Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 10, 2008

Mr. Visclosky, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

Be it enacted by the Senate and House of Representa-
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 en-
ergy and water development and related agencies for the fiscal year ending September 30, 2009, and for other pur-
poses, namely:
TITLE I—CORPS OF ENGINEERS—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 and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

INVESTIGATIONS

(INCLUDING RESCISSION OF FUNDS)

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects, $143,100,000, to remain available until expended: Provided, That of the funds provided under this heading of Public Law 110–161,
$1,900,000 are rescinded: Provided further, That the amounts made available under this paragraph shall be expended as authorized in law for the projects specified in the table and activities specified in the text that appear under the heading “Investigations” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

CONSTRUCTION

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects; 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), $2,069,800,000, 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 such sums as are necessary pursuant to Public Law 99–662 to cover one-half of the costs of construction of inland waterways
projects shall be derived from the Inland Waterways Trust Fund: *Provided,* That the amounts made available under this paragraph shall be expended as authorized in law for the projects specified in the tables and activities specified in the text that appear under the heading “Construction” of the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for flood damage reduction projects and related efforts in the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $278,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided,* That the amounts made available under this paragraph shall be expended as authorized in law for the projects specified in the table and the activities specified in the text that appear under the heading “Mississippi River and Tributaries” in the report of the Committee on Appropriations of the House of Representatives to accompany 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; providing security
for infrastructure owned or operated by the Corps, includ-
ing administrative buildings and laboratories; maintaining
harbor channels provided by a State, municipality, or
other public agency that serve essential navigation needs
of general commerce, where authorized by law; surveying
and charting northern and northwestern lakes and con-
necting waters; clearing and straightening channels; and
removing obstructions to navigation, $2,300,000,000, to
remain available until expended, of which such sums as
are necessary to cover the Federal share of eligible oper-
ation and maintenance costs for coastal harbors and chan-
nels, and for inland harbors shall be derived from the Har-
bor Maintenance Trust Fund; of which such sums as be-
come available from the special account for the Corps es-
tablished by the Land and Water Conservation Act of
1965, as amended (16 U.S.C. 460l–6a(i)), shall be derived
from that account for resource protection, research, inter-
pretation, and maintenance activities related to resource
protection in the areas at which outdoor recreation is
available; and of which such sums as become available
from fees collected under section 217 of the Water Re-
sources Development Act of 1996 (Public Law 104–303),
shall be used to cover the cost of operation and mainte-
nance of the dredged material disposal facilities for which such fees have been collected: Provided, That the amounts made available under this paragraph shall be expended as authorized in law for the projects specified in the table and activities specified in the text that appear under the heading “Operation and Maintenance” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $180,000,000, 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 performed as part of the Nation’s early atomic energy program, $140,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary to prepare for flood, hurricane, and other natural disasters and support emergency operations, repairs, and other activities in response to such disasters as authorized by law, $40,000,000, to remain available until expended.
EXPENSES

For expenses necessary for the supervision and general administration of the civil works program in the headquarters of the United States Army Corps of Engineers, and the offices of the Division Engineers; and for the management and operation of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the Engineer Research and Development Center, and the Finance Center, $177,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in this title shall be available to fund the above activities.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For the Office of the Assistant Secretary of the Army (Civil Works) as authorized by 10 U.S.C. 3016(b)(3), $5,000,000, to remain available until expended.

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 for the civil works program.
GENERAL PROVISIONS, CORPS OF
ENGINEERS—CIVIL

Sec. 101. None of the funds made available in this
title may be used to award or modify any contract that
commits an amount for a project in excess of the amounts
appropriated for that project that remain unobligated.

Sec. 102. None of the funds made available in this
title shall be used to award a continuing contract for any
project for which funds are derived from the Inland Wa-
terways Trust Fund.

Sec. 103. None of the funds in this Act shall be used
to implement any pending or future competitive sourcing
actions under OMB Circular A–76 or High Performing
Organizations for the U.S. Army Corps of Engineers.

