

108TH CONGRESS
2^D SESSION

H. R. 4614

IN THE SENATE OF THE UNITED STATES

JULY 6, 2004

Received; read twice and referred to the Committee on Appropriations

AN ACT

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

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the following sums are appropriated, out of any

1 money in the Treasury not otherwise appropriated, for the
2 fiscal year ending September 30, 2005, for energy and
3 water development, and for other purposes, namely:

4

TITLE I

5

DEPARTMENT OF DEFENSE—CIVIL

6

DEPARTMENT OF THE ARMY

7

CORPS OF ENGINEERS—CIVIL

8 The following appropriations shall be expended
9 under the direction of the Secretary of the Army and the
10 supervision of the Chief of Engineers for authorized civil
11 functions of the Department of the Army pertaining to
12 rivers and harbors, flood control, shore protection, aquat-
13 ic ecosystem restoration, and related purposes.

14

GENERAL INVESTIGATIONS

15 For expenses necessary for the collection and study
16 of basic information pertaining to rivers and harbors,
17 flood control, shore protection, storm damage reduction,
18 and related projects, restudy of authorized projects, mis-
19 cellaneous investigations, and, when authorized by law,
20 surveys and detailed studies and plans and specifications
21 of projects prior to construction, \$149,000,000, to re-
22 main available until expended: *Provided*, That for the
23 Ohio Riverfront, Cincinnati, Ohio, project, the cost of
24 planning and design undertaken by non-Federal interests

1 shall be credited toward the non-Federal share of project
2 design costs.

3 CONSTRUCTION, GENERAL

4 For expenses necessary for the prosecution of river
5 and harbor, flood control, shore protection, storm damage
6 reduction, and related projects authorized by law; and for
7 conducting detailed studies, and plans and specifications,
8 of such projects (including those for development with
9 participation or under consideration for participation by
10 States, local governments, or private groups) authorized
11 or made eligible for selection by law (but such detailed
12 studies, and plans and specifications, shall not constitute
13 a commitment of the Government to construction);
14 \$1,876,680,000, to remain available until expended, of
15 which such sums as are necessary to cover the Federal
16 share of construction costs for facilities under the
17 Dredged Material Disposal Facilities program shall be
18 derived from the Harbor Maintenance Trust Fund as au-
19 thorized by Public Law 104-303; and of which such
20 sums as are necessary pursuant to Public Law 99-662
21 shall be derived from the Inland Waterways Trust Fund
22 for one-half of the costs of construction and rehabilitation
23 of inland waterways projects (including the rehabilitation
24 costs for Lock and Dam 11, Mississippi River, Iowa;
25 Lock and Dam 19, Mississippi River, Iowa; Lock and

1 Dam 24, Mississippi River, Illinois and Missouri; and
2 Lock and Dam 3, Mississippi River, Minnesota): *Pro-*
3 *vided*, That using \$10,000,000 of the funds appropriated
4 herein, the Secretary of the Army, acting through the
5 Chief of Engineers, is directed to continue construction
6 of the Dallas Floodway Extension, Texas, project, includ-
7 ing the Cadillac Heights feature, generally in accordance
8 with the Chief of Engineers report dated December 7,
9 1999: *Provided further*, That the Secretary of the Army
10 is directed to accept advance funds, pursuant to section
11 11 of the River and Harbor Act of 1925, from the non-
12 Federal sponsor of the Los Angeles Harbor, California,
13 project authorized by section 101(b)(5) of Public Law
14 106–541: *Provided further*, That the Secretary of the
15 Army, acting through the Chief of Engineers, is directed
16 to proceed with the construction of the New York and
17 New Jersey Harbor project, 50-foot deepening element,
18 upon execution of the Project Cooperation Agreement:
19 *Provided further*, That no funds made available under
20 this Act or any other Act for any fiscal year may be used
21 by the Secretary of the Army to carry out the construc-
22 tion of the Port Jersey element of the New York and
23 New Jersey Harbor or reimbursement to the Local Spon-
24 sor for the construction of the Port Jersey element until
25 commitments for construction of container handling fa-

1 cilities are obtained from the non-Federal sponsor for a
2 second user along the Port Jersey element: *Provided fur-*
3 *ther*, That the Secretary of the Army, acting through the
4 Chief of Engineers, is directed to use \$6,000,000 of the
5 funds appropriated herein to proceed with planning, engi-
6 neering, design or construction of the Grundy, Buchanan
7 County, and Dickenson County, Virginia, elements of the
8 Levisa and Tug Forks of the Big Sandy River and Upper
9 Cumberland River Project: *Provided further*, That the
10 Secretary of the Army, acting through the Chief of Engi-
11 neers, is directed to use funds appropriated for the navi-
12 gation project, Tampa Harbor, Florida, to carry out, as
13 part of the project, construction of passing lanes in an
14 area approximately 3.5 miles long, centered on Tampa
15 Bay Cut B, if the Secretary determines that such con-
16 struction is technically sound, environmentally acceptable,
17 and cost effective: *Provided further*, That using \$500,000
18 of the funds appropriated herein, the Secretary of the
19 Army, acting through the Chief of Engineers, is author-
20 ized and directed to plan, design, and initiate reconstruc-
21 tion of the Cape Girardeau, Missouri, project, originally
22 authorized by the Flood Control Act of 1950, at an esti-
23 mated total cost of \$9,000,000, with cost sharing on the
24 same basis as cost sharing for the project as originally
25 authorized, if the Secretary determines that the recon-

