

**Calendar No. 213**

108TH CONGRESS  
1ST SESSION

**S. 1424**

**[Report No. 108–105]**

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 17, 2003

Mr. DOMENICI, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, 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, 2004, for energy and  
6       water development, and for other purposes, 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 \$131,700,000, 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  
26 of runoff: *Provided further*, That the Secretary of the

1 Army, acting through the Chief of Engineers is directed  
2 to use \$250,000 for the continuation and completion of  
3 preconstruction engineering and design of Waikiki Beach,  
4 Oahu, Hawaii. The work shall be performed notwith-  
5 standing the extent of recreation benefits supporting the  
6 project features in view of the fact that recreation is ex-  
7 tremely important in sustaining and increasing the eco-  
8 nomic well-being of the State of Hawaii and the nation:  
9 *Provided further*, That the Secretary of the Army, acting  
10 through the Chief of Engineers is directed to use  
11 \$250,000 for the continuation and completion of feasi-  
12 bility studies of Kihei Beach, Maui, Hawaii. Any rec-  
13 ommendations for a National Economic Development Plan  
14 shall be accepted notwithstanding the extent of recreation  
15 benefits supporting the project features, in view of the fact  
16 that recreation is extremely important in sustaining and  
17 increasing the economic well-being of the State of Hawaii  
18 and the nation.

19 CONSTRUCTION, GENERAL

20 For the prosecution of river and harbor, flood control,  
21 shore protection, and related projects authorized by laws;  
22 and detailed studies, and plans and specifications, of  
23 projects (including those for development with participa-  
24 tion or under consideration for participation by States,  
25 local governments, or private groups) authorized or made  
26 eligible for selection by law (but such studies shall not con-

1 stitute a commitment of the Government to construction),  
 2 \$1,538,000,000, to remain available until expended, of  
 3 which such sums as are necessary for the Federal share  
 4 of construction costs for facilities under the Dredged Ma-  
 5 terial Disposal Facilities program shall be derived from  
 6 the Harbor Maintenance Trust Fund, as authorized by  
 7 Public Law 104–303; and of which such sums as are nec-  
 8 essary pursuant to Public Law 99–662 shall be derived  
 9 from the Inland Waterways Trust Fund, for one-half of  
 10 the costs of construction and rehabilitation of inland wa-  
 11 terways projects, including rehabilitation costs for the  
 12 Lock and Dam 11, Mississippi River, Iowa; Lock and Dam  
 13 12, Mississippi River, Iowa; Lock and Dam 19, Mississippi  
 14 River, Iowa; Lock and Dam 24, Mississippi River, Illinois  
 15 and Missouri; Lock and Dam 3, Mississippi River, Min-  
 16 nesota; and London Locks and Dam, Kanawha River,  
 17 West Virginia, projects; and of which funds are provided  
 18 for the following projects in the amounts specified: *Pro-*  
 19 *vided*, That using \$9,280,000 of the funds appropriated  
 20 herein, the Secretary of the Army, acting through the  
 21 Chief of Engineers, is directed to continue construction  
 22 of the Dallas Floodway Extension, Texas, project, includ-  
 23 ing the Cadillac Heights feature, generally in accordance  
 24 with the Chief of Engineers report dated December 7,  
 25 1999: *Provided further*, That the Secretary of the Army

1 is directed to accept advance funds, pursuant to section  
2 11 of the River and Harbor Act of 1925, from the non-  
3 Federal sponsor of the Los Angeles Harbor, California,  
4 project authorized by section 101(b)(5) of Public Law  
5 106–541: *Provided further*, That the Secretary of the  
6 Army, acting through the Chief of Engineers, is directed  
7 to use \$1,000,000 of the funds provided herein to continue  
8 construction of the Hawaii Water Management Project:  
9 *Provided further*, That the Secretary of the Army, acting  
10 through the Chief of Engineers, is directed to use  
11 \$2,500,000 of the funds appropriated herein to continue  
12 construction of the navigation project at Kaumalapau  
13 Harbor, Hawaii: *Provided further*, That the Secretary of  
14 the Army, acting through the Chief of Engineers, is di-  
15 rected to use \$6,000,000 of the funds provided herein for  
16 Dam Safety and Seepage/Stability Correction Program to  
17 continue construction of seepage control features and to  
18 design and construct repairs to the tainter gates at Water-  
19 bury Dam, Vermont: *Provided further*, That the Secretary  
20 of the Army, acting through the Chief of Engineers, is  
21 directed to use \$17,000,000 of the funds appropriated  
22 herein to proceed with planning, engineering, design or  
23 construction of the Grundy, Buchanan County, and  
24 Dickenson County, Virginia elements of the Levisa and  
25 Tug Forks of the Big Sandy River and Upper Cumberland