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, $40,360,000, to remain
available until expended, of which $987,000 shall be de-
posited 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, $1,640,000, to remain available until expended.

For fiscal year 2009, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

BUREAU OF RECLAMATION

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

WATER AND RELATED RESOURCES

(INCLUDING RESCISSION AND TRANSFERS 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, federally recognized Indian tribes, and others, $888,000,000, to remain available until expended, of which $46,655,000 shall be available for transfer to the Upper Colorado River Basin Fund and $26,451,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be ad-
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 section 106 of Public Law 91–378 (16
U.S.C. 1706): Provided, 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. 4601–6a(i)
shall be derived from that Fund or account: Provided fur-
ther, That funds contributed under section 1 of the Act
of March 4, 1921 (43 U.S.C. 395) are available until ex-
pended for the purposes for which contributed: Provided
further, That funds advanced under the Act of January
12, 1927 (43 U.S.C. 397a) shall be credited to this ac-
count and are available until expended for the same pur-
poses as the sums appropriated under this heading: Pro-
vided further, That $4,000,000 of the funds appropriated
under this heading shall be deposited in the San Gabriel
Basin Restoration Fund established by section 110 of title
I of appendix D of Public Law 106–554: Provided further,
That $120,000,000 of the unobligated balances made
available under section 2507 of the Farm Security and
Rural Investment Act of 2002 (43 U.S.C. 2211 note), as
amended by section 2807 of the Food, Conservation, and
Energy Act of 2008 (Public Law 110–234), for Desert
Terminal Lakes, is rescinded: Provided further, That the
amounts made available under this paragraph shall be ex-
pended as authorized in law for the projects specified in
the tables and activities specified in the text that appear
under the heading “Water and Related Resources” of the
report of the Committee on Appropriations of the House
of Representatives to accompany this Act.

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,
$56,079,000, 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), and 3405(f) 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 mitiga-
tion 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: Pro-
vided further, That the amounts made available under this
paragraph shall be expended as authorized in law for the
projects specified in the tables and activities specified in
the text that appear under the heading “Central Valley
Project Restoration Fund” of the report of the Committee
on Appropriations of the House of Representatives to ac-
company this Act.

CALIFORNIA BAY-DELTA RESTORATION
(INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Water
Supply, Reliability, and Environmental Improvement Act,
consistent with plans to be approved by the Secretary of
the Interior, $37,000,000, to remain available until ex-
pended, 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 appro-
priated herein may be used for the Federal share of the
costs of CALFED Program management: Provided fur-
ther, 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 concur-
rent progress in achieving the goals and objectives of the
Program: Provided further, That the amounts made avail-
able under this paragraph shall be expended as authorized in law for the projects specified in the tables and activities specified in the text that appear under the heading “California Bay-Delta Restoration” of the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

POLICY AND ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

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, $54,400,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in section 4 of the Act of December 5, 1924 (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: Provided further, That, of the funds provided under this heading, $10,000,000 shall be transferred to “Water and Related Resources” upon the expiration of the 90-day period following the date of enactment of this Act if during such period, the Secretary of the Interior has not submitted to the Committees on Appropriations of the House of Representatives and the Senate the Bureau of Reclamation’s five-year budget plan.
ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 7 passenger motor vehicles, which 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.

TITLE III—DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy 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 two passenger vehicles for replacement, $2,519,152,000, to remain available until expended, of which $150,000,000 is for the cost of direct loans, as authorized by subsection (d) of section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013): Provided, That commitments for direct loans shall not exceed $1,000,000,000 in total loan principal: Provided further, That of the amount appropriated in this paragraph, $135,270,000, shall be used for the
projects specified in the table that appears under the heading “Congressionally Directed Energy Efficiency and Renewable Energy Projects” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

**Electricity Delivery and Energy Reliability**

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for electricity delivery and energy reliability 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, $149,250,000, to remain available until expended: Provided, That of the amount appropriated in this paragraph, $5,250,000 shall be used for the projects specified in the table that appears under the heading “Congressionally Directed Electricity Delivery and Energy Reliability Projects” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