1 struction is technically sound and environmentally accept-
2 able: *Provided further*, That the planned reconstruction
3 shall be based on the most cost-effective engineering solu-
4 tion and shall require no further economic justification:
5 *Provided further*, That the Secretary of the Army, acting
6 through the Chief of Engineers, is directed to proceed
7 without further delay with work on the permanent bridge
8 to replace Folsom Bridge Dam Road, Folsom, California,
9 as authorized by the Energy and Water Development Ap-
10 propriations Act, 2004 (Public Law 108–137), and, of
11 the \$8,000,000 available for the American River Water-
12 shed (Folsom Dam Mini-Raise), California, project, up to
13 \$5,000,000 of those funds be directed for the permanent
14 bridge, with all remaining devoted to the Mini-Raise.

15 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBU-
16 TARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOU-
17 ISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

18 For expenses necessary for the flood damage reduc-
19 tion program for the Mississippi River alluvial valley
20 below Cape Girardeau, Missouri, as authorized by law,
21 \$325,000,000, to remain available until expended.

22 OPERATION AND MAINTENANCE, GENERAL

23 For expenses necessary for the operation, mainte-
24 nance, and care of existing river and harbor, flood and
25 storm damage reduction, aquatic ecosystem restoration,

1 and related projects; for providing security for infrastruc-
2 ture owned and operated by, or on behalf of, the United
3 States Army Corps of Engineers, including administra-
4 tive buildings and facilities, laboratories, and the Wash-
5 ington Aqueduct; for the maintenance of harbor channels
6 provided by a State, municipality, or other public agency
7 that serve essential navigation needs of general com-
8 merce, where authorized by law; and for surveys and
9 charting of northern and northwestern lakes and con-
10 necting waters, clearing and straightening channels, and
11 removal of obstructions to navigation; \$1,982,000,000, to
12 remain available until expended, of which such sums as
13 become available in the Harbor Maintenance Trust Fund,
14 pursuant to Public Law 99-662, may be derived from
15 that fund; of which such sums as become available from
16 the special account for the United States Army Corps of
17 Engineers established by the Land and Water Conserva-
18 tion Act of 1965, as amended (16 U.S.C. 460l-6a(i)),
19 may be derived from that account for resource protection,
20 research, interpretation, and maintenance activities re-
21 lated to resource protection in the areas at which outdoor
22 recreation is available; and of which such sums as become
23 available under section 217 of the Water Resources De-
24 velopment Act of 1996, Public Law 104-303, shall be
25 used to cover the cost of operation and maintenance of

1 the dredged material disposal facilities for which fees
2 have been collected: *Provided*, That the Secretary of the
3 Army, acting through the Chief of Engineers, is directed
4 to use funds appropriated herein to rehabilitate the exist-
5 ing dredged material disposal site for the project for
6 navigation, Bodega Bay Harbor, California, and to con-
7 tinue maintenance dredging of the Federal channel: *Pro-*
8 *vided further*, That the Secretary shall make suitable ma-
9 terial excavated from the site as part of the rehabilitation
10 effort available to the non-Federal sponsor, at no cost to
11 the Federal Government, for use by the non-Federal
12 sponsor in the development of public facilities.

13 REGULATORY PROGRAM

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

17 FORMERLY UTILIZED SITES REMEDIAL ACTION
18 PROGRAM

19 For expenses necessary to clean up contamination at
20 sites in the United States resulting from work performed
21 as part of the Nation's early atomic energy program,
22 \$190,000,000, to remain available until expended.

23 GENERAL EXPENSES

24 For expenses necessary for general administration
25 and related civil works functions in the headquarters of

1 the United States Army Corps of Engineers, the offices
2 of the Division Engineers, the Humphreys Engineer Cen-
3 ter Support Activity, the Institute for Water Resources,
4 the United States Army Engineer Research and Develop-
5 ment Center, and the United States Army Corps of Engi-
6 neers Finance Center, \$167,000,000, to remain available
7 until expended: *Provided*, That no part of any other ap-
8 propriation provided in title I of this Act shall be avail-
9 able to fund the activities of the Office of the Chief of
10 Engineers or the executive direction and management ac-
11 tivities of the division offices: *Provided further*, That none
12 of these funds shall be available to support an office of
13 congressional affairs within the executive office of the
14 Chief of Engineers.

15 OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL
16 WORKS)

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

20 ADMINISTRATIVE PROVISIONS

21 Appropriations in this title shall be available for offi-
22 cial reception and representation expenses (not to exceed
23 \$5,000); and during the current fiscal year the Revolving
24 Fund, Corps of Engineers, shall be available for purchase

1 (not to exceed 100 for replacement only) and hire of pas-
2 senger motor vehicles.

