

Union Calendar No. 423

107TH CONGRESS
2^D SESSION

H. R. 5431

[Report No. 107-681]

Making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2002

Mr. CALLAHAN, 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 for the fiscal year ending September 30, 2003, 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
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2003, and for other pur-
6 poses, namely:

1 TITLE I
2 DEPARTMENT OF DEFENSE—CIVIL
3 DEPARTMENT OF THE ARMY
4 CORPS OF ENGINEERS—CIVIL

5 The following appropriations shall be expended under
6 the direction of the Secretary of the Army and the super-
7 vision of the Chief of Engineers for authorized civil func-
8 tions of the Department of the Army pertaining to rivers
9 and harbors, flood control, shore protection, and related
10 purposes.

11 GENERAL INVESTIGATIONS

12 For expenses necessary for the collection and study
13 of basic information pertaining to river and harbor, flood
14 control, shore protection, and related projects, restudy of
15 authorized projects, miscellaneous investigations, and,
16 when authorized by laws, surveys and detailed studies and
17 plans and specifications of projects prior to construction,
18 \$143,680,000, to remain available until expended: *Pro-*
19 *vided*, That in conducting the Southwest Valley Flood
20 Damage Reduction Study, Albuquerque, New Mexico, the
21 Secretary of the Army, acting through the Chief of Engi-
22 neers, shall include an evaluation of flood damage reduc-
23 tion measures that would otherwise be excluded from the
24 feasibility analysis based on policies regarding the fre-
25 quency of flooding, the drainage areas, and the amount

1 of runoff: *Provided further*, That the Secretary of the
2 Army, acting through the Chief of Engineers, is directed
3 to use \$800,000 of the funds appropriated herein to de-
4 velop a plan, at full Federal expense and in conjunction
5 with appropriate Federal and non-Federal entities, to es-
6 tablish a Central Gulf Coast water resources management
7 authority which shall be responsible for addressing water
8 resources needs of the Central Gulf Coast area on a re-
9 gional basis.

10 CONSTRUCTION, GENERAL

11 For the prosecution of river and harbor, flood control,
12 shore protection, and related projects authorized by laws;
13 and detailed studies, and plans and specifications, of
14 projects (including those for development with participa-
15 tion or under consideration for participation by States,
16 local governments, or private groups) authorized or made
17 eligible for selection by law (but such studies shall not con-
18 stitute a commitment of the Government to construction),
19 \$1,831,030,000, to remain available until expended, of
20 which such sums as are necessary for the Federal share
21 of construction costs for facilities under the Dredged Ma-
22 terial Disposal Facilities program shall be derived from
23 the Harbor Maintenance Trust Fund, as authorized by
24 Public Law 104–303; and of which such sums as are nec-
25 essary pursuant to Public Law 99–662 shall be derived

1 from the Inland Waterways Trust Fund, for one-half of
2 the costs of construction and rehabilitation of inland wa-
3 terways projects, including rehabilitation costs for the
4 Lock and Dam 11, Mississippi River, Iowa; Lock and Dam
5 12, Mississippi River, Iowa; Lock and Dam 24, Mississippi
6 River, Illinois and Missouri; Lock and Dam 3, Mississippi
7 River, Minnesota; and London Locks and Dam, Kanawha
8 River, West Virginia, projects; and of which funds are pro-
9 vided for the following projects in the amounts specified:

10 San Timoteo Creek (Santa Ana River
11 Mainstem), California, \$10,000,000;

12 Southern and Eastern Kentucky, Kentucky,
13 \$4,000,000; and

14 Clover Fork, City of Cumberland, Town of Mar-
15 tin, Pike County (including Levisa Fork and Tug
16 Fork Tributaries), Bell County, Harlan County in
17 accordance with the Draft Detailed Report dated
18 January 2002, Floyd County, Martin County, and
19 Johnson County, Kentucky, elements of the Levisa
20 and Tug Forks of the Big Sandy River and Upper
21 Cumberland River, Kentucky, \$29,650,000: *Pro-*
22 *vided*, That, using \$200,000 of the funds appro-
23 priated herein, the Secretary of the Army, acting
24 through the Chief of Engineers, is directed to con-
25 tinue work on the Bois Brule Drainage and Levee

1 District, Missouri, design deficiency project under
2 the terms and conditions specified in Public Law
3 107–66: *Provided further*, That using \$9,744,000 of
4 the funds appropriated herein, the Secretary of the
5 Army, acting through the Chief of Engineers, is di-
6 rected to continue construction of the Dallas
7 Floodway Extension, Texas, project, including the
8 Cadillac Heights feature, generally in accordance
9 with the Chief of Engineers report dated December
10 7, 1999: *Provided further*, That the Secretary of the
11 Army, acting through the Chief of Engineers, is di-
12 rected to use \$4,000,000 of the funds appropriated
13 herein to undertake the Bowie County Levee, Texas,
14 project, which is defined as Alternative B, Local
15 Sponsor Option, in the Corps of Engineers document
16 entitled Bowie County Local Flood Protection, Red
17 River, Texas, Project Design Memorandum No. 1,
18 Bowie County Levee, dated April 1997: *Provided*
19 *further*, That cost sharing for the Bowie County
20 Levee, Texas, project shall be in accordance with the
21 provisions of the Flood Control Act of 1946: *Pro-*
22 *vided further*, That the Secretary of the Army is di-
23 rected to accept advance funds, pursuant to section
24 11 of the River and Harbor Act of 1925, from the
25 non-Federal sponsor of the Los Angeles Harbor,

1 California, project authorized by section 101(b)(5) of
2 Public Law 106–541, which are needed to maintain
3 the project schedule.

4 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
5 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
6 SSISSIPPI, MISSOURI, AND TENNESSEE

7 For expenses necessary for prosecuting work of flood
8 control, rescue work, repair, restoration, or maintenance
9 of flood control projects threatened or destroyed by flood,
10 as authorized by law (33 U.S.C. 702a and 702g–1),
11 \$342,071,000, to remain available until expended.