**Nuclear Energy**

For Department of Energy expenses for nuclear energy activities managed and executed by the Office of Nu-
clear Energy, including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for nuclear energy 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 29 passenger motor vehicles, including three new buses and 26 replacement vehicles, including one ambulance, $1,238,852,000, to remain available until expended: Provided, That $487,008,000 is authorized to be appropriated for Project 99–D–143 Mixed Oxide (MOX) Fuel Fabrication Facility, Savannah River Site, South Carolina: Provided further, That the Department of Energy adhere strictly to Department of Energy Order 413.3A for Project 99–D–143: Provided further, That the management and execution of Project 99–D–143 Mixed Oxide (MOX) Fuel Fabrication Facility, Savannah River Site, South Carolina, with amounts made available under this heading shall be carried out by the Office of Nuclear Energy, and not by the National Nuclear Security Administration.
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, and for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs in accordance with the principles set forth in section 2 of the Act of May 16, 1910 (30 U.S.C. 3), $853,978,000, to remain available until expended, of which $149,000,000 shall be derived by transfer from “Clean Coal Technology”: Provided, That of the amounts provided, $241,000,000 is available for the carbon capture demonstration solicitation, pursuant to title VII of the Energy Independence and Security Act of 2007: Provided further, That funds appropriated for prior solicitations under the Clean Coal Technology Program, the Power Plant Improvement Initiative, the Clean Coal Power Initiative, and FutureGen, but not required by the Department to meet its obligations on projects selected under such solicitations, may be utilized for the carbon
capture demonstration solicitation under this Act in ac-
cordance with the requirements of this Act rather than
the Acts under which the funds were appropriated: Pro-
vided further, That no carbon capture demonstration
project may be selected for which full funding is not avail-
able to provide for the total project: Provided further, That
if a carbon capture demonstration application, selected
after the date of enactment of this Act for negotiation
under this or any other Act in any fiscal year, is not
awarded within two years from the date the application
was selected, negotiations shall cease and the Federal
funds committed to the application shall be retained by
the Department for future coal related research, develop-
ment, and demonstration projects, except that the time
limit may be extended at the Secretary’s discretion for
matters outside the control of the applicant, or if the Sec-
retary determines that extension of the time limit is in
the public interest: Provided further, That the Secretary
may not delegate this responsibility for carbon capture
demonstration applications greater than $10,000,000:
Provided further, That financial assistance for costs in ex-
cess of those estimated as of the date of award of original
carbon capture demonstration financial assistance may
not be provided in excess of the proportion of costs borne
by the Government in the original agreement and shall
be limited to 25 percent of the original financial assistance: 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 section 5903d of title 42, United States Code, as well as those contained under the heading “Clean Coal Technology” in prior appropriations Acts: Provided further, That any technology selected under the carbon capture demonstration solicitation shall be considered a Clean Coal Technology, and any carbon capture demonstration project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of section 7651n of title 42, United States Code, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That, notwithstanding any other provision of law, at least 50 percent non-Federal cost-sharing shall be required in each budget period of a carbon capture demonstration project: 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 in this Act and future Acts, program direction funds available to the National Energy Technology Laboratory shall only be used to support Department of Energy activities included in this Fossil Energy account: Provided further, That of the amount appro-
appropriated in this paragraph $14,080,000 shall be used for the projects specified in the table that appears under the heading “Congressionally Directed Fossil Energy Research and Development Projects” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

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, $19,099,000, to remain available until expended: Provided, That, notwithstanding any other provisions of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

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 (42 U.S.C. 6201 et seq.), $172,600,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, $9,800,000, to remain available until expended.
ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $120,595,000, 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, $257,019,000, to remain available until expended: Provided, That of the amounts provided, $5,000,000 is available for necessary expenses for the purpose of carrying out remedial actions under this title at real property in the vicinity of the Tuba City processing site designated in section 102(a)(1), of the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95–604; 42 U.S.C. 7901 et seq.), notwithstanding section 112 of that Act, at a dump site immediately adjacent to the north-northwest section of the Tuba City processing site, and on the north side of Highway 160: Provided further, That of the amount appropriated in this paragraph, $2,000,000 shall
be used for the projects specified in the table that appears under the heading “Congressionally Directed Non-Defense Environmental Cleanup Projects” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