3 GENERAL PROVISIONS

4 CORPS OF ENGINEERS—CIVIL

5 SEC. 101. Agreements proposed for execution by the
6 Assistant Secretary of the Army for Civil Works or the
7 United States Army Corps of Engineers after the date of
8 the enactment of this Act pursuant to section 4 of the
9 Rivers and Harbor Act of 1915 (P.L. 64–291); section
10 11 of the River and Harbor Act of 1925 (P.L. 68–585);
11 the Civil Functions Appropriations Act, 1936 (P.L. 75–
12 208); section 215 of the Flood Control, Act of 1968, as
13 amended (P.L. 90–483); sections 104, 203, and 204 of
14 the Water Resources Development Act of 1986, as
15 amended (P.L. 99–662); section 206 of the Water Re-
16 sources Development Act of 1992, as amended (P.L.
17 102–580); section 211 of the Water Resources Develop-
18 ment Act of 1996 (P.L. 104–303); and any other specific
19 project authority, shall be limited to credits and reim-
20 bursements per project not to exceed \$10,000,000 in
21 each fiscal year, and total credits and reimbursements for
22 all applicable projects not to exceed \$50,000,000 in each
23 fiscal year.

24 SEC. 102. None of the funds appropriated in this or
25 any other Act may be used by the United States Army

1 Corps of Engineers to support activities related to the
2 proposed Ridge Landfill in Tuscarawas County, Ohio.

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

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

15 TITLE II

16 DEPARTMENT OF THE INTERIOR

17 CENTRAL UTAH PROJECT

18 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

19 For carrying out activities authorized by the Central
20 Utah Project Completion Act, \$48,009,000 to remain
21 available until expended, of which \$15,469,000 shall be
22 deposited into the Utah Reclamation Mitigation and Con-
23 servation Account for use by the Utah Reclamation Miti-
24 gation and Conservation Commission.

1 In addition, for necessary expenses incurred in car-
2 rying out related responsibilities of the Secretary of the
3 Interior, \$1,734,000, to remain available until expended.

4 BUREAU OF RECLAMATION

5 The following appropriations shall be expended to
6 execute authorized functions of the Bureau of Reclama-
7 tion:

8 WATER AND RELATED RESOURCES
9 (INCLUDING TRANSFER OF FUNDS)

10 For management, development, and restoration of
11 water and related natural resources and for related ac-
12 tivities, including the operation, maintenance, and reha-
13 bilitation of reclamation and other facilities, participation
14 in fulfilling related Federal responsibilities to Native
15 Americans, and related grants to, and cooperative and
16 other agreements with, State and local governments, In-
17 dian tribes, and others, \$860,000,000, to remain avail-
18 able until expended, of which \$53,299,000 shall be avail-
19 able for transfer to the Upper Colorado River Basin
20 Fund and \$33,794,000 shall be available for transfer to
21 the Lower Colorado River Basin Development Fund; of
22 which such amounts as may be necessary may be ad-
23 vanced to the Colorado River Dam Fund; and of which
24 not more than \$500,000 is for high priority projects
25 which shall be carried out by the Youth Conservation

1 Corps, as authorized by 16 U.S.C. 1706: *Provided*, That
2 such transfers may be increased or decreased within the
3 overall appropriation under this heading: *Provided fur-*
4 *ther*, That of the total appropriated, the amount for pro-
5 gram activities can be financed by the Reclamation Fund
6 or the Bureau of Reclamation special fee account estab-
7 lished by 16 U.S.C. 460l–6a(i) shall be derived from that
8 Fund or account: *Provided further*, That funds contrib-
9 uted under 43 U.S.C. 395 are available until expended
10 for the purposes for which contributed: *Provided further*,
11 That funds advanced under 43 U.S.C. 397a shall be
12 credited to this account and are available until expended
13 for the same purposes as the sums appropriated under
14 this heading: *Provided further*, That funds available for
15 expenditure for the Departmental Irrigation Drainage
16 Program may be expended by the Bureau of Reclamation
17 for site remediation on a non-reimbursable basis: *Pro-*
18 *vided further*, That section 301 of Public Law 102–250,
19 the Reclamation States Emergency Drought Relief Act of
20 1991, as amended, is amended further by inserting
21 “2004, and 2005” in lieu of “and 2004”.

22 CENTRAL VALLEY PROJECT RESTORATION FUND

23 For carrying out the programs, projects, plans, and
24 habitat restoration, improvement, and acquisition provi-
25 sions of the Central Valley Project Improvement Act,

1 \$54,695,000, to be derived from such sums as may be
2 collected in the Central Valley Project Restoration Fund
3 pursuant to sections 3407(d), 3404(c)(3), 3405(f), and
4 3406(c)(1) of Public Law 102–575, to remain available
5 until expended: *Provided*, That the Bureau of Reclama-
6 tion is directed to assess and collect the full amount of
7 the additional mitigation and restoration payments au-
8 thorized by section 3407(d) of Public Law 102–575: *Pro-*
9 *vided further*, That none of the funds made available
10 under this heading may be used for the acquisition or
11 leasing of water for in-stream purposes if the water is al-
12 ready committed to in-stream purposes by a court-adopt-
13 ed decree or order.

