108TH CONGRESS  2D SESSION  
H. R. 4614  

IN THE SENATE OF THE UNITED STATES  
July 6, 2004  
Received; read twice and referred to the Committee on Appropriations  

AN ACT  
Making appropriations for energy and water development  
for the fiscal year ending September 30, 2005, and for  
other purposes.  

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,  
3 That the following sums are appropriated, out of any
money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection, aquatic ecosystem restoration, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to rivers and harbors, flood control, shore protection, storm damage reduction, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, $149,000,000, to remain available until expended: Provided, That for the Ohio Riverfront, Cincinnati, Ohio, project, the cost of planning and design undertaken by non-Federal interests
shall be credited toward the non-Federal share of project
design costs.

**CONSTRUCTION, GENERAL**

For expenses necessary for the prosecution of river
and harbor, flood control, shore protection, storm damage
reduction, and related projects authorized by law; and for
conducting detailed studies, and plans and specifications,
of such projects (including those for development with
participation or under consideration for participation by
States, local governments, or private groups) authorized
or made eligible for selection by law (but such detailed
studies, and plans and specifications, shall not constitute
a commitment of the Government to construction);
$1,876,680,000, to remain available until expended, of
which such sums as are necessary to cover the Federal
share of construction costs for facilities under the
Dredged Material Disposal Facilities program shall be
derived from the Harbor Maintenance Trust Fund as au-
thorized by Public Law 104–303; and of which such
sums as are necessary pursuant to Public Law 99–662
shall be derived from the Inland Waterways Trust Fund
for one-half of the costs of construction and rehabilitation
of inland waterways projects (including the rehabilitation
costs for Lock and Dam 11, Mississippi River, Iowa;
Lock and Dam 19, Mississippi River, Iowa; Lock and
Provided, That using $10,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Los Angeles Harbor, California, project authorized by section 101(b)(5) of Public Law 106–541: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the New York and New Jersey Harbor project, 50-foot deepening element, upon execution of the Project Cooperation Agreement: Provided further, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the construction of the Port Jersey element of the New York and New Jersey Harbor or reimbursement to the Local Sponsor for the construction of the Port Jersey element until commitments for construction of container handling fa-
ilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $6,000,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated for the navigation project, Tampa Harbor, Florida, to carry out, as part of the project, construction of passing lanes in an area approximately 3.5 miles long, centered on Tampa Bay Cut B, if the Secretary determines that such construction is technically sound, environmentally acceptable, and cost effective: Provided further, That using $500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and initiate reconstruction of the Cape Girardeau, Missouri, project, originally authorized by the Flood Control Act of 1950, at an estimated total cost of $9,000,000, with cost sharing on the same basis as cost sharing for the project as originally authorized, if the Secretary determines that the recon-
struction is technically sound and environmentally accept-
able. Provided further, That the planned reconstruction
shall be based on the most cost-effective engineering solu-
tion and shall require no further economic justification:
Provided further, That the Secretary of the Army, acting
through the Chief of Engineers, is directed to proceed
without further delay with work on the permanent bridge
to replace Folsom Bridge Dam Road, Folsom, California,
as authorized by the Energy and Water Development Ap-
propriations Act, 2004 (Public Law 108–137), and, of
the $8,000,000 available for the American River Waters-
shed (Folsom Dam Mini-Raise), California, project, up to
$5,000,000 of those funds be directed for the permanent
bridge, with all remaining devoted to the Mini-Raise.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBU-
TARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOU-
ISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE
For expenses necessary for the flood damage reduc-
tion program for the Mississippi River alluvial valley
below Cape Girardeau, Missouri, as authorized by law,
$325,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL
For expenses necessary for the operation, mainte-
nance, and care of existing river and harbor, flood and
storm damage reduction, aquatic ecosystem restoration,
and related projects; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation; $1,982,000,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund; of which such sums as become available from the special account for the United States Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104–303, shall be used to cover the cost of operation and maintenance of
the dredged material disposal facilities for which fees
have been collected: Provided, That the Secretary of the
Army, acting through the Chief of Engineers, is directed
to use funds appropriated herein to rehabilitate the exist-
ing dredged material disposal site for the project for
navigation, Bodega Bay Harbor, California, and to con-
tinue maintenance dredging of the Federal channel: Pro-
vided further, That the Secretary shall make suitable ma-
terial excavated from the site as part of the rehabilitation
effort available to the non-Federal sponsor, at no cost to
the Federal Government, for use by the non-Federal
sponsor in the development of public facilities.

REGULATORY PROGRAM

For expenses necessary for administration of laws
pertaining to regulation of navigable waters and wet-
lands, $140,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION

Program

For expenses necessary to clean up contamination at
sites in the United States resulting from work performed
as part of the Nation's early atomic energy program,
$190,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration
and related civil works functions in the headquarters of
the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, $167,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), $2,600,000.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase
(not to exceed 100 for replacement only) and hire of pas-
senger motor vehicles.

