



Comptroller General
of the United States

Washington, D.C. 20548

131039

B-223315
B-223370

September 18, 1986

The Honorable Slade Gorton
United States Senate

Dear Senator Gorton:

This is in response to your request of September 15 for clarification of one aspect of our opinion to you on the second nuclear waste repository. Specifically, in commenting on the decision by the Secretary of Energy to postpone indefinitely activities needed to locate a site for the second repository, we said that failure of the Administration to meet the deadlines in the Nuclear Waste Policy Act (42 U.S.C. § 10101 et seq.) would violate the Act, but that "the Act prescribes no consequences for failure to meet its deadlines." B-223315, B223370, September 12, 1986.

You observed in your letter that an aggrieved party may go to court to seek an order requiring compliance with the mandate of the Act. As of course you know, and as we noted in our opinion, the state of Washington has done just that, asking the Ninth Circuit Court of Appeals, pursuant to section 119 of the Act (42 U.S.C. § 10139), either to order the Department of Energy to meet the statutory deadlines or, in the alternative, to enjoin the Department from proceeding further with the first repository. We did not intend to imply that the courts could not entertain such an action seeking prospective relief that would require future compliance with the Act. Rather, we meant only that the Act contains no penalties for past noncompliance.

I trust this will alleviate your concern.

Sincerely yours,

Thelton J. Jordan

for
Comptroller General
of the United States