14 POLICY AND ADMINISTRATION

15 For necessary expenses of policy, administration,
16 and related functions in the office of the Commissioner,
17 the Denver office, and offices in the five regions of the
18 Bureau of Reclamation, to remain available until ex-
19 pended, \$58,153,000, to be derived from the Reclamation
20 Fund and be nonreimbursable as provided in 43 U.S.C.
21 377: *Provided*, That no part of any other appropriation
22 in this Act shall be available for activities or functions
23 budgeted as policy and administration expenses.

1 ADMINISTRATIVE PROVISION

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

5 GENERAL PROVISIONS

6 DEPARTMENT OF THE INTERIOR

7 SEC. 201. (a) None of the funds appropriated or
8 otherwise made available by this Act may be used to de-
9 termine the final point of discharge for the interceptor
10 drain for the San Luis Unit until development by the
11 Secretary of the Interior and the State of California of
12 a plan, which shall conform to the water quality stand-
13 ards of the State of California as approved by the Admin-
14 istrator of the Environmental Protection Agency, to mini-
15 mize any detrimental effect of the San Luis drainage wa-
16 ters.

17 (b) The costs of the Kesterson Reservoir Cleanup
18 Program and the costs of the San Joaquin Valley Drain-
19 age Program shall be classified by the Secretary of the
20 Interior as reimbursable or nonreimbursable and collected
21 until fully repaid pursuant to the “Cleanup Program-Al-
22 ternative Repayment Plan” and the “SJVDP-Alternative
23 Repayment Plan” described in the report entitled “Re-
24 payment Report, Kesterson Reservoir Cleanup Program
25 and San Joaquin Valley Drainage Program, February

1 1995”, prepared by the Department of the Interior, Bu-
2 reau of Reclamation. Any future obligations of funds by
3 the United States relating to, or providing for, drainage
4 service or drainage studies for the San Luis Unit shall
5 be fully reimbursable by San Luis Unit beneficiaries of
6 such service or studies pursuant to Federal reclamation
7 law.

8 SEC. 202. None of the funds appropriated or other-
9 wise made available by this or any other Act may be used
10 to pay the salaries and expenses of personnel to purchase
11 or lease water in the Middle Rio Grande or the Carlsbad
12 Projects in New Mexico unless said purchase or lease is
13 in compliance with the purchase requirements of section
14 202 of Public Law 106–60.

15 TITLE III

16 DEPARTMENT OF ENERGY

17 ENERGY PROGRAMS

18 ENERGY SUPPLY

19 For Department of Energy expenses including the
20 purchase, construction, and acquisition of plant and cap-
21 ital equipment, and other expenses necessary for energy
22 supply activities in carrying out the purposes of the De-
23 partment of Energy Organization Act (42 U.S.C. 7101 et
24 seq.), including the acquisition or condemnation of any
25 real property or any facility or for plant or facility acqui-

1 sition, construction, or expansion, and the purchase of
2 not to exceed 9 passenger motor vehicles for replacement
3 only, and one ambulance, \$817,126,000, to remain avail-
4 able until expended.

5 NON-DEFENSE SITE ACCELERATION COMPLETION

6 For Department of Energy expenses, including the
7 purchase, construction, and acquisition of plant and cap-
8 ital equipment and other expenses necessary for non-de-
9 fense environmental management site acceleration com-
10 pletion activities in carrying out the purposes of the De-
11 partment of Energy Organization Act (42 U.S.C. 7101 et
12 seq.), including the acquisition or condemnation of any
13 real property or any facility or for plant or facility acqui-
14 sition, construction, or expansion, \$151,850,000, to re-
15 main available until expended.

16 URANIUM ENRICHMENT DECONTAMINATION AND
17 DECOMMISSIONING FUND

18 For necessary expenses in carrying out uranium en-
19 richment facility decontamination and decommissioning,
20 remedial actions, and other activities of title II of the
21 Atomic Energy Act of 1954, as amended, and title X,
22 subtitle A, of the Energy Policy Act of 1992,
23 \$500,200,000, to be derived from the Fund, to remain
24 available until expended, of which \$100,614,000 shall be

1 available in accordance with title X, subtitle A, of the
2 Energy Policy Act of 1992.

3 NON-DEFENSE ENVIRONMENTAL SERVICES

4 For Department of Energy expenses necessary for
5 non-defense environmental services activities that indi-
6 rectly support the accelerated cleanup and closure mis-
7 sion at environmental management sites, including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment and other necessary expenses,
10 \$291,296,000, to remain available until expended.

11 SCIENCE

12 For Department of Energy expenses including the
13 purchase, construction and acquisition of plant and cap-
14 ital equipment, and other expenses necessary for science
15 activities in carrying out the purposes of the Department
16 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
17 cluding the acquisition or condemnation of any real prop-
18 erty or facility or for plant or facility acquisition, con-
19 struction, or expansion, and purchase of not to exceed
20 four passenger motor vehicles for replacement only, in-
21 cluding one ambulance, \$3,599,964,000, to remain avail-
22 able until expended.