12 OPERATION AND MAINTENANCE, GENERAL

13 For expenses necessary for the preservation, oper-
14 ation, maintenance, and care of existing river and harbor,
15 flood control, and related works, including such sums as
16 may be necessary for the maintenance of harbor channels
17 provided by a State, municipality or other public agency,
18 outside of harbor lines, and serving essential needs of gen-
19 eral commerce and navigation; surveys and charting of
20 northern and northwestern lakes and connecting waters;
21 clearing and straightening channels; and removal of ob-
22 structions to navigation, \$1,990,280,000, to remain avail-
23 able until expended, of which such sums as become avail-
24 able in the Harbor Maintenance Trust Fund, pursuant to
25 Public Law 99–662, may be derived from that Fund, and

1 of which such sums as become available from the special
2 account established by the Land and Water Conservation
3 Act of 1965, as amended (16 U.S.C. 4601), may be derived
4 from that account for construction, operation, and mainte-
5 nance of outdoor recreation facilities: *Provided*, That using
6 \$888,000 of the funds appropriated herein, the Secretary
7 of the Army, acting through the Chief of Engineers, is
8 directed to undertake recreation improvements associated
9 with the pool raise at Waco Lake, Texas: *Provided further*,
10 That the Secretary of the Army, acting through the Chief
11 of Engineers, is directed to fully investigate alternative
12 methods of maintaining the Tennessee-Tombigbee Water-
13 way project, including lease, lease/purchase, or purchase
14 of a commercially manufactured dredge and ancillary
15 equipment, and to implement, within two years, the meth-
16 od that would facilitate a more cost-effective and reliable
17 means of maintaining authorized project dimensions: *Pro-*
18 *vided further*, That the Secretary of the Army, acting
19 through the Chief of Engineers, is directed to use
20 \$3,660,000 of the funds appropriated herein to undertake
21 work to expand or improve recreational facilities and un-
22 dertake environmental restoration activities at the Hansen
23 Dam Recreation Area, California, consistent with the
24 Hansen Dam Recreation Area Master Plan.

1 FLOOD CONTROL AND COASTAL EMERGENCIES

2 For expenses necessary for emergency flood control,
3 hurricane response, and emergency shore protection and
4 related activities, \$20,000,000, to remain available until
5 expended.

6 REGULATORY PROGRAM

7 For expenses necessary for administration of laws
8 pertaining to regulation of navigable waters and wetlands,
9 \$134,000,000, to remain available until expended.

10 FORMERLY UTILIZED SITES REMEDIAL ACTION

11 PROGRAM

12 For expenses necessary to clean up contamination
13 from sites throughout the United States resulting from
14 work performed as part of the Nation's early atomic en-
15 ergy program, \$150,000,000, to remain available until ex-
16 pended.

17 GENERAL EXPENSES

18 For expenses necessary for general administration
19 and related functions in the Office of the Chief of Engi-
20 neers and offices of the Division Engineers, activities of
21 the Humphreys Engineer Center Support Activity, the In-
22 stitute for Water Resources, and headquarters support
23 functions at the USACE Finance Center, \$154,651,000,
24 to remain available until expended: *Provided*, That no part
25 of any other appropriation provided in title I of this Act

1 shall be available to fund the activities of the Office of
2 the Chief of Engineers or the executive direction and man-
3 agement activities of the division offices: *Provided further*,
4 That none of these funds shall be available to support an
5 office of congressional affairs within the executive office
6 of the Chief of Engineers.

7 ADMINISTRATIVE PROVISIONS

8 Appropriations in this title shall be available for offi-
9 cial reception and representation expenses (not to exceed
10 \$5,000); and during the current fiscal year the Revolving
11 Fund, Corps of Engineers, shall be available for purchase
12 (not to exceed 100 for replacement only) and hire of pas-
13 senger motor vehicles.

14 GENERAL PROVISIONS

15 CORPS OF ENGINEERS—CIVIL

16 SEC. 101. Agreements proposed for execution by the
17 Assistant Secretary of the Army for Civil Works or the
18 United States Army Corps of Engineers after the date of
19 the enactment of this Act pursuant to section 4 of the
20 Rivers and Harbor Act of 1915, Public Law 64–291; sec-
21 tion 11 of the River and Harbor Act of 1925, Public Law
22 68–585; the Civil Functions Appropriations Act, 1936,
23 Public Law 75–208; section 215 of the Flood Control Act
24 of 1968, as amended, Public Law 90–483; sections 104,
25 203, and 204 of the Water Resources Development Act

1 of 1986, as amended, Public Law 99–662; section 206 of
2 the Water Resources Development Act of 1992, as amend-
3 ed, Public Law 102–580; section 211 of the Water Re-
4 sources Development Act of 1996, Public Law 104–303;
5 and any other specific project authority, shall be limited
6 to credits and reimbursements per project not to exceed
7 \$10,000,000 in each fiscal year, and total credits and re-
8 imbursements for all applicable projects not to exceed
9 \$50,000,000 in each fiscal year.

10 SEC. 102. Provided that the dredge McFARLAND
11 is operated in the manner recommended in the report of
12 the Assistant Secretary of the Army (Civil Works) to Con-
13 gress dated June 12, 2000, and is operated using the same
14 procedures as those established to operate the dredge
15 WHEELER, the Secretary of the Army may expend funds
16 under normal competitive procedures for renovations of
17 the dredge McFARLAND as have been previously author-
18 ized by section 563 of Public Law 104–303.

19 SEC. 103. None of the funds appropriated in this or
20 any other Act may be used by the U.S. Army Corps of
21 Engineers to support activities, including reconnaissance
22 and feasibility studies, and planning, engineering and de-
23 sign, related to the Chicago Harbor Visitors Center.

24 SEC. 104. The Secretary of the Army, acting through
25 the Chief of Engineers, is directed to reduce by 37 percent

1 the full-time employees at the Chicago District office of
2 the U.S. Army Corps of Engineers.

