109th Congress 1st Session  
H. R. 2419

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 2006, 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,
That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

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 and storm damage reduction, aquatic ecosystem restoration, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, 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, $100,000,000 to remain available until expended: Provided, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized
in law for the projects and activities specified in the report accompanying this Act.

CONSTRUCTION

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving 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); and for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers, $1,763,000,000, 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 authorized by Public Law 104–303; and of which $182,668,000, pursuant to Public Law 99–662, shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects; and of which $4,000,000 shall be exclusively for
projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which $500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which $1,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which $25,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which $8,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which $400,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which $17,400,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which $18,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Act of 1996; and of which $4,000,000 shall be exclusively for projects and activities authorized under section 204 of the Water Resources Act of 1992: Provided, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in
law for the projects and activities specified in the report accompanying this Act.

In addition, $137,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410–r–8 and section 601 of Public Law 106–541.

**FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,**

**ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE**

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $290,000,000 to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.*

**OPERATION AND MAINTENANCE**

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for the benefit of
federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers (the “Corps”); for providing security for infrastructure owned and operated by, or on behalf of, the Corps, 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, $2,000,000,000 to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from 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 Corps 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 avail-
able under section 217 of the Water Resources Develop-
ment 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, except as provided in sec-
tion 101 of this Act, the amounts made available under
this paragraph shall be expended as authorized in law for
the projects and activities specified in the report accom-
ppanying this Act.

REGULATORY PROGRAM

For expenses necessary for administration of laws
pertaining to regulation of navigable waters and wetlands,
$160,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION

Program

For expenses necessary to clean up contamination
from sites in the United States resulting from work per-
formed as part of the Nation's early atomic energy pro-
gram, $140,000,000, 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 Cen-
ter 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, $152,021,000 to remain available until expended: Provided, That no part of any other appropriation provided in this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices.

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), $4,000,000.

Administrative Provision

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 passenger motor vehicles.

General Provisions

Corps of Engineers—Civil

Sec. 101. (a) None of the funds provided in title I of this Act shall be available for obligation or expenditure through a reprogramming of funds that—
(1) creates or initiates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel for any program, project, or activity for which funds are denied or restricted by this Act;

(4) reduces funds that are directed to be used for a specific program, project, or activity by this Act;

(5) increases funds for any program, project, or activity by more than $2,000,000 or 10 percent, whichever is less; or

(6) reduces funds for any program, project, or activity by more than $2,000,000 or 10 percent, whichever is less.

SEC. 102. None of the funds appropriated in this 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 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 Township, Stark County, Ohio.

SEC. 104. After February 6, 2006, none of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that obligates the United States Government during fiscal year 2007 to make payment under such contract for any project that is proposed for deferral or suspension in fiscal year 2007 in the materials prepared by the Assistant Secretary of the Army (Civil Works) for that fiscal year pursuant to provisions of chapter 11 of title 31, United States Code.

SEC. 105. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that reserves an amount for a project in excess of the amount appropriated for such project pursuant to this Act.
Sec. 106. None of the funds in title I of this Act shall be available for the rehabilitation and lead and asbestos abatement of the dredge McFarland: Provided, That amounts provided in title I of this Act are hereby reduced by $18,630,000.

Sec. 107. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

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, $32,614,000, to remain available until expended, of which $946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.
In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,736,000, to remain available until expended.

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, $832,000,000, to remain available until expended, of which $55,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and $21,998,000 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; 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 that 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 fur-
ther, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which con-
tributed: 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 Bu-
reau of Reclamation for site remediation on a non-reim-
bursable basis.

CENTRAL VALLEY PROJECT RESTORATION FUND For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provi-
sions of the Central Valley Project Improvement Act, $52,219,000, to be derived from such sums as may be col-
lected in the Central Valley Project Restoration Fund pur-
suant 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.

CALIFORNIA BAY-DELTA RESTORATION (INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Calfed Bay Delta Authorization Act, consistent with plans to be approved by the Secretary of the Interior, $35,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.
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, $57,917,000, 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.

SEC. 203. (a) Section 1(a) of the Lower Colorado Water Supply Act (Public Law 99–655) is amended by adding at the end the following: “The Secretary is author-
ized to enter into an agreement or agreements with the city of Needles or the Imperial Irrigation District for the design and construction of the remaining stages of the Lower Colorado Water Supply Project on or after November 1, 2004, and the Secretary shall ensure that any such agreement or agreements include provisions setting forth: (1) the responsibilities of the parties to the agreement for design and construction; (2) the locations of the remaining wells, discharge pipelines, and power transmission lines; (3) the remaining design capacity of up to 5,000 acre-feet per year which is the authorized capacity less the design capacity of the first stage constructed; (4) the procedures and requirements for approval and acceptance by the Secretary of the remaining stages, including approval of the quality of construction, measures to protect the public health and safety, and procedures for protection of such stages; (5) the rights, responsibilities, and liabilities of each party to the agreement; and (6) the term of the agreement.”.