23 DEPARTMENTAL ADMINISTRATION

24 For salaries and expenses of the Department of En-
25 ergy necessary for departmental administration in car-

1 rying out the purposes of the Department of Energy Or-
2 ganization Act (42 U.S.C. 7101 et seq.), including the
3 hire of passenger motor vehicles and official reception
4 and representation expenses (not to exceed \$35,000),
5 \$243,876,000, to remain available until expended, plus
6 such additional amounts as necessary to cover increases
7 in the estimated amount of cost of work for others not-
8 withstanding the provisions of the Anti-Deficiency Act
9 (31 U.S.C. 1511 et seq.): *Provided*, That such increases
10 in cost of work are offset by revenue increases of the
11 same or greater amount, to remain available until ex-
12 pended: *Provided further*, That moneys received by the
13 Department for miscellaneous revenues estimated to total
14 \$122,000,000 in fiscal year 2005 may be retained and
15 used for operating expenses within this account, and may
16 remain available until expended, as authorized by section
17 201 of Public Law 95–238, notwithstanding the provi-
18 sions of 31 U.S.C. 3302: *Provided further*, That the sum
19 herein appropriated shall be reduced by the amount of
20 miscellaneous revenues received during fiscal year 2005,
21 and any related unappropriated receipt account balances
22 remaining from prior years' miscellaneous revenues, so as
23 to result in a final fiscal year 2005 appropriation from
24 the general fund estimated at not more than
25 \$121,876,000.

1 OFFICE OF THE INSPECTOR GENERAL

2 For necessary expenses of the Office of the Inspec-
3 tor General in carrying out the provisions of the Inspec-
4 tor General Act of 1978, as amended, \$41,508,000, to
5 remain available until expended.

6 ATOMIC ENERGY DEFENSE ACTIVITIES

7 NATIONAL NUCLEAR SECURITY ADMINISTRATION

8 WEAPONS ACTIVITIES

9 For Department of Energy expenses, including the
10 purchase, construction, and acquisition of plant and cap-
11 ital equipment and other incidental expenses necessary
12 for atomic energy defense weapons activities in carrying
13 out the purposes of the Department of Energy Organiza-
14 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
15 tion or condemnation of any real property or any facility
16 or for plant or facility acquisition, construction, or expan-
17 sion; and the purchase of not to exceed 19 passenger
18 motor vehicles, for replacement only, including not to ex-
19 ceed two buses; \$6,514,424,000 to remain available until
20 expended.

21 DEFENSE NUCLEAR NONPROLIFERATION

22 For Department of Energy expenses, including the
23 purchase, construction and acquisition of plant and cap-
24 ital equipment and other incidental expenses necessary
25 for atomic energy defense, defense nuclear nonprolifera-

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

9 DEFENSE ENVIRONMENTAL SERVICES

10 For Department of Energy expenses necessary for
11 defense-related environmental services activities that indi-
12 rectly support the accelerated cleanup and closure mis-
13 sion at environmental management sites, including the
14 purchase, construction, and acquisition of plant and cap-
15 ital equipment and other necessary expenses, and the
16 purchase of not to exceed three ambulances for replace-
17 ment only, \$957,976,000, to remain available until ex-
18 pended.

19 OTHER DEFENSE ACTIVITIES

20 For Department of Energy expenses, including the
21 purchase, construction, and acquisition of plant and cap-
22 ital equipment and other expenses, necessary for atomic
23 energy defense, other defense activities, and classified ac-
24 tivities, in carrying out the purposes of the Department
25 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-

1 825s), as applied to the southeastern power area,
2 \$5,200,000, to remain available until expended: *Provided*,
3 That, notwithstanding the provisions of 31 U.S.C. 3302,
4 up to \$34,000,000 collected by the Southeastern Power
5 Administration pursuant to the Flood Control Act of
6 1944 to recover purchase power and wheeling expenses
7 shall be credited to this account as offsetting collections,
8 to remain available until expended for the sole purpose
9 of making purchase power and wheeling expenditures.

10 OPERATION AND MAINTENANCE, SOUTHWESTERN
11 POWER ADMINISTRATION

12 For necessary expenses of operation and mainte-
13 nance of power transmission facilities and of marketing
14 electric power and energy, for construction and acquisi-
15 tion of transmission lines, substations and appurtenant
16 facilities, and for administrative expenses, including offi-
17 cial reception and representation expenses in an amount
18 not to exceed \$1,500 in carrying out the provisions of
19 section 5 of the Flood Control Act of 1944 (16 U.S.C.
20 825s), as applied to the southwestern power area,
21 \$29,352,000, to remain available until expended: *Pro-*
22 *vided*, That, notwithstanding the provisions of 31 U.S.C.
23 3302, up to \$1,800,000 collected by the Southwestern
24 Power Administration pursuant to the Flood Control Act
25 of 1944 to recover purchase power and wheeling expenses

1 shall be credited to this account as offsetting collections,
2 to remain available until expended for the sole purpose
3 of making purchase power and wheeling expenditures.