3 TITLE II

4 DEPARTMENT OF THE INTERIOR

5 CENTRAL UTAH PROJECT

6 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

7 For carrying out activities authorized by the Central
8 Utah Project Completion Act, \$34,902,000, to remain
9 available until expended, of which \$11,259,000 shall be
10 deposited into the Utah Reclamation Mitigation and Con-
11 servation Account for use by the Utah Reclamation Miti-
12 gation and Conservation Commission.

13 In addition, for necessary expenses incurred in car-
14 rying out related responsibilities of the Secretary of the
15 Interior, \$1,326,000, to remain available until expended.

16 BUREAU OF RECLAMATION

17 The following appropriations shall be expended to
18 execute authorized functions of the Bureau of Reclama-
19 tion:

20 WATER AND RELATED RESOURCES

21 (INCLUDING TRANSFER OF FUNDS)

22 For management, development, and restoration of
23 water and related natural resources and for related activi-
24 ties, including the operation, maintenance, and rehabilita-
25 tion of reclamation and other facilities, participation in
26 fulfilling related Federal responsibilities to Native Ameri-

1 cans, and related grants to, and cooperative and other
2 agreements with, State and local governments, Indian
3 tribes, and others, \$807,518,000, to remain available until
4 expended, of which \$36,400,000 shall be available for
5 transfer to the Upper Colorado River Basin Fund and
6 \$34,327,000 shall be available for transfer to the Lower
7 Colorado River Basin Development Fund; of which such
8 amounts as may be necessary may be advanced to the Col-
9 orado River Dam Fund; of which \$4,600,000 shall be for
10 on-reservation water development, feasibility studies, and
11 related administrative costs under Public Law 106–163;
12 and of which not more than \$500,000 is for high priority
13 projects which shall be carried out by the Youth Conserva-
14 tion Corps, as authorized by 16 U.S.C. 1706: *Provided*,
15 That such transfers may be increased or decreased within
16 the overall appropriation under this heading: *Provided fur-*
17 *ther*, That of the total appropriated, the amount for pro-
18 gram activities that can be financed by the Reclamation
19 Fund or the Bureau of Reclamation special fee account
20 established by 16 U.S.C. 460l–6a(i) shall be derived from
21 that Fund or account: *Provided further*, That funds con-
22 tributed under 43 U.S.C. 395 are available until expended
23 for the purposes for which contributed: *Provided further*,
24 That funds advanced under 43 U.S.C. 397a shall be cred-
25 ited to this account and are available until expended for

1 the same purposes as the sums appropriated under this
2 heading: *Provided further*, That \$12,000,000 of the funds
3 appropriated herein shall be deposited in the San Gabriel
4 Basin Restoration Fund established by section 110 of divi-
5 sion B, title I of Public Law 106–554, as amended: *Pro-*
6 *vided further*, That funds available for expenditure for the
7 Departmental Irrigation Drainage Program may be ex-
8 pended by the Bureau of Reclamation for site remediation
9 on a non-reimbursable basis: *Provided further*, That sec-
10 tion 301 of Public Law 102–250, Reclamation States
11 Emergency Drought Relief Act of 1991, as amended, is
12 amended further by inserting “2002, and 2003” in lieu
13 of “and 2002”.

14 CENTRAL VALLEY PROJECT RESTORATION FUND

15 For carrying out the programs, projects, plans, and
16 habitat restoration, improvement, and acquisition provi-
17 sions of the Central Valley Project Improvement Act,
18 \$48,904,000, to be derived from such sums as may be col-
19 lected in the Central Valley Project Restoration Fund pur-
20 suant to sections 3407(d), 3404(c)(3), 3405(f), and
21 3406(c)(1) of Public Law 102–575, to remain available
22 until expended: *Provided*, That the Bureau of Reclamation
23 is directed to assess and collect the full amount of the
24 additional mitigation and restoration payments authorized
25 by section 3407(d) of Public Law 102–575.

1 POLICY AND ADMINISTRATION

2 For necessary expenses of policy, administration, and
3 related functions in the Office of the Commissioner, the
4 Denver office, and offices in the five regions of the Bureau
5 of Reclamation, to remain available until expended,
6 \$54,870,000, to be derived from the Reclamation Fund
7 and be nonreimbursable as provided in 43 U.S.C. 377:
8 *Provided*, That no part of any other appropriation in this
9 Act shall be available for activities or functions budgeted
10 as policy and administration expenses.

11 ADMINISTRATIVE PROVISION

12 Appropriations for the Bureau of Reclamation shall
13 be available for purchase of not to exceed 16 passenger
14 motor vehicles, of which 12 are for replacement only.

15 GENERAL PROVISIONS

16 DEPARTMENT OF THE INTERIOR

17 SEC. 201. In order to increase opportunities for In-
18 dian tribes to develop, manage, and protect their water
19 resources, in fiscal year 2003, the Secretary of the Inte-
20 rior, acting through the Commissioner of the Bureau of
21 Reclamation, is authorized to enter into grants and coop-
22 erative agreements with any Indian tribe, institution of
23 higher education, national Indian organization, or tribal
24 organization pursuant to 31 U.S.C. 6301–6308. Nothing
25 in this Act is intended to modify or limit the provisions

1 of the Indian Self Determination Act (25 U.S.C. 45 et
2 seq.).

3 SEC. 202. (a) None of the funds appropriated or oth-
4 erwise made available by this Act may be used to deter-
5 mine the final point of discharge for the interceptor drain
6 for the San Luis Unit until development by the Secretary
7 of the Interior and the State of California of a plan, which
8 shall conform to the water quality standards of the State
9 of California as approved by the Administrator of the En-
10 vironmental Protection Agency, to minimize any detri-
11 mental effect of the San Luis drainage waters.

