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Addressing the Complexities of the Federal
Government Corporation:
A Case Study of the U.S. Synthetic
Fuels Corporation

By

Deborah J. George

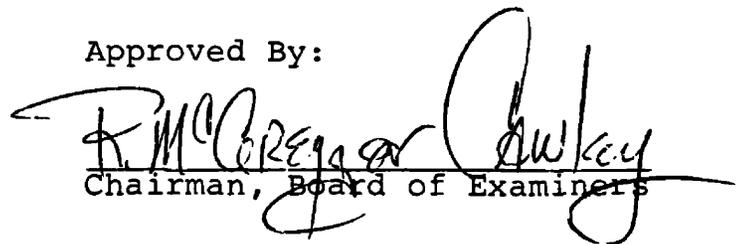
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CHAPTER I

INTRODUCTORY ABSTRACT

Government corporations have been and continue to be created to perform various 'business-like' functions within the public sector. While public corporate structures date back to the turn of the century, they made their real political debut during the 1930's as 'stabilization corporations'. Since that time, use of the corporate concept in government has ebbed and flowed, experiencing significant growth through the last two decades. However, as government corporations have multiplied in recent years so have the problems surrounding this form of organization.

According to Harold Seidman, "Misgivings are being expressed,...not only about the failure to develop effective systems to assure public accountability, but by the tendency to misuse the enterprise solely as a device to keep expenditures out of the budget and escape controls."¹ Seidman argues that rather than correcting "deficiencies" in core government agencies, Congress creates more governmental institutions in pursuit of political effectiveness, and thereby, jeopardizes the integrity of the corporate form.

The U. S. Synthetic Fuels Corporation (SFC) is an example of a public enterprise created hastily and in time of crisis. For a host of reasons, it is also an

example of a well intentioned program that not only hasn't lived up to its potential, but was perhaps, doomed from the start. In creating the SFC, Congress believed that flexibility was critical to the successful launching of the synfuels program and therefore, deliberately exempted the new Corporation from adherence to numerous executive branch managerial laws. Despite exempting the Corporation from most forms of presidential power, Congress created provisions for 21 separate legislative vetoes. Therefore, the SFC appears to be highly autonomous at the executive branch level, but actually may be one of the most tightly controlled corporations in recent memory.

What is unfortunate about this phenomenon, is that Congress, in setting itself up as the primary overseer, also made the SFC uniquely vulnerable to a host of political pressures. These pressures, in turn, created a terrific game of political football over the last four to five years which has exacted a heavy toll on the SFC. The organization continues to lose professional staff through attrition and several departments within the Corporation have totally disappeared. A few projects will have been funded, but the production levels resulting will be nowhere near the levels originally proposed by Congress in mid-1980. Congressional observers predict, in fact, that if currently pending legislation is successfully enacted, the Corporation could completely close its doors to further project solicitations by as early as the spring/summer of 1986.²

The intent of this paper is to provide a descriptive case study of the controversy which has engulfed the SFC during its brief existence. In particular, we will examine the impact of the following areas on the performance of the SFC: (1) political and economic influences; (2) managerial and organizational weaknesses; (3) staffing and personnel problems; (4) poor enabling legislation; (5) questions of autonomy versus oversight; and (6) Congressional liaisons. Before turning to this case study, however, we will examine the history of and perennial issues surrounding public corporations.

CHAPTER ONE: FOOTNOTES

¹Harold Seidman, "Public Enterprises in the USA,"
Annals of Public and Co-operative Economy I (March 1983):16.

²Gary Knight, Former Congressional Affairs Director
of U. S. House Relations, U. S. Synthetic Fuels Corporation,
Staff Meeting, June 1985.

CHAPTER II

BACKGROUND

Introduction

Increasingly, modern government may be faced with a new dilemma. Citizens of western democracies continually demand more services from the public sector, while simultaneously distrust of government and the bureaucracy has grown. In recent decades, there has been a search for alternative structures that will efficiently deliver services within the public sector while surpassing the tight controls of traditional government bureaucracies.

In reaction to this situation, Ira Sharkansky observes that modern states are both growing and withering at the same time. "They grow in response to incessant demands for more services; they wither as officials assign important activities to bodies that enjoy formal grants of autonomy from the state. Enter public enterprise."¹

It is true that every nation has a different approach regarding public enterprises. In contrast to the U.S., many countries operate most of their basic services through publicly financed enterprises. These enterprises may be core agencies of the central government or they may be quite autonomous. Currently, the trend tends to be falling

into the latter category. Australia is at this end of the spectrum with a relatively small central, or core, government and numerous autonomous, publicly financed government corporations.² Conversely, the central government of the U.S. has historically provided few basic services and where they have been provided, it has generally been by core agencies. Although the number of federal government corporations has almost doubled since 1960, their number and personnel remain small by comparison with the rest of the federal government.

While the Federal government has been slow about using the corporate form of organization, the states and localities have not. Regional, state, county, and city governments have used such "authorities" to finance, construct, or operate revenue-producing enterprises. The Institute of Public Administration (IPA) estimates that in the late 1970's there were at least 6,000 local and regional authorities and 1,000 state and interstate corporations operating, a number that had increased to almost 10,000 by 1981. The number of federal corporations was estimated then to be 35 by IPA. However, sources disagree on the actual amount at the federal level today. In 1983, the GAO cited 47 (See Appendix I), while recently the United States House Government Operations Committee defines only 43 such organizations as corporations.³ It is clearly an issue of what criteria

are used to determine their existence.

At the federal level, the continued increase of "contracting-out" for services, as well as the growth in public enterprise, has tended to blur the line between public and private sectors. In recent years, there has been a gradual dispersion of public functions away from core government agencies toward independent agencies, quasi-government organizations, government corporations, and private corporations. Whether or not this dispersion is offering greater performance and efficiency is debatable. The issue of significance here is that decision-making in many areas is shifting from politically accountable core agencies and executives toward somewhat unaccountable entities, or to what Ron Moe of the Congressional Research Service calls "the margin of government".⁴

According to Moe, "There is a lot of government on the margin that is functioning largely unexamined by political scientists."⁵ Moe argues that since decisions affecting public monies are increasingly made through organizations not "effectively" accountable to either the President or Congress, the current approach to political science and/or public administration study is outdated. "There remains an underlying assumption in American political science literature that nearly all administrative policy and program implementation is conducted by regular agencies of the government that are accountable to the President and through him to the Congress."⁶

The congressional objective for establishing federal government corporations has been to create an environment where seemingly business-type programs will demand a high degree of autonomy and flexibility from the traditionally rigid federal regulations found in core agency organization. Within this framework, federal corporations are often exempt from civil service pay scales and hiring practices, position ceilings, and statutes governing procurement regulations. Specific enabling legislation for a given corporation may be designed so that authorizations are 'off-budget': the budget process simply being reviewed by Congress annually rather than requiring a formal submission through OMB as is mandated for all Executive Branch agencies.

Further, the public corporation is often created with the attitude that no other organizational form would be sufficient. Often in reaction to politically acute situations, Congress establishes these usually single purpose mechanisms to simplify an immediate and complex government problem. The potential advantages for use of such a mechanism may be easy to enumerate, especially in this era of "less government" sentiment: 1) insulation from political influence, 2) managerial and budgetary flexibility, 3) speed and efficiency, 4) increased access to bond markets, 5) protected, earmarked funding for priority projects and long term debt service, 6) business-like and self supporting management, and 7) use of a

mixed-ownership corporation, having the potential for transfer to the private sector.⁷

However, the disadvantages of using such organizations as public problem solvers are less obvious, leaving these corporations open to individual scrutiny, or at best, questioning the logic of why this form of organization was utilized at all. None of the advantages listed above are automatically achieved by use of the public corporation. As recent history has proven, the record of public corporations at all levels of U.S. Government includes examples of political corruption, mismanagement, financial debacle, and construction and operating failures. Furthermore, it can be argued that the corporate form has sometimes been chosen by the political sector as a 'cure-all' mechanism, thrown into a precarious commercial arena with unrealistic and immediate expectations, i.e. the U.S. Synthetic Fuels Corporation (USSFC). Although, there are numerous success stories which more than justify the use of the corporate form for solving public problems, there are certainly examples of politically ill-conceived corporate structures that may have achieved the desired objectives more efficiently through alternate public or private structures. Significantly, it may often be due to this inappropriate political choice of where real or perceived unaccountability multiplies and is followed by political disaster.

Moreover, wide variation exists in the legal, financial, structural and policy parameters of public corporations. This issue alone has prompted concerns among critics and scholars for some time regarding the improper use of the corporate concept. It is often contended that the word 'corporate' is being used to assign special privileges, real or presumed, to what otherwise would be core agencies that have no commercial function and produce no revenue. In other words, the corporate concept can easily be abused, or suffer from perception of abuse, especially in Washington's highly visible, national political environment. Daily interaction with the forces of public decision-making will ultimately unveil any attempts to avoid accountability to Executive Branch management agencies. Compounding this persuasive, pragmatic argument is the intellectual debate from academia that has yet to resolve an accepted doctrine guiding the structure and activities of corporations. In fact, defining the government corporation may currently be an impossible task, for as we shall see, numerous corporations have at their inception been defined differently varying with the political era in which they were created, the purposes, the industry, the commercial environment, and the creators themselves.

Historical Background

First Part of the 20th Century

The corporate form is often believed to be a creation of the industrial revolution. However, corporate bodies as legal entities are cited as far back as 205 A.D. under Roman law.⁸ Under the mercantilist political doctrines of the nineteenth century, public corporations were recognized in the U.S. for their abilities in performing certain functions. Although, these functions were largely limited then to "internal improvements", i.e. turnpikes, canals, and local utilities, in 1846, Congress set up the Smithsonian Institution as a corporate entity for administering the bequest of James Smithson. This was the predecessor of other establishments - the National Academy of Sciences, the National Home for Disabled Volunteer Soldiers, and the National Training Schools for Boys and Girls - of a charitable or cultural nature conducted in corporate form as adjuncts of the federal government.

Government-owned enterprises, like many elements of American government, have complex historical roots that have shaped their growth and common opinions toward them. According to Annmarie Walsh in The Public's Business, "These roots are the mixed heritage of libertarian

economic theory, moralistic attitudes toward public debt,... the pragmatic experiments of the New Deal, and reaction against the expansion of government activities that followed."⁹

It is true, though, that the federal government made little use of this structure of organization until comparatively recent times. In 1904, the U.S. acquired the Panama Railroad Company when the assets of the French New Panama Canal Company were purchased. The Railroad was subsequently operated as an adjunct of the Panama Canal, but it was not until World War I that the first wholly-owned government corporations were created. To accomplish its wartime objectives, the government found it necessary to construct and operate a merchant fleet, to build, rent, and sell houses, to buy and sell sugar and grain, to lend money, and to engage in other commercial enterprises. An example is the U.S. Grain Corporation,¹⁰ established to perform emergency functions. However, it was typical of the period, politically, that these bodies were very shortlived, and thus, their policies and structures were never questioned before liquidation began.

During the 1930's, a number of corporations were formed to help the starved, domestic economy. Collectively, these bodies have been referred to as the stabilization corporations; many of them being limited to the agricultural field, where they were viewed simply as temporary supplements to their private sector equivalents. The purpose of

these agriculturally oriented corporations was to permit greater liquidity and longer-term commitments in commodity markets, and to make distress loans to farmers. The New Deal also created corporations that made distress loans to homeowners, banks, insurance companies, and railroads. President Hoover had established the Reconstruction Finance Corporation (RFC) which financed many of the public enterprises during the depression. The RFC was a federal corporation engaged in investment banking. Ultimately, "it provided \$1.5 billion in loans for government-owned, revenue-producing projects, many of them undertaken by wholly-owned state and local government corporations specially created to take advantage of RFC financing."¹¹

Perhaps due to their political success in desperate economic times, such organizations were easily institutionalized, i.e., the Commodity Credit Corporation, the Federal Deposit Insurance Corporation, the Federal National Mortgage Association, and of course, the Tennessee Valley Authority all still exist today. Moreover, as these organizations were created, procedures for controlling them developed only through piecemeal administrative action. Therefore, critics often attacked the apparent lack of accountability during this period.

However, popularity for the government corporation concept ebbed and flowed between the World Wars. Significantly, it was the proponents of the Scientific Management movement who showed enthusiasm for the concept because it tended to enhance the role of professional public

administrators, and diminish direct accountability to political leaders. According to Moe, "One legacy of the Scientific Management movement during the early decades of this century was the belief that the corporate form of organization run by a professionally trained manager was superior to a regular agency run by a politically accountable executive."¹² It is clear that elements of this attitude continually surface in Washington.

During this period, the Tennessee Valley Authority (TVA) was the promising prototype to emulate. TVA represented agency autonomy with efficiency; it was "a sign in the sky, an indication of things to come."¹³ David Lilienthal, Chairman of the Board of the TVA, envisioned the decision-making process used by the agency as "grass roots democracy."¹⁴ According to Lilienthal,

"Congress in 1933 took advantage of the opportunity that its selection of the independent corporate device created, and freed the TVA of the conventional procedures of government agencies and bureaus. The TVA continues in this autonomous status; it is not part of any of the existing bureaus and departments, and the head of the TVA reports directly to the President and to Congress.....Suppose these principles of management and decentralization, which Congress made it possible for TVA to put into effect in this valley, should be extended throughout the government. Would it mean the virtual abolition of the historic departments in Washington?"¹⁵

Indeed, it appears that TVA's unprecedented autonomy was the subject of much debate, especially from those concerned with the challenge to the President's management authority represented by the corporation. Lilienthal's somewhat populist's views toward the largely autonomous

government corporation were countered by those political scientists who supported the government corporation concept, but who also wanted these corporations to be politically accountable in a direct manner to the President and his appointed officials. Traditional theories of administrative organization were antagonistic to the existence of autonomous administrative entities, and markedly biased in favor of a closely coordinated executive branch. Although, TVA simply fueled Roosevelt's political confidence, "a corporation clothed with the power of government, but possessed of the initiative and flexibility of a private enterprise."¹⁶ However, the debate finally culminated in 1937 with the release of the Brownlow Committee Report which primarily advocated the "integrationist" position that by 1939 placed most corporations under a supervisory agency, other than TVA and the FDIC. The Report has all the appearances of being a political compromise.

By 1940, almost all the corporations had been "integrated" into the departmental structure, although there remained considerable diversity among financial matters. Meanwhile, the national build-up for World War II provided incentive for creating a new set of corporations. The RFC created subsidiaries that engaged in petroleum, metals, rubber, and other defense supply production and distribution." By 1945, there were sixty-three wholly-owned and thirty-eight partly owned federal corporations,

plus nineteen noncorporate credit agencies and hundreds of enterprises from ropemaking to laundries and supermarkets run by the military."¹⁷ Although the number of federal corporations grew to their peak during World War II, many were merely adaptations of their World War I precedents. Again, many of these were easily liquidated after the War since they were considerably integrated into the overall emergency organization.