(b) Section 2(b) of the Lower Colorado Water Supply Act (Public Law 99–655) is amended by adding at the end the following: “Subject to the demand of such users along or adjacent to the Colorado River for Project water, the Secretary is further authorized to contract with additional persons or entities who hold Boulder Canyon
Project Act section 5 contracts for municipal and industrial uses within the State of California for the use or benefit of Project water under such terms as the Secretary determines will benefit the interest of Project users along the Colorado River.”.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY AND CONSERVATION

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation 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, $1,762,888,000 (increased by $1,000,000), to remain available until expended.

CLEAN COAL TECHNOLOGY

(DEFERRAL)

Of the funds made available under this heading for obligation in prior years, $257,000,000 shall not be available until October 1, 2006: Provided, That funds made available in previous appropriations Acts shall be made
available for any ongoing project regardless of the separate request for proposal under which the project was selected.

Fossil Energy Research and Development

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $502,467,000, to remain available until expended, of which $18,000,000 is to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and conditions applicable to clean coal technological projects: Provided, That the initial planning and research stages of the FutureGen project shall include a matching requirement from non-Federal sources.
of at least 20 percent of the costs: Provided further, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: Provided further, That of the amounts provided, $50,000,000 is available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: Provided further, That no project may be selected for which sufficient funding is not available to provide for the total project: Provided further, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading “Clean Coal Technology” in 42 U.S.C. 5903d as well as those contained under the heading “Clean Coal Technology” in prior appropriations: Provided further, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: Provided further, That such repayments shall be retained by the Department for future coal-related re-
search, development and demonstration projects: Provided further, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account: Provided further, That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: Provided further, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for
plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

**Naval Petroleum and Oil Shale Reserves**

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, $18,500,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

**Elk Hills School Lands Fund**

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $48,000,000, for payment to the State of California for the State Teachers’ Retirement Fund, of which $46,000,000 will be derived from the Elk Hills School Lands Fund.

**Strategic Petroleum Reserve**

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201
et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, $166,000,000, to remain available until expended.

**Energy Information Administration**

For necessary expenses in carrying out the activities of the Energy Information Administration, $86,426,000, to remain available until expended.

**Non-Defense Environmental Cleanup**

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup 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 six passenger motor vehicles, of which five shall be for replacement only, $319,934,000, to remain 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, sub-
title A, of the Energy Policy Act of 1992, $591,498,000,
to be derived from the Fund, to remain available until ex-
pired, of which $20,000,000 shall be available in accord-
ance with title X, subtitle A, of the Energy Policy Act

SCIENCE

For Department of Energy expenses including the
purchase, construction and acquisition of plant and capital
equipment, and other expenses necessary for science ac-
tivities in carrying out the purposes of the Department
of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
cluding the acquisition or condemnation of any real prop-
erty or facility or for plant or facility acquisition, construc-
tion, or expansion, and purchase of not to exceed forty-
seven passenger motor vehicles for replacement only, in-
cluding not to exceed one ambulance and two buses,
$3,666,055,000, to remain available until expended.
NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended (the “Act”), including the acquisition of real property or facility construction or expansion, $310,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That of the funds made available in this Act for Nuclear Waste Disposal, $3,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: Provided further, That $7,000,000 shall be provided to affected units of local governments, as defined in the Act, to conduct appropriate activities and participate in licensing activities: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and
each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: Provided further, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire
of passenger motor vehicles and official reception and rep-
1 resentation expenses not to exceed $35,000, $253,909,000
2 (reduced by $1,000,000), to remain available until ex-
3 pended, plus such additional amounts as necessary to
4 cover increases in the estimated amount of cost of work
5 for others notwithstanding the provisions of the Anti-Defi-
6 ciency Act (31 U.S.C. 1511 et seq.): Provided, That such
7 increases in cost of work are offset by revenue increases
8 of the same or greater amount, to remain available until
9 expended: Provided further, That moneys received by the
10 Department for miscellaneous revenues estimated to total
11 $123,000,000 in fiscal year 2006 may be retained and
12 used for operating expenses within this account, and may
13 remain available until expended, as authorized by section
14 201 of Public Law 95–238, notwithstanding the provisions
15 of 31 U.S.C. 3302: Provided further, That the sum herein
16 appropriated shall be reduced by the amount of miscella-
17 neous revenues received during fiscal year 2006, and any
18 related unappropriated receipt account balances remaining
19 from prior years’ miscellaneous revenues, so as to result
20 in a final fiscal year 2006 appropriation from the general
21 fund estimated at not more than $130,909,000.
22
23 Office of the Inspector General
24 For necessary expenses of the Office of the Inspector
25 General in carrying out the provisions of the Inspector
General Act of 1978, as amended, $43,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES
NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