12 (b) The costs of the Kesterson Reservoir Cleanup
13 Program and the costs of the San Joaquin Valley Drain-
14 age Program shall be classified by the Secretary of the
15 Interior as reimbursable or nonreimbursable and collected
16 until fully repaid pursuant to the “Cleanup Program—
17 Alternative Repayment Plan” and the “SJVDP—Alter-
18 native Repayment Plan” described in the report entitled
19 “Repayment Report, Kesterson Reservoir Cleanup Pro-
20 gram and San Joaquin Valley Drainage Program, Feb-
21 ruary 1995”, prepared by the Department of the Interior,
22 Bureau of Reclamation. Any future obligations of funds
23 by the United States relating to, or providing for, drainage
24 service or drainage studies for the San Luis Unit shall
25 be fully reimbursable by San Luis Unit beneficiaries of

1 such service or studies pursuant to Federal reclamation
2 law.

3 SEC. 203. Section 212 of the Energy and Water De-
4 velopment Appropriations Act, 2001 (114 Stat. 1441B-
5 13) is amended as follows:

6 (1) In subsection (a)(2)—

7 (A) by inserting “all real and personal
8 property rights and interests associated with
9 such conduits and canals, all water rights of
10 whatever nature or kind associated therewith,
11 and” before “all recreational facilities”; and

12 (B) by inserting “and improvements” after
13 “recreational facilities”.

14 (2) In subsection (b)—

15 (A) by striking “as soon as practicable
16 after date of enactment of this Act” and insert-
17 ing “by no later than June 30, 2003,”; and

18 (B) by inserting “including all real and
19 personal property rights, water rights, and fa-
20 cilities held by or appropriated to the United
21 States” after “all right, title, and interest in
22 and to the Sly Park Unit to the District”.

23 (3) In subsection (c)—

1 (A) by striking “The Secretary” and in-
2 serting “(1) Subject to paragraph (2), the Sec-
3 retary”;

4 (B) by inserting “and subsequent interim
5 renewal contracts associated therewith” after
6 “contract number 14-06-200-949IR3”; and

7 (C) by adding at the end the following:

8 “(2) The amount the Secretary is authorized to re-
9 ceive under paragraph (1) shall be reduced by an amount
10 equal to any payments received by the United States from
11 the District under the contracts referred to in paragraph
12 (1) in the period beginning on the date of the enactment
13 of this Act and ending on the date of conveyance of the
14 Sly Park Unit under this section.”.

15 SEC. 204. Section 110(a)(3)(A)(i) of division B of the
16 Miscellaneous Appropriations Act, 2001 (as enacted into
17 law by section 1(a)(4) of Public Law 106-554), is further
18 amended by inserting “, including all expenditures made
19 by the Central Basin Municipal Water District between
20 February 11, 1993, and December 21, 2000” before the
21 semi-colon.

1 TITLE III
2 DEPARTMENT OF ENERGY
3 ENERGY PROGRAMS
4 ENERGY SUPPLY

5 For Department of Energy expenses including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment, and other expenses necessary for energy
8 supply activities in carrying out the purposes of the De-
9 partment of Energy Organization Act (42 U.S.C. 7101 et
10 seq.), including the acquisition or condemnation of any
11 real property or any facility or for plant or facility acquisi-
12 tion, construction, or expansion, \$633,909,000, to remain
13 available until expended.

14 NON-DEFENSE ENVIRONMENTAL MANAGEMENT

15 For Department of Energy expenses, including the
16 purchase, construction and acquisition of plant and capital
17 equipment and other expenses necessary for non-defense
18 environmental management activities in carrying out the
19 purposes of the Department of Energy Organization Act
20 (42 U.S.C. 7101 et seq.), including the acquisition or con-
21 demnation of any real property or any facility or for plant
22 or facility acquisition, construction, or expansion,
23 \$213,259,000, to remain available until expended.

1 URANIUM FACILITIES MAINTENANCE AND REMEDIATION

2 For necessary expenses to maintain, decontaminate,
3 decommission, and otherwise remediate uranium proc-
4 essing facilities, \$382,154,000, of which \$235,523,000,
5 shall be derived from the Uranium Enrichment Decon-
6 tamination and Decommissioning Fund, all of which shall
7 remain available until expended.

8 SCIENCE

9 For Department of Energy expenses including the
10 purchase, construction and acquisition of plant and capital
11 equipment, and other expenses necessary for science ac-
12 tivities in carrying out the purposes of the Department
13 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
14 cluding the acquisition or condemnation of any real prop-
15 erty or facility or for plant or facility acquisition, construc-
16 tion, or expansion, and purchase of not to exceed 28 pas-
17 senger motor vehicles for replacement only,
18 \$3,271,233,000, to remain available until expended.

19 NUCLEAR WASTE DISPOSAL

20 For nuclear waste disposal activities to carry out the
21 purposes of Public Law 97-425, as amended, including
22 the acquisition of real property or facility construction or
23 expansion, \$209,702,000, to remain available until ex-
24 pended and to be derived from the Nuclear Waste Fund:
25 *Provided*, That not to exceed \$2,500,000 shall be provided

1 to the State of Nevada solely for expenditures, other than
2 salaries and expenses of State employees, to conduct sci-
3 entific oversight responsibilities pursuant to the Nuclear
4 Waste Policy Act of 1982, Public Law 97-425, as amend-
5 ed: *Provided further*, That not to exceed \$6,000,000 shall
6 be provided to affected units of local governments, as de-
7 fined in Public Law 97-425, to conduct appropriate activi-
8 ties pursuant to the Act: *Provided further*, That the dis-
9 tribution of the funds as determined by the units of local
10 government shall be approved by the Department of En-
11 ergy: *Provided further*, That the funds for the State of
12 Nevada shall be made available solely to the Nevada Divi-
13 sion of Emergency Management by direct payment and
14 units of local government by direct payment: *Provided fur-*
15 *ther*, That within 90 days of the completion of each Fed-
16 eral fiscal year, the Nevada Division of Emergency Man-
17 agement and the Governor of the State of Nevada and
18 each local entity shall provide certification to the Depart-
19 ment of Energy that all funds expended from such pay-
20 ments have been expended for activities authorized by
21 Public Law 97-425 and this Act. Failure to provide such
22 certification shall cause such entity to be prohibited from
23 any further funding provided for similar activities: *Pro-*
24 *vided further*, That none of the funds herein appropriated
25 may be: (1) used directly or indirectly to influence legisla-