GENERAL PROVISIONS

Corps of Engineers—Civil

Sec. 101. Agreements proposed for execution by the
Assistant Secretary of the Army for Civil Works or the
United States Army Corps of Engineers after the date of
the enactment of this Act pursuant to section 4 of the
Rivers and Harbor Act of 1915 (P.L. 64–291); section
11 of the River and Harbor Act of 1925 (P.L. 68–585);
the Civil Functions Appropriations Act, 1936 (P.L. 75–
208); section 215 of the Flood Control, Act of 1968, as
amended (P.L. 90–483); sections 104, 203, and 204 of
the Water Resources Development Act of 1986, as
amended (P.L. 99–662); section 206 of the Water Re-
sources Development Act of 1992, as amended (P.L.
102–580); section 211 of the Water Resources Develop-
ment Act of 1996 (P.L. 104–303); and any other specific
project authority, shall be limited to credits and reim-
bursements per project not to exceed $10,000,000 in
each fiscal year, and total credits and reimbursements for
all applicable projects not to exceed $50,000,000 in each
fiscal year.

Sec. 102. None of the funds appropriated in this or
any other Act may be used by the United States Army
Corps of Engineers to support activities related to the
proposed Ridge Landfill in Tuscarawas County, Ohio.

SEC. 103. None of the funds appropriated in this or
any other Act shall be used to demonstrate or implement
any plans divesting or transferring any Civil Works mis-
sions, functions, or responsibilities of the United States
Army Corps of Engineers to other government agencies
without specific direction in a subsequent Act of Con-
gress.

SEC. 104. None of the funds appropriated in this or
any other Act may be used by the United States Army
Corps of Engineers to support activities related to the
proposed Indian Run Sanitary Landfill in Sandy Town-
ship, Stark County, Ohio.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central
Utah Project Completion Act, $48,009,000 to remain
available until expended, of which $15,469,000 shall be
deposited into the Utah Reclamation Mitigation and Con-
servation Account for use by the Utah Reclamation Mit-
gation and Conservation Commission.
In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,734,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $860,000,000, to remain available until expended, of which $53,299,000 shall be available for transfer to the Upper Colorado River Basin Fund and $33,794,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation
Corps, as authorized by 16 U.S.C. 1706: Provided, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: Provided further, That section 301 of Public Law 102–250, the Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting “2004, and 2005” in lieu of “and 2004”.

Central Valley Project Restoration Fund

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act,
$54,695,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575: Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court-adopted decree or order.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $58,153,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.
ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan” and the “SJVDP-Alternative Repayment Plan” described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February
1995”, prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.

TITLE III
DEPARTMENT OF ENERGY
ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acqui-
sition, construction, or expansion, and the purchase of
not to exceed 9 passenger motor vehicles for replacement
only, and one ambulance, $817,126,000, to remain avail-
able until expended.

Non-Defense Site Acceleration Completion
For Department of Energy expenses, including the
purchase, construction, and acquisition of plant and cap-
tal equipment and other expenses necessary for non-de-
defense environmental management site acceleration com-
pletion activities in carrying out the purposes of the De-
partment of Energy Organization Act (42 U.S.C. 7101 et
seq.), including the acquisition or condemnation of any
real property or any facility or for plant or facility acqui-
sition, construction, or expansion, $151,850,000, to re-
main available until expended.

Uranium Enrichment Decontamination and
Decommissioning Fund
For necessary expenses in carrying out uranium en-
richment facility decontamination and decommissioning,
remedial actions, and other activities of title II of the
Atomic Energy Act of 1954, as amended, and title X,
subtitle A, of the Energy Policy Act of 1992,
$500,200,000, to be derived from the Fund, to remain
available until expended, of which $100,614,000 shall be

NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, $291,296,000, to remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed four passenger motor vehicles for replacement only, including one ambulance, $3,599,964,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in car-
ryng out the purposes of the Department of Energy Or-
organization Act (42 U.S.C. 7101 et seq.), including the
hire of passenger motor vehicles and official reception
and representation expenses (not to exceed $35,000),
$243,876,000, to remain available until expended, plus
such additional amounts as necessary to cover increases
in the estimated amount of cost of work for others not-
withstanding the provisions of the Anti-Deficiency Act
(31 U.S.C. 1511 et seq.): Provided, That such increases
in cost of work are offset by revenue increases of the
same or greater amount, to remain available until ex-
pended: Provided further, That moneys received by the
Department for miscellaneous revenues estimated to total
$122,000,000 in fiscal year 2005 may be retained and
used for operating expenses within this account, and may
remain available until expended, as authorized by section
201 of Public Law 95–238, notwithstanding the provi-
sions of 31 U.S.C. 3302: Provided further, That the sum
herein appropriated shall be reduced by the amount of
miscellaneous revenues received during fiscal year 2005,
and any related unappropriated receipt account balances
remaining from prior years’ miscellaneous revenues, so as
to result in a final fiscal year 2005 appropriation from
the general fund estimated at not more than
$121,876,000.
Office of the Inspector General


Atomic Energy Defense Activities

National Nuclear Security Administration

Weapons Activities

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 19 passenger motor vehicles, for replacement only, including not to exceed two buses; $6,514,424,000 to remain available until expended.