While Congress recognized that this increasingly large body of organizations needed to be effectively controlled, the debate of conflicting emotions regarding government corporations continued. Conservatives wanted government to be "run in a more business-like manner", but also often viewed public corporations as a threat to the private sector, arguing that TVA shouldn't be in the power business. Simultaneously, liberals argued for an autonomous TVA, but were concerned about the erosion of accountability to the Executive Branch and Congress.

According to Moe, "James Burnham, a critic of TVA, saw in this government corporation, the triumph of a new managerial class that sought to usurp the fundamental institutions of democracy to serve their own class purposes."¹⁸ Meanwhile, Philip Selznick observed, "In America...the TVA is unquestionably a rallying point for those who favor a welfare state."¹⁹ The value of the autonomous federal corporation for Lilienthal was the fact that it gave considerable powers to public

administrators who were "closer to the people" than the bureaucracy in Washington.²⁰

In 1941, Herman Pritchett addressed an irony surrounding the government corporation: "The paradox is that government corporations remain and even increase in number while the government corporation is passing away."²¹ Pritchett, a long time proponent of the corporate form, was referring to the successful efforts of the late 1930's to apply standard administrative procedures to most corporations, i.e. the Brownlow Report. He further surmised,

"It becomes increasingly difficult and unwise to talk about the 'government corporation', for the attributes which marked the earlier federal corporations and made them representatives of a distinctive type of administrative organization have been disappearing before our eyes, like the Cheshire cat. Soon there may be nothing left but a smile to mark the spot where the government corporation once stood."²²

Pritchett may have had reason for concern. The corporate form was about to experience a major historical landmark. Legislative control began at the close of World War II, occurring in 1945 in two stages. Senator Harry Byrd's (D-VA) Joint Committee on Reduction of Nonessential Federal Expenditures studied the government corporation dilemma. The Committee concluded that the use of the corporate concept had been diminished to a tangled maze of quasi-governmental corporations with little Congressional and Executive oversight, few fiscal controls, and many instances of direct competition with the private sector. The George Act was enacted in February

of that year, which required GAO to audit annually the financial transactions of all government corporations. However, in December, the more comprehensive Government Corporation Control Act (Control Act) superseded these audit requirements.

The Government Corporation Control Act (1945)

The most significant outcomes of the Control Act were the mandates for improved budgeting procedures, the GAO requirements to audit and report on government corporation activities to Congress, and finally, the control over financial transactions by Treasury. Originally, most corporations were exempted from Budget Bureau (now OMB) procedures. It was believed that since most corporations had been free from the requirements seeking Congressional appropriations, there was no need for Budget Bureau review. However, the Budget Bureau influenced the Control Act legislation sufficiently to demand the requirement that wholly-owned government corporations had to submit an annual "business-type budget" or "plan of operation". GAO auditing requirements also had been exempted from most previous legislation creating corporations. Moreover, the Act is not a general incorporation act, and therefore, the charter for each federal government corporation is created by the enabling legislation passed by Congress. This portion of the Act was designed primarily to assure that no corporation would henceforth be created by an agency or a corporation, as had been done by the RFC.

Subsequently, this feature alone has given considerable organizational flexibility to Congress.

Of course, Pritchett was among the critics of the new Act. In 1946, he wrote pessimistically, "the American experience with autonomous public corporations is substantially at an end".²³ According to Pritchett, Congress in its effort to assure public accountability, had sacrificed the managerial flexibility that had made public enterprises potentially creative units of government. However, despite such criticism of the Act which has continued to the present, "no persuasive evidence has been presented to demonstrate that the Control Act failed either to provide effective accountability and control or impaired the capability of government corporations to function in a business-like manner".²⁴

Indeed, Harold Seidman has termed the Control Act the "Decontrol Act".²⁵ Seidman claims the Act was kept deliberately broad in approach for political reasons, and notes that it provided qualitative rather than quantitative reviews of corporate budgets. Moreover, he believes the Act protected financial and managerial flexibility from further erosion by the central managerial agencies, in particular the Budget Bureau. Seidman observes, "the Corporation Control Act is one of the most significant developments in the art of public administration. With it the government corporation can be said to have come of age in the United States".²⁶ However, Seidman may express

an unusually favorable attitude toward this law since he was on the Government Corporations staff of the Budget Bureau during the initial years of its implementation.

Subsequent Developments

Following the peak of activity during World War II, use of the corporate form in the next decade or two waned considerably. Writing in 1970, Albert Abel concluded, "that trend will probably continue in the near future. Scandals in the operation of the Reconstruction Finance Corporation, which caused or at least occasioned its termination, have put federal government corporations as a class on the defensive before public opinion."²⁷ In 1954, Wartime corporations were terminated and the RFC and its subsidiaries were liquidated, cutting the number of government corporations in half.

Furthermore, after passage of the Control Act, the departmental "integrationist" philosophy continued to gain strength as did a dubious attitude toward autonomous organizations, generally. More and more government corporations were under the umbrella of departmental structures. "For example, the Saint Lawrence Seaway Development Corporation was established in 1954. Its main purpose after construction of the Seaway was to cooperate with its Canadian counterpart in the control and operation of the Seaway. However, in 1966 it was placed in the newly created Department of Transportation and,

subjected to the direction and supervision of the Secretary of Transportation."²⁸

This trend was paralleled by a debate in Congress and by scholars over what characteristics were considered essential to the corporation in federal government. Then in 1948, the debate culminated when President Truman in his Budget Message addressed criteria for creation of a government corporation. According to Truman, a corporation should only be created when a program:

- 1) is predominantly of a business nature;
- 2) is revenue-producing and potentially self-sustaining;
- 3) involves a large number of business-type transactions with the public;
- 4) requires greater flexibility than the customary type of appropriations budget ordinarily permits.²⁹

Since this list of criteria is all financially related, and does not address policy autonomy, Truman's message may be interpreted to argue that federal corporations are nothing more than "agencies" with only certain financial discretion. Indeed, Goldberg and Seidman have argued, "despite some resemblance to its private prototype in outward form and operating methods, from the viewpoint of purpose and overall government organization, the government corporation is merely another agency of government".³⁰

This view also coincides with a 1945 Supreme Court opinion regarding government corporations as agencies in the case of *Cherry Cotton Mills vs. the United States*:

"That the Congress chose to call it (Reconstruction Finance Corporation) a corporation does not alter its characteristics so as to make it something other than what it actually is, an agency selected by the Government to accomplish purely governmental purposes".³¹

Finally, the first Hoover Commission, meeting between 1947 and 1949, and its resulting Report are noteworthy post-war developments of the corporate concept. Essentially, the Commission advocated the corporate form in government stating, "we recommend that straight-line business activities be incorporated so as to secure greater flexibility in management and simpler accounting, budgeting, and auditing methods".³² However, the Commission Report gave little credence to policy autonomy, clearly wanting control to be focused within the Chief Executive. The Report recommended that the executive branch be reorganized to "establish a clear line of control from the President to those department and agency heads and from them to their subordinates with correlative responsibility from these officials to the President, cutting through the barriers which have in many cases made bureaus and agencies partially independent of the Chief Executive".³³

Throughout the 1950's the debate continued between those who argued that the federal corporation should be awarded policy autonomy, and those who felt the corporation should be "integrated"; the "integrationists" believing that special financing mechanisms were the key distinctions from federal agencies. Marshall Dimock was a chief proponent of complete policy autonomy, and thought corporations

should be accountable to Congress, not the President: "Congress is the overall board of directors...".³⁴ While Harold Seidman, upholding his view that these federal corporate bodies are not distinguishable from "agencies", argued corporations are "full-fledged members of the government team"³⁵ and thus, should be accountable to the President.

The Current Situation

The Range of Government Corporation Activities

The notion that emerged in the 1950's that federal corporations could be both politically accountable and financially independent, rapidly became a dying issue. During the late 1950's and early 1960's, leaders and public administrators apparently grew indifferent to the corporate form; little was written on the subject, and few federal corporations were being established.

However, enthusiasm for corporations grew after the successful launching of the Communications Satellite Corporation (ComSat) by legislation in 1962. ComSat was not established as a government corporation, but rather a private, for-profit corporation sponsored by the government, possessing attractive advantages which encouraged lawmakers in their search for alternate forms of organization to solve difficult and on-going problems. Though "no other entity approaches ComSat in its complexity",³⁶ some of its characteristics appear to a degree in later

private, government-sponsored corporations.

For this reason, ComSat was an important precedent toward establishing the new breed of corporations in recent decades. Public opinion toward government corporations would be reshaped by the shining example of ComSat: a problem was being addressed by the federal government without a new department being created, adding to the "bureaucracy". Harold Seidman claims that ComSat was an important precedent not only because it appeared to bridge the gap between the private and public sectors and proved commercially viable, but because it also provided an example to many on "how to beat the system".³⁷

In the two decades since ComSat's creation, a numerous variety of government corporate entities have sprung into existence. The range of government corporation services and operations is enormous. There are many corporations who for years have provided vitally important functions to the public, and who regionally, if not nationally have a major impact on the economy, i.e. TVA and the Saint Lawrence Seaway Development Corporation.

The variety of activity may cover anything from the Neighborhood Reinvestment Corporation which awards grants to stimulate housing improvement in depressed cities, to the Federal Crop Insurance Corporation and the F.D.I.C. Insurance, savings associations, security brokers and private pension funds are all services provided by a major group of government corporations. Another large

group of federal corporations provides or buys mortgages, loans, loan and price guarantees or price agreements, or enters into joint ventures, i.e. the U.S. Synthetic Fuels Corporation. The Government National Mortgage Association has guaranteed close to \$100 billion in mortgage-backed securities; and the Synfuels Corporation has been provided \$20 billion out of an \$88 billion authorization for loan guarantees and price supports to stimulate the development of a synthetic fuels industry.³⁸

Therefore, the largest number of corporations offer insurance or financial services, often at subsidized rates. According to Walsh, "most federal enterprise activities... are banking and insurance-related activities...(which) do not compete with private financial establishments, but generally absorb some risks from the private sector and expand markets for private services".³⁹

Only a minority of federal enterprises or corporations provide material, revenue-producing goods and services, i.e. electricity, fertilizer (TVA), supplies, equipment (Federal Prison Industries), and railway and seaway services (Amtrak, Conrail, St. Lawrence Seaway). The Inter-American Foundation, the Corporation for Public Broadcasting, and the Legal Services Corporation do not produce revenue, but award grants. Significantly, most corporations deal with the public, or with private sector organizations, or individuals who are all defined by the terms of the enabling statute. However, there are a few

whose dealings are only with government agencies and other government corporations., i.e the Federal Financing Bank and the Federal Prison Industries.

Impact on the Economy and Credit Markets?

A great part of the difference between a corporation and an agency arises from the method of financing its operations. A corporation's funds are generally derived from such sources as capital appropriations, which are not subject to fiscal year limitations, revenues, and borrowings from the Treasury or the public. Corporations are rarely dependent on annual appropriations for their funds, other than a few exceptions: the U.S. Synthetic Fuels Corporation, the Federal Crop Insurance Corporation (administrative expenses) and the T.V.A. (nonrevenue programs).

In general, it may be said that the system of annual appropriations is inapplicable to government corporations involved in business operations, and needing the necessary flexibility. However, according to John McDiarmid, "some critics have characterized permanent appropriations, revolving funds, and initial capitalizations as 'back-door treasury hand-outs' that defeat the purpose of democratic government and give the recipients license to extravagance and waste".⁴⁰ It is difficult to counter the argument that public monies must be controlled, but financial control of government corporations should be monitored in other ways besides annual appropriations. Otherwise, the maximum benefits of the corporate form are not realized.

McDiarmid cites an interesting post-World War I example of agency dependence on annual appropriations by the Inland and Coastwise Waterways Service which became a "target of scathing criticism".⁴¹ General Ashburn was the chief of the Service, and blamed many of its failures upon the dependence on annual appropriations:

"Its inability to finance itself in periods of depression, thus necessitating an appeal to Congress for funds, opening the flood gates of criticism with the resultant agitation as to whether or not Congress will, through failure to appropriate, cause the cessation of an operation that is economically sound, the destruction of a solvent transportation agency, the failure of a successful waterway demonstration, because of the law against a Government agency creating a deficit; and under the limits set by such conditions the line is incapable of expansion unless there be a further extension of governmental ownership".⁴¹

As a government corporation dependent on annual appropriations, the T.V.A. represents the other side of the argument, enjoying a history of relatively little difficulty in obtaining funds and still remaining free from Congressional interference in policy matters. However, the noncommercial nature of many of T.V.A.'s functions is an important consideration here. T.V.A. also obtains much of its funds by issuing revenue bonds. This is one reason why T.V.A. can easily be characterized as half agency and half corporation; "alternating between the two categories as it's politically convenient".⁴²

A government corporation assigned a commercial activity requires flexibility to respond promptly to changes in the market demand for its services. For

example, credit agencies have to adjust to changes in the money markets. If Congress insisted on annual and line-item limitations in a corporation budget, the purpose would be defeated for creating a corporate body in the first place.

However, the political reality of the matter has dictated that unless a corporation is totally, or at least partially self-sustaining, Congress will always control annual appropriations. The Saint Lawrence Seaway Development Corporation generates its own operating funds through toll collection. Therefore, the Corporation is not appropriated funds annually. Rather, Congressional control is exercised by authorization of expenditures for the Corporation.

Although, currently the political and economic debate surrounding government enterprise funding is centered on the 'off-budget' issue. The question continually posed: What is the impact on the economy and the credit markets of the billions hidden in credit authority for government 'off-budget enterprises' or "OBE's"?⁴³ While many of these federal enterprises have continued to expand their attractive credit terms, it remains law that the financial activities for many government corporations are excluded from the budget. In Washington, this issue has turned into a raging political debate, becoming a key target of the Reagan Administration's "budget-cutting mentality", i.e., the U.S.

Synthetic Fuels Corporation's obligational authority was cut last summer by \$5.2 billion.⁴⁴

For FY'80, government corporations alone possessed \$175 billion in credit authority.⁴⁵ In FY'81, government-sponsored enterprises generated half of the unreported deficit, equaling \$23.6 billion.⁴⁶ Further, many government-sponsored enterprises are granted special preferences and certain tax exemptions which permit them to borrow funds for government purposes at rates only slightly above the Treasury's own rates and lend the money to certain specified groups. Thus, some federally sponsored enterprises are private in name only, and are yet another way in which the federal government directs the allocation of billions of dollars of credit without being subject to the federal budget review process. Contrary to Annmarie Walsh in *The Public's Business*, it is often agreed that such special assistance granted federally sponsored enterprises may hinder the development of private firms which would compete in performing similar services, and possibly more efficiently.