1 tive action on any matter pending before Congress or a
2 State legislature or for lobbying activity as provided in 18
3 U.S.C. 1913; (2) used for litigation expenses; or (3) used
4 to support multi-State efforts or other coalition building
5 activities inconsistent with the restrictions contained in
6 this Act: *Provided further*, That all proceeds and recoveries
7 realized by the Secretary in carrying out activities author-
8 ized by the Nuclear Waste Policy Act of 1982, Public Law
9 97-425, as amended, including but not limited to, any
10 proceeds from the sale of assets, shall be available without
11 further appropriation and shall remain available until ex-
12 pended.

13 DEPARTMENTAL ADMINISTRATION

14 For salaries and expenses of the Department of En-
15 ergy necessary for departmental administration in car-
16 rying out the purposes of the Department of Energy Orga-
17 nization Act (42 U.S.C. 7101 et seq.), including the hire
18 of passenger motor vehicles and official reception and rep-
19 resentation expenses (not to exceed \$35,000),
20 \$208,672,000, to remain available until expended, plus
21 such additional amounts as necessary to cover increases
22 in the estimated amount of cost of work for others not-
23 withstanding the provisions of the Anti-Deficiency Act (31
24 U.S.C. 1511 et seq.): *Provided*, That such increases in
25 cost of work are offset by revenue increases of the same

1 or greater amount, to remain available until expended:
2 *Provided further*, That moneys received by the Department
3 for miscellaneous revenues estimated to total \$80,000,000
4 in fiscal year 2003 may be retained and used for operating
5 expenses within this account, and may remain available
6 until expended, as authorized by section 201 of Public
7 Law 95–238, notwithstanding the provisions of 31 U.S.C.
8 3302: *Provided further*, That the sum herein appropriated
9 shall be reduced by the amount of miscellaneous revenues
10 received during fiscal year 2003 so as to result in a final
11 fiscal year 2003 appropriation from the General Fund es-
12 timated at not more than \$128,672,000.

13 OFFICE OF THE INSPECTOR GENERAL

14 For necessary expenses of the Office of the Inspector
15 General in carrying out the provisions of the Inspector
16 General Act of 1978, as amended, \$37,671,000, to remain
17 available until expended.

18 ATOMIC ENERGY DEFENSE ACTIVITIES

19 NATIONAL NUCLEAR SECURITY

20 ADMINISTRATION

21 WEAPONS ACTIVITIES

22 (INCLUDING TRANSFER OF FUNDS)

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

1 atomic energy defense weapons activities in carrying out
2 the purposes of the Department of Energy Organization
3 Act (42 U.S.C. 7101 et seq.), including the acquisition or
4 condemnation of any real property or any facility or for
5 plant or facility acquisition, construction, or expansion;
6 and the purchase of not to exceed one passenger motor
7 vehicle, \$5,772,068,000, to remain available until Sep-
8 tember 30, 2005: *Provided*, That after March 1, 2003,
9 none of the funds in this paragraph may be obligated or
10 expended for activities of the Nuclear Weapons Council
11 until the Council certifies to the Armed Services and Ap-
12 propriations Committees of Congress that Selected Acqui-
13 sition Reports submitted to Congress in the fiscal year
14 2004 budget by the Department of Energy are identical
15 in format, content, and security classification to those sub-
16 mitted by the Department of Defense: *Provided further*,
17 That none of the funds in this paragraph may be obligated
18 or expended after February 1, 2004, (1) until the Depart-
19 ment of Energy has in place a financial system in which
20 the Government fully and accurately tracks the costs of
21 nuclear weapons programs and activities by weapon sys-
22 tem and (2) unless the President's budget for fiscal year
23 2005 includes detailed budget justification for each weap-
24 on system: *Provided further*, That not less than
25 \$10,000,000 of the funds provided in this paragraph shall

1 be transferred to the Chief Financial Officer of the De-
2 partment of Energy for the sole purpose of upgrading the
3 Department of Energy's accounting and financial systems
4 to track National Nuclear Security Administration costs
5 by weapon system.

6 DEFENSE NUCLEAR NONPROLIFERATION

7 For Department of Energy expenses, including the
8 purchase, construction and acquisition of plant and capital
9 equipment and other incidental expenses necessary for
10 atomic energy defense, defense nuclear nonproliferation
11 activities, in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or any facility or for plant or facility acquisition, con-
15 struction, or expansion, \$1,167,630,000, to remain avail-
16 able until September 30, 2005.

17 NAVAL REACTORS

18 For Department of Energy expenses necessary for
19 naval reactors activities to carry out the Department of
20 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
21 ing the acquisition (by purchase, condemnation, construc-
22 tion, or otherwise) of real property, plant, and capital
23 equipment, facilities, and facility expansion,
24 \$706,790,000, to remain available until September 30,
25 2005.

1 OFFICE OF THE ADMINISTRATOR

2 For necessary expenses of the Office of the Adminis-
3 trator of the National Nuclear Security Administration,
4 including official reception and representation expenses
5 (not to exceed \$12,000), \$261,929,000, to remain avail-
6 able until September 30, 2003.

7 ENVIRONMENTAL AND OTHER DEFENSE

8 ACTIVITIES

9 DEFENSE ENVIRONMENTAL RESTORATION AND WASTE
10 MANAGEMENT

11 For Department of Energy expenses, including the
12 purchase, construction, and acquisition of plant and cap-
13 ital equipment and other expenses necessary for atomic
14 energy defense environmental restoration and waste man-
15 agement activities in carrying out the purposes of the De-
16 partment of Energy Organization Act (42 U.S.C. 7101 et
17 seq.), including the acquisition or condemnation of any
18 real property or any facility or for plant or facility acquisi-
19 tion, construction, or expansion; and the purchase of not
20 to exceed 24 passenger motor vehicles, for replacement
21 only, \$4,543,661,000, to remain available until expended.