4 CONSTRUCTION, REHABILITATION, OPERATION AND
5 MAINTENANCE, WESTERN AREA POWER ADMINIS-
6 TRATION

7 For carrying out the functions authorized by title
8 III, section 302(a)(1)(E) of the Act of August 4, 1977
9 (42 U.S.C. 7152), and other related activities including
10 conservation and renewable resources programs as au-
11 thorized, including official reception and representation
12 expenses in an amount not to exceed \$1,500,
13 \$173,100,000, to remain available until expended, of
14 which \$170,756,000 shall be derived from the Depart-
15 ment of the Interior Reclamation Fund: *Provided*, That,
16 notwithstanding the provisions of 31 U.S.C. 3302, up to
17 \$186,000,000 collected by the Western Area Power Ad-
18 ministration pursuant to the Flood Control Act of 1944
19 and the Reclamation Project Act of 1939 to recover pur-
20 chase power and wheeling expenses shall be credited to
21 this account as offsetting collections, to remain available
22 until expended for the sole purpose of making purchase
23 power and wheeling expenditures.

1 FALCON AND AMISTAD OPERATING AND MAINTENANCE
2 FUND

3 For operation, maintenance, and emergency costs
4 for the hydroelectric facilities at the Falcon and Amistad
5 Dams, \$2,827,000, to remain available until expended,
6 and to be derived from the Falcon and Amistad Oper-
7 ating and Maintenance Fund of the Western Area Power
8 Administration, as provided in section 423 of the Foreign
9 Relations Authorization Act, Fiscal Years 1994 and
10 1995.

11 FEDERAL ENERGY REGULATORY COMMISSION
12 SALARIES AND EXPENSES

13 For necessary expenses of the Federal Energy Regu-
14 latory Commission to carry out the provisions of the De-
15 partment of Energy Organization Act (42 U.S.C. 7101 et
16 seq.), including services as authorized by 5 U.S.C. 3109,
17 the hire of passenger motor vehicles, and official recep-
18 tion and representation expenses (not to exceed \$3,000),
19 \$210,000,000, to remain available until expended: *Pro-*
20 *vided*, That, notwithstanding any other provision of law,
21 not to exceed \$210,000,000 of revenues from fees and
22 annual charges, and other services and collections in fis-
23 cal year 2005 shall be retained and used for necessary
24 expenses in this account, and shall remain available until
25 expended: *Provided further*, That the sum herein appro-

1 priated from the general fund shall be reduced as reve-
2 nues are received during fiscal year 2005 so as to result
3 in a final fiscal year 2005 appropriation from the general
4 fund estimated at not more than \$0.

5 GENERAL PROVISIONS

6 DEPARTMENT OF ENERGY

7 SEC. 301. (a)(1) None of the funds in this or any
8 other appropriations Act for fiscal year 2005 or any pre-
9 vious fiscal year may be used to make payments for a
10 noncompetitive management and operating contract un-
11 less the Secretary of Energy has published in the Federal
12 Register and submitted to the Committees on Appropria-
13 tions of the House of Representatives and the Senate a
14 written notification, with respect to each such contract,
15 of the Secretary's decision to use competitive procedures
16 for the award of the contract, or to not renew the con-
17 tract, when the term of the contract expires.

18 (2) Paragraph (1) does not apply to an extension for
19 up to two years of a noncompetitive management and op-
20 erating contract, if the extension is for purposes of allow-
21 ing time to award competitively a new contract, to pro-
22 vide continuity of service between contracts, or to com-
23 plete a contract that will not be renewed.

24 (b) In this section:

1 (1) The term “noncompetitive management and
2 operating contract” means a contract that was
3 awarded more than 50 years ago without competi-
4 tion for the management and operation of Ames
5 Laboratory, Argonne National Laboratory, Lawrence
6 Berkeley National Laboratory, Lawrence Livermore
7 National Laboratory, and Los Alamos National Lab-
8 oratory.

9 (2) The term “competitive procedures” has the
10 meaning provided in section 4 of the Office of Fed-
11 eral Procurement Policy Act (41 U.S.C. 403) and
12 includes procedures described in section 303 of the
13 Federal Property and Administrative Services Act of
14 1949 (41 U.S.C. 253) other than a procedure that
15 solicits a proposal from only one source.

16 (c) For all management and operating contracts
17 other than those listed in subsection (b)(1), none of the
18 funds appropriated by this Act may be used to award a
19 management and operating contract, or award a signifi-
20 cant extension or expansion to an existing management
21 and operating contract, unless such contract is awarded
22 using competitive procedures or the Secretary of Energy
23 grants, on a case-by-case basis, a waiver to allow for such
24 a deviation. The Secretary may not delegate the authority
25 to grant such a waiver. At least 60 days before a contract

1 award for which the Secretary intends to grant such a
2 waiver, the Secretary shall submit to the Committees on
3 Appropriations of the House of Representatives and the
4 Senate a report notifying the Committees of the waiver
5 and setting forth, in specificity, the substantive reasons
6 why the Secretary believes the requirement for competition
7 should be waived for this particular award.

8 SEC. 302. None of the funds appropriated by this
9 Act may be used to—

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

13 (2) provide enhanced severance payments or
14 other benefits for employees of the Department of
15 Energy under section 3161 of the National Defense
16 Authorization Act for Fiscal Year 1993 (P.L. 102–
17 484; 42 U.S.C. 7274h).