The managerial and financial flexibility for commercial government enterprises is only one reason for 'off-budget' spending. Political motivations by Congress are often another advantage of the 'off-budget' mechanism. Politicians can subsidize a particular group without resorting to the appropriations process by enacting various forms of "sweetheart legislation". The benefits

here are not only avoiding the requirement to be counted in the annual deficit total, but also eliminating possible program funding cuts likely in the annual appropriations process. "As one budget analyst puts it, keeping the Federal Financing Bank off-budget 'enables on-budget agencies to redirect economic resources and promote their goals without affecting the on-budget outlays'. Congress' own research arm, the Congressional Research Service, is more blunt. The existence of off-budget programs, it says, 'disguises the size of the government's activities'."⁴⁷

However, the long term economic disadvantages for many programs to remain off-budget pose a strong argument for on-budget reporting. Primarily, opponents of these OBE's argue the devastating affects on the deficit. OMB questions the need for budget flexibility for corporations to include exemption from budget totals and the budget review process. Of course, GAO argues that on-budget reporting strengthens accountability: credit financing involving money derived by government borrowing should be on-budget, and subject to on-budget limitations, regardless of the structure of the corporation, i.e. wholly-owned, mixed public-private, or private.⁴⁸

Appendix II charts six corporations which GAO has defined as receiving federal funds and reporting their funding off-budget, either entirely or in part. Since their financing is excluded from the budget, it is naturally feared that federal management and financial

control is severely weakened. Furthermore, excluding these corporations from the budget understates the budget totals in terms of budget authority, receipts, and outlays. Consequently, this results in an unclear picture of federal spending, revenues, liability, and deficit.

Moreover, total spending authority for these corporations includes not only authority to spend appropriated and borrowed funds, defined as budget authority, but also authority to spend other funds such as repayments of loans and charges for services. These gross obligations obviously present a clearer picture of spending authority than does budget authority alone. GAO observes,

"for Congress to decide on budget totals and to make priority allocations among functions under the budget process, it must have complete information on the total levels of federal activities. On-budget reporting of financial transactions of these corporations would strengthen overall financial accountability in the federal government by providing information essential to long range forecasts of revenues and expenditures. It would also strengthen management control by subjecting these corporations to the full range of executive and congressional decisionmaking processes".⁴⁹

Currently, the Administration is making efforts to require that corporations submit their budgets to OMB. It is noteworthy that this current struggle for financial control of federal corporations transcends the demands for control debated in the post-war period. However, it will be politically difficult to impose financial discipline on corporations which submit their budgets directly to Congress.

Flexibility Versus Accountability

Use of the corporate form is a response to the lack of flexibility defined by the parameters of a government agency. This corporate freedom is necessary, it is argued, in order for the organization to successfully maneuver within a commercial environment. However, without managerial prudence and restraint, public corporations may tread on dangerous territory, flouting the policies and authority of the Chief Executive to whom they are politically accountable. It is essential that the President have the power to coordinate policies applying to government enterprises with those of the government as a whole.

According to its opponents, the Synthetic Fuels Corporation has lacked political accountability, especially in regard to the executive branch. Although the President appoints the Synfuels Board, SFC does not have an oversight agency which certainly diminishes the political clout of the Administration regarding synfuels policymaking. A closer study of this point will be discussed in Chapter III.

Creation of public corporations reflect a disenchantment with federal government organization and personnel, a belief that the corporate form is superior to the federal agency model, and a desire for flexibility in policy-making. The reasons behind the drive for flexibility are many: no civil service regulations, no conflict of interest rules, and likely avoidance of the Congressional appropriations process. However, from a public

administration perspective, some believe the corporate trend has a debilitating effect upon government institutions and the civil service. Harold Seidman argues that the increasing reliance on government-sponsored enterprises deflects us from addressing the real problem: How can we make the federal government more responsive and accountable in a continuously changing environment?⁵⁰

In recent years, the problem has only been compounded. Political response to each new national dilemma is often to create another public enterprise. Politically, this gives the illusion of a 'quick fix'. Rather than reform highly rigid and entangled personnel and administrative procedures in the bureaucracy, legislators find it easier to simply exempt new corporations from these onerous requirements. But the overall effect weakens the ability of core agencies to become more developed and innovative. This is coupled by the existence of quasi-independent corporations performing public mandates, but often with minimal accountability to politically responsible officials. Seidman believes that the politics between the Administration and Congress only continues to encourage the situation: "The proliferation of 'twilight zone' agencies is likely to continue as long as the President and Congress insist on playing a political shell game with federal employment statistics and off-budget federal expenditures".⁵¹

But ironically, in its drive for administrative flexibility, Congress has exempted many corporations from Executive controls and then burdened them with controls of its own. Often such controls may limit the ability to reach statutory objectives. For example, the Energy Security Act, establishing the SFC, provides for numerous legislative vetoes, personnel and budget ceilings, and an Inspector General which is unprecedented for government corporations.

In conclusion, the current situation is one of disarray and inconsistency, and has evolved for several reasons. Although more stringent controls often evolve as compensation, the Government Corporation Control Act has been increasingly ignored and many new corporations have been excluded from its provisions. Also, constituencies and their sponsoring Congressional committees combine efforts to achieve independence from controls by the Administration. So each new corporation is created in an ad hoc and varied manner. Thus, clear precedents for establishing a balance between flexibility and accountability are often missing. In fact, it appears that often the management of the new corporation is left to judge where this balance will be found. However, as noted in the SFC case study, this situation often leaves the possibility for managerial abuse wide open.

Government Corporation Autonomy: Fact or Fiction?

While traditional theory suggests that federal corporations should act at "arm's length" from core government entities, practice may prove this a legal fiction. Studies in the U.S. reveal that, if anything, government corporations are highly controlled. The fact remains that these corporations operate in a political and economic system which is interdependent rather than independent. The public enterprise must interact with government and non-government institutions on whom they may depend.

However, the traditional defense of the autonomous government corporation concept relies heavily on the analogy of the private corporation. But the 1948 Hoover Commission Report was antagonistic toward this autonomous concept. In a 1949 issue of the American Political Science Review, Marshall Dimock, led the counterattack, arguing that a board of directors was an indispensable feature of a 'true' government corporation, and that because public corporations rarely made political or policy oriented decisions, accountability to the President was not a critical element for these public entities.⁵²

Writing in 1952, Harold Seidman initially debated the view that a board of directors is essential for governing a public corporation. In so doing, he also attacked the belief that such organizations are or should be autonomous. In fact, over the years, Seidman appears

to argue that the whole concept of autonomy only invites abuse. "Government corporations are organized to achieve a public purpose authorized by law. This fact is often forgotten. So far as purpose is concerned, a corporation cannot be distinguished from any government agency."⁵³

Seidman's arguments may be especially poignant in the complex political and policy-making process of the 1980's. It may well be impossible and/or unwise to divorce any public entity from the mainstream of other political and economic institutions. "Autonomy", claims Seidman, "is two edged. It means not only freedom from outside direction and control, but also exclusion from the 'official family' and close working relationships with top policy-making officials. These informal day-to-day associations afford an official (and an organization) the most favorable opportunity to influence policy determinations."⁵⁴

Indeed, examples of two government corporations and their relative effectiveness within the public arena may illustrate the varying desirability of the autonomy concept. The Saint Lawrence Seaway Development Corporation created in 1953 was designed to be headed by a single administrator. Since 1966 it has been under the Secretary of Transportation for policy purposes, thereby directly making the organization

accountable to the President. Apparently, this corporation is regarded as well managed and as achieving its mission.

On the other hand, the SFC was designed to be governed by a board of directors. As we shall discover in the case study, this may well have been a political mistake and a detriment to the organization's mission, especially since the entity is non-revenue producing. Furthermore, although highly controlled by Congress, there exists some curious twists in the SFC enabling legislation that allow for generous autonomy, especially in relation to the Executive Branch. It can be convincingly argued that such a unique set of freedoms and restraints spelled political disaster from the start for the SFC.

CHAPTER TWO: FOOTNOTES

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CHAPTER III

A CASE STUDY

The U.S. Synthetic Fuels Corporation

Analysis of History/Enacting Legislation/Mission

In order to fully appreciate the genesis of the U.S. Synthetic Fuels Corporation, it is necessary to reflect on political history, particularly during the latter half of the Carter Administration. In 1980, the U.S. Embassy in Tehran was seized by Iranian terrorists. The Middle East was a caldron of crises. The Organization of Petroleum Exporting Countries was blackmailing the United States with oil prices that had reached \$41 per barrel. U.S. policymakers feared a cutoff of foreign crude would cripple the economy and threaten national security. Against this backdrop of fear and insecurity, political hysteria was rampant in Washington. Motivated by such a scenario, undoubtedly both real and imagined, Congress bullishly created the federally financed Synthetic Fuels Corporation (SFC).

The SFC was established by the Energy Security Act, signed by President Carter on June 30, 1980. The mandate of the Corporation was to stimulate industry to produce 500,000 barrels per day of crude oil

equivalent by 1987 and 2,000,000 barrels per day by 1990, enough to substantially reduce U.S. dependence on imported oil. In an effort to accomplish these production levels, the Act envisioned two stages for awarding financial assistance toward creating a synthetic fuels program. The first phase called for funding of up to \$20 billion, followed by a second phase in which authorized funding could reach an additional \$68 billion. Moreover, the Act directed the Corporation to issue a series of solicitations encompassing a diversity of technologies, i.e. coal liquefaction, coal gasification, syncrude from oil shale, peat to methanol, and tar sands development.

At the onset, a special Treasury account, known as the Energy Security Reserve was established with \$17.5 billion in funds from which the SFC was authorized to grant direct loans, loan and price guarantees, purchase agreements, and joint venture participation. The government's financial backing was intended to help private utilities and pipeline and energy companies borrow funds to build synthetic fuel plants. In order to qualify, these companies could not be able to get credit elsewhere. Hundreds of these firms indicated their intention to seek these forms of assistance. There would be no direct cost to the government unless the project failed to operate, or

the finished product was so expensive that it required a subsidy to be marketed.

Indeed, Congressional intention was that the newly created Corporation function somewhat similarly to an investment bank; a publicly funded entity, yet a 'business-like' organization void of political pitfalls. It was only through this public corporate medium that Congress felt it was possible to draw private sector interest toward synfuel development. This public corporation would serve as common ground for negotiation to encourage private capital to invest in already proven synfuel technologies.

For the same reasons that Congress believed in 1980 that the new synfuels development program needed a corporate form, lawmakers also argued the necessity of attracting a specific caliber of business-minded, professional employees to staff the Corporation. Thus, Congress issued broad guidelines for recruiting and hiring what would be highly technical and specialized staff from private industry. The Act specified that the SFC could hire up to 300 professional employees, although total staffing has never peaked above 190¹ employees. The belief was that ceilings for salary limitations had to be flexible and high enough in order to induce the talented personnel desired. It was believed that those worth attracting would not be

interested in being indentured to the government's overall GS rating system. Therefore, the protection and job security built into the Merit System would have no great appeal. Rather, the ideal staff was envisioned as those who wanted to get a job done quickly and leave for new challenges elsewhere.

Similarly, benefit packages, i.e. medical, retirement, savings plans, vacation times, and the like, had to be competitive with private sector counterparts. Therefore, the initial staff were given free rein to construct many of the highly competitive benefits that are in effect today at the Corporation, and which surpass most of those offered to personnel of government agencies.

The powers of the Corporation are vested in a Board of Directors comprised of a chairman and six directors. Members of the Board are appointed by the President subject to confirmation by the U.S. Senate, and serve seven-year terms. The Chairman of the Board serves as chief executive officer of the Corporation. The existence of a Board of Directors is often a key element in defining obvious differences between public corporations and agencies.

Another important specification of the Energy Security Act required the Corporation to submit to Congress by mid-1984 a comprehensive strategy for

achievement of the national synthetic fuels production goals. The report, known as the Recommended Comprehensive Strategy (RCS) was intended to consider all practicable means for commercial production of synthetic fuels and their relationship to national security, including the feasibility of utilizing synthetic fuels to meet defense fuel requirements. Among other issue, the RCS was expected to address the economic and technological feasibility and environmental effects of projects already funded by the Corporation as well as recommend the dimensions of any continued federal role in the development of a synthetic fuels industry. Upon Congressional approval of the RCS, it was originally proposed that the additional \$68 billion would be appropriated to implement the strategy.

On paper, the SFC appears to be an effective approach for creating a synthetic fuels industry. However, many issues and events since the organization's creation have intercepted making the results less than successful. First of all, changing conditions of world oil markets seriously displaced this infant industry. Secondly, the SFC has been used repeatedly as a political football, particularly between the Administration and Congress. Third, although the organization went to great lengths to recruit high caliber staff, the SFC has been riddled with problems concerning management and personnel.

However, perhaps the idealistic intentions originally conceived for the Corporation were in and of themselves political pitfalls. Ironically, the elements that made the organization 'business-like' and professional were also the issues that forced the SFC straight into controversy within its first year of business. Within months, most of the highest paid officers left under political fire surrounding the issue of their salaries. Moreover, in the years following there has been a train of executives exiting the Corporation for reasons which, of course, extend beyond the salary and benefits controversy. Generally, the often alleged issue of poor management continues to haunt the corridors of the organization. However, as may be proved by reviewing the SFC case, the desirability of congressionally mandating a Board of Directors for all public corporations can be argued. In the Synfuels case, the Board is a highly politicized body, often nothing more than a tool, shamelessly used by Administration officials.

The RCS has still not been written. The Policy Development staff within the SFC which was discharged with the mission of developing the RCS has since been terminated and their floor space at the Corporation's headquarters stands vacant. Tom Corcoran, a newly appointed Reagan Board Member now holds the reins for producing the RCS document.

The huge Great Plains project in North Dakota scheduled to produce 21,000 BOED² by 1988, is currently struggling to close a deal with the politically deliberative Board of the SFC. This project languishes for numerous reasons, but primarily because the SFC inherited it from the Department of Energy where the project was awarded \$2.02 billion in loan guarantees in 1979. Now, the project is requesting \$820 million in price guarantees from the SFC. If such assistance is not received, project sponsors threaten to abandon. However, the real issue here is that the financial term sheet between the SFC and the projects' sponsors has been agreed upon and in place since April 1984. In recent months, particularly, the tactic used by the SFC Board seems to be one of continually stalling for time. Simultaneously, the Great Plains project increasingly is the focus of attention by OMB, GAO, and various Congressional (oversight) Committees. As the Corporation has become more embroiled in bitter political controversy, so has the Great Plains project. Many observers believe that the funding or non-funding of the project is directly linked to the life or death of the SFC.