22 ENVIRONMENTAL MANAGEMENT CLEANUP REFORM

23 (INCLUDING TRANSFER OF FUNDS)

24 For Department of Energy expenses, including the
25 purchase, construction, and acquisition or condemnation

1 of any real property or plant, and capital equipment and
2 other expenses necessary to accelerate or provide alter-
3 native cleanup strategies for environmental restoration
4 and waste management activities in carrying out the pur-
5 poses of the Department of Energy Organization Act (42
6 U.S.C. 7101 et seq.), \$1,100,000,000, to remain available
7 until expended: *Provided*, That these amounts may be
8 transferred to and merged with accounts under this title
9 which fund specific cleanup activities only after the Sec-
10 retary of Energy enters into an agreement satisfactory to
11 the Secretary and the appropriate State and Federal regu-
12 lators, for each site for which these funds may be used.

13 DEFENSE FACILITIES CLOSURE PROJECTS

14 For expenses of the Department of Energy to accel-
15 erate the closure of defense environmental management
16 sites, including the purchase, construction, and acquisition
17 of plant and capital equipment and other necessary ex-
18 penses, \$1,091,314,000, to remain available until ex-
19 pended.

20 DEFENSE ENVIRONMENTAL MANAGEMENT

21 PRIVATIZATION

22 For Department of Energy expenses for privatization
23 projects necessary for atomic energy defense environ-
24 mental management activities authorized by the Depart-

1 ment of Energy Organization Act (42 U.S.C. 7101 et
2 seq.), \$158,399,000, to remain available until expended.

3 OTHER DEFENSE ACTIVITIES

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other expenses necessary for atomic
7 energy defense, other defense activities, in carrying out the
8 purposes of the Department of Energy Organization Act
9 (42 U.S.C. 7101 et seq.), including the acquisition or con-
10 demnation of any real property or any facility or for plant
11 or facility acquisition, construction, or expansion,
12 \$485,076,000, to remain available until expended.

13 DEFENSE NUCLEAR WASTE DISPOSAL

14 For nuclear waste disposal activities to carry out the
15 purposes of Public Law 97-425, as amended, including
16 the acquisition of real property or facility construction or
17 expansion, \$315,000,000, to remain available until ex-
18 pended.

19 POWER MARKETING ADMINISTRATIONS

20 BONNEVILLE POWER ADMINISTRATION FUND

21 Expenditures from the Bonneville Power Administra-
22 tion Fund, established pursuant to Public Law 93-454,
23 are approved for official reception and representation ex-
24 penses in an amount not to exceed \$1,500.

1 During fiscal year 2003, no new direct loan obliga-
2 tions may be made.

3 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
4 ADMINISTRATION

5 For necessary expenses of operation and maintenance
6 of power transmission facilities and of marketing electric
7 power and energy, including transmission wheeling and
8 ancillary services, pursuant to the provisions of section 5
9 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
10 applied to the southeastern power area, \$4,534,000, to re-
11 main available until expended; in addition, notwith-
12 standing the provisions of 31 U.S.C. 3302, up to
13 \$14,463,000 collected by the Southeastern Power Admin-
14 istration pursuant to the Flood Control Act to recover pur-
15 chase power and wheeling expenses shall be credited to
16 this account as offsetting collections, to remain available
17 until expended for the sole purpose of making purchase
18 power and wheeling expenditures.

19 OPERATION AND MAINTENANCE, SOUTHWESTERN
20 POWER ADMINISTRATION

21 For necessary expenses of operation and maintenance
22 of power transmission facilities and of marketing electric
23 power and energy, and for construction and acquisition of
24 transmission lines, substations and appurtenant facilities,
25 and for administrative expenses, including official recep-

1 tion and representation expenses in an amount not to ex-
2 ceed \$1,500 in carrying out the provisions of section 5
3 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
4 applied to the southwestern power area, \$27,378,000, to
5 remain available until expended; in addition, notwith-
6 standing the provisions of 31 U.S.C. 3302, not to exceed
7 \$16,455,000 in reimbursements, to remain available until
8 expended: *Provided*, Notwithstanding the provisions of 31
9 U.S.C. 3302, that up to \$1,512,000 collected by the
10 Southwestern Power Administration pursuant to the
11 Flood Control Act to recover purchase power and wheeling
12 expenses shall be credited to this account as offsetting col-
13 lections, to remain available until expended for the sole
14 purpose of making purchase power and wheeling expendi-
15 tures.

16 CONSTRUCTION, REHABILITATION, OPERATION AND
17 MAINTENANCE, WESTERN AREA POWER ADMINIS-
18 TRATION

19 For carrying out the functions authorized by title III,
20 section 302(a)(1)(E) of the Act of August 4, 1977 (42
21 U.S.C. 7152), and other related activities including con-
22 servation and renewable resources programs as author-
23 ized, including official reception and representation ex-
24 penses in an amount not to exceed \$1,500, \$162,758,000,
25 to remain available until expended, of which \$158,605,000

1 shall be derived from the Department of the Interior Rec-
2 lamation Fund: *Provided*, That up to \$156,124,000 col-
3 lected by the Western Area Power Administration pursu-
4 ant to the Flood Control Act of 1944 and the Reclamation
5 Project Act of 1939 to recover purchase power and wheel-
6 ing expenses shall be credited to this account as offsetting
7 collections, to remain available until expended for the sole
8 purpose of making purchase power and wheeling expendi-
9 tures.