Uranium Enrichment Decontamination and Decommissioning Fund


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, construc-
tion, or expansion, and purchase of not to exceed 49 pas-
senger motor vehicles for replacement only, including one
law enforcement vehicle, one ambulance, and three buses,
$4,861,669,000, to remain available until expended: Pro-
vided, That notwithstanding the provisions of section 3220
of the NNSA Act (Public Law 106–65), as amended, the
employees and contractors working on the Los Alamos
Neutron Science Center (LANSCE) shall be subject to the
authority, direction, and control of the Director of the Of-
vice of Science and his designees with respect to research
and operations involving isotope production for Office of
Science applications and customers: Provided further,
That of the amount appropriated in this paragraph,
$39,700,000 shall be used for the projects specified in the
table that appears under the heading “Congressionally Di-
rected Science Projects” in the report of the Committee
on Appropriations of the House of Representatives to ac-
company this Act.

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 (the “NWPA”), including the acquisition of
real property or facility construction or expansion,
$247,371,000, 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, 2.02 percent, but not to exceed $5,000,000, 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 NWPA: Provided further, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPA, 0.4 percent, but not to exceed $1,000,000, of the amounts provided shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of that Act: Provided further, That 3.64 percent, but not to exceed $9,000,000, shall be provided for affected units of local government, as defined in the NWPA, to conduct appropriate activities and participate in licensing activities: Provided further, That of the amounts provided for affected units of local government, 7.5 percent shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada units of local government: Provided further, That 0.2 percent, but not to exceed $500,000, shall be provided to the Timbisha-Shoshone Tribe solely for expenditures, other than salaries and expenses of tribal employees, to conduct appropriate activi-
ties and participate in licensing activities under section
118(b) of the NWPA: Provided further, That notwithstanding section 116(c)(3) of the NWPA, 4.6 percent, but
not to exceed $11,500,000, shall be provided to Nye County, Nevada, as payment equal to taxes under section
116(c)(3) of that Act: 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 to units of local government by direct pay-
ment: Provided further, That within 90 days of the comple-
tion of each Federal fiscal year, the Nevada Division of
Emergency Management and the Governor of the State
of Nevada and each of the affected units of local govern-
ment shall provide certification to the Department of En-
ergy that all funds expended from such payments have
been expended for activities authorized by the NWPA 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: Pro-
vided further, That none of the funds herein appropriated
may be: (1) used directly or indirectly to influence legisla-
tive action, except for normal and recognized executive-
legislative communications, 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 ex-
penses; 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 NWPA, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE LOAN PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal years 2008 through 2011 commitments to guarantee loans under title XVII of the Energy Policy Act of 2005 shall not exceed a total principal amount, any part of which is to be guaranteed, of $28,500,000,000 for eligible projects (other than nuclear power facilities) and $18,500,000,000 for eligible nuclear power facilities: Provided, That these amounts are in addition to the authority provided under section 20320 of division B of Public Law 109–289, as amended by Public Law 110–5: Provided further, That such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in this Act, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974:
Provided further, That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: Provided further, That none of the funds made available in this Act shall be available for the execution of a new solicitation with respect to such guaranteed loans until 45 days after the Department of Energy has submitted to the Committees on Appropriations of the House of Representatives and the Senate a loan guarantee implementation plan that defines the proposed award levels and eligible technologies: Provided further, That the Department shall not deviate from such plan without 45 days prior notice to the Committees: Provided further, That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees: Provided further, That for necessary administrative expenses to carry out this Loan Guarantee program, $19,880,000 is appropriated, to remain available until expended: Provided further, That $19,880,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2009 appropriation from the general fund estimated at not more than $0: Provided further,
That fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