Unfortunately, at the time of this writing, in mid-1985, few if any of the legislated SFC directives have come to pass. In the beginning, it was feared the environmentalists alone would impede the development

of the infant synfuels industry. Instead, the sluggish world oil market and the SFC, itself, have been the spoilers. The Corporation has suffered from a continuous maze of economic and political miscalculations, overpublicized 'scandals', poor management, and a weary staff that is currently leaving in droves. Although there are already a few small experimental plants making synthetic gas and oil (including gasohol) in operation in the United States, the first large-scale production from huge oil-shale deposits underlying the high plains of the West, is a long way from being operative. After five years in business, the SFC has managed to fund only three currently operating projects: Cool Water, a small \$120 million project, producing electricity from coal gasification in California; Dow Syngas, another coal gasification project in Louisiana; and Union Oil, an oil shale project on Colorado's western slope.

And yet, to date, the SFC has issued four different commercial solicitations. There are approximately ten large-scale commercial projects that were submitted for the Corporation's review and evaluation in earlier solicitations that have either reached an impasse in negotiations with the Corporation, are suffering from various financial and technological travails of their own, or are on the verge of withdrawing their proposals completely.

All of the above are simply a synopsis of the symptoms and not the causes of why the SFC, an organization with a well-intentioned program, has failed to accomplish so little in such a short time. To determine the causal reasons, a close examination of the SFC and its corporate form deserve scrutiny. If for no reason other than academic exercise, this scrutiny is deserved to determine why it is that some of our modern government institutions, no matter what their form, simply are not working.

Issues and Problems

In order to understand why the SFC has not lived up to its potential, we must consider several issues and problems. Throughout the remainder of this chapter, the following areas relating to the case study will be reviewed: 1) political and economic influences, 2) managerial and organizational weaknesses, 3) staffing and personnel problems, 4) poor enabling legislation, 5) questions of autonomy versus oversight, and 6) Congressional liaisons.

Political and Economic Influences

"...(T)he establishment of a government corporation is typically an action of high political visibility. It is a conspicuous and symbolic way for elected officials to appear to be 'doing something' about a

problem; they appear to be taking hold and decisive action. Establishing a corporation especially appeals to politicians when there appears to be crisis or some other alarming change in objective conditions. Such circumstances preceded the moves to create...the Synthetic Fuels Corporation."³

For decades, the relative expense had been the main obstacle to the development of alternatives to conventional fossil fuels (oil, natural gas and coal). Even as the economics of the overall energy situation radically changed in the early 1970's, government had refrained from adopting a synthetic fuels policy. Many opponents objected to the feared environmental effects and the huge public subsidies that would be used for private energy projects. However, in 1979 when the cutoff of Iranian oil put Americans back in the gasoline lines, elective officials grew anxious. It was President Carter who proposed that a government corporation be created to encourage the construction of synthetic fuel plants. Congress quickly responded.

Unfortunately, many of the traditional reasons underlying the choice of a corporate form by elective officials were alive as the Energy Security Act was being developed. Elected officials recognize that there is usually a large reservoir of political capital to be utilized by the mere process of organization-

building. Also, such organizations are different and newsworthy."... (T)hey provide their sponsors and supporters with a welcome, well-publicized opportunity to claim credit for responding to a tough situation in a creative way."⁴

Furthermore, the creation of the SFC as a public corporation undoubtedly provided sponsors with a mechanism to shift the blame onto someone else's shoulders, namely corporation management, as problems have mounted. After all, SFC management has had "independent" responsibility for handling synfuels development. "Thus, in 1980, legislators uncertain as to the costs and benefits of a new set of allocation decisions passed the politically difficult task of awarding government-backed loans to the Synthetic Fuels Corporation."⁵

Of course, another political attraction for utilizing the corporate form in Synfuels legislation was most certainly to perform the function without having the costs show up in the unified budget. Considering the huge funds necessary for synfuels development, this policy obviously held advantages for sponsors of the Energy Security Act. And elective officials, generally, want to make federal budget totals (or deficits) appear smaller than they really are.

Also, it was easy for sponsors to elicit support for synfuels in a corporate form due to the argument

that such a complex undertaking had to be managed with effectiveness and efficiency. This was especially true given the abbreviated decision time forced by the impending "crisis".

A final dimension worth noting in reference to the Synfuels case was the timely attitude toward use of the government corporate form. In the last two decades as government intervention in industry, again, became acceptable, the corporate concept has experienced a tremendous resurgence, not known since the 1930's and early 1940's. Earlier skeptical observers have ceased to believe through experience that such institutions are a sign of the "Red Menace" invading. So on all counts, Congress found easy arguments for justifying a synfuels corporation.

However, all one has to do today is read the press to realize the political potency showered on the SFC of 1980 has reverted 180 degrees in 1985. In many respects, the Corporation has suffered from too much advance billing, expectations caused by the passage of time and the politics of the times. It has been advertised as an \$88 billion institution, but its actual authority in its initial period of operation was only set to be between \$15 billion - \$20 billion. Its purpose is to help the U.S. reduce its dependence on six to eight million barrels per day of imported

oil, but even its goal of 500,000 barrels per day by 1987 was almost surely unattainable.

Significantly, it has been billed as an institution apart from government, but the Energy Security Act is larded with detailed directions and prohibitions. Such circumstances have undoubtedly caused the SFC much political strife, and to some degree or another has directly impeded the Corporation toward accomplishing its mandate.

While the politics that created and continues to shape the SFC has been influential on its performance, no discussion of the program would be complete without addressing the overall economics involved, too. The international oil economy was fragile in the 1970's, but as events have progressed, it appears that the ability of the market place to redress the imbalance between oil production and consumption requirements was underestimated at least in the near-term. And now that crude prices have plummeted, it becomes increasingly difficult to justify the currently projected prices of synfuels per barrel equivalent.

Consequently, the SFC has not only suffered a political battering, but an economic one, too. Ultimately, such political and economic realities have affected the performance of the Corporation in a myriad of ways. One result has been that the degree of support from

the general public for a Federally sponsored, commercially-oriented, synthetic fuels program seems to have diminished since 1981. Diminished public support, however, does not mean there is any less need for development of synthetic fuels. The SFC, mindful of changing public attitudes, has modified both its short and long-term objectives. The law sets the years 1985-1995 as the range for having a highly productive and cost competitive industry, but much evidence today suggests that realistically this goal could only be met in the years 2000-2010. The Chairman of the Board, Edward Noble, writing in January 1983, stated:

"1982 was a fast-paced and pivotal year in the shifting energy fortunes of all free world countries, whether net energy producer or consumer. For synthetic fuels, especially, it was a year of changing attitudes and adjustments. Early illusions and exaggerated expectations were replaced with much more realistic understanding of the role of synthetic fuels in national energy and economic policies."⁶

On a final note, potential project sponsors are increasingly showing less interest in submitting their project proposals for review and evaluation, staff morale is at an all-time low, and a politically intangled SFC Board seems defiantly resistant toward funding projects currently before them.

Managerial and Organizational Weaknesses

From the outset, the SFC has suffered from acknowledged internal management problems. Recruited

almost entirely from the private sector, the Corporate leadership has found it difficult to adjust to the complexities and ethical standards of Federal public service. Traditionally, SFC Board Members have had the attitude that they did not wish to be contaminated by government bureaucrats. They have failed to recognize that Congress and bureaucrats alone are not to blame for the complexities of public service.

For example, the Sunshine Act undoubtedly has contributed to the deviousness of the Synfuels Board. Functioning in an open setting has been difficult or uncomfortable for many. Although, legally the Corporation is not an agency or instrumentality of the Federal Government, it is not in any way insulated from the demands of the press, Congress, GAO, the Inspector General, or the Freedom of Information Act. According to Ron Moe, "Successive officers have repeatedly employed private sector practices in Synfuels management, rather than those of a Federal agency, and run afoul of OMB, Congressional Committees, GAO, and the press."⁷

In August 1983, the President of Synfuels, Victor Schroeder, resigned under fire regarding accusations of mismanagement and improprieties of office. A Senate Government Affairs Subcommittee found that the Synfuels President had awarded 51

consulting contracts without competitive bidding, some of them to past business associates. In the Washington Post, Schroeder was quoted as saying,

"It makes no sense to put up personal services for competitive bid. Where else are you going to find people to do work the way you need it done, other than people you know or that someone knows?"⁸

Also, regarding Schroeder, internal audit reports indicated questionable uses of corporate funds, namely charging \$19,500 in broker's fees for the purchase of his home to the Corporation's relocation fund. Ultimately, these funds were reimbursed. Anyway, the point here is that since Synfuels does not operate under standard federal rules, managers and employees enjoy maximum discretion in behavior, checked only by corporate policies and possible publicity.

SFC supporters argue, however, that these freedoms are essential to attract talented private sector people and maintain the Corporation's highly autonomous character. Indeed, such freedoms may be necessary to achieve its purposes. In actuality, though, it would be better and less costly policy to appoint leadership who appreciates the balance between flexibility and accountability. Abuse of these managerial freedoms is often nothing more than a severe lack of understanding.

Some experts in the study of public corporations have a solution to managerial abuse which goes one step

farther: eliminate the requirement for a board altogether in the enabling legislations of public corporations. In its place, full leadership authority would be vested in the CEO. While such a concept initially sounds radical, there are many government enterprises that do not have a board of directors, or the board is simply ex officio in nature, i.e. Pension Benefit Guaranty Corporation. Public enterprises in Japan (there are 102 at the national level) rarely have boards, and if one does exist, they are never authoritarian, of course.

Unfortunately, in the U.S. the habit of assigning public corporations a board is often an effort to duplicate the organizational structure of private sector counterparts. However, in the public sector, the board may simply become a caldron for political meddling, especially when the members are political loyalists of the Administration as in the Synfuels case. Furthermore, the SFC case displayed several times how the progression of programs are easily stymied, if for any reason a quorum is impossible. Following Vic Schroeder's resignation as President in August 1983, other Board Members continued to resign for various reasons, i.e. conflict of interest, etc. Eventually, only one Member and the Chairman were left. It is fair to say that most of 1984 for the SFC was void of any real decision-making capability. In an election year, the Administration

and Congress both were hesitant toward allowing the Corporation to fund billion dollar projects, so the necessary board members were deliberately not appointed. Essentially, this case illustrates how an "independent" corporation can be held hostage, as the use of a board was abused by other governmental powers.

In conclusion, unless the board is ex officio, use of this concept can be disastrous. It is not necessary, nor mandated by an act of Congress, and most importantly, the board approach may have the potential for insulation against sound public policy.

Management experts seem to agree that many corporations with excellent organizational structures fail for lack of talented people and many corporations with poor organizational structures succeed because they have talented people. At this point in its history, the SFC needs its talented people and a sound organizational structure built upon recognized management principles. However, these elements alone will not solve all the Corporation's management problems without the essential added ingredient of strong leadership.

Through most of its history, the SFC organizational structure at the staff level, particularly, has been sound. Senior management has changed frequently without

severely disrupting much of the daily staff functions. Much of the credit for this phenomenon goes to the strong matrix organization in operation. It has functioned adequately to achieve the objectives of the Energy Security Act in project solicitation, evaluation, and negotiation processes. Indeed, if there are any discrepancies in the current structure, once again they can be linked to higher management. The case of the Policy Development Group, given the mission to complete the RCS, offers a clear example of this argument.

Although, the SFC Board had been directed by Congress to formulate a strategic operational plan regarding the RCS, management failed to grasp the "operational" character of this guidance. Instead, early in the Corporation's history, management chose to create a separate Policy Development office, independent of the operational mainstream of the Corporation. Providing little guidance, it charged that office with preparing a document to be presented as the Corporation's proposed comprehensive strategy to Congress. Time elapsed, and new management did not effect significant organizational changes, even after a quorum of the Board was finally reconstituted.

Thus, the planning function continued to be isolated from the rest of the Corporation. This organizational separation was compounded by personality

differences and 'turf' disputes which went unresolved by senior management. Under the direction of 3 successive vice presidents, the planning staff was left to set its own course. Their efforts were blown beyond necessary proportions, requiring numerous outside studies, which would have resulted in a report of massive volume.

During all this time, the Board and Senior management had not focused on the progress of the strategy. It wasn't until mid-1983, a year before the congressional deadline for submittal, that Board Members expressed a sense of concern about what the Policy Development Group was doing. Accordingly, the Board decided to become directly involved by creating a Board oversight committee.

Through the Board's involvement much of the earlier RCS work was re-directed. The Policy Development Group originally had called for input from the Projects, Technology and Engineering, and Finance Groups. The Board accepted this idea willingly, but ironically, months passed before these Groups were contacted for their inputs. Indeed, much of the plans for the development of the RCS have evolved without any contributions from other vice presidents. This has been unfortunate as the RCS cannot be effectively developed without integrating the talents and knowledge of all

the professionals within the SFC who have worked in the synfuels program for the past few years.

Historically, the cooperation between the Policy Development Group and other groups in the Corporation has not been good. The Vice President position of the Policy Group was vacant for six months in 1983, and at the close of that year the new Vice President was announcing his resignation. Corporation rumors held that the Board was behind this resignation as the individual was not leading the Policy Group in the direction desired by the Board to complete the RCS. Accompanying the difficulties caused by changing leadership had been a history of personnel upheaval. The staffing buildup, partially because of the initial incorrect scoping of the mission, was too large and included some skills duplicative of those already existent in the Corporation.

In its final months, the Policy Group without a vice president, attempted to secure closer cooperation with other groups in the Corporation with indifferent success. For various reasons, the Policy Group had difficulty getting substantial help from other offices in the Corporation. Again, senior management did not smooth out these obstacles, and did not issue directives to assure that the Policy Group would get the kind of assistance it needed as directed by the Board of Directors.

In November 1984, the Reagan Administration finally appointed three additional Board Members, at last giving the SFC the quorum it lacked for much of that year. Of course, the new directors appear to reflect Reagan's traditional belief that energy alternatives should only be developed through the free market approach. Consistent with this belief, Board policies have been to self-impose even greater staffing limitations than previous boards had planned. As of April 1, 1985, the last of the Policy Development staff were terminated. Only three other staff had previously been absorbed elsewhere in the Corporation. So by executive design, it had been determined that given the repeated problems of the Policy Group, and the desire to achieve the image of operating a 'tight ship', one board member alone would assume responsibility for writing the RCS -- Tom Corcoran, a former anti-synfuels Congressman, who bided unsuccessfully for the Senate in the 1984 elections. The current draft circulating the Corporation is a greatly scaled-down version of what was initially imagined. A strategy that has cost the Corporation thousands of dollars and manpower hours, has now been reduced to 30 pages, and will be written by one individual. The date for submission to Congress is June 30, 1985, a one-year extended deadline.

Personnel and Staffing

A discussion of the SFC organization is not complete without highlighting personnel issues, especially the compensation and benefits package. Indeed, queries on personnel compensation issues are central to what has brought the Corporation under so much attack. They are also central elements for evaluating the nature of a government corporation, particularly in relation to other similar federal entities. But no other government corporation has been promised such a large amount of public monies. So from the beginning, the SFC was totally enmeshed in partisan politics; and offering seemingly "generous" salaries and benefits only guaranteed that the Corporation would often be in the limelight.

In the final days of the Carter Administration, the President nominated John Sawhill as the first Chairman of the Board and five others as members of the Board. These appointments were made during congressional recess, and thus, had not been approved by the Senate. Congressional fury was only further aggravated when the Chairman's salary was set at \$175, 000 per year plus extensive fringe benefits. The Senior Vice President and General Counsel would be paid per annum \$150,000 and \$140,000, respectively. Similar salaries were set for other high officials, plus

generous moving expenses, severance pay, and other allowances.

These compensation packages, plus extraordinary policy decisions by an unconfirmed Board of Directors, sent Congress into a panic, prompting the House Environment, Energy and Natural Resources Subcommittee to conduct hearings. In a very negative and not completely accurate report, the Subcommittee summarized the feelings of many SFC opponents when it said that the Board was "liberally dispensing salaries above executive pay scale".⁹ The Subcommittee felt that the Board had ignored the restrictions on compensation by "offering SFC officers lavish benefits far in excess of the benefits" for Federal employees and "frequently outstripping even those offered by major private corporations".¹⁰ These are debatable points and will be discussed later, although they serve to underscore the controversy surrounding the SFC's compensation/benefits package. SFC supporters, on the other hand, agreed with the Board that salaries comparable to the private sector were necessary to obtain the type of talent needed.

After Reagan became President in early 1981, the Board Members nominations were withdrawn and the officers resigned, under pressure, or accepted lower salaries. However, the Energy Security Act does allow the Board

to establish a compensation schedule which can include salaries higher than Level 1 of the Executive Schedule. It was by using these guidelines, that the SFC's initial Board created several senior management positions with salaries over \$100,000 per year. At the close of 1982, the Corporation had four officers paid salaries (exclusive of substantial benefits) in excess of those for Cabinet Officers; President, \$135,000; Executive Vice President, \$85,000; Vice President - Finance, \$85,000; and Vice President - Technology, \$108,000.¹¹ (Note: Due mostly to organizational restructuring, only the latter two positions remain above the 1984 Cabinet level salaries. Of the former positions listed, the first is currently vacant, the second no longer exists).

It appears as though the early SFC Compensation decisions were made over several months and in a piecemeal fashion. The Corporation approved most of its employees' salaries during October and November of 1980. In December of the same year, the relocation assistance and general employee benefit packages were approved. It was not until January 1981 that Chairman Sawhill told the rest of the Board about special benefits given to some of the SFC's officers--a package that was never approved by the entire board.¹² At no time during this process was the overall monetary value

of the complete package reviewed.¹³ This was an important mistake, giving opponents added ammunition. The value of compensation and benefits should be considered together, not separately.¹⁴ Whether or not the SFC's compensation and benefits package was or is justified, the way in which the Board went about evaluating and setting compensation seriously jeopardized the new package's credibility.

Before President Carter's interim Board departed, Chairman Sawhill had contract with the consulting firm, Towers, Perrin, Foster, and Crosby, Inc. (TPF&C).¹⁵ TPF&C was asked to design a "total compensation system, including fringe benefits for the Chairman of the Board, Directors, officers and employees of the Corporation".¹⁶ The report, used to justify the SFC's new compensation structure, was severely criticized. The consultants were attacked because there were so many recommended positions above Executive Level 1. Also, the report did not compare the SFC with other quasi-governmental or smaller private corporations. Instead, salary comparisons were made with giant private companies with sales of \$3 to \$6 billion and with financial institutions with assets of over \$10 billion. Most of these corporations had between 300 and 107,000 employees and many had world-wide operations. On the other hand, the SFC, restricted to 300 professional employees, has only

one line of investment, and may make no more than ten to twelve financial arrangements.

While the TPF&C study was still in progress, the SFC Board was already approving employee salaries (a dubious action). The Board may have been uncomfortable in setting compensation levels while the TPF&C study was still incomplete, but needed to begin hiring to get the Corporation up and running. The Corporation would use the TPF&C salary structure as a guide for the next several months.

President Reagan became directly involved with the SFC for the first time when acting Chairman Sawhill sent a memo to the White House on January 27, 1981 announcing the selection and salary of another position: the \$120,000 per year Vice President of Technology. The memo also included the names of six Vice Presidents appointed by the Board, describing their position titles dates of appointment, levels of compensation, prior affiliation, and education.¹⁷ On February 25, 1981, the President replied with a two-sentence memo to the Corporation simply stating that he did not approve.¹⁸ Although the President's memo had only applied to the V.P. for Technology, all but the V.P. for Planning said they would abide by the then Executive Level 1 cap of \$69,630/year pending review by Reagan's new Board of Directors. The V.P. for Planning continued to received

\$140,000 per year until his employment was terminated on October 31, 1981. Aside, from the \$69,630 cap, the Corporation continued to use the TPF&C salary structure.

Soon afterward, President Reagan fired the interim Board, leaving the Corporation without a Board of Directors and unable to function. Unfortunately, the President was slow in making his appointments. The Board would not be operational again until October 1981.

As this time, in an effort to dampen mounting congressional criticism, the Board again contracted with a consulting firm to review the Corporation's salary structure. The Board, in attempting to strike a balance between politics and business, emphasized two major points when contracting with Hay Associates:

- 1) Congressional intent that a comparability exist between the SFC salaries and Federal Pay schedules; and
- 2) The Corporation's need to attract and retain highly qualified and experienced personnel.¹⁹

The Hay Associates' approach was unique and creative. Briefly, each position was assigned a number of points based on the analyses of three dimensions: technical knowledge, problem solving, and accountability. Significantly, the consultants revealed that the \$69,630 salary ceiling then in effect at the Corporation was

inequitable because each of the six positions at this level had different job difficulty scores. Since the Corporation's mission is project oriented, the industrial sector was used as a guide to SFC salary policy. Hay Associates concluded that the Federal General Schedule is not adequate for the SFC because of the senior level salary compression. Roe Moe, a government corporation expert with the Congressional Research Service, has expressed direct disagreement, "A convincing case should be made before authority is granted for salaries above Executive Level I of the Federal (S)chedule. In most instances, corporation executives should be included in the Senior Executive Service."²⁰

The consultants and SFC supporters suggest this salary compression can result in problems attracting and retaining experienced private sector personnel:

"The criticality of the Corporation's mission would appear to warrant the recruitment from various parts of the private sector, especially the industrial sector, of talented and experienced individuals, many of whom will already be employed with competitively paying corporations."²¹

The Hay Report also noted that short-lived organizations with no career futures, like the SFC, usually need more attractive compensation and benefits packages

to get quality employees and keep them.

Based primarily on the Hay report, the SFC Board approved a new compensation structure in February 1982. For the most part, compensation levels were to remain below Federal GS limits. While the TPF&C study failed to address comparisons with the General Schedule, Hay Associates (due to political pressure) made a special point of considering it in determining SFC compensation levels. However, the Hay report's recommended compensation levels were only slightly less than those in the TPF&C report. Therefore, on a final note, the lower compensation levels set by President Reagan's Board were probably more a reflection of congressional and executive pressures than any substantive differences in the studies' results.

Now that some of the early events of the Corporation's compensation history have been reviewed, it's important to turn the provisions in the Energy Security Act (ESA), comparisons with other public corporations, and the nature of the SFC, generally. First of all, it should be recognized that Section 117 of the ESA gives the Corporation's Board the sole power to establish the compensation for each individual officer. In 1980, a significant reason why Congress created the SFC in the corporate form was to attract top talent. Therefore, the Board was given independent authority to set pay

levels in excess of Federal salary scales, and to establish a benefits program, including life insurance, health insurance, disability, and a retirement plan (which is fully vested after one year of employment). Overall, Congress freed the Corporation from Federal Civil Service restrictions. Consequently, none of the SFC staff are GS employees. Such lenient directives in the ESA are significant points in view of the fact that continuous Congressional criticism has surrounded SFC personnel issues.

Although the Act does direct that the Federal Government's Executive and General Schedules should be taken into account for comparable positions, the Board does have the authority to set salaries over the Executive Level I. If the President does not disapprove within 30 days, the salary rates become effective. As a check on the Corporation's non-officer employee salaries, Congress simply required that the SFC identify, in its annual report, those employees who are receiving more than \$2,500 per month or \$30,000 per year.²² In many ways, it is evident the law was written by a very different Congress during a very different Administration from those currently in office.

In comparing the SFC compensation package with other quasigovernmental organizations, the Hay Associates report should again be referenced. In the report, the salaries of six organizations were compared. Each organization operates, to a varying degree, as a private sector entity

in a public sector environment. "The similarity warrants the analysis, even though the Congress has correctly noted the differences between the SFC and other quasi-governmental corporations."²³ Amtrack, COMSAT, Conrail, Federal National Mortgage Association, the Student Loan Marketing Association, and the Legal Services Corporation were compared. Each was created in whole or in part by the Federal Government; each has received public funds; and each has faced the need to attract and retain highly qualified personnel. Originally, Hay Associates had found that while many of the lower level SFC positions were perhaps over compensated, the higher level management and policy positions were obviously under compensated. The upward shift in upper management salaries implemented as a result of the Hay recommendations, has made SFC officer compensation comparable to some executives in other quasi-governmental organizations.

However, since the SFC has been so heavily criticized regarding its compensation and benefits package, it has often pointed to other quasi-governmental organizations, stating the SFC should be given the same compensation freedoms. At one point, even Ed Noble, billionaire Oklahoma oil man, long time Reagan loyalist and SFC Chairman, tried to deflect such criticisms by accepting only \$1 in annual pay from the Corporation. Somehow, though, the 'point' of this never received the hoped for publicity. So the SFC pointed to the COMSAT Chairman who receives a whopping \$307,000 annual salary and the Conrail Chairman who

receives \$265,000 a year.²⁴ Of course, there are important differences between the SFC and these public corporations. In its 1981 report, the House Environment, Energy, and Natural Resources Subcommittee claims that "Congress knowingly created a very different entity in the Synthetic Fuels Corporation, and no comparisons between COMSAT and Conrail can stand."²⁵

While keeping in mind that this report was very negative and politically motivated, it is true that both the latter organizations are for-profit with non-public directors and stockholders. They receive much of their income from non-governmental sources, pay taxes, and are not subject to the Sunshine and Freedom of Information Acts. But to state, "no comparisons between COMSAT and Conrail (and the SFC) can stand" is an absolute and, therefore, indefensible statement. Especially, in regard to Conrail, which received Federal operating funds as late as 1981 -- five years after operations began. Not only does the Federal Government own 85% of Conrail's stock, but at one point, Conrail was losing \$1 million per day and was being heavily subsidized by public monies. In fact, the Federal Government has pumped billions into Conrail.²⁶ Therefore, it seems the Subcommittee displayed a short memory span while preparing this report.

By comparison, the SFC's FY'83 operation cost a little less than \$15 million. While the Corporation is allowed to spend \$35 million a year for administrative

expenses, such expenditures totalled only \$14,754,436 in fiscal year 1983 (see Appendix III). Personnel costs for that year totalled \$8,934,469.²⁷ Thus, the Corporation's policy of trying to rely on a small cadre of highly qualified professionals seems to be saving millions of dollars. Moreover, current staffing is being further cut by the process of attrition. Which brings us back to a central point--is it not warranted for the SFC to competitively compensate highly skilled employees, especially given the temporary nature of the organization? The SFC cannot hire young engineers and train them for the ten to twenty years it takes to reach the top of their professions. Necessary personnel must have a depth of knowledge in areas like shale oil recovery and environmental technology. A minimum of ten years experience, demonstrating analytical and discretionary skills is a must!²⁸ Without competitive salaries, recruiting such candidates from the private sector can be difficult at best.

The temporary nature of the Corporation undoubtedly hinders the recruitment of high caliber candidates. The total compensation package of the SFC was geared toward short-term employees who have presumably forfeited benefits accumulated after, perhaps, many years of service in the private sector. In order to fairly evaluate this "generous" package, it is essential to understand it in the proper perspective. Indeed, these may be small costs

for the government, if, in the long haul, synfuels development could assure greater national security.

Poor Enabling Legislation

The public administration profile of the SFC is quite unusual. First of all, in organizational terms, the status of the Corporation is ambiguous. The Energy Security Act states specifically that it is not an agency or instrumentality of the U.S. Government. Indeed, it is in no way a part of the executive branch. However, understanding this designation proves difficult given the nature of its mission, the close oversight by Congress, the receipt of appropriated funds, and the use of the Dept. of Treasury. Similarly, arguing clearly that the SFC is either more or less autonomous than other public corporations, is equally problematic. Although Congress exempted the SFC from most managerial controls, i.e., OMB, Congress also encumbered the organization with 26 provisions for the legislative veto. Moreover, the ESA is 72 pages long, extremely detailed, and includes significant Congressional intervention in both broad and specific policy making.

Since the SFC is not an agency of the U.S., none of the government-wide laws apply to the organization unless the ESA specifically states that they apply. "No Federal law shall apply to the corporation as if it were an agency or instrumentality of the United States, except as

expressly provided in this part."²⁹ This being the case, there are numerous unusual provisions of law made applicable to the Corporation.

Among the government-wide statutes the SFC is not subjected to are procurement, Freedom of Information, Sunshine in the Government, privacy, and administrative procedures. However, the Act provides for variations on several of these laws specifically applicable to Synfuels. First of all, there is an "open meeting" clause for Board meetings, followed by methods in which the Board may close the meeting. The financial disclosure provisions of the ethics in Government Act of 1978 are applicable to officers and employees of the SFC "as if it were a Federal agency."³⁰ Also, much of the Freedom of Information and Privacy Acts are integrated into the ESA. The Davis-Bacon Act applies to the SFC and its clients with respect to payment of wages to clerical and laborer employees. But interestingly, the SFC is not subject to the Government Corporation Control Act of 1945, discussed in Chapter One.

In summation, the ESA is a complex maze of grants and restrictions of authority applicable to this one Corporation. Indeed, the SFC's poor and awkward enabling legislation has often been cited as being at the core of much of the Corporation's problems.³¹ In practical terms, it is impossible for the Corporation to create any illusion of political or administrative accountability.

It's legislation tends to run counter to such principles. Since the SFC is technically not an agency of the government, OMB has no managerial rules it can legally enforce on the Corporation. Rather, OMB is left with only the ability to expend political resources on the Corporation, which has created a frustrated situation at best. This holds true especially in light of the fact that OMB's current Director has never supported the doctrine behind the SFC's mission, and would just as soon slash the program entirely in his deficit-cutting efforts. Such attitudes are undoubtedly further aggravated by the reality that OMB does not have authority to review the SFC's annual administrative budget. Thus, the relationship between the two organizations has been intermittent and generally strained. Currently, this environment is evident in the evaluation of the Great Plains Project of which OMB is a part. Ostensibly, the OMB has become involved in SFC affairs because it is acting for the President in fulfilling his responsibilities under the Act.