10 FALCON AND AMISTAD OPERATING AND MAINTENANCE
11 FUND

12 For operation, maintenance, and emergency costs for
13 the hydroelectric facilities at the Falcon and Amistad
14 Dams, \$2,734,000, to remain available until expended,
15 and to be derived from the Falcon and Amistad Operating
16 and Maintenance Fund of the Western Area Power Ad-
17 ministration, as provided in section 423 of the Foreign
18 Relations Authorization Act, Fiscal Years 1994 and 1995.

19 FEDERAL ENERGY REGULATORY COMMISSION
20 SALARIES AND EXPENSES

21 For necessary expenses of the Federal Energy Regu-
22 latory Commission to carry out the provisions of the De-
23 partment of Energy Organization Act (42 U.S.C. 7101 et
24 seq.), including services as authorized by 5 U.S.C. 3109,
25 the hire of passenger motor vehicles, and official reception

1 and representation expenses (not to exceed \$3,000),
2 \$192,000,000, to remain available until expended: *Pro-*
3 *vided*, That notwithstanding any other provision of law,
4 not to exceed \$192,000,000 of revenues from fees and an-
5 nual charges, and other services and collections in fiscal
6 year 2003 shall be retained and used for necessary ex-
7 penses in this account, and shall remain available until
8 expended: *Provided further*, That the sum herein appro-
9 priated from the General Fund shall be reduced as reve-
10 nues are received during fiscal year 2003 so as to result
11 in a final fiscal year 2003 appropriation from the General
12 Fund estimated at not more than \$0.

13 GENERAL PROVISIONS

14 DEPARTMENT OF ENERGY

15 SEC. 301. (a) None of the funds appropriated by this
16 Act may be used to award a management and operating
17 contract, or a contract for environmental remediation or
18 waste management in excess of \$100 million in annual
19 funding at a current or former management and operating
20 contract site or facility, or award a significant extension
21 or expansion to an existing management and operating
22 contract, or other contract covered by this section, unless
23 such contract is awarded using competitive procedures or
24 the Secretary of Energy grants, on a case-by-case basis,

1 a waiver to allow for such a deviation. The Secretary may
2 not delegate the authority to grant such a waiver.

3 (b) At least 60 days before a contract award for
4 which the Secretary intends to grant such a waiver, the
5 Secretary shall submit to the Subcommittees on Energy
6 and Water Development of the Committees on Appropria-
7 tions of the House of Representatives and the Senate a
8 report notifying the Subcommittees of the waiver and set-
9 ting forth, in specificity, the substantive reasons why the
10 Secretary believes the requirement for competition should
11 be waived for this particular award.

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

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

17 (2) provide enhanced severance payments or
18 other benefits for employees of the Department of
19 Energy,

20 under section 3161 of the National Defense Authorization
21 Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.
22 7274h).

23 SEC. 303. None of the funds appropriated by this Act
24 may be used to augment the \$20,000,000 made available
25 for obligation by this Act for severance payments and

1 other benefits and community assistance grants under sec-
2 tion 3161 of the National Defense Authorization Act for
3 Fiscal Year 1993 (Public Law 102-484; 42 U.S.C.
4 7274h) unless the Department of Energy submits a re-
5 programming request subject to approval by the appro-
6 priate Congressional committees.

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

11 (TRANSFERS OF UNEXPENDED BALANCES)

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

19 SEC. 306. None of the funds in this or any other Act
20 for the Administrator of the Bonneville Power Administra-
21 tion may be used to enter into any agreement to perform
22 energy efficiency services outside the legally defined Bon-
23 neville service territory, with the exception of services pro-
24 vided internationally, including services provided on a re-
25 imburseable basis, unless the Administrator certifies in ad-

1 vance that such services are not available from private sec-
2 tor businesses.

3 SEC. 307. When the Department of Energy makes
4 a user facility available to universities and other potential
5 users, or seeks input from universities and other potential
6 users regarding significant characteristics or equipment in
7 a user facility or a proposed user facility, the Department
8 shall ensure broad public notice of such availability or
9 such need for input to universities and other potential
10 users. When the Department of Energy considers the par-
11 ticipation of a university or other potential user as a for-
12 mal partner in the establishment or operation of a user
13 facility, the Department shall employ full and open com-
14 petition in selecting such a partner. For purposes of this
15 section, the term “user facility” includes, but is not lim-
16 ited to: (1) a user facility as described in section
17 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
18 13503(a)(2)); (2) a National Nuclear Security Adminis-
19 tration Defense Programs Technology Deployment Cen-
20 ter/User Facility; and (3) any other Departmental facility
21 designated by the Department as a user facility.

22 SEC. 308. The Administrator of the National Nuclear
23 Security Administration may authorize the plant manager
24 of a covered nuclear weapons production plant to engage
25 in research, development, and demonstration activities

1 with respect to the engineering and manufacturing capa-
2 bilities at such plant in order to maintain and enhance
3 such capabilities at such plant: *Provided*, That of the
4 amount allocated to a covered nuclear weapons production
5 plant each fiscal year from amounts available to the De-
6 partment of Energy for such fiscal year for national secu-
7 rity programs, not more than an amount equal to 2 per-
8 cent of such amount may be used for these activities: *Pro-*
9 *vided further*, That for purposes of this section, the term
10 “covered nuclear weapons production plant” means the
11 following:

- 12 (1) the Kansas City Plant, Kansas City, Mis-
13 souri;
- 14 (2) the Y-12 Plant, Oak Ridge, Tennessee;
- 15 (3) the Pantex Plant, Amarillo, Texas; and
- 16 (4) the Savannah River Plant, South Carolina.

17 SEC. 309. The Administrator of the National Nuclear
18 Security Administration may authorize the manager of the
19 Nevada Operations Office to engage in research, develop-
20 ment, and demonstration activities with respect to the de-
21 velopment, test, and evaluation capabilities necessary for
22 operations and readiness of the Nevada Test Site: *Pro-*
23 *vided*, That of the amount allocated to the Nevada Oper-
24 ations Office each fiscal year from amounts available to
25 the Department of Energy for such fiscal year for national

1 security programs at the Nevada Test Site, not more than
2 an amount equal to 2 percent of such amount may be used
3 for these activities.