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 representation expenses not to exceed $30,000, $272,144,000, to remain available until expended: Provided, That moneys received by the Department for miscellaneous revenues estimated to total $117,317,000 in fiscal year 2009 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 provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2009, and any related appropriated receipt account balances remaining from prior years’ miscellaneous revenues, so as to result in a final fiscal year 2009 appropriation from the general fund estimated at not more than $154,827,000.
OFFICE OF THE INSPECTOR GENERAL


ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING RESCISSION 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, the purchase of not to exceed two passenger motor vehicles, and one ambulance, $6,201,860,000 to remain available until expended: Provided, That of the funds appropriated in prior years for Weapons Activities, $165,300,000 are rescinded: Provided further, That of the amount appropriated in this paragraph, $20,500,000 shall be used for the projects specified under the heading “Congressionally Directed Weapons Activities Projects” in the
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 defense nuclear nonproliferation 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 one passenger motor vehicle for replacement only, $1,530,048,000 to remain available until expended: Provided, That of the amount appropriated in this paragraph, $1,000,000 shall be used for projects specified under the heading “Congressionally Directed Defense Nuclear Nonproliferation Projects” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

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, $828,054,000, 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, $428,581,000, to remain available until expended: *Provided,* That of the amount appropriated in this paragraph, $24,500,000 shall be used for the projects specified in the table that appears under the heading “Office of the Administrator” in the report of the Committee on Appropriations of the House of Representatives to accompany this Act.

**ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES**

**DEFENSE ENVIRONMENTAL CLEANUP**

*(INCLUDING TRANSFER OF FUNDS)*

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 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 expan-
sion, and the purchase of not to exceed four ambulances
and three passenger motor vehicles for replacement only,
$5,425,202,000, to remain available until expended, of
which $463,000,000 shall be transferred to the “Uranium
Enrichment Decontamination and Decommissioning
Fund”: Provided, That of the amount appropriated in this
paragraph, $7,700,000 shall be used for the projects speci-
fied in the table that appears under the heading “Congres-
sionally Directed Defense Environmental Cleanup
Projects” in the report of the Committee on Appropria-
tions of the House of Representatives to accompany this
Act.

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,
$826,453,000, to remain available until expended.
DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, as amended, including the acquisition of real property or facility construction or expansion, $247,371,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to section 11 of the Federal Columbia River Transmission System Act (Public Law 93–445; 16 U.S.C. 838i), are approved for official reception and representation expenses in an amount not to exceed $1,500. During fiscal year 2009, 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 section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $7,420,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $49,520,000 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, $28,414,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $35,000,000 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 section 302(a)(1)(E) of title III 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, $193,346,000, to remain available until expended, of which $183,642,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, $7,342,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That notwithstanding 31 U.S.C. 3302, up to $328,118,000 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, $2,959,000, 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 (22 U.S.C. 2651 note).

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, $273,400,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $273,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2009 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 revenues
are received during fiscal year 2009 so as to result in a
final fiscal year 2009 appropriation from the general fund
estimated at not more than $0.

GENERAL PROVISIONS, DEPARTMENT OF
ENERGY

SEC. 301. CONTRACT COMPETITION.—(a) None of
the funds in this or any other appropriations Act for fiscal
year 2009 or any previous fiscal year may be used to make
payments for a noncompetitive management and operating
contract, or a contract for environmental remediation or
waste management in excess of $100,000,000 in annual
funding at a current or former management and operating
contract site or facility, or to award a significant extension
or expansion to an existing management and operating
contract, or other contract covered by this section, 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.

(b) Within 30 days of formally notifying an incum-
 bent contractor that the Secretary intends to grant such
a waiver, the Secretary shall submit to the Subcommittees
on Energy and Water Development of the Committees on
Appropriations of the House of Representatives and the
Senate a report notifying the Subcommittees 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.

(c) In this section 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.

Sec. 302. Unfunded Requests for Proposals.—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.

Sec. 303. Department of Energy Defense Nuclear Facilities Workforce Restructuring.—None of the funds appropriated by this Act may be used—

(1) to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) unless the Department of En-
ergy submits a reprogramming request to the appropriate congressional committees; or

(2) to provide enhanced severance payments or other benefits for employees of the Department of Energy under such section.