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 40 passenger motor vehicles, for replacement only, including not to exceed two buses; $6,181,121,000, 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 nonproliferation 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, $1,500,959,000, 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, $799,500,000, 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, $366,869,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in car-
rading out the purposes of the Department of Energy Organ-
ization Act (42 U.S.C. 7101 et seq.), including the acquis-
tion or condemnation of any real property or any facility
or for plant or facility acquisition, construction, or expan-
sion, $6,468,336,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

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, other defense activities, and classified ac-
tivities, in carrying out the purposes of the Department
of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
cluding the acquisition or condemnation of any real prop-
erty or any facility or for plant or facility acquisition, con-
struction, or expansion, and the purchase of not to exceed
ten passenger motor vehicles for replacement only, includ-
ing not to exceed two buses; $702,498,000, 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, $351,447,000, to remain available until ex-
pended.
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 2006, 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 electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $5,600,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $32,713,000 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 section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, $31,401,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $1,235,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act 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 author-
ized, including official reception and representation expenses in an amount not to exceed $1,500; $226,992,000, to remain available until expended, of which $222,830,000 shall be derived from the Department of the Interior Reclamations Fund: Provided, That of the amount herein appropriated, $6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: Provided further, That notwithstanding the provision of 31 U.S.C. 3302, up to $148,500,000 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.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,692,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Ad-
ministration, as provided in section 423 of the Foreign

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regu-
latory Commission to carry out the provisions of the De-
partment 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,
$220,400,000, to remain available until expended: Pro-
vided, That notwithstanding any other provision of law,
not to exceed $220,400,000 of revenues from fees and an-
nual charges, and other services and collections in fiscal
year 2006 shall be retained and used for necessary ex-
penses 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 revenues
are received during fiscal year 2006 so as to result in a
final fiscal year 2006 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 2006 or any pre-
previous fiscal year may be used to make payments for a non-
competitive management and operating contract unless
the Secretary of Energy has published in the Federal Reg-
ister and submitted to the Committees on Appropriations
of the House of Representatives and the Senate a written
notification, with respect to each such contract, of the Sec-
retary’s decision to use competitive procedures for the
award of the contract, or to not renew the contract, when
the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for
up to 2 years of a noncompetitive management and oper-
ating contract, if the extension is for purposes of allowing
time to award competitively a new contract, to provide
continuity of service between contracts, or to complete 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 competi-
tion for the management and operation of Ames
Laboratory, Argonne National Laboratory, Lawrence
Berkeley National Laboratory, Lawrence Livermore
National Laboratory, and Los Alamos National Lab-
oratory.
(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.

(c) 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 restructuring 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 (Public Law 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 for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

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

(TRANSFERS OF UNEXPENDED BALANCES)

Sec. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities estab-
lished pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. When the Department of Energy makes a user facility available to universities or other potential 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 Department 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 lim-
ited 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 Nuclear
Security Administration may authorize the manager of a
covered nuclear weapons research, development, testing or
production facility to engage in research, development,
and demonstration activities with respect to the engineer-
ing 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 cov-
ered 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, Mis-
souri;

(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 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

Sec. 310. None of the funds made available in this Act may be used to select a site for the Modern Pit Facility during fiscal year 2006.

Sec. 311. None of the funds made available in title III of this Act shall be for the Department of Energy national laboratories and production plants for Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities in excess of $250,000,000.

Sec. 312. None of the funds made available in title III of this Act shall be for Department of Energy Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities in excess of $250,000,000.
Directed Research and Development (SDRD) activities for project costs incurred as Indirect Costs by Major Facility Operating Contractors.

SEC. 313. None of the funds made available in title III of 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. 314. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

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, $22,032,000, 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, $6,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission, $2,562,000, 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, $714,376,000, to remain available until expended: 

Provided, That of the amount appropriated herein, $66,717,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $580,643,000 in fiscal year 2006 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than $133,732,600: Provided further, That section 6101 of the Omnibus Budget Reconciliation Act of 1990 is amended by inserting before the period in subsection (c)(2)(B)(v) the words “and fiscal year 2006”.

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, $8,316,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $7,485,000 in fiscal year 2006 shall be retained and be available until expended, for nec-
necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than $831,000.

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, $3,608,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

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 communicate 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 instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.
SEC. 503. None of the funds made available by this Act shall be used by the Nuclear Regulatory Commission to contract with or reimburse any Nuclear Regulatory Commission licensee or the Nuclear Energy Institute with respect to matters relating to the security of production facilities or utilization facilities (within the meaning of the Atomic Energy Act of 1954).

SEC. 504. None of the funds made available by this Act may be used before March 1, 2006, to enter into an agreement obligating the United States to contribute funds to ITER, the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2006”.

Passed the House of Representatives May 24, 2005.

Attest:

Clerk.
AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

AN ACT

H. R. 2419

109TH CONGRESS
1ST SESSION

2005.