



HOUSE AND SENATE - 84 1/2

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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Subject Line

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(B-115398, 12-1-83)

IN REPLY REFER TO: B-164105

March 10, 1978

The Honorable James R. Schlesinger
Secretary
Department of Energy

Dear Mr. Schlesinger:

We note that the President signed into law H.R. 9375, the Supplemental Appropriations Act, 1978, on March 7, 1978, Public Law 95-240. This bill, among other things, provides \$80 million for the Clinch River Breeder Reactor (CRBR) project. In connection with enactment of H.R. 9375, the following statement was issued on the President's behalf by the Office of the White House Press Secretary:

"I continue to believe that the construction of the CRBR is an unproductive use of our taxpayers' dollars, which will not enhance our ability to call upon the breeder to meet our energy needs. The \$80 million contained in this bill for the CRBR will be used to complete the systems design for this reactor and to terminate further CRER activities in an orderly way." (Emphasis added.)

In letters dated June 23, 1977, to the Vice Chairman of the Joint Committee on Atomic Energy, and December 5, 1977, to the Chairman of the House Committee on Science and Technology, copies enclosed, this Office concluded that appropriations for the CRBR project may only be used in accordance with the constraints of section 106 of Public Law 91-273, as amended by section 103(d) of Public Law 94-187. As stated in these letters, we believe that section 106 and the statutory criteria for the program approved by the Joint Committee on Atomic Energy require that funds available for this project be used only for the design, development, construction, and operation of a liquid metal fast breeder reactor and that they may not be used to terminate such activities. In this connection, our June 23, 1977, letter concluded that implementation of a plan to

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use available funds to curtail substantially the project would be without authority of law. You will note that our letter of December 5, 1977, affirmed the June 23, 1977, opinion in its consideration of the uses to which the \$80 million contained in H.R. 9375 could properly be put.

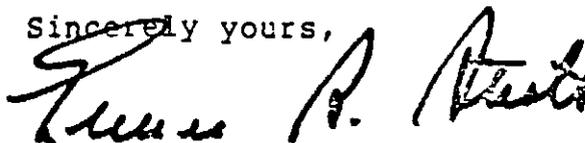
If the executive branch were to use any part of the \$80 million provided in Public Law 95-240⁺ "to terminate further CRBR activities," such use would not be in accord with section 106 of Public Law 91-273⁺, as amended. In that event any expenditures inconsistent with the enclosed opinions would be disallowed by this Office. It is requested that you immediately so inform the concerned certifying officers in view of the provisions of 31 U.S.C. 82c⁺ which state, in pertinent part:

"The officer or employee certifying a voucher shall * * * be held accountable for and required to make good to the United States the amount of any * * * payment prohibited by law * * *."

If we find payments made in disregard of our opinion on the scope and operation of section 106, you are further informed that, in light of this advance notification provided, relief from liability of the certifying officers involved will not be granted under the first proviso of 31 U.S.C. 82c⁺.

Copies of this letter are being sent to the President of the United States, the Director of the Office of Management and Budget, the Secretary of the Treasury, and to the Chairmen of those Committees of the Congress having interest in the matter.

Sincerely yours,



Comptroller General
of the United States

Enclosures - 2