SEC. 304. UNEXPENDED BALANCES.—The unexpended balances of prior appropriations provided for activities for which amounts are appropriated in this title may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances 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. 305. BONNEVILLE POWER AUTHORITY SERVICE TERRITORY.—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. 306. USER FACILITIES.—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 limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 307. INTELLIGENCE ACTIVITIES.—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 2009.

SEC. 308. LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Of the funds made available by the De-
part of Energy for activities at government-owned, contractor operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 4 percent of such funds, to be used by such laboratories for laboratory-directed research and development: Provided, That the Secretary may also authorize a specific amount, not to exceed 2 percent of such funds, to be used by the plant manager of a nuclear weapons production plant or the manager of the Nevada Site Office, for plant or site-directed research and development.

SEC. 309. REIMBURSABLE WORK.—All obligations and payments for reimbursable work shall be accounted for in the account that owns the assets being used for the reimbursable work.

SEC. 310. RELIABLE REPLACEMENT WARHEAD.—None of the funds provided in this Act shall be available for the Reliable Replacement Warhead (RRW).

SEC. 311. GLOBAL NUCLEAR ENERGY PARTNERSHIP.—None of the funds provided in this Act shall be available for the Global Nuclear Energy Partnership (GNEP).

SEC. 312. GENERAL PLANT PROJECTS.—Plant or construction projects for which amounts are made available under this and subsequent appropriation Acts with
a current estimated cost of less than $10,000,000 are con-
sidered for purposes of section 4703 of Public Law 107–
314 as a plant project for which the approved total esti-
mated cost does not exceed the minor construction thresh-
old and for purposes of section 4704 of Public Law 107–
314 as a construction project with a current estimated
cost of less than a minor construction threshold.

SEC. 313. ENERGY PRODUCTION.—The Secretary of
Energy shall provide funding to the National Academy of
Sciences to conduct an inventory of the energy develop-
ment potential on all lands currently managed by the De-
partment of Energy together with a report, to be sub-
mitted not later than July 1, 2009, which includes (1) a
detailed analysis of all such resources including oil, gas,
coal, solar, wind, geothermal, and other renewable re-
sources on such lands, (2) a delineation of the resources
presently available for development as well as those poten-
tially available in the future, and (3) an analysis of the
environmental impacts associated with any future develop-
ment including actions necessary to mitigate negative im-
pacts.

TITLE IV—INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs au-
thorized by the Appalachian Regional Development Act of
1965, notwithstanding 40 U.S.C. 14704, and, 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, $65,000,000, to remain available until expended: Provided, That any congressionally directed spending shall be taken from within that State’s allocation in the fiscal year in which it is provided.

**Defense Nuclear Facilities Safety Board**

**Salaries and Expenses**


**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, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, $6,000,000, to remain available until expended.
DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction, and acquisition of plant and capital equipment as necessary and other expenses, $1,800,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954, including official representation expenses (not to exceed $25,000), $1,058,956,000, to remain available until expended: Provided, That of the amount appropriated herein, $73,300,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $860,857,000 in fiscal year 2009 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 2009 so as to result
in a final fiscal year 2009 appropriation estimated at not
more than $198,099,000.

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, $10,860,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $9,774,000 in fiscal year 2009 shall be retained and be available until expended, for 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 2009 so as to result in a final fiscal year 2009 appropriation estimated at not more than $1,086,000.

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, $3,817,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.
Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects

For necessary expenses for the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects pursuant to the Alaska Natural Gas Pipeline Act of 2004, $4,400,000: Provided, That any fees, charges, or commissions received pursuant to section 802 of Public Law 110–140 in fiscal year 2009 in excess of $4,660,000 shall not be available for obligation until appropriated in a subsequent Act of Congress.

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.

This Act may be cited as the “Energy and Water Development and Related Agencies Appropriations Act, 2009”.

•HR 7324 RH
Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2009, and for other purposes.