18 SEC. 303. None of the funds appropriated by this
19 Act may be used to augment the funds made available for
20 obligation by this Act or any other appropriations Act for
21 fiscal year 2005 or any previous fiscal year for severance
22 payments and other benefits and community assistance
23 grants under section 3161 of the National Defense Au-
24 thorization Act for Fiscal Year 1993 (P.L. 102–484; 42
25 U.S.C. 7274h) unless the Department of Energy submits

1 a reprogramming request subject to approval by the ap-
2 propriate congressional committees.

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

7 (TRANSFERS OF UNEXPENDED BALANCES)

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

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

24 SEC. 307. When the Department of Energy makes
25 a user facility available to universities or other potential
26 users, or seeks input from universities or other potential

1 users regarding significant characteristics or equipment
2 in a user facility or a proposed user facility, the Depart-
3 ment shall ensure broad public notice of such availability
4 or such need for input to universities and other potential
5 users. When the Department of Energy considers the
6 participation of a university or other potential user as a
7 formal partner in the establishment or operation of a
8 user facility, the Department shall employ full and open
9 competition in selecting such a partner. For purposes of
10 this section, the term “user facility” includes, but is not
11 limited to: (1) a user facility as described in section
12 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
13 13503(a)(2)); (2) a National Nuclear Security Adminis-
14 tration Defense Programs Technology Deployment Cen-
15 ter/User Facility; and (3) any other Departmental facility
16 designated by the Department as a user facility.

17 SEC. 308. The Administrator of the National Nu-
18 clear Security Administration may authorize the manager
19 of a covered nuclear weapons research, development, test-
20 ing or production facility to engage in research, develop-
21 ment, and demonstration activities with respect to the en-
22 gineering and manufacturing capabilities at such facility
23 in order to maintain and enhance such capabilities at
24 such facility: *Provided*, That of the amount allocated to
25 a covered nuclear weapons facility each fiscal year from

1 amounts available to the Department of Energy for such
2 fiscal year for national security programs, not more than
3 an amount equal to 2 percent of such amount may be
4 used for these activities: *Provided further*, That for pur-
5 poses of this section, the term “covered nuclear weapons
6 facility” means the following:

- 7 (1) the Kansas City Plant, Kansas City, Mis-
8 souri;
- 9 (2) the Y-12 Plant, Oak Ridge, Tennessee;
- 10 (3) the Pantex Plant, Amarillo, Texas;
- 11 (4) the Savannah River Plant, South Carolina;
- 12 and
- 13 (5) the Nevada Test Site.

14 SEC. 309. Funds appropriated by this or any other
15 Act, or made available by the transfer of funds in this
16 Act, for intelligence activities are deemed to be specifically
17 authorized by the Congress for purposes of section 504
18 of the National Security Act of 1947 (50 U.S.C. 414) dur-
19 ing fiscal year 2005 until the enactment of the Intelligence
20 Authorization Act for fiscal year 2005.

21 SEC. 310. None of the funds made available in this
22 or any other appropriations Act for fiscal year 2005 or
23 any previous fiscal year may be used to select a site for
24 a Modern Pit Facility during fiscal year 2005.

1 SEC. 311. None of the funds made available in this
2 Act may be used to finance laboratory directed research
3 and development activities at Department of Energy lab-
4 oratories on behalf of other Federal agencies.

5 SEC. 312. (a) None of the funds made available by
6 this Act may be used to issue any license, approval, or
7 authorization for the export or reexport, or transfer, or
8 retransfer, whether directly or indirectly, of nuclear mate-
9 rials and equipment or sensitive nuclear technology, in-
10 cluding items and assistance authorized by section 57 b.
11 of the Atomic Energy Act of 1954 and regulated under
12 part 810 of title 10, Code of Federal Regulations, and nu-
13 clear-related items on the Commerce Control List main-
14 tained under part 774 of title 15 of the Code of Federal
15 Regulations, to any country whose government has been
16 identified by the Secretary of State as engaged in state
17 sponsorship of terrorist activities (specifically including
18 any country the government of which has been determined
19 by the Secretary of State under section 620A(a) of the
20 Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), sec-
21 tion 6(j)(1) of the Export Administration Act of 1979 (50
22 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Ex-
23 port Control Act (22 U.S.C. 2780(d)) to have repeatedly
24 provided support for acts of international terrorism).

1 (b) This section shall not apply to exports, reexports,
2 transfers, or retransfers of radiation monitoring tech-
3 nologies, surveillance equipment, seals, cameras, tamper-
4 indication devices, nuclear detectors, monitoring systems,
5 or equipment necessary to safely store, transport, or re-
6 move hazardous materials, whether such items, services,
7 or information are regulated by the Department of En-
8 ergy, the Department of Commerce, or the Nuclear Regu-
9 latory Commission, except to the extent that such tech-
10 nologies, equipment, seals, cameras, devices, detectors, or
11 systems are available for use in the design or construction
12 of nuclear reactors or nuclear weapons.

13 (c) The President may waive the application of sub-
14 section (a) to a country if the President determines and
15 certifies to Congress that the waiver will not result in any
16 increased risk that the country receiving the waiver will
17 acquire nuclear weapons, nuclear reactors, or any mate-
18 rials or components of nuclear weapons and—

19 (1) the government of such country has not
20 within the preceding 12-month period willfully aided
21 or abetted the international proliferation of nuclear
22 explosive devices to individuals or groups or willfully
23 aided and abetted an individual or groups in acquir-
24 ing unsafeguarded nuclear materials;

1 (2) in the judgment of the President, the gov-
2 ernment of such country has provided adequate,
3 verifiable assurances that it will cease its support for
4 acts of international terrorism;

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

7 (4) such a waiver is essential to prevent or re-
8 spond to a serious radiological hazard in the country
9 receiving the waiver that may or does threaten pub-
10 lic health and safety.

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

15 TITLE IV

16 INDEPENDENT AGENCIES

17 APPALACHIAN REGIONAL COMMISSION

18 For expenses necessary to carry out the programs
19 authorized by the Appalachian Regional Development Act
20 of 1965, as amended, for necessary expenses for the Fed-
21 eral Co-Chairman and the alternate on the Appalachian
22 Regional Commission, for payment of the Federal share
23 of the administrative expenses of the Commission, includ-
24 ing services as authorized by 5 U.S.C. 3109 and hire of

1 passenger motor vehicles, \$38,500,000, to remain avail-
2 able until expended.

3 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

4 SALARIES AND EXPENSES

5 For necessary expenses of the Defense Nuclear Fa-
6 cilities Safety Board in carrying out activities authorized
7 by the Atomic Energy Act of 1954, as amended by Public
8 Law 100–456, section 1441, \$20,268,000, to remain
9 available until expended.

10 DELTA REGIONAL AUTHORITY

11 SALARIES AND EXPENSES

12 For necessary expenses of the Delta Regional Au-
13 thority and to carry out its activities, as authorized by
14 the Delta Regional Authority Act of 2000, as amended,
15 notwithstanding sections 382C(b)(2), 382F(d), and
16 382M(b) of said Act, \$2,096,000, to remain available
17 until expended.

18 NUCLEAR REGULATORY COMMISSION

19 SALARIES AND EXPENSES

20 For necessary expenses of the Commission in car-
21 rying out the purposes of the Energy Reorganization Act
22 of 1974, as amended, and the Atomic Energy Act of
23 1954, as amended, including official representation ex-
24 penses (not to exceed \$15,000), and purchase of pro-
25 motional items for use in the recruitment of individuals

1 for employment, \$662,777,000, to remain available until
2 expended: *Provided*, That of the amount appropriated
3 herein, \$69,050,000 shall be derived from the Nuclear
4 Waste Fund: *Provided further*, That revenues from licens-
5 ing fees, inspection services, and other services and col-
6 lections estimated at \$534,354,300 in fiscal year 2005
7 shall be retained and used for necessary salaries and ex-
8 penses in this account, notwithstanding 31 U.S.C. 3302,
9 and shall remain available until expended: *Provided fur-*
10 *ther*, That the sum herein appropriated shall be reduced
11 by the amount of revenues received during fiscal year
12 2005 so as to result in a final fiscal year 2005 appropria-
13 tion estimated at not more than \$128,422,700.

14 OFFICE OF INSPECTOR GENERAL

15 For necessary expenses of the Office of Inspector
16 General in carrying out the provisions of the Inspector
17 General Act of 1978, as amended, \$7,518,000, to remain
18 available until expended: *Provided*, That revenues from li-
19 censing fees, inspection services, and other services and
20 collections estimated at \$6,766,200 in fiscal year 2005
21 shall be retained and be available until expended, for nec-
22 essary salaries and expenses in this account, notwith-
23 standing 31 U.S.C. 3302: *Provided further*, That the sum
24 herein appropriated shall be reduced by the amount of
25 revenues received during fiscal year 2005 so as to result

1 in a final fiscal year 2005 appropriation estimated at not
2 more than \$751,800.

3 NUCLEAR WASTE TECHNICAL REVIEW BOARD

4 SALARIES AND EXPENSES

5 For necessary expenses of the Nuclear Waste Tech-
6 nical Review Board, as authorized by Public Law 100-
7 203, section 5051, \$3,177,000, to be derived from the
8 Nuclear Waste Fund, and to remain available until ex-
9 pended.

10 TITLE V

11 GENERAL PROVISIONS

12 SEC. 501. None of the funds appropriated by this Act
13 may be used in any way, directly or indirectly, to influence
14 congressional action on any legislation or appropriation
15 matters pending before Congress, other than to commu-
16 nicate to Members of Congress as described in 18 U.S.C.
17 1913.

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

23 SEC. 503. None of the funds made available in this
24 Act may be used to deny requests for the public release
25 of documents or evidence obtained through or in the West-

1 ern Energy Markets: Enron Investigation (Docket No.
2 PA02-2), the California Refund case (Docket No. EL00-
3 95), the Anomalous Bidding Investigation (Docket No.
4 IN03-10), or the Physical Withholding Investigation.

5 This Act may be cited as the “Energy and Water De-
6 velopment Appropriations Act, 2005”.

Passed the House of Representatives June 25, 2004.

Attest: GERASIMOS C. VANS,
Deputy Clerk.