Questions of Autonomy Versus Oversight

Institutionally, a difficult situation has emerged in assuring the accountability of the Corporation. Since OMB is not allowed administrative control of the organization, Congress is left to fill the void. This has meant holding numerous hearings, and issuing highly

critical reports regarding the Corporation. While such Congressional tools are normally effective methods of conducting political oversight, they are cumbersome methods for administrative management.

According to the findings of the "Report on Government Corporations" cited in Chapter One, effective accountability to Congress or an oversight agency cannot be realized in administrative detail, but should concentrate only on policy issues. "It is foolish for Department of Transportation officials to question the price of Amtrak beer and soft drinks, but appropriate for them to consider the corporation's total operating subsidy, the need for individual routes, or the reasonableness of such major costs as labor, capital equipment, and track maintenance."³² Such an example is reminiscent of SFC Congressional oversight.

Although the SFC does not have an oversight agency, the ESA does seem to encourage institutional relationships between the Corporation and Federal agencies. The most noteworthy of such relationships continues to be the Department of Treasury. The two organizations remain in close contact with respect to the Corporation's borrowing authority. The SFC draws monies by issuing a noninterest-bearing note payable to the U.S. Treasury, and due September 30, 1997 or upon termination of the Corporation, whichever date comes sooner. From the budgetary perspective, technically the SFC is a corporation both on-and off- budget

-- another factor leading to political complications. While the receipts and disbursements of the SFC are presented annually in the Budget of the U.S. Government, such expenditures are not included in Budget totals.

Placing SFC transactions off-budget was undoubtedly done so legislators could disguise the huge outlays to be allocated to the program. Simultaneously, however, the SFC must present to Congress an annual business-like budget for administrative expenditures, which is subject to the Congressional appropriations process. While most public corporations must present an annual business-like budget (as required by the Government Corporation Control Act), not all are subject to the Congressional appropriations process, an obvious method of oversight. This is usually a significant difference between government corporations and agencies.

As the SFC requires funds to make payments to private firms, the monies will be issued from the Energy Security Reserve, mentioned earlier in this chapter. This is also an on-budget account administered by Treasury. But only after the funds are provided from the Treasury, will the outlays be recorded in the Federal budget. In other words, SFC appropriations are on-budget, while SFC transactions are off-budget. Beyond these functions, the ESA further describes what the role between the SFC and the Treasury should be: "(t)he

Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets."³³ In drafting the ESA, Congress was obviously sensitive to the potential economic repercussions of such huge outlays.

Although the Act clearly addresses this relationship between Treasury and the SFC, it clearly does not address any relationship between the Department of Energy (DOE) and the SFC. Perhaps, this is due to the politically unfavorable climate surrounding DOE during the drafting of the legislation. Whatever the reason, SFC critics have often suggested that the program would have been better guided if DOE had either been appointed the oversight agency, or if, simply, the SFC's program had been given to DOE. Of course, SFC supporters argue, for reasons already addressed elsewhere, why such an arrangement would have been or would be disastrous to the commercial nature of the synfuels program. But the point to be made here is the strong statutory autonomy that this legislative omission places on the SFC. Moreover, it is significant that such omission further positions the Corporation in a strong stance even with the Chief Executive,

especially in the event of policy conflicts. However, for all the theoretical benefits of a public corporation having much autonomy, the political realities in Washington are such that ultimate survival is often difficult. If the organization is small, like the SFC, not having an oversight agency can seriously place the program in the undesirable position of being all alone. Big is 'beautiful' in Washington. Alone, without an obvious constituency, a program easily falls prey to the wolves. An example of an also expensive, but politically sheltered program is Amtrak, which has DOT as its direct oversight agency.

As is the case with essentially all public corporations, the SFC is subject to audit by the General Accounting Office (GAO). However, because the SFC is not covered by the Government Corporation Control Act, its auditing requirements are considered more stringent than those required of other government corporations covered by the Act. Furthermore, the Synfuels Corporation is required by the ESA to retain a firm of nationally reputed public accountants to prepare "in accordance with generally accepted accounting principles" a report which includes an audit of the Corporation's accounts "including statements of the type required in Section 106 of the Government Corporation Control Act."³⁴ In practical terms, however, the authority of GAO to audit the SFC seemingly does not end here. For the past two years, GAO staff

have been permanently housed within the premises of the SFC headquarters. Their auditing responsibilities have extended to include the financial evaluation of the Great Plains Project, currently undergoing negotiations between the sponsors and the SFC. Such evolved circumstances undoubtedly are further evidence of the tremendous oversight of the SFC. Although such controls were not initiated legislatively, they have emerged loosely through the presumption that the Corporation or its management are not responsible, and thus, need constant review.

Moreover, on a final note regarding oversight, the SFC is the only public corporation that has been required by law to house an inspector General (IG). Consequently, the SFC is subject to many types of internal audits and investigations. Creation of the IG has undoubtedly caused confusion as to where authority really lies. Existence of such an office does not guarantee that reports of misconduct will be brought there. If anything, this office may only encourage suspicions of wrongdoing. Observers generally agree that an IG can often aid intra-organization destruction.³⁵

In conclusion, for all its intentions for creating a business-like, autonomous public corporation, Congress was only successful at assuring many methods of oversight of the SFC. Congress may have exempted the SFC from the benign Government Corporation Control Act,

but in its place found numerous provisions for control, i.e., personnel ceilings, vast Congressional oversight, creation of an IG, to name but a few. The very fact that the SFC was omitted from the Government Corporation Control Act, may have made the organization more vulnerable to be subject to numerous other laws and restraints. Of course, as noted above, many of these oversight measures were not legislated, but have evolved through time and politics. Dwight Ink, long-time Washington bureaucrat and former V.P. Administration at Synfuels, has noted that 40% of his time at the Corporation was spent in reacting to the GAO, the IG's Office, the press or the public.³⁶ Much supposed policy autonomy becomes mute when such consequences of operating in a public setting are weighed in.

Although a public corporation undoubtedly must have some oversight to remain accountable, it is essential that such a body be left to function flexibly in its business environment. There are numerous public corporations where this balance has been more successfully achieved than at Synfuels. The presumed abuse by earlier Synfuels management initiated precedents that are impossible to reverse. The current Board of Reagan appointees have fallen victim to such politics. Each Board Meeting, they continually play to the media versus getting on with the business at hand, like funding projects before them.

Congressional Liaisons

It is noteworthy that in the original proposal for the Energy Security Corporation (which became the SFC) "the role of Congress in overseeing the Corporation is not discussed...except to note that the Corporation will report to the President and the Congress on its financial operations on an annual basis or more frequently, if necessary."³⁷ The proposal states that it will not be necessary to seek annual appropriations since the authority will be provided at the time of the organization's creation. Essentially, this provision encourages little contact between the management of the Corporation and the relevant Congressional Committees.

So again, the ambiguities surrounding the organizational status and authorities of the Corporation contained obvious problems from the start, especially with regard to its relations with Congress. As noted earlier, such inherent problems are undoubtedly due in part to poor enabling legislation. From the beginning, the legislation managed to leave many questions unanswered: "Who, for example, will have the authority to submit amendments to the law...? Would amendments have to be approved by the OMB, as in the case with regular executive branch agencies and most government corporations? Or, can the board submit its own proposals, even if they are at variance with the wishes of the president?... (W)ill

Congress be able to effect a 'legislative veto' over projects?"³⁸

Indeed, the original intention of the synfuels proposed legislation was to allow it to function with a minimum amount of Congressional oversight. This was obviously drafted by a Congress which was trying to appeal to presidential desires at the time. However, since the political climate is now very different in both branches of government, this element of the law has particularly frustrated Congress which continues to react through disjointed efforts in its frantic attempts to control the Corporation. Consequently, the SFC is stymied from moving forward with its business. Thus, the enabling legislation has proved problematic from all perspectives.

Shortly after the Corporation's inception, and following President Reagan's landslide victory in 1980, the new Congress began scrutinizing the SFC. This has set the tone up to the present -- the political timing has always been off for the Corporation. Congress has continually delivered a negative message regarding the SFC, whether related to Board Members and management, personnel policies, or project funding. Ostensibly, Congressional arguments have always been lack of accountability and bad economics, but it is clear that simple ideological differences have also played a major role in diminishing the SFC.

Along these lines, however, little substantive action was taken by Congress the first couple of years. But as the 1984 election approached and deficit-cutting pressures multiplied, the Congress and the White House finally compromised on a 5.2 billion cut from synfuels obligational authority. Previously, 2 billion had been cut from the \$17 billion Energy Reserve Account, which was given to social programs. This final compromise was the result of numerous proposals over the previous year, deriving mostly from the House, to reduce the budget authority of the SFC. Of particular interest among these proposals was Representative Tom Corcoran's (R-IL) proposed bill to reduce the Corporation's loan authority to \$3 billion. (As the top-ranking Republican on the House subcommittee that has jurisdiction over synfuels, in 1982, he also introduced legislation that would have totally abolished the Corporation). His proposed legislation would have also limited the SFC to research and development, a very tired solution. Although the measure acquired eleven co-sponsors, it, apparently, never went beyond committee hearings.³⁹ But the significance of this proposal is its author, who a little over a year later was appointed to the SFC Board by the Reagan Administration. Corcoran has since positioned himself as Vice Chairman of the SFC Board, a new, fully-salaried position which is present in the daily operations of the Corporation. Observers note that

following his lost bid for the Senate, this position simply will provide him with a Washington base while giving him high visibility in Illinois since he obviously plans to run for the Senate again.

As noted, in 1984, the Corporation's Board had lacked a quorum since April, so in August, the Senate acted on a compromise proposal with the White House. (Administration officials had insisted since May that they would not restore a Board quorum until Congress substantially reduced the SFC's funding). Finally, the Administration agreed to present a list of Board nominees in exchange for immediate cuts of \$5.2 billion. As noted earlier in this chapter, this is an unfortunate example of how the Corporation's Board and its operations were held hostage over the Administration's political maneuverings.

However, in November, just prior to a Congressional recess, the Senate and the White House still had not agreed on the list of nominees. In particular Corcoran's nomination was at issue in the Senate. Furthermore, although Corcoran and the two other names (Paul MacAvoy and Eric Reichl) were submitted for nomination in October, they came too late for the Senate to complete the confirmation process before adjournment. So the President, using his powers of office, gave "recess appointments to the three nominees, which would enable them to serve until the end of 1985 without being confirmed. But a six-month legislative battle over SFC funding and Board

nominations had been laid to rest, at least temporarily.

In summation, it must be concluded from Corcoran's appointment that more than mere irony was at work here. Last year, the Administration initially had proposed to cut the SFC by \$9.5 billion. Since the White House was forced to compromise, particularly with the Senate, by settling for a lesser cut, Corcoran's appointment was undoubtedly a measure at the Administration's disposal to further diminish the program. Many observers, including SFC Chairman Edward Noble, questioned whether the White House might have had other ulterior motives than that of giving the Board the necessary quorum to take action on pending synfuel projects.

Moreover, as an aside note, it is interesting that for all the legislative energy put forth last year by both Congress and the Administration, the 1984 Republican Party platform was totally silent on Synfuel Corporation cuts, and synfuels development in general.

"Indeed, the party's entire plank on energy policy consists of only six short paragraphs,"⁴⁰ which primarily praises the Administration's decontrolling of oil prices.

Meanwhile, Mr. Corcoran, now the SFC Vice Chairman, has ceased to push for abolition of the Corporation. Rather, he now argues that it "would be a serious mistake to abolish the SFC."⁴¹ And, in reference to DOE's

program for research and development that operated before creation of the SFC, the Vice Chairman remarks, "spent billions with nothing produced."⁴² Indeed, Corcoran now maintains that the Corporation is essential; particularly, he argues since the production goals of 500,000 barrels per day by 1987 and 2 million barrels per day by 1990 were eliminated in the legislation approved last year. Amazingly, one of the SFC's greatest political foes, has now become a political ally of the newly scaled-down program.

In current Congressional relations, the Vice Chairman has played his new role with zeal. The most obvious of anti-synfuels legislation now being proposed is an SFC-abolition amendment to be attached to the House's fiscal year 1986 budget resolution. Congressmen John Dingell (D-MI) Chairman of the House Energy Committee and Mike Synar (D-OK) propose to abolish the Corporation and transfer \$500 million of its funding to DOE. Powerful support for this amendment is currently massing in the House. But Corcoran has recently opposed such a proposal, maintaining that without the Corporation, the Federal government's synthetic fuels effort would revert to "Pork-barrel politics."⁴³ Moreover, the Vice Chairman justifies his new attitude toward the SFC by arguing to Congress that its requested mission will be accomplished using "significantly less"⁴⁴ than the currently

available \$8 billion. He further assures Congress that the program will not request the additional \$68 billion authorized for the originally proposed second phase of synfuels development.

Should the Synfuels Corporation be Saved?

There are undoubtedly numerous reasons why the U.S. Synfuels program should be saved. But, of course, the obvious reason of many synfuels proponents is national security. "There is today only a nine-year supply of oil in the United States."⁴⁵ According to James Schlesinger, former Secretary of Energy in the Carter Administration, "This country vacillates between panic and complacency. We're in a complacency period right now and that is going to induce another panic."⁴⁶

Indeed, it is hard to imagine energy shortages and gas lines. However, although OPEC has been partially replaced by other importers, and U.S. oil consumption of imported oil is only 30 percent today versus 47 percent in 1977,⁴⁷ imports did rise last year by 6.5 percent for the first time since 1979. When demand was falling, the chronic problem of U.S. production not meeting demand, was only masked. Moreover, gasoline imports are rising even faster than imports of crude oil, jumping by 30 percent last year alone.⁴⁸

Evidence pointing to the growth of U.S. dependence on oil and gas imports abound, and obviously exceed far

beyond the necessary realm for discussion here. Rather, what is at issue is the continued necessity for development of alternative fuels--and possibly even at the expense of encouraging uneconomic projects. In the long run, the experience gained from such "economic failures" may well pay for themselves again and again. This argument has undoubtedly held true for many infant industries around the world and through time. Furthermore, continued U.S. investment in and greater reliance on alternative energy sources surely will free this country from the many foreign policy constraints that make our national security so vulnerable. Such investment would seem preferable to further military build-up, though not as politically expediate, perhaps. In summary, Daniel Yergin, President of Cambridge Energy Research Associates, has remarked, "A lot of progress has been made. But after what we've been through, it would be foolish (to ignore) recurrent questions about energy security."⁴⁹

Congress and the Corporation itself have already taken significant steps toward minimizing the scale of the synfuels program. Of course, opponents of the SFC hope to take this measure one step further, and envelope what remains of the organization within DOE's structure. Such a final solution seems drastic and certainly unnecessary. Proponents of the program could argue that as long as financial assistance is being

awarded in the commercial sector, the program should remain in the corporate form. After all, attacks on the SFC have not necessarily been a fault of the corporate form. More accurately, the SFC's poor enabling legislation may be blamed for political confusion, and therefore, controversy and criticism.