4 SEC. 310. Section 310 of the Energy and Water De-
5 velopment Appropriations Act, 2000 (Public Law 106-
6 60), is hereby repealed.

7 SEC. 311. Funds appropriated by this or any other
8 Act, or made available by the transfer of funds in this
9 Act, for intelligence activities are deemed to be specifically
10 authorized by the Congress for purposes of section 504
11 of the National Security Act of 1947 (50 U.S.C. 414) dur-
12 ing fiscal year 2003 until the enactment of the Intelligence
13 Authorization Act for fiscal year 2003.

14 TITLE IV

15 INDEPENDENT AGENCIES

16 APPALACHIAN REGIONAL COMMISSION

17 For expenses necessary to carry out the programs au-
18 thorized by the Appalachian Regional Development Act of
19 1965, as amended, and, for necessary expenses for the
20 Federal Co-Chairman and the alternate on the Appa-
21 lachian Regional Commission, for payment of the Federal
22 share of the administrative expenses of the Commission,
23 including services as authorized by 5 U.S.C. 3109, and
24 hire of passenger motor vehicles, \$71,290,000, to remain
25 available until expended.

1 DEFENSE NUCLEAR FACILITIES SAFETY
2 BOARD
3 SALARIES AND EXPENSES

4 For necessary expenses of the Defense Nuclear Fa-
5 cilities Safety Board in carrying out activities authorized
6 by the Atomic Energy Act of 1954, as amended by Public
7 Law 100–456, section 1441, \$19,000,000, to remain
8 available until expended.

9 NUCLEAR REGULATORY COMMISSION
10 SALARIES AND EXPENSES

11 For necessary expenses of the Commission in car-
12 rying out the purposes of the Energy Reorganization Act
13 of 1974, as amended, and the Atomic Energy Act of 1954,
14 as amended, including official representation expenses
15 (not to exceed \$15,000), and purchase of promotional
16 items for use in the recruitment of individuals for employ-
17 ment, \$578,184,000, to remain available until expended:
18 *Provided*, That of the amount appropriated herein,
19 \$24,900,000 shall be derived from the Nuclear Waste
20 Fund: *Provided further*, That revenues from licensing fees,
21 inspection services, and other services and collections esti-
22 mated at \$520,087,000 in fiscal year 2003 shall be re-
23 tained and used for necessary salaries and expenses in this
24 account, notwithstanding 31 U.S.C. 3302, and shall re-
25 main available until expended: *Provided further*, That the

1 sum herein appropriated shall be reduced by the amount
2 of revenues received during fiscal year 2003 so as to result
3 in a final fiscal year 2003 appropriation estimated at not
4 more than \$58,097,000.

5 OFFICE OF INSPECTOR GENERAL

6 For necessary expenses of the Office of Inspector
7 General in carrying out the provisions of the Inspector
8 General Act of 1978, as amended, \$6,800,000, to remain
9 available until expended: *Provided*, That revenues from li-
10 censing fees, inspection services, and other services and
11 collections estimated at \$6,392,000 in fiscal year 2003
12 shall be retained and be available until expended, for nec-
13 essary salaries and expenses in this account notwith-
14 standing 31 U.S.C. 3302: *Provided further*, That the sum
15 herein appropriated shall be reduced by the amount of rev-
16 enues received during fiscal year 2003 so as to result in
17 a final fiscal year 2003 appropriation estimated at not
18 more than \$408,000.

19 NUCLEAR WASTE TECHNICAL REVIEW BOARD

20 SALARIES AND EXPENSES

21 For necessary expenses of the Nuclear Waste Tech-
22 nical Review Board, as authorized by Public Law 100-
23 203, section 5051, \$3,102,000, to be derived from the Nu-
24 clear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

1
2
3 SEC. 501. None of the funds appropriated by this Act
4 may be used in any way, directly or indirectly, to influence
5 congressional action on any legislation or appropriation
6 matters pending before Congress, other than to commu-
7 nicate to Members of Congress as described in 18 U.S.C.
8 1913.

9 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
10 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
11 gress that, to the greatest extent practicable, all equip-
12 ment and products purchased with funds made available
13 in this Act should be American-made.

14 (b) NOTICE REQUIREMENT.—In providing financial
15 assistance to, or entering into any contract with, any enti-
16 ty using funds made available in this Act, the head of each
17 Federal agency, to the greatest extent practicable, shall
18 provide to such entity a notice describing the statement
19 made in subsection (a) by the Congress.

20 (c) PROHIBITION OF CONTRACTS WITH PERSONS
21 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—
22 If it has been finally determined by a court or Federal
23 agency that any person intentionally affixed a label bear-
24 ing a “Made in America” inscription, or any inscription
25 with the same meaning, to any product sold in or shipped

1 to the United States that is not made in the United
2 States, the person shall be ineligible to receive any con-
3 tract or subcontract made with funds made available in
4 this Act, pursuant to the debarment, suspension, and ineli-
5 gibility procedures described in sections 9.400 through
6 9.409 of title 48, Code of Federal Regulations.

7 SEC. 503. None of the funds made available in this
8 Act may be transferred to any department, agency, or in-
9 strumentality of the United States Government, except
10 pursuant to a transfer made by, or transfer authority pro-
11 vided in, this Act or any other appropriation Act.

12 SEC. 504. No funds appropriated in this Act may be
13 used by the Federal Energy Regulatory Commission to
14 grant any public utility the authority to use market-based
15 rates until the Commission has issued a final order in all
16 market-based rate cases that have been pending before the
17 commission for more than 18 months.

18 This Act may be cited as the “Energy and Water De-
19 velopment Appropriations Act, 2003”.

Union Calendar No. 423

107TH CONGRESS
2^D SESSION

H. R. 5431

[Report No. 107-681]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

SEPTEMBER 24, 2002

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed