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THE WHITE HOUSE
WASHINGTON

Jim -

Do you have any objections
to sending a copy of the Decision
Memo to DR with his copy??

Trudy

A handwritten signature in black ink, appearing to be 'Trudy', written in a cursive style.

THE PRESIDENT HAS SEEN.



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

September 18, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

Some points you may want to make at the 9:00 A.M. meeting concerning the Energy Independence Authority:

1. The actual legislation has not gone through all the regular clearance circuits, so it is important that we all have a clear understanding of what the authority of this corporation will be before that process is completed.
2. I understand there is some concern about the timing of this announcement as related to the New York City situation.
3. You have a copy of both the draft legislation and a summary memorandum. Perhaps we can discuss both the question of exactly how the legislation should be finalized from a technical standpoint and then we can review timing.

You may want to call on people in the following order:

1. The Vice President
2. Alan Greenspan
3. Jim Lynn
4. Bill Simon
5. Rog Morton
6. Bill Seidman
7. Frank Zarb

There has been a considerable amount of interest on the Hill concerning this project. For that reason, it is important to cover the proposal with the Republican leadership prior to any announcement.

A good many of your senior advisers are still opposed to this project conceptually. If you decide to go ahead as planned, I would urge that you make it plain that once your decision is made you expect all of the Administration to work toward its successful completion.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 17, 1975

ECONOMIC AND ENERGY MEETING

September 18, 1975

9:00 a.m.

Cabinet Room

From: L. William Seidman

LWS

I. PURPOSE

To discuss a proposal for the establishment of a corporation to finance energy projects.

II. BACKGROUND, PARTICIPANTS, AND PRESS PLAN

A. Background: On August 9 you first reviewed the proposal for the creation of an Energy Resources Finance Corporation. At that time you requested that the major elements of the proposal be refined for your further consideration. A copy of a memorandum from the Vice President and Frank Zarb outlining the major elements of the proposal and draft legislation is attached at Tab A.

B. Participants: The Vice President, Henry Kissinger, William E. Simon, Rogers C.B. Morton, John T. Dunlop, James T. Lynn, Alan Greenspan, L. William Seidman, Arthur F. Burns, Frank G. Zarb, Richard B. Cheney, James M. Cannon

C. Press Plan: White House Photographer.

III. AGENDA

A. Review of Energy Independence Authority (EIA) Proposal

The Vice President will review the major elements of the proposal for the establishment of an Energy Independence Authority (IEA).



THE VICE PRESIDENT
WASHINGTON

September 15, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: THE VICE PRESIDENT *Frank Zarb*
FRANK ZARB

SUBJECT: Corporation to Finance Energy Projects.
Suggested Name: Energy Independence
Authority (EIA)

AGREEMENTS ON EIA

Based on our discussions with you, there are now no outstanding disagreements on the major elements of the proposal to create a corporation to assist in financing energy projects. A copy of proposed legislation for this purpose is attached at Tab A, and may be summarized as follows:

1. The purpose of EIA, a corporation with a limited ten-year life, would be to help achieve energy independence for the United States by providing financial assistance to private sector energy projects.
2. To the extent possible, the corporation's financial assistance will be provided on self-liquidating terms and in coordination with private sector financing. In addition to assisting in the achievement of energy independence, EIA's activities will also
 - create jobs;
 - stimulate economic recovery; and
 - ease the shortage of capital in an area essential to economic health and national security.
3. EIA would be a \$100 billion Government corporation with \$25 billion of equity and \$75 billion of debt.

4. EIA would be a new, autonomous Federal authority which reports directly to the President.
5. A five man board of directors would be designated by the President, subject to the advice and consent of the Senate.
6. The Chairman of the Board would be the chief executive officer of the corporation and the President, at his discretion would choose full or part-time members from either private or public service.
7. Although autonomous, the corporation's programs would be subject to an annual OMB management and financial review, and Treasury concurrence in the timing and terms of the issuance of debt; however, the corporation's actual financing and expenditures would be off-budget.
8. FEA, ERDA and ERC would be given advance notice of pending project approvals to allow for Executive Branch coordination and specific Presidential disapproval if warranted.
9. The compensation of EIA's staff would be under Civil Service rules, except that the Chairman of the Corporation plus a reasonable number of officers can be appointed and paid without regard to Civil Service requirements or Executive Branch salary limits.
10. EIA will concentrate primarily on the following types of projects in support of your 1985 energy independence goals:
 - * New technologies either to support or directly produce, transport or conserve energy.
 - * Technologies essential to the production of nuclear power.
 - * Conventional technologies if they are directly related to production, transportation or conservation of energy and are of such size or scope that they would not otherwise be financed by the private sector, or represent institutional or regulatory arrangements which are not in widespread use.

11. EIA will not undertake projects which (a) can be financed without Government assistance, (b) are not commercially viable because of the policies of a state regulatory commission, or (c) will produce energy which would be produced by the private sector in any event.

NEXT STEPS

We would recommend the following next steps.

- * Convene an early meeting of your economic and energy advisors to inform them of your basic decision.
- * Develop a strategy for notifying and involving the Congress.
- * Announce the objectives and the basic elements of your proposal at an appropriate forum, including a decision on the Corporation's name.
- * After the speech, circulate the draft legislation for several days of interagency review. This will allow further refinement and clearance to occur without premature leaks.
- * Submit the legislation to the Congress as soon as possible after your announcement.

September 10, 1975

A BILL

To establish the Energy Resources Finance Corporation, a Corporation with authority to make loans, guarantee loans, and otherwise provide financing and economic assistance for those sectors of the national economy which are of critical importance to the development of domestic sources of energy and the attainment of energy independence for the United States; to assist in the expediting of regulatory procedures affecting energy development; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Resources Finance Corporation Act of 1975."

Title I. Findings and Purposes

Section 101. Findings. The Congress finds and declares that:

(1) The achievement of energy independence for the United States by 1985 or as soon thereafter as possible is a goal which is essential to the health of the national economy, the well being of our citizens and the maintenance of national security.

(2) Energy independence for the United States is not likely to be achieved without financial support and encouragement beyond that which is likely to be forthcoming from traditional private capital sources in the traditional manner.

(3) Achieving the goal of national energy independence in an expeditious manner can be facilitated through the establishment of an independent entity of limited duration which will provide additional capital, where possible in conjunction with private sources of capital, to assist the development of domestic energy resources, and by authorizing such entity to encourage the prompt resolution of questions coming before governmental regulatory or licensing entities.

Section 102. Purposes. It is the purpose of the Congress, in this Act:

(1) to encourage and assure the flow of capital funds to those sectors of the national economy which are of critical importance to the development of domestic sources of energy, or which are otherwise important to the attainment of energy independence for the United States by 1985 or as soon thereafter as possible, and to facilitate regulatory and licensing decision-making;

(2) to provide financial assistance, where possible by the making of loans and the guaranteeing of loans in conjunction with private sector financing, for those activities which show the greatest potential of contributing to the development of domestic energy resources;

(3) to hasten the commercial operation of new energy technologies subsequent to the research and development phase;

(4) to supplement and encourage, and not compete with, private capital investment and activities in the development of domestic sources of energy; and

(5) to carry out the foregoing purposes through the creation of the Energy Resources Finance Corporation, an entity of limited duration, which will assert its best efforts to, on an aggregate basis, either realize profits or minimize losses; and to provide for the timely and orderly liquidation of such corporation's investments and undertakings.

Title II. Corporate Status and General Powers

Section 201. Establishment.

(1) There is hereby created a body corporate, to be known as the Energy Resources Finance Corporation (hereinafter referred to as the "Corporation").

(2) The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in such other places as may be determined by the Board of Directors of the Corporation.

Section 202. General Powers.

In carrying out the purposes of this Act, the Corporation shall have the power:

(1) To adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) To make contracts with private or governmental entities;

(3) To lease or purchase such real estate as may be necessary for the transaction of its business;

(4) To accept and dispose of real and intangible property (including money);

(5) to sue and be sued and to complain and defend in any court of competent jurisdiction, State or Federal;

(6) To select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation and to define their authority and duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys and agents.

(7) To make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) To determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(9) To exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity and the exercise of its powers, purposes, functions, duties and authorized activities;

(10) To use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(11) With the consent of any board, commission, independent establishment, or executive department of the executive branch to make use of services, facilities, officers, and employees thereof, with or without reimbursement, in carrying out the provisions of this Act.

Section 203. Tax Status.

The Corporation and any Subsidiary (as defined in Section 304 of this Act), its franchise, capital, reserves, surplus, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that (1) any real property owned in fee by the Corporation or any Subsidiary shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, and without discrimination in the valuation, classification or assessment thereof, and (2) any entity acquired or established, or activity undertaken, by the Corporation or any Subsidiary (except financial assistance as that term is defined in Section 301 of this Act) which engages directly in the production, transportation, or sale of energy, fuels or energy-related commodities, facilities or products, shall be subject to taxes imposed by the United States or any State or subdivision thereof in the same manner as if such entity or activity were not acquired, established or undertaken by the Corporation or a Subsidiary thereof.

Title III. Functions of the Corporation

Section 301. Financial Assistance.

(1) The Corporation is authorized and empowered, in its sole discretion and upon such terms and conditions as it may determine, to provide financial assistance to any business concern which is engaged, or proposes to engage, in any activity which increases or would increase the development, production, conservation, transportation or distribution of domestic supplies of energy, including but without limitation to financial assistance which:

- (a) enables such business concern to finance the ownership, construction, conversion, or expansion of productive facilities, or the acquisition of equipment, plant, machinery, supplies, or materials or the acquisition or development of land, mineral rights and process services; or
- (b) provides such business concern with working capital; or
- (c) aids such business concern in the payment of current debts or obligations.

* * * * *

As used in this Act: (i) the term "business concern" shall mean any individual, corporation, company, association, firm, partnership, society, or other private entity which is engaged in the development, manufacture, supply, importation,

exportation, procurement or production of goods or services in the United States and which is deemed by the Board of Directors to be essential, by itself or as part of a larger industrial grouping, to the achievement of energy independence by the United States or the long-term security of energy sources and supplies for the United States, and (ii) the term "financial assistance" shall mean any form of advance, extension of credit, investment, participation or guarantee, including, without limitation, loans, guarantees of obligations, guarantees of price, purchase and leaseback of facilities, and the purchase of convertible or equity securities.

(2) No financial assistance may be provided under subsection (1) unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(3) (a) The Corporation is empowered to provide financial assistance to any project which in the judgment of the Board of Directors will make a significant contribution to the achievement of energy independence by the United States. The Corporation shall provide financial assistance if, in the judgment of the Board of Directors, the project will not receive from private sources alone sufficient financing, or financing upon such commercially reasonable terms, as to make the project commercially feasible; provided, however, that the maximum degree of private financing shall be sought in connection with any project hereunder.

(b) In providing financial assistance to projects which qualify under subsection (a), the Corporation shall concentrate primarily on those projects which in the judgment of the Board of Directors:

(1) employ, or would stimulate the development and production of, technologies, processes or techniques which are essential to energy production, distribution, transmission, transportation or conservation and which are not in widespread domestic commercial use at the time of the Corporation's commitment of financial assistance; or

(2) employ or stimulate the development and production of technologies and processes which are essential to production and use of nuclear power; or

(3) employ technologies which at the time of the Corporation's commitment of financial assistance are in widespread domestic commercial operation, provided that any such project is in the judgment of the Board of Directors (i) directly related to energy production, distribution, transmission, transportation or conservation, and (ii) either:

(A) of such size or scope that it would not be undertaken without the assistance of the Corporation; or

(B) represents an institutional or regulatory arrangement which is not in widespread domestic commercial use, the success of which

would lead to improvements in energy production, distribution, transmission, transportation or conservation and would assist in achieving the purposes of this Act.

provided, however, that in connection with any project for the production, distribution, transmission, transportation or conservation of energy which is sponsored by a business concern whose rate of return on investment is regulated by any public body the Corporation may provide financial assistance under this subsection (3) only if in the judgment of the Board of Directors the policies of such public body would permit such business concern to secure a rate of return on the project sufficient to liquidate the Corporation's investment over a reasonable period of time.

(c) The Corporation shall not provide financial assistance to projects which otherwise qualify for such financial assistance if, in the judgment of the Board of Directors, (i) such project would receive sufficient financing from private sources if sponsored by another business concern in the same industry, and in a position to provide equivalent service, as the applicant, or (ii) such project would not increase significantly the aggregate contribution of the industry of which such project is a part to the energy independence of the United States; or (iii) such applicant does not display satisfactory levels of efficiency, management capacity

or similar factors which are customarily considered by private sources of financing before making an investment decision.

(4) Financial assistance provided by the Corporation under subsection (1) may be made upon such terms, and subject to such restrictions, as shall seem to the Board of Directors to be commensurate with the needs of the recipient, and may be renewed, modified, or extended by the Board of Directors as it may determine.

(5) To the extent practicable, in the judgment of the Board of Directors, financial assistance provided under subsection (1) shall be in the form of loans and loan guarantees, rather than equity investment. In no case shall the aggregate amount of financial assistance made under this section to any one business concern or affiliated business concerns exceed at any one time 10 per centum of (1) the authorized capital stock of the Corporation plus (2) the aggregate principal sum of the obligations of the Corporation authorized to be outstanding.

(6) Each loan made under subsection (1) shall bear interest at such rate as the Board of Directors of the

Corporation may determine, giving consideration to the needs and capacities of the recipient as well as to the Corporation's need to sustain continuing operations out of returns on investment. Except as provided in subsection (9) hereof, all loans provided by the Corporation shall, in the opinion of the Board of Directors, be made upon such terms as to reasonably assure retirement or repayment, and may be made or effected either directly or in cooperation with banks or other lending institutions. Loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose. The Corporation, under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loans.

(7) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to guarantee any lender against loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to provide funds to any business concern, as such term is defined in this Act. All guarantees entered into by the Corporation under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America. Any guarantee made by the Corporation under this section shall

not be terminated, canceled or otherwise revoked, except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder. Prior to issuing any such guarantee, the Corporation shall obtain the concurrence of the Secretary of the Treasury as to the interest rate, timing and other substantial terms and conditions of such guarantee. There are authorized to be appropriated to the Corporation such amounts, to remain available until expended, as are necessary to discharge all the Corporation's responsibilities under this subsection. The Corporation shall be subrogated to the rights of any third party receiving payments of interest or principal out of funds provided by the Corporation under a guarantee arrangement authorized hereunder.

(8) The total amount of financial assistance by the Corporation, outstanding at any time, computed to include the sum of (i) the full amount of the Corporation's liability under all guarantees, (ii) reserves for all other contingent liabilities, and (iii) all loans and other forms of financial assistance authorized under subsection (1) hereof, shall not exceed the sum of (i) the authorized capital of the Corporation,

(ii) the amount the Corporation is authorized to borrow under Section 402 of this Act, (iii) all unrealized gains on the Corporation's investments, and (iv) the earned surplus of the Corporation, all as determined under generally accepted accounting principles.

(9) The Corporation may make high-risk loans or direct investments, or provide product price guarantees or other direct financial assistance, which in the judgment of the Board of Directors will further the purposes of this Act. The Board of Directors shall create such reserves as may be necessary to meet contingent liabilities which may be created under this subsection (9); provided, however, that notwithstanding any other provision of this Act, the Corporation may not provide any financial assistance or make any further commitments for financial assistance (except pursuant to previously made binding commitments) if, after audit, the Corporation is required under generally accepted accounting principles to establish a reserve or reserves for bad debts, price support commitments, contingent liabilities, or other unrealized losses, which reserves in the aggregate exceed the sum of the Corporation's paid-in-equity capital plus its earned surplus, both of which shall be determined in accordance with generally accepted accounting principles.

(10) For purposes of computing the amounts specified in subsections (8) and (9) of this section, the financial

statements of the Corporation and its Subsidiaries shall be consolidated.

(11) The Corporation may charge reasonable fees for issuing guarantees, and reasonable fees for making commitments for other forms of financial assistance pursuant to subsection (1).

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

(13) The President of the United States may review, and in his discretion approve, modify or disapprove in any respect, all decisions of the Corporation to furnish financial assistance under this Act.

Section 302. Access to Information.

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

request therefor. The Corporation shall require such reports as it deems necessary from any business concern receiving financial assistance under this Act regarding activities carried out pursuant to this Act. The Corporation is authorized to prescribe the keeping of records with respect to funds provided by loan, grant or contract and shall have access to such records at all reasonable times for the purposes of insuring compliance with the terms and conditions upon which financial assistance was provided.

Section 303. Subsidiaries

(1) The Corporation may create or cause to be created wholly-owned subsidiary corporations with such powers, authorities, privileges and immunities, consistent with the purposes of this Act, which may be required:

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

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

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

(2) The powers of every subsidiary corporation created or organized under this section shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charters shall be valid only when similarly filed and published. No subsidiary created hereunder shall have a term of existence beyond the authorized life of the Corporation. A corporation organized pursuant to this section is referred to as a "Subsidiary" in this Act. Nothing herein shall be deemed to prevent the Corporation from investing funds of the Corporation in corporations other than Subsidiaries.

Title IV. Capitalization and Finance

Section 401. Capital Stock and Dividends.

The Corporation shall have capital stock of \$25,000,000,000, subscribed by the United States of America acting by and through the Secretary of the Treasury, payment for which shall be subject to call in whole or in part by the Board of Directors of the Corporation. On the date that is 180 days after the close of each fiscal year of the Corporation, the Corporation shall declare and shall thereafter pay a dividend on its outstanding capital stock, in an amount determined in the discretion of the Board of Directors, taking into account the current annual yield on marketable obligations of the United States at the time the dividend is declared; provided, however, that the Corporation may waive or defer payment of any such dividend if (a) the Corporation has no earned surplus on the date on which the dividend would otherwise be declared, or (b) the Board of Directors determines that the funds otherwise available for payment of the dividend should, in furtherance of the purposes of this Act, be used to provide financial assistance pursuant to subsection (1) of Section 301 of Title III.

Section 402. Obligations of the Corporation.

The Corporation is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or

other obligations in the aggregate principal amount of \$75,000,000,000; provided, however, that the Corporation shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the method, source, interest rate, timing and other terms and conditions of such obligation. All obligations of the Corporation issued under this section shall be fully and unconditionally guaranteed as to principal and interest by the United States, with the same force and effect as a guarantee issued by the Corporation under subsection (7) of Section 301 of Title III, and such guarantee shall be expressed on the face of all such obligations. The Secretary of the Treasury may direct that any such issuance by the Corporation be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

Section 403. Source of Funds for Purchases by Secretary of the Treasury.

(1) For purposes of purchasing the capital stock and obligations of the Corporation pursuant to Sections 401 and 402, respectively, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the

Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(2) Obligations of the Corporation issued pursuant to this Act shall be lawful investments, and may be accepted as security for all fiduciary trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

Section 404. Forms of Notes, Bonds and Other Obligations.

In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the

Treasury subject to delivery, upon order of the Corporation. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

Section 405. Moneys of the Corporation.

All moneys of the Corporation not otherwise employed may be:

(a) deposited with the Treasury of the United States subject to check by authority of the Corporation, drawn on the Treasury of the United States by a Treasury disbursing officer, or

(b) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(c) with approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Corporation, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Corporation.

Title V. Management

Section 501. Board of Directors.

(a) The authority of the Corporation shall be vested in the Board of Directors, except as to those functions, powers and duties assigned to the Chairman of the Board as provided in this Act and such matters as may be delegated to officers of the Corporation pursuant to Section 504 of this Title. The Board of Directors shall consist of five voting members appointed by the President by and with the advice and consent of the Senate, who shall hold office at the pleasure of the President who shall have the power at any time and from time to time to designate a new Chairman of the Corporation from among the members of the Board. Of the five members of the Board, not more than three shall be members of any one political party. The Chairman shall devote his full working time to the affairs of the Corporation and shall hold no other salaried position.

(b) The President may determine, at the time of appointment of any Director, other than the Director who shall serve as Chairman of the Board, whether such Director shall serve in a full-time or part-time capacity. Directors who are serving part-time may hold other private or public positions but shall devote such time to the affairs of the Corporation as are necessary to discharge their duties. Directors who are serving full-time shall

devote their full working time to the affairs of the Corporation, including such responsibilities as may be assigned by the Chairman of the Board and shall hold no other salaried position. Directors of the Corporation, whether serving full-time or part-time, shall be compensated at an annual or daily rate to be determined by the President of the United States, but no Director holding a full-time public position shall receive additional compensation from the Corporation for his services as such Director. Directors shall be reimbursed for reasonable expenses not otherwise reimbursed which are incurred in connection with their services as directors of the Corporation.

(c) Before entering upon the duties of his office, each director shall take an oath faithfully to discharge the duties of his office. Whenever a vacancy shall occur on the Board of Directors, the President shall, with the advice and consent of the Senate, appoint a person to fill such vacancy, determining at the time of such appointment whether the person so appointed shall serve full-time or part-time. All directors shall be citizens of the United States.

(d) The Board shall meet at any time pursuant to the call of the Chairman and as may be provided in the bylaws of the Corporation. A majority of the duly appointed and serving directors shall constitute a quorum, and any action by the Board shall be effected by majority vote of a quorum.

The Board of Directors shall adopt, and from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

Section 502. Officers, Employees, Attorneys and Agents.

(a) The Chairman of the Board shall be the chief executive officer of the Corporation, and as such shall be responsible for the management and direction of the Corporation (including the making of expenditures associated with administration of the Corporation). The President of the United States shall fix the compensation of the Chairman of the Board.

(b) The Chairman of the Board may appoint and fix the compensation of all such personnel as may be necessary for the transaction of the Corporation's business, all in accordance with the provisions of Title 5, United States Code, governing appointments in the competitive service and the provisions of Chapter 51 and subchapter III of Chapter 53 of such title relating to pay rates; provided, however, that notwithstanding the foregoing, the Chairman of the Board and a reasonable number of executive officers of the Corporation designated by the Chairman may be employed by the Corporation under contracts not exceeding five years and without regard to provisions of Title 5, United States Code, governing appointments and pay rates in the Federal service.

(c) The Chairman shall define the duties of the officers and employees of the Corporation, and provide a

system of organization to fix responsibility and promote efficiency. Without prejudice to contract rights, any person appointed by the Chairman may be removed in the discretion of the Chairman.

(d) The Chairman of the Board shall have authority to obtain the services and fix the compensation of experts and consultants in accordance with the provisions of Section 3109 of Title 5, United States Code.

(e) No officer or employee of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment.

Section 503. Conflicts of Interest.

(1) The provisions of Chapter 11 of Title 18, United States Code, shall apply to the directors and all officers and employees of the Corporation; except that the provisions of section 208 of such title shall not apply to the procedure whereby compensation of such directors, officers and employees is fixed under this Act.

(2) No officer or director of the Corporation shall, during the period of his service as such with the Corporation, maintain any interest in a project for which financial assistance is committed or provided under this Act.

Section 504. Delegation.

The Board of Directors may, by resolution, delegate to the Chairman of the Board or other officers of the Corporation such of its functions, powers and duties assigned to the Board under this Act as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers and duties as are assigned to the Chairman by the provisions of this Act to such officers or employees of the Corporation as he deems appropriate.

Section 505. Fiscal Year, Reviews and Audits

(a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b) On or before June 30 in any year, the Corporation shall submit to the Director of the Office of Management and Budget a financial and management plan, in such detail as the Director may prescribe, for the succeeding fiscal year.

(c) The Corporation and its Subsidiaries shall retain a firm or firms of nationally recognized public accountants who shall prepare and report an annual audit of the accounts of the Corporation and its Subsidiaries, on a consolidated basis, including the statements identified in 31 U.S.C. 851. The General Accounting Office is authorized to conduct such audits of the accounts, and to report upon the same to Congress, as such Office shall deem necessary or as Congress may request. All books, accounts, financial records, reports, files, papers and property belonging to or in use by the Corporation or its Subsidiaries and necessary to facilitate an audit shall be made available to the person or persons conducting the audit and facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Section 506. Reports.

(1) The Corporation shall make and deliver a quarterly report to the Congress and the President. The report will state the aggregate sums then outstanding or committed as loans, loan guarantees or other financial assistance and a listing of the business concerns so involved with the Corporation. The quarterly report in which any expenditure or commitment to a business concern or project is first noted shall contain a brief description of the factors considered by the Board of Directors in making such expenditure or commitment. The report shall also show, on an unaudited basis, the assets and liabilities of the Corporation as of the end of the Corporation's fiscal quarter preceding the date of the report and the number, functions and compensation of persons employed by the Corporation at salary rates exceeding \$2,500 per month.

(2) The Corporation shall make and deliver to the Congress and the President an annual report containing the audited financial statements and report prepared by the independent public accountants pursuant to Section 505. The annual report shall also contain, in addition to the information required in the quarterly report, a general description of the Corporation's operations during the year, a specific description of each project or activity in which the Corporation is involved, a status report on each such project or activity, and an evaluation of the contribution which the project or

activity has made and is expected to make in fulfilling the purposes of this Act (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(3) On or before June 30, 1983, the Corporation shall make and deliver to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current activity or program of financial assistance. This report shall contain a Liquidation Plan. The Liquidation Plan shall describe in the greatest detail practicable how each activity, project or obligation involving financial assistance, and every substantial asset or liability of the Corporation will be liquidated, terminated, satisfied, sold, transferred or otherwise disposed of. Each annual report thereafter made by the Corporation will describe what progress is being made in effecting such Liquidation Plan.

(4) On or before January 31, 1986, the Corporation shall make and deliver to the President a report setting forth the Corporation's recommendation as to whether or not the existence of the Corporation should be extended (for the limited period and purpose described in Section 803(3)).

(5) Every audit and report required by this section shall relate to and report on Subsidiaries, if any, as well as the Corporation.

Title VI. Federal Agency Proceedings

Section 601. Definitions. As used in this Title--

(1) The term "Federal agency" means an "Executive agency" as defined in 5 U.S.C. 105, including an independent regulatory commission.

(2) The term "proceedings" means any action taken by a Federal agency initiating or in carrying out the process leading to approval or disapproval of any project.

(3) The term "project" means any activity in connection with which financial assistance to a business concern has either been provided or committed pursuant to this Act.

Section 602. Certification by the Corporation.

(1) The Corporation may, in connection with its extension of financial assistance under this Act, certify that the project to which such financial assistance is committed or provided is of critical importance to the achievement of the purposes of this Act.

(2) Such certification shall be issued by the Corporation only upon application therefor and then only after a satisfactory showing by the applicant that such certification is reasonably necessary to assure the expeditious completion of the project to which it relates.

(3) A business concern may submit a certification made pursuant to subsection (1) above to any Federal agency which

is required by law to approve, disapprove, license, or review all or any portion of the project including the initiation, development or completion of the project.

(4) Any Federal agency which receives a certification authorized under subsection (1) above shall forthwith commence all necessary proceedings which may be required for the approval or disapproval of all or any portion of the project and shall give such proceedings preference over all other questions pending before it, except other proceedings involving similar certifications, and shall complete all such proceedings and render a decision within 12 months (or such shorter period as the Corporation may for good cause specify) from the date of submission of the certification to such Federal agency.

(5) With the approval of the Corporation, any Federal agency which receives a certification provided under subsection (1) may for good cause shown extend for up to six additional months the time for completion of any proceeding specified pursuant to subsection (4).

Section 603. Judicial Review.

(1) Judicial review of a Federal agency's final action concerning a project which has been certified under Section 602 of this Act shall be given priority over all other matters pending on the court's docket.

(2) Should any relevant Federal agency fail to expedite its proceedings in regard to a project covered by this Act

within the period specified pursuant to Section 602 of this Title, the Corporation may obtain from the appropriate United States district court an order directing compliance by the Federal agency with the provisions of Section 602.

Section 604. Expediting Functions of the Corporation.

(1) In order to coordinate, simplify and expedite the processing of applications to construct, license or review energy projects, the Corporation, in cooperation with all interested Federal agencies, shall oversee the entirety of the Federal approval process. The authority to approve or disapprove applications for energy projects shall remain in those Federal agencies required by law to consider such projects.