Attacks on the SFC also reflect deep divisions throughout the country on the role of government in the development of alternative fuels. Thus, it is likely that a synfuels program packaged in any form would have drawn the same critical scrutiny. Indeed, considering the potential advantages that can be realized through the use of the public corporation, the issue here may well be how to assure that the next synfuels corporation be saved from a similar fate. The previously addressed arguments for establishing public corporations may be especially poignant when the government wishes to encourage a new industry commercially. Public corporations should, in theory, be an ideal median for creating a new public function immediately, and generally, they are easier to dismantle than the entrenched bureaucracies that come from creating core agencies.

Therefore, the organizational form may be relative at most to the travails of the SFC. Having said that, however, most observers would agree that had the synfuels program been buried within a bureau of DOE, for example, it is unlikely it would have attracted so much unwanted

attention. But given the importance of its mission to the country, the Corporation's project orientation, the experienced personnel required, and the short time frame given to reach its goals, such an organizational form was certainly needed and can be justified.

The Corporation's Future

From May until October of 1984, while Congress debated its future, the Synthetic Fuels Corporation was essentially an organization without a future. Finally, the situation became clear: \$5 billion would be cut from the SFC, leaving only \$8 billion. These cuts meant that the latest projects could not be funded. Earlier eligible projects would use up all of the remaining \$8 billion. So throughout the summer and early fall of 1984, the SFC personnel had simply been going through the motions -- wasting their time on projects that would never be funded.

Unfortunately, this wasted effort was only a part of a continuous chain of attacks on employee morale. Earlier in the Corporation's history, SFC staff felt they were "on a mission" to help develop a national alternative fuels industry. There was a true 'esprit de corp,' and much pride taken in working long hours, all of which this author was a part. But falling oil prices, abuse from the Administration, attacks in the press, Congressional politicking, lack of private sector support, and

working without seeing any tangible results have caused many private-sector oriented staff to leave in droves.

Recently, this tragic phenomenon alone has the Corporation undergoing rapid evolution. Moreover, the SFC "becomes more and more crippled with each passing week as its Congressional opponents prepare to move in for the final kill."⁵⁰ Indeed, many Washington observers claim the Corporation is being deliberately ushered into such a position of inoperation so that abolition will be just a formality.

Until recently, the future of the organization was not quite so gloomy. Some staff even predicted that current projects would be funded over the next year: then a reduced organization would go into the monitoring phase under the wing of an oversight agency, perhaps. But increasingly budget reductions are the overriding Congressional concern; even though killing the Corporation would not produce anything like an \$8 billion reduction in the 1986 budget.⁵¹ However, warnings that the drive to kill the SFC should be taken seriously, are now coming even from the Senate. While Congressional opposition has generally come from the House, these warnings recently came from the majority side on the Senate Energy Committee. But as recently as early May, the top-ranking Democrat of that Committee, J. Bennett Johnston (D-LA) stated, "You're our baby. Takes two

Houses to change anything. The only other committee where changes could take place is Appropriations, and you'll see the same faces there."⁵²

It's anybody's guess where all this will leave Vice Chairman Corcoran's new scaled-down program. Corporation opponents tend to think his reform movement will be trampled by the efforts to complete the SFC's business before the ax falls.⁵³

Considering all of the above, and the very real possibilities of future oil shocks, how can Congress improve the mechanisms for the next SFC? And, can the next SFC carry out its responsibilities without experiencing the same kinds of demoralizing attacks? Until the country reaches a concensus on a national energy policy the answer has to be "no."

Perhaps after the next oil shock, Congress can establish a COMSAT for energy. A completely private corporation could build and sell (or operate) synthetic fuel plants, with the idea that it is a 'for profit' corporation. Whatever type of corporation emerges from the next oil shock, it must be left alone to carry out its responsibilities. It is ironic that just as the SFC had seemed to establish an effective and responsible program, a variety of forces worked to negate it.

CHAPTER THREE: FOOTNOTES

¹This number includes non-exempt or support level staff and represents total SFC staffing at mid-year 1984. In comparison to original Congressional intention, this figure represents gross under staffing by a politically insecure organization that was initially conceived as employing 300 professional staff by FY '84.

²BOED is used to express synfuel 'Barrels of Oil Equivalent (to crude oil) produced per Day'.

³John T. Tierney, "Government Corporations and Managing The Public's Business," Political Science Quarterly 99 (Spring 1984):77.

⁴Ibid, p. 78.

⁵Ibid, p. 78.

⁶Annual Report of the United States Synthetic Fuels Corporation, (Washington, D.C.: U.S. Synthetic Fuels Corporation, 1983), p. 4.

⁷"Roles and Management of Government Corporations" Seminar, The National Institute of Public Affairs, Ron Moe, panelist, Congressional Research Service, Library of Congress, Washington, D.C., October 23, 1984.

⁸Howard Kurtz, "Synfuels President Under Fire: Three Directors Seek Ouster," Washington Post, 9 August 1983, sec. A, p. 1.

⁹U.S., Congress, House, Oversight of the Energy Security Act: Implementation of the Synthetic Fuels Corporation, 97th Cong., 1st sess., 1981, p. 12.

¹⁰Ibid, p. 12.

¹¹Annual Report of the United States Synthetic Fuels Corporation, (Washington, D.C.: U.S. Synthetic Fuels Corporation, 1983), p. 31.

¹²U.S., Congress, House, Oversight of the Energy Security Act, p. 18.

¹³Ibid, p. 18.

¹⁴Robert D. Lee, Jr., Public Personnel Systems, (Baltimore, MD: University Park Press, 1979), p. 85.

¹⁵U.S. General Accounting Office, Report to the Chairman, United States Synthetic Fuels Corporation: Evaluation of Administrative Procedures at the Synthetic Fuels Corporation, 18 October 1982.

¹⁶U.S., Congress, House, Oversight of the Energy Security Act, p. 14.

¹⁷U.S. General Accounting Office, Report to the Chairman, United States Synthetic Fuels Corporation, p.27.

¹⁸Ibid, p. 28.

¹⁹Ibid, p. 29.

²⁰Ron Moe, Federal Government Corporations: A Quest For A Theory (Washington, D.C.: Congressional Research Service, Library of Congress [1982]), p. 19.

²¹U.S. General Accounting Office, Report to the Chairman, United States Synthetic Fuels Corporation, p. 30.

²²Annual Report of the United States Synthetic Fuels Corporation, (Washington, D.C.: U.S. Synthetic Fuels Corporation, 1983), p. 15.

²³Personnel Compensation and Benefits Recommendations to the United States Synthetic Fuels Corporation, by Hay Associates (Washington, D.C.: Hay Associates, 1981), p. 35.

²⁴U.S., Congress, House, Oversight of the Energy Security Act, p. 9.

²⁵Ibid, p. 9.

²⁶Stan Kulp, "Conrail's Future: It May Be Brighter than the Deficit-Ridden Past," Barrons (June 22, 1981):9,20,22.

²⁷Annual Report of the United States Synthetic Fuels Corporation, (Washington, D.C.: U.S. Synthetic Fuels Corporation, 1983), p. 23.

²⁸U.S., Congress, House, Synthetic Fuels Development, 97th Cong., 1st sess., 1981, pp. 21-22.

²⁹U.S., Congress, Senate, The Energy Security Act, Public L. 96-294, 96th Cong., 2nd sess., 1980, S. 932, p. 59.

³⁰Ibid, p. 59.

³¹"Roles and Management of Government Corporations" Seminar, The National Institute of Public Affairs, Harold Seidman, Author and Scholar; Dwight Ink, Former V.P. Administration, U.S. Synthetic Fuels Corporation, Washington, D.C., October 23-25, 1984.

³²Report on Government Corporations, by Alan Dean, Chairman (Washington, D.C.: The National Academy of Public Administration, 1981), p. 47.

³³U.S., Congress, Senate, The Energy Security Act, Public L. 96-294, 96th Cong., 2nd sess., 1980, S. 932, p. 47.

³⁴Ibid, p. 67.

³⁵"Roles and Management of Government Corporations" Seminar, The National Institute of Public Affairs, Dwight Ink, panelist, Former V.P. Administration, U.S. Synthetic Fuels Corporation, Washington, D.C., October 24, 1984.

³⁶Interview with Dwight Ink, Former V.P. Administration, U.S. Synthetic Fuels Corporation, Washington, D.C., 24 October 1984.

³⁷Ron Moe, "Government Corporations and the Erosion of Accountability: The Case of the Proposed Energy Security Corporation," Public Administration Review 39 (November/December 1979):569.

³⁸Ibid, p. 569.

³⁹William Rankin, "Corcoran Has Eleven Co-Sponsors," The Synfuels Report (March 28, 1983):4.

⁴⁰"Republican Platform Silent on SFC, Hails Reagan's Decontrol of Oil Prices," Synfuels (Washington, D.C.: McGraw-Hill, August 24, 1984), p. 2.

⁴¹"SFC Board Member, Critic Debate Need for Continued Existence of Agency," Regulatory and Legal Developments (Washington, D.C.: The Bureau of National Affairs, Inc., April 2, 1985), p. A-2.

⁴²Ibid, p. A-2.

⁴³Ibid, p. A-2.

⁴⁴Ibid, p. A-2.

⁴⁵Armand Hammer, "Synfuels Must Start Now," The Oil Daily (April 19, 1985):4.

⁴⁶Richard B. Schmitt, "U.S. Dependence on Oil, Gas Imports May Grow," Wall Street Journal, 23 April 1985, sec. 1, p. 6.

⁴⁷Ibid, p. 6.

⁴⁸Ibid, p. 6.

⁴⁹Ibid, p. 6.

⁵⁰"Experience, But at a Price," The Oil Daily (May 17, 1985):4.

⁵¹Lawrence Paulson, "Budget Cut Drive Threatens SFC Future, Corporation Told," The Oil Daily (April 15, 1985):12.

⁵²U.S., Congress, Senate, Committee on Energy, The Future of the U.S. Synthetic Fuels Corporation, 98th Cong., 2nd sess., 1985. (Quotes from J. Bennett Johnston (D-LA), top ranking Democrat of Senate Energy Committee).

⁵³Paulson, "Budget Cut Drive Threatens SFC Future," p. 12.

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APPENDIX I
INVENTORY OF GOVERNMENT OPERATIONS

INVENTORY OF GOVERNMENT CORPORATIONS

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
Commodity Credit Corporation	Wholly owned	8 members Secretary of Agriculture (Chairman) and 7 appointed by the President with advice and consent of the Senate	Capital stock of \$100M subscribed by Treasury authority to borrow not to exceed \$258	Subject to GCCA and supervision and direction by Secretary of Agriculture	100% Government owned	15 USC 714 et seq.
Corporation for Public Broadcasting	Private non-profit	10 members appointed by President with Senate confirmation	Mainly appropria- tions but also private funds	Audit by independent CPAs and GAO in any year when Federal funds are made available for operations	No stock	47 USC 396
Export Import Bank of the United States	Wholly owned	5 members appointed by the President with Senate confirmation	\$68 line of credit from Treasury	Subject to GCCA	100% Government owned	12 USC 635-635i

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
Federal Crop Insurance Corporation	Wholly owned	7 members appointed by Secretary of Agriculture 3 from Dept. of Agriculture and 4 non-Government employees	Capital stock of \$500M subscribed by Treasury	Subject to GCCA and general supervision by Secretary of Agriculture	100% Government owned	7 USC 1503 et seq.
Federal Financing Bank	Corporate instrumentality of the U.S. Government	5 members; Secretary of the Treasury (Chairman) and 4 appointed by the President from officers and employees of the Bank or of any Federal agency	Initial capital not to exceed \$100M from Secretary of the Treasury open ended borrowing from Treasury not more than \$158 in total obligations notwithstanding with the public at any one time	Not under GCCA, but budget and audit provisions for wholly owned Government corporations apply; subject to the general supervision and direction of the Secretary of the Treasury	No stock	12 USC 2282-2296
Federal Prison Industries, Inc.	Wholly owned	6 members appointed by the President	Revenue derived from sale of products and services to other Federal agencies and made available through appropriations acts	Subect to GCCA	No stock	18 USC 4121 et seq.

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
Government National Mortgage Association	Wholly owned	All powers vested in Secretary of HUD	Open-ended borrowing permitted from Treasury	Subject to GCCA	No stock	12 USC 1716-1723b
Inter-American Foundation	Nonprofit	7 members appointed by the President with Senate confirmation	Appropriations and private funds	Subject to GCCA	No stock	22 USC 290f
Legal Services Corporation	Private non-membership nonprofit	11 members appointed by the President with Senate confirmation	Appropriations	Audit by independent CPAs. GAO may audit for any fiscal year when Federal funds are available to finance any portion of operations	No stock	47 USC 2996-2996k
National Homeownership Foundation	Private nonprofit	18 members; 3 ex officio (Secretary of HUD, Secretary of Agriculture, Director of CSA) and 15 appointed by the President with Senate confirmation	Unfunded, authorization for appropriations	Commercial type audit by GAO	No stock	12 USC 1701Y

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
Neighborhood Reinvestment Corporation	Not specified	6 members; Chairman of FHLBB, Secretary of HUD, Chairman of FDIC, member of Federal Reserve Board, Comptroller of the Currency, and Administration of NCUA	Appropriations	Must prepare a business type budget statement; GAO may audit during any fiscal year when Federal funds are available to finance operations of the corporation or the corporation's grants and contracts, also GAO shall audit the corporation at least once every 3 years, audit by independent CPAs	No stock	42 USC 8101-8107
New Community Development Corporation	Not specified	7 members; Secretary of HUD, 5 appointed by Secretary of HUD, 1 appointed by the President with Senate confirmation	Authority to borrow from the Treasury	Direction and supervision by Secretary of HUD	No stock	42 USC 4532, 4518(b)

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
Overseas Private Investment Corporation	Wholly owned	15 members; Administrator of AID (Chairman), the U.S. Trade Representative or the Deputy U.S. Trade Representative (Vice Chairman), President of the corporation, ex officio, 8 appointed by the President with Senate confirmation, and 4 U.S. officials designated by the President	\$20M capital stock subscribed by the Treasury; appropriations to replenish or increase insurance and guaranty fund; line of credit from Treasury not to exceed \$100M	Subject to GCCA	100% Government owned	22 USC 2191-2200a
Pennsylvania Avenue Development Corporation	Wholly owned	15 voting members; 7 named Government officials and 8 private citizens appointed by the President; 8 non-voting Government officials appointed by the Chairman	Appropriations; line of credit from Treasury not to exceed \$100M; may seek congressional authority to issue marketable obligations	Subject to GCCA	No stock	40 USC 871-885

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
<u>Predominately Federal</u>						
Pension Benefit Guaranty Corporation	Wholly owned	3 members; Secretary of Labor (Chairman), Secretary of the Treasury, and Secretary of Commerce	Self-financed by revolving funds in Treasury; \$100M line of credit from Treasury	Subject to GCCA	No stock	29 USC 1301-1381
Saint Lawrence Seaway Development Corporation	Wholly owned	Administrator appointed by the President with advice and consent of the Senate and an Advisory Board of 5 members appointed by the President with advice and consent of the Senate	Revenue derived from tolls charged for use of facilities and made available through appropriations acts; may issue revenue bonds to Treasury up to \$140M	Subject to GCCA and supervision and direction by Secretary of Transportation	No stock	33 USC 981-990
Solar Energy and Energy Conservation Bank	Not specified	5 members; Secretary of HUD, Secretary of DOE, Secretary of the Treasury, Secretary of Agriculture and Secretary of Commerce	Appropriations	Audit to GAO	No stock	12 USC 3601 et seq.