Defense Nuclear Nonproliferation

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonprolifera-
tion activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,348,647,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $807,900,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $12,000), $356,200,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and cap-
ital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $5,930,837,000, to remain available until expended.

DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for defense-related environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, and the purchase of not to exceed three ambulances for replacement only, $957,976,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $697,059,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $131,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500. During fiscal year 2005, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 2241 note).
as applied to the southeastern power area, $5,200,000, to remain available until expended: Provided, That, notwithstanding the provisions of 31 U.S.C. 3302, up to $34,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $29,352,000, to remain available until expended: Provided, That, notwithstanding the provisions of 31 U.S.C. 3302, up to $1,800,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses
shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $173,100,000, to remain available until expended, of which $170,756,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That, notwithstanding the provisions of 31 U.S.C. 3302, up to $186,000,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.
For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,827,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $210,000,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, not to exceed $210,000,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2005 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appro-
priated from the general fund shall be reduced as reve-

nues are received during fiscal year 2005 so as to result

in a final fiscal year 2005 appropriation from the general

fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

Sec. 301. (a)(1) None of the funds in this or any

other appropriations Act for fiscal year 2005 or any pre-

vious fiscal year may be used to make payments for a

noncompetitive management and operating contract un-

less the Secretary of Energy has published in the Federal

Register and submitted to the Committees on Appropria-

tions of the House of Representatives and the Senate a

written notification, with respect to each such contract,

of the Secretary’s decision to use competitive procedures

for the award of the contract, or to not renew the con-

tract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for

up to two years of a noncompetitive management and op-

erating contract, if the extension is for purposes of allow-

ing time to award competitively a new contract, to pro-

vide continuity of service between contracts, or to com-

plete a contract that will not be renewed.

(b) In this section:
(1) The term “noncompetitive management and operating contract” means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term “competitive procedures” has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(e) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract
award for which the Secretary intends to grant such a
waiver, the Secretary shall submit to the Committees on
Appropriations of the House of Representatives and the
Senate a report notifying the Committees of the waiver
and setting forth, in specificity, the substantive reasons
why the Secretary believes the requirement for competition
should be waived for this particular award.

Sec. 302. None of the funds appropriated by this
Act may be used to—

(1) develop or implement a workforce restruc-
turing plan that covers employees of the Department
of Energy; or

(2) provide enhanced severance payments or
other benefits for employees of the Department of
Energy under section 3161 of the National Defense
Authorization Act for Fiscal Year 1993 (P.L. 102–
484; 42 U.S.C. 7274h).

Sec. 303. None of the funds appropriated by this
Act may be used to augment the funds made available for
obligation by this Act or any other appropriations Act for
fiscal year 2005 or any previous fiscal year for severance
payments and other benefits and community assistance
grants under section 3161 of the National Defense Au-
thorization Act for Fiscal Year 1993 (P.L. 102–484; 42
U.S.C. 7274h) unless the Department of Energy submits
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1. a reprogramming request subject to approval by the ap-
2. propriate congressional committees.

Sec. 304. None of the funds appropriated by this
3. Act may be used to prepare or initiate Requests For Pro-
4. posals (RFPs) for a program if the program has not been
5. funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

Sec. 305. The unexpended balances of prior appro-
9. priations provided for activities in this Act may be trans-
10. ferred to appropriation accounts for such activities estab-
11. lished pursuant to this title. Balances so transferred may
12. be merged with funds in the applicable established ac-
13. counts and thereafter may be accounted for as one fund
14. for the same time period as originally enacted.

Sec. 306. None of the funds in this or any other Act
16. for the Administrator of the Bonneville Power Adminis-
17. tration may be used to enter into any agreement to per-
18. form energy efficiency services outside the legally defined
19. Bonneville service territory, with the exception of services
20. provided internationally, including services provided on a
21. reimbursable basis, unless the Administrator certifies in
22. advance that such services are not available from private
23. sector businesses.

