May panel, which included most of those from the January group, as very politically conservative while others thought the group was well balanced. In recommending additional names for the May 1982 panel, two other SFC officials stated that their recommendations would help to balance the group. They indicated that the suggested additional members provided a pragmatic technical and political balance to the January 1982 group. Eight of the 12 individuals invited to the January panel were on the previously mentioned August 19, 1981, Heritage Foundation list. One Heritage Foundation executive described individuals on the list as generally "free market" thinkers. Half of the May panel came from the list.

SFC's USE OF EPA EMPLOYEES

SFC and EPA completed a memorandum of understanding on February 9, 1982, which provides for the temporary assignment of EPA employees to SFC. This agreement resulted from SFC and EPA interaction which started during the spring of 1981. Nevertheless, with the exception of a presidential management intern who worked at SFC in the spring of 1981 (prior to the MOU), no EPA employee has been assigned to SFC. According to SFC's Director of Environment, even though an MOU exists which allows temporary assignments, there should be no need to do so in the future, because SFC has now established an environmental office and is in the process of staffing it.

Alternatives considered

The Energy Security Act provides for financial assistance for the development of a United States synthetic fuels industry in a manner consistent with the protection of the environment. As a result, SFC requires some degree of environmental expertise, particularly in reviewing financial assistance proposals according to SFC's Vice President for Projects. On November 21, 1980, SFC issued its first solicitation for project proposals from those seeking financial assistance. During the spring and summer of 1981, officials from various EPA offices provided briefings to SFC on environmental problems, research and development needs, environment control technology, and the types of permits needed for synthetic fuels projects.

By the fall of 1981, SFC had received 63 proposals for financial assistance for alternative fuels projects. According to the Vice President for Projects, SFC did not then have environmental expertise in-house to examine the overall environmental implications

of the projects. This lack of in-house expertise was further complicated by the fact that SFC did not have approved project evaluation criteria until late October 1981.

According to the Vice President for Projects, SFC considered several options for obtaining the required environmental expertise. These included (1) direct hiring of environmental experts, (2) contracting for environmental specialists from the private sector, and (3) detailing (temporarily using) Federal employees. SFC's ability to directly hire staff was limited because, at the time, it had only a few personnel resumes for the disciplines needed and had not established its long-term staffing requirements. Furthermore, SFC did not have an approved organizational structure under the new board until October 1981; therefore, SFC did not want to initiate an active hiring program and later be forced to release people as the workload decreased.

SFC decided against the option of using outside consultants because of the sensitive and proprietary nature of the project information being submitted. In addition, SFC wanted to prevent the appearance that private consultants were contributing to policy decisions which it had to make. As a result, SFC viewed the use of Federal EPA employees as the most expeditious and appropriate alternative. These employees would be highly expert individuals on temporary assignments who could return to their own agency when no longer needed. Furthermore, SFC could use the time to better define its own staffing needs.

Interaction between EPA and SFC

On September 10, 1981, officials from SFC met with EPA's Deputy Administrator to discuss SFC's environmental responsibilities and staffing needs. According to available documentation, EPA suggested several candidates for executive environmental positions and was receptive to detailing staff to assist in evaluating the proposals received. Subsequently, on October 23, 1981, SFC forwarded two position descriptions to EPA for detailees. However, this request was contingent upon the execution of an MOU between the two agencies.

SFC drafted an MOU and provided it to EPA on November 25, 1981, for EPA approval. According to the Senior Vice President for Projects, this drafting was not given high priority because the need for outside experts had decreased after the SFC board meeting in October 1981 when SFC refined its evaluation criteria, including environmental requirements, and began the process of reducing the number of projects which required further detailed consideration. As a consequence, SFC no longer required as many environmental experts as initially anticipated and no longer considered it necessary to obtain outside expertise.

On December 3, 1981, SFC forwarded to EPA several corrections to the MOU. EPA also suggested a higher overhead rate for leave and fringe benefits and eventually, on February 9, 1982, EPA signed and returned the MOU to SFC. Nevertheless, as of January 3, 1983, no personnel have been detailed from EPA to SFC, according to SFC's Vice President for Projects. In addition, officials at both EPA and SFC told us that detailing will not be necessary since SFC has established an environmental office and is in the process of staffing it.

JAMES A. MC CLURE, IDAHO, CHAIRMAN
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 B. MICHAEL HARVEY, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
 ENERGY AND NATURAL RESOURCES
 WASHINGTON, D.C. 20510

March 19, 1982

The Honorable Edward E. Noble
 Chairman of the Board
 United States Synthetic Fuels Corporation
 1900 L Street, N.W.
 Washington, D.C. 20586

Dear Mr. Noble:

When the Congress enacted the Energy Security Act (Public Law 96-294), it established the United States Synthetic Fuels Corporation with specific goals and objectives regarding the commercialization of synthetic fuel in the United States. The specific powers and duties of the Corporation necessary, in the judgement of the Congress, to accomplish these goals and objectives were set forth in the statute. Moreover, as set forth in Section 171 (b), these powers can only be exercised in connection with authorized activities, for example, administrative activities and financial assistance. Notwithstanding any other provision of law, the Corporation has no legal authority, power, or purpose pursuant to the Energy Security Act, or any other law, to perform any other government function or engage in any other activities of a business, commercial, financial, or investment nature. Because Congress' concern that these powers not be utilized for other than authorized activities, specific enforcement measures are set forth in section 167 and 171 (b).

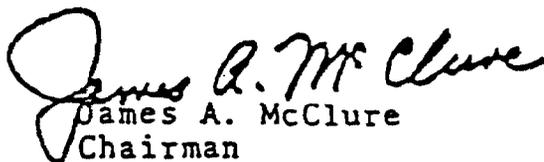
As you will remember, during the Committee's Fiscal Year 1983 budget hearing on February 10, 1982, in my opening statement and questioning, I expressed my concern that certain activities by the Corporation, namely establishment of an out-side advisory committee and an agreement with the Environmental Protection Agency, may not be authorized by the Energy Security Act.

Upon further review of this matter and the materials supplied by the Corporation in response to my questions for the record, I continue to be concerned that these activities are unauthorized by and inconsistent with the grants of authority provided in the Energy Security Act. Therefore I request that you carefully review any continuation of these activities to assure that they are fully authorized by law. By copy of this letter to the Attorney

General and the Comptroller General, I am alerting these officials, who have the statutory responsibility under the Energy Security Act to enforce the cited provisions of the Act, of my concerns about unauthorized activities.

I would appreciate the assistance and cooperation of the Board of Directors and the Corporation staff in reviewing these matters in a timely way. Thank you for your continued consideration to the Committee's views.

Sincerely,


James A. McClure
Chairman

JAM:nm

cc

The Honorable William French Smith
Attorney General of the United States
10th and Constitution Avenues, N.W.
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The Honorable Charles A. Bowsher
Comptroller General of the United States
441 G. Street, N.W.
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