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Federal</u>						
U.S. Railway Association	Nonprofit association	5 members; Secretary of Transportation, Comptroller General of the U.S., Chairman of the ICC, Chairman of Conrail Board of Directors, and the current Chairman of USRA is also served by an Advisory Board made up of members who had served on USRA's Board of Directors on August 12, 1981	Appropriations; may also issue obligations not to exceed \$395M outstanding at any one time	Subject to GCCA; submits budget concurrently to OMB and to the Congress	No stock	46 USC 711-729
U.S. Synthetic Fuels Corporation	Not specified	7 members appointed by the President with Senate confirmation	Appropriations to the Secretary of the Treasury for purchasing the corporation's notes; and \$208 borrowing from appropriated funds from Treasury	Audit by GAO and CPAs; audits, investigation, and inspection by the corporation's Inspector General	No stock	42 USC 8711-8795

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Mixed Federal/ <u>Private</u>						
Consolidated Rail Corporation (Conrail)	Private for profit	13 members; 6 elected by stock, debentures, and Series A preferred stockholders; 3 elected by Series B preferred stockholders; 2 elected by common stockholders; and the chief executive officer and chief operating officer of the corporation	Appropriations to permit USRA to purchase up to \$18 of debentures, up to \$2.68 of Series A preferred stock and accounts receivable; authority to issue debt instruments, Series B preferred stock, and common stock; revenues from charges for rail services	Audit by GAO in any year when Federal funds are being used to finance operations under 45 USC 747; audit and examination by USRA, GAO, and Secretary of Transportation until financial assistance is repaid under 45 USC 722	USRA, Department of Transportation, and others	45 USC 741-794, 722
Federal Deposit Insurance Corporation	Mixed ownership	3 members; Comptroller of the Currency and 2 appointed by the President with advice and consent of the Senate	Authority to borrow from Treasury for insurance purposes; assessments made against insured banks	Subject to GCCA	No stock (retired)	12 USC 1811 et seq.

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Mixed Federal/ <u>Private</u>						
Federal Savings and Loan Insurance Corporation	Wholly owned	Under direction of FHLBB	Original capital- ization of \$100M subscribed by U.S. has been repaid with interest; authority to borrow up to \$750M from Treasury; assess- ments (premiums) made against insured institutions	Subject to GCCA	No stock (retired)	12 USC 1725 et seq.
National Credit Union Administration Central Liquidity Facility	Mixed ownership	Managed by the NCUA Board (3 mem- bers appointed by the President with Senate confirma- tion)	Capital subscrip- tion from member credit unions; authorized to borrow up to \$500M from Treasury	Subject to GCCA	Member credit unions	12 USC 1795, 1752a
National Railroad Passenger Corporation (Amtrak)	Private as a for profit mixed ownership	9 members; Sec- retary of Trans- portation, ex of- ficio, 3 appointed by the President with Senate con- firmation, 2 se- lected by commuter authorities, 2 elected by stock- holders, and the President of the Corporation	Common stock sold to railroads; guaranteed loans; Treasury borrow- ings appropri- ations; and may issue bonds, notes and other certif- icates of indebted- ness, revenues from charges for rail services	Subject to GCCA except for audit. Performance audit required under 45 USC 644(2)(A); audit by indep- endent licensed public accountants	Common stock to railroads; preferred stock to the Secretary of Transportation	45 USC 501, 502, 541-645

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Mixed Federal/ <u>Private</u>						
Northeast Commuter Services Corporation*	Not specified	6 members; Presi- dent of Northeast Commuter, ex of- ficio, 1 member of Amtrak's Board of Directors, 2 members selected by Amtrak's Board of Directors, and 2 members from com- muter authorities	Appropriations to the Secretary of Transportation to help defray start up costs of com- muter services, authority to issue common stock in Amtrak	None	Amtrak	45 USC 581 et seq.
Rural Telephone Bank	Wholly owned	13 members; 5 des- ignated by the President (3 from Agriculture and 2 from the public who will resign when 51% of the class A stock is retired). 6 elect- ed from coopera- tives eligible to receive loans. Administrator of REA, and Governor of FCA (Both ex officio)	\$600M authorized in Government stock subscrip- tion; borrowers required to in- vest in stock that is retired over a period of years; sale of obligations to public and Treasury	Subject to GCCA as a wholly owned Government corp- oration until converted to private owner- ship	Government and others	7 USC 941-950b

*Formerly known as the Amtrak Commuter Services Corporation

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Mixed Federal/ <u>Private</u>						
Securities Investor Protection Corporation	Private nonprofit	7 members; 1 appointed by the Secretary of the Treasury, 1 appointed by the Federal Reserve Board, and 5 appointed by the President with Senate confirmation (3 from industry, 2 from the public)	Authorized to receive up to \$1B in Treasury loans through SEC (not used); assessments against members	Subject to examinations and inspections by SEC	No stock	15 USC 78aaa-78111
Tennessee Valley Authority	Wholly owned	3 members appointed by the President with advice and consent of the Senate	Appropriations and revenues from sale of power	Subject to GCCA	No stock	16 USC 831 et seq.

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Mixed Federal/ <u>Private</u>						
U.S. Postal Service	Independ- ent estab- lishment of the executive branch	11 members; 9 appointed by the President with Senate confirma- tion, Postmaster General, and Deputy Postmaster General, ex officio	Transferred assets of former Post Office Department; sale of obligations to public or to Treasury not in excess of \$10B; appropriations for nonself- sustaining services; revenues from services rendered	Must prepare business-type budget state- ment; subject to GAO audit; may obtain audits by CPAs	No stock	39 USC 201 et seq.

GAO Classificaton	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Banks for Cooperatives	Mixed ownership	7 members (for each of the 12 Farm Credit District Boards); 2 elected by Federal land bank associations, 2 elected by production credit associations, 2 elected by borrowers from or subscribers to the bank for cooperatives guaranty fund, and 1 appointed by Governor of FCA with advice and consent of the Federal Farm Credit Board	Capital stock subscribed by member cooperatives and Governor of the FCA	Subject to GCCA and supervision by FCA	Member cooperatives	12 USC 2121-2134, 2151, 2223, 2254

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Central Bank for Cooperatives	Mixed ownership	Up to 13 members; 1 elected from each Farm Credit district and 1 member at large appointed by Governor of FCA with advice and consent of Federal Farm Credit Board	Capital stock subscribed by member cooperatives and by Governor of FCA	Subject to GCCA and supervision by FCA	Member cooperatives	12 USC 2121-2134, 2151, 2254
Communications Satellite Corporation (Comsat)	Private for profit	15 members; 12 elected by stockholders and 3 appointed by the President with Senate confirmation	Capital stock sold to the public	Regulation by FCC as a private utility	100% privately owned	47 USC 731-735
Federal Home Loan Banks	Mixed ownership	14 directors for each bank; 8 elected by members and 8 appointed by the FHLBB	Capital subscription by members	Subject to GCCA	Member banks	12 USC 1421 et seq.

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
<u>Predominately Private</u>						
Federal Home Loan Mortgage Corporation	Not specified	FHLBB	\$100M common stock subscribed by Federal Home Loan Banks and sales of obliga- tions	Commercial type audit by GAO	Federal Home Loan Banks	12 USC 1452-1459
Federal Intermediate Credit Banks	Mixed ownership	Not specified	Capital stock subscribed by production credit associations and Governor of FCA	Subject to GCCA and supervision by FCA	Production credit associa- tions; non- voting stock issued to Gov- ernor of FCA	12 USC 2071- 2079, 2151, 2254
Federal Land Bank Associations	Not specified	Not specified; directors elected from voting shareholders	Stock subscribed by members of the associations	Subject to supervision of Federal Land Bank for the district and FCA	Bank borrowers	12 USC 2031- 2034, 2051- 2055, 2254

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Federal Land Banks	Mixed ownership	Not specified	Capital stock subscribed by Federal Land Bank Associations; direct borrowers through agents who are farmers or ranchers, and Governors of FCA	Subject to GCCA and supervision by FCA	Federal Land Bank Associations and direct and indirect borrowers; nonvoting stock issued to Governor of FCA	12 USC 2011, 2020, 2051-2055, 2151, 2254
Federal National Mortgage Association	Government sponsored private corporation	15 members; 10 elected by stockholders and 5 appointed by the President	\$2,258 line of credit from Treasury; capital contributions from mortgage sellers or borrowers	Subject to general regulatory power of Secretary of HUD	100% Privately owned	12 USC 1716-1723b

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Federal Reserve Banks	Not specified	9 members for each bank; 6 elected by stockholding banks and 3 designated by Board of Gov- ernors of Federal Reserve System	Capital stock subscribed by member banks	Audit by GAO; subject to gen- eral regulatory powers of Board of Governors of Federal Reserve System	Member banks and others	12 USC 281, 290, 301, 308
Gallaudet College	Private nonprofit	21 members; 1 Senator appointed by the President of the Senate. 2 Rep- resentatives appointed by the Speaker of the House, and 18 nonpublic members	Appropriations; tuition, fees, etc.	Subject to GAO audit and settlement	No stock	Act of Feb. 16, 1857 (11 Stat. 161) as amended by P.L. 83-420

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc.	Private nonprofit	47 members; officials of the Governments of United States and Panama, representatives of national and international agencies, and leading U.S. and Latin American scientists and other professionals	Appropriations; may accept funds from any Latin American Government	Subject to GAO audit and audit by independent CPAs	No stock	22 USC 478
Howard University	Private nonprofit	31 members of Board of Trustees all nonpublic; 25 perpetual members, 2 elected graduates, 2 elected students, and 2 elected from faculty	Appropriations; tuition, fees, etc.	Books open to inspection by Department of Education	No stock	20 USC 121-129

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
National Consumer Cooperative Bank*	Not specified	15 members; 3 appointed by the President with Senate confirmation and 12 members elected by holders of Class B and Class C stock	Appropriations; sale of debt instruments; capital stock subscribed by Government, borrowers from the Bank, cooperatives eligible to become borrowers, organizations owned and controlled by such borrowers, foundations, trust or charitable funds, public bodies, and other public or private investors	Examination and audit by the FCA and GAO	Borrowers of the Bank and Government	12 USC 3011 et seq.
National Corporation for Housing Partnerships	Private for profit	15 members; 12 elected by stockholders and 3 appointed by the President with Senate confirmation	Authority to issue stock; revenues from operations	Audit by independent CPAs	100% privately owned	40 USC 3931-3941

*Classified as predominately private because P.L. 97-35 provided the conversion of the bank to a private financial institution beginning with the conversion of U.S. owned class A stock on December 31, 1981

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
National Park Foundation	Charitable nonprofit corporation	Up to 23 members; Secretary of Interior (Chairman), Director of National Park Service (Secretary), and 6-21 private citizens appointed by Secretary of the Interior	Services by Interior and Justice without reimbursement, donations, gifts and bequests from private sector	None	No stock	16 USC 19 e-n
Production Credit Associations	Not specified	Not specified	Capital stock subscribed by eligible borrowers and Governor of FCA	Subject to supervision by the Federal Intermediate Credit Banks of the district and FCA	Members who are eligible borrowers	12 USC 2091, 2098, 2151, 2254

GAO Classification	Corporate Legal Status	Board of Directors	Financing	Controls	Stock Ownership	Legal Authority
Predominately <u>Private</u>						
Student Loan Marketing Association	Government sponsored private corpora- tion	21 members; 14 elected by stock- holders and 7 appointed by the President	Authority to borrow from the FFB; can issue debt obligations with approval of Secretary of Education and Secretary of the Treasury (obligations guaranteed by Secretary of Education); can issue common stock to insured lenders	Department of Education approval of borrowing; audit by inde- pendent CPAs	100% privately owned	20 USC 1087-2

APPENDIX II

COMPARISON OF ON-BUDGET AND OFF-BUDGET FINANCING

Comparison of On-Budget and Off-Budget Financing
(1981 Dollars in Millions)

<u>Corporation</u>	<u>On-Budget</u>				<u>Off-Budget</u>			
	<u>Budget Authority</u>	<u>Receipts</u>	<u>Total Obligations</u>	<u>Outlays</u>	<u>Budget Authority</u>	<u>Receipts</u>	<u>Total Obligations</u>	<u>Outlays</u>
Federal Financing Bank (FFB)	----	----	----	----	\$30,268.9	\$18,012.8	\$39,048.3	\$21,035.5
Rural Telephone Bank	----	----	----	----	126.5	85.1	212.3	113.7
Student Loan Marketing Association	----	----	----	----	2,222.6 ^{a/}	1,074.4	3,099.8	2,078.7
U.S. Postal Service	\$1,343.2	----	\$1,343.2	\$1,343.2	----	21,144.7	22,185.2	88.5
U.S. Railway Association	29.0	----	29.0	26.3	228.3	335.6	68.8	-266.8
U.S. Synthetic Fuels Corporation	----	----	----	---- ^{b/}	6.2 ^{c/}	6.2	6.2	----
Total	<u>\$1,372.2</u>	<u>----</u>	<u>\$1,372.2</u>	<u>\$1,369.5</u>	<u>\$32,852.5</u>	<u>\$40,658.8</u>	<u>\$64,620.6</u>	<u>\$23,049.6</u>

^{a/} Authority to borrow--currently funded through the FFB. The Corporation actually borrowed \$1,955 million from the FFB in 1981.

^{b/} Payments for the purchase of U.S. Synthetic Fuels Corporation's notes are shown as Treasury Department outlays.

^{c/} Contract authority.

APPENDIX III

SFC ADMINISTRATIVE EXPENSES
HISTORY OF AUTHORIZATION USE

SFC ADMINISTRATIVE EXPENSES HISTORY OF AUTHORIZATION USE (\$000,000)