Sec. 307. When the Department of Energy makes
25. a user facility available to universities or other potential
26. users, or seeks input from universities or other potential
users regarding significant characteristics or equipment
in a user facility or a proposed user facility, the Depart-
ment shall ensure broad public notice of such availability
or such need for input to universities and other potential
users. When the Department of Energy considers the
participation of a university or other potential user as a
formal partner in the establishment or operation of a
user facility, the Department shall employ full and open
competition in selecting such a partner. For purposes of
this section, the term “user facility” includes, but is not
limited to: (1) a user facility as described in section
13503(a)(2)); (2) a National Nuclear Security Adminis-
tration Defense Programs Technology Deployment Cen-
ter/User Facility; and (3) any other Departmental facility
designated by the Department as a user facility.

Sec. 308. The Administrator of the National Nu-
clear Security Administration may authorize the manager
of a covered nuclear weapons research, development, test-
ing or production facility to engage in research, develop-
ment, and demonstration activities with respect to the en-
gineering and manufacturing capabilities at such facility
in order to maintain and enhance such capabilities at
such facility: Provided, That of the amount allocated to
a covered nuclear weapons facility each fiscal year from
amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: Provided further, That for purposes of this section, the term “covered nuclear weapons facility” means the following:

- (1) the Kansas City Plant, Kansas City, Missouri;
- (2) the Y–12 Plant, Oak Ridge, Tennessee;
- (3) the Pantex Plant, Amarillo, Texas;
- (4) the Savannah River Plant, South Carolina;
- and
- (5) the Nevada Test Site.

Sec. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of the Intelligence Authorization Act for fiscal year 2005.

Sec. 310. None of the funds made available in this or any other appropriations Act for fiscal year 2005 or any previous fiscal year may be used to select a site for a Modern Pit Facility during fiscal year 2005.
SEC. 311. None of the funds made available in this Act may be used to finance laboratory directed research and development activities at Department of Energy laboratories on behalf of other Federal agencies.

SEC. 312. (a) None of the funds made available by this Act may be used to issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of the Atomic Energy Act of 1954 and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).
(b) This section shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(e) The President may waive the application of subsection (a) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(1) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;
(2) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(3) the waiver of that subsection is in the vital national security interest of the United States; or

(4) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(d) This section shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109 and hire of
passenger motor vehicles, $38,500,000, to remain available until expended.

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

**SALARIES AND EXPENSES**

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $20,268,000, to remain available until expended.

**DELTA REGIONAL AUTHORITY**

**SALARIES AND EXPENSES**

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, $2,096,000, to remain available until expended.

**NUCLEAR REGULATORY COMMISSION**

**SALARIES AND EXPENSES**

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals
for employment, $662,777,000, to remain available until
expended: *Provided*, That of the amount appropriated
herein, $69,050,000 shall be derived from the Nuclear
Waste Fund: *Provided further*, That revenues from licens-
ing fees, inspection services, and other services and col-
lections estimated at $534,354,300 in fiscal year 2005
shall be retained and used for necessary salaries and ex-
penses in this account, notwithstanding 31 U.S.C. 3302,
and shall remain available until expended: *Provided fur-
ther*, That the sum herein appropriated shall be reduced
by the amount of revenues received during fiscal year
2005 so as to result in a final fiscal year 2005 appropria-
tion estimated at not more than $128,422,700.

**Office of Inspector General**

For necessary expenses of the Office of Inspector
General in carrying out the provisions of the Inspector
General Act of 1978, as amended, $7,518,000, to remain
available until expended: *Provided*, That revenues from li-
censing fees, inspection services, and other services and
collections estimated at $6,766,200 in fiscal year 2005
shall be retained and be available until expended, for nec-
essary salaries and expenses in this account, notwith-
standing 31 U.S.C. 3302: *Provided further*, That the sum
herein appropriated shall be reduced by the amount of
revenues received during fiscal year 2005 so as to result
in a final fiscal year 2005 appropriation estimated at not
more than $751,800.

Nuclear Waste Technical Review Board
Salaries and Expenses
For necessary expenses of the Nuclear Waste Technical
Review Board, as authorized by Public Law 100–
203, section 5051, $3,177,000, to be derived from the
Nuclear Waste Fund, and to remain available until ex-
pended.

Title V
General Provisions
Sec. 501. None of the funds appropriated by this Act
may be used in any way, directly or indirectly, to influence
congressional action on any legislation or appropriation
matters pending before Congress, other than to commu-
nicate to Members of Congress as described in 18 U.S.C.
1913.

Sec. 502. None of the funds made available in this
Act may be transferred to any department, agency, or in-
strumentality of the United States Government, except
pursuant to a transfer made by, or transfer authority pro-
vided in, this Act or any other appropriation Act.

Sec. 503. None of the funds made available in this
Act may be used to deny requests for the public release
of documents or evidence obtained through or in the West-
ern Energy Markets: Enron Investigation (Docket No. PA02-2), the California Refund case (Docket No. EL00-95), the Anomalous Bidding Investigation (Docket No. IN03-10), or the Physical Withholding Investigation.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2005”.


Attest: GERASIMOS C. VANS,

Deputy Clerk.