(2) The Corporation shall have the following duties and authorities in the project approval process:

(a) The Corporation shall develop, in cooperation with all other Federal agencies with authority over any aspect of energy projects, a single composite application which shall be the sole application required for Federal approval prior to the commencement of a project. Such composite application shall be composed of removable and insertable sections in order to accommodate the information necessary for all Federal approvals for each proposed project in one document of manageable size.

(b) Immediately upon receipt of a composite application the Corporation shall forward the application to the Federal agencies required by law to consider it.

(c) In order to carry out the purposes of this Title, the Corporation is authorized to coordinate and expedite the review of applications for project approval undertaken by Federal agencies and, in consultation with such agencies, may establish appropriate priorities and timetables for the completion of those agencies' review processes; provided, however, that all such timetables and priorities shall be consistent with the statutory obligations of such agencies.

(d) The Corporation shall keep apprised of the processing of energy project applications at the State and Regional level and, where appropriate and consistent with applicable Federal and State law, suggest procedures for consolidating State and Federal proceedings with a view to reducing duplication of effort and expediting the overall review and approval process.

(e) The Corporation may, within 20 days after receipt of any Federal agency decision approving or disapproving an application, petition that agency to reconsider its decision. Petitions for reconsideration filed by the Corporation shall be granted or denied within 30 days of their receipt by the agency involved.

Title VII. Unlawful Acts and Penalties

Section 701. False Statements.

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

Section 702. Forgery.

Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, coupon or thing of value issued by the Corporation, or (2) passes, utters or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, coupon or thing of value purporting to have been issued by the Corporation, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been

issued by the Corporation, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation coupon or thing of value issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 703. Misappropriation of Funds and Unauthorized Activities.

Whoever, being connected in any capacity with the Corporation, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation, or (2) with intent to defraud the Corporation or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud, participates, shares, or receives directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, or (4) gives

any unauthorized information concerning any future action or plan of the Corporation which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Corporation, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 704. Infringement on Name.

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

Section 705. Unlawful Contracts.

The provisions of Sections 431 through 433, inclusive, of Title 18, United States Code, shall apply to contracts or agreements with the Corporation pursuant to this Act. Such contracts or agreements include, but are not limited to loans, loan guarantees, purchase agreements, advances, discounts and rediscounts, acceptances, releases, and substitutions of security, together with extensions or renewals thereof.

Section 706. Additional Penalties.

In addition to any other penalties provided in this Title, on conviction the defendant shall be liable to the Corporation for any profit or gain acquired as a result of the conduct constituting the offense for which he was convicted.

Title VIII. General Provisions

Section 801. Coordination with other Entities.

The Corporation shall seek the advice and recommendations of the Energy Resources Council, the Federal Energy Administration, the Energy Research and Development Administration and the Department of the Interior in determining whether the provision of financial assistance to a particular business concern or to promote a particular activity will further the purposes of this Act. Any such advice or recommendation shall be provided to the Corporation within 30 days of its request.

Section 802. Severability.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall be affected thereby.

Section 803. Termination and Liquidation of the Corporation.

Notwithstanding any other provision of this Act:

(1) The Corporation shall make no commitments for financial assistance after June 30, 1983, and shall furnish no financial assistance after June 30, 1986.

(2) From and after June 30, 1983, the Board of Directors of the Corporation shall diligently commence all practical and reasonable steps to achieve an orderly liquidation of the Corporation's affairs on or prior to June 30, 1986. Such steps may include the sale or transfer to any agency of the United States, or the sale directly to the public, including any business concern, of all or any portion of the Corporation's assets.

(3) The Corporation shall terminate on June 30, 1986, or at such earlier date as the President of the United States shall determine, provided, however, that if the President shall determine that the orderly liquidation of the Corporation's affairs requires the continuation of the Corporation beyond June 30, 1986, the President may, by Executive Order, extend the authorized life of the Corporation for not more than three years after such date.

(4) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the liquidation of its assets and the winding up of its affairs, the duty of completing such liquidation and winding up of its affairs shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers and duties of the Board of Directors and Chairman of the Board of the Corporation under this Act, and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or

civil proceeding commenced, or any authority conferred hereunder, except as herein provided in connection with the liquidation of the remaining assets and the winding up of the affairs of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under his general supervision and direction, of any such powers and duties until the Secretary of the Treasury shall find that such liquidation will no longer be advantageous to the United States and that all of its legal obligations have been provided for, whereupon he shall retire any capital stock then outstanding, pay into the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation, and make the final report of the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

Section 804. Relationship to Other Laws.

Except as may be provided elsewhere in this Act, neither the Corporation nor any Subsidiary shall for any purpose be considered an "Executive agency" as defined in 5 U.S.C. 105 or an "agency" as defined in 5 U.S.C. 551. The provisions of the United States Code relating to public contracts and public buildings and works, including Federal Property and Administrative Services Act of 1949, and the Davis-Bacon Act (40 U.S.C. 276a.), shall not apply to the functions of the

Corporation and its Subsidiaries. Nothing in this Act shall be deemed or construed to make the Government Corporation Control Act, 31 U.S.C. 841, et seq., applicable to the Corporation.

Section 805. Reservation of right to amend or repeal.

The right to alter, amend, or repeal this Act is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Corporation under any power conferred by this Act.

THE WHITE HOUSE
WASHINGTON

September 20, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

L. WILLIAM SEIDMAN

FROM:

JAMES E. CONNOR 

SUBJECT:

Economic & Energy Meeting
September 18, 1975

Your Memorandum of Decisions made at the Economic and Energy Meeting held September 18, 1975 has been reviewed.

Please continue to follow-up with appropriate action to implement the decisions made.

cc: Don Rumsfeld

THE WHITE HOUSE

WASHINGTON

ECONOMIC AND ENERGY MEETING
September 18, 1975
9:00 a.m.

MEMORANDUM OF DECISIONS

FROM: L. WILLIAM SEIDMAN *LWS*

Decision 1: Approval of Energy Independence Authority (EIA) Proposal

The President approved the broad outlines of a proposal for creation of an Energy Independence Authority (EIA) as described in the September 15, 1975 memorandum from the Vice President and Frank Zarb which is attached.

Decision 2: Announcement of Energy Independence Authority (EIA) Proposal

The President indicated that he intended to publically announce the Energy Independence Authority proposal in his speech on Monday, September 22, 1975 before the AFL-CIO Building and Construction Trades Unions Convention in San Francisco.

Decision 3: Preparation of Legislation and Message on Energy Independence Authority

The President requested that the draft legislation be put in final form and an appropriate message be prepared on the Energy Independence Authority proposal by Friday, September 26, 1975. He indicated that he would be prepared to consider and review any issues requiring further resolution in connection with the details of the legislation on Tuesday or Wednesday of next week.

Implementation: The Federal Energy Administration and the White House Counsel's office will coordinate the preparation of the final draft legislation and message.



THE VICE PRESIDENT
WASHINGTON

September 15, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: THE VICE PRESIDENT *FZ*
FRANK ZARB

SUBJECT: Corporation to Finance Energy Projects.
Suggested Name: Energy Independence
Authority (EIA)

AGREEMENTS ON EIA

Based on our discussions with you, there are now no outstanding disagreements on the major elements of the proposal to create a corporation to assist in financing energy projects. A copy of proposed legislation for this purpose is attached at Tab A, and may be summarized as follows:

1. The purpose of EIA, a corporation with a limited ten-year life, would be to help achieve energy independence for the United States by providing financial assistance to private sector energy projects.
2. To the extent possible, the corporation's financial assistance will be provided on self-liquidating terms and in coordination with private sector financing. In addition to assisting in the achievement of energy independence, EIA's activities will also
 - create jobs;
 - stimulate economic recovery; and
 - ease the shortage of capital in an area essential to economic health and national security.
3. EIA would be a \$100 billion Government corporation with \$25 billion of equity and \$75 billion of debt.

4. EIA would be a new, autonomous Federal authority which reports directly to the President.
5. A five man board of directors would be designated by the President, subject to the advice and consent of the Senate.
6. The Chairman of the Board would be the chief executive officer of the corporation and the President at his discretion would choose full or part-time members from either private or public service.
7. Although autonomous, the corporation's programs would be subject to an annual OMB management and financial review, and Treasury concurrence in the timing and terms of the issuance of debt; however, the corporation's actual financing and expenditures would be off-budget.
8. FEA, ERDA and ERC would be given advance notice of pending project approvals to allow for Executive Branch coordination and specific Presidential disapproval if warranted.
9. The compensation of EIA's staff would be under Civil Service rules, except that the Chairman of the Corporation plus a reasonable number of officers can be appointed and paid without regard to Civil Service requirements or Executive Branch salary limits.
10. EIA will concentrate primarily on the following types of projects in support of your 1985 energy independence goals:
 - * New technologies either to support or directly produce, transport or conserve energy.
 - * Technologies essential to the production of nuclear power.
 - * Conventional technologies if they are directly related to production, transportation or conservation of energy and are of such size or scope that they would not otherwise be financed by the private sector, or represent institutional or regulatory arrangements which are not in widespread use.

11. EIA will not undertake projects which (a) can be financed without Government assistance, (b) are not commercially viable because of the policies of a state regulatory commission, or (c) will produce energy which would be produced by the private sector in any event.

NEXT STEPS

We would recommend the following next steps.

- * Convene an early meeting of your economic and energy advisors to inform them of your basic decision.
- * Develop a strategy for notifying and involving the Congress.
- * Announce the objectives and the basic elements of your proposal at an appropriate forum, including a decision on the Corporation's name.
- * After the speech, circulate the draft legislation for several days of interagency review. This will allow further refinement and clearance to occur without premature leaks.
- * Submit the legislation to the Congress as soon as possible after your announcement.