1 River Project: *Provided further*, That the Secretary of the  
2 Army, acting through the Chief of Engineers, is directed  
3 to use \$6,400,000 of the funds appropriated herein to pro-  
4 ceed with the planning, engineering, design or construc-  
5 tion of the Lower Mingo County, Upper Mingo County,  
6 Wayne County, McDowell County, West Virginia elements  
7 of the Levisa and Tug Forks of the Big Sandy River and  
8 Upper Cumberland River Project: *Provided further*, That  
9 the Secretary of the Army, acting through the Chief of  
10 Engineers, is directed to continue the Dickenson County  
11 Detailed Project Report as generally defined in Plan 4 of  
12 the Huntington District Engineer's Draft Supplement to  
13 the Section 202 General Plan for Flood Damage Reduc-  
14 tion dated April 1997, including all Russell Fork tributary  
15 streams within the County and special considerations as  
16 may be appropriate to address the unique relocations and  
17 resettlement needs for the flood prone communities within  
18 the County: *Provided further*, That the Secretary of the  
19 Army, acting through the Chief of Engineers, is directed  
20 to proceed with the construction of the Seward Harbor,  
21 Alaska, project, in accordance with the Report of the Chief  
22 of Engineers, dated June 8, 1999, and the economic jus-  
23 tification contained therein: *Provided further*, That the  
24 Secretary of the Army, acting through the Chief of Engi-  
25 neers, is directed and authorized to continue the work to

1 replace and upgrade the dam and all connections to the  
2 existing system at Kake, Alaska: *Provided further*, That  
3 the Secretary of the Army, acting through the Chief of  
4 Engineers, is directed to proceed with the construction of  
5 the Wrangell Harbor, Alaska, project in accordance with  
6 the Chief of Engineer's report dated December 23, 1999:  
7 *Provided further*, That the Secretary of the Army, acting  
8 through the Chief of Engineers, is directed to proceed with  
9 construction of the Breckenridge, Minnesota, project in  
10 accordance with the Breckenridge, Minnesota Feasibility  
11 Report and Environmental Impact Statement dated Sep-  
12 tember 2000, approved April 8, 2002: *Provided further*,  
13 That the Secretary of the Army, acting through the Chief  
14 of Engineers, is directed to proceed with construction of  
15 repairs to the Bois Brule, Missouri, project in accordance  
16 with the Bois Brule Deficiency Correction Report includ-  
17 ing applicable NEPA compliance submitted to the Mis-  
18 sissippi Valley Division in June 2003: *Provided further*,  
19 That the Secretary of the Army, acting through the Chief  
20 of Engineers, is directed to continue with construction of  
21 the DeSoto County Regional Wastewater System Project  
22 in accordance with the DeSoto County, Mississippi Envi-  
23 ronmental Infrastructure-Letter Reports prepared pursu-  
24 ant to guidance for Section 219 projects: *Provided further*,  
25 That the Secretary of the Army, acting through the Chief

1 of Engineers, is directed to continue with construction of  
2 the Des Moines Recreational River and Greenbelt, Iowa,  
3 project in accordance with the Des Moines Recreation  
4 River and Greenbelt, Iowa, General Design Memorandum  
5 with Programmatic Environmental Impact Statement  
6 dated September 1987, as amended by the Annual Pro-  
7 gram Management Reports which serve as the Master  
8 Plan for the overall project, and site specific decision docu-  
9 ments for the added work: *Provided further*, That the Sec-  
10 retary of the Army, acting through the Chief of Engineers  
11 is directed to continue with construction of the Rio de  
12 Flag, Flagstaff, Arizona, project generally in accordance  
13 with the Chief of Engineers report dated December 29,  
14 2000: *Provided further*, That the Secretary of the Army,  
15 acting through the Chief of Engineers is directed to con-  
16 tinue with construction of the Tucson Drainage Area, Ari-  
17 zona, generally in accordance with the Chief of Engineers  
18 report dated May 20, 1998: *Provided further*, That the  
19 Secretary of the Army, acting through the Chief of Engi-  
20 neers, is directed to proceed with the construction of the  
21 Zuni and Sun Valley Reaches, South Platte River, Denver  
22 County, Colorado, project, in accordance with the Report  
23 of the Chief of Engineers, dated May 16, 2003, and the  
24 economic justification contained therein: *Provided further*,  
25 That the Secretary of the Army, acting through the Chief



1 of Engineers, is directed to proceed with construction of  
2 the Delaware Bay Coastline, Point Mahon, Delaware,  
3 project, in accordance with the Report of the Chief of En-  
4 gineers, dated September 28, 1998, and the economic jus-  
5 tification contained therein: *Provided further*, That the  
6 Secretary of the Army, acting through the Chief of Engi-  
7 neers, is directed to proceed with the construction of the  
8 Delaware Coast from Cape Henlopen to Fenwick Island,  
9 Fenwick Island, Delaware, project, in accordance with the  
10 Report of the Chief of Engineers, dated December 29,  
11 2000, and the economic justification contained therein:  
12 *Provided further*, That the Secretary of the Army, acting  
13 through the Chief of Engineers, is directed to continue  
14 preparation of the General Re-evaluation Report (GRR)  
15 to determine the feasibility of additional deepening and  
16 widening of the Federal Project at Gulfport Harbor, Mis-  
17 sissippi: *Provided further*, That the Secretary of the Army,  
18 acting through the Chief of Engineers, is directed to con-  
19 tinue construction for the Sand Creek Watershed, Ne-  
20 braska, project in accordance with the Report of the Chief  
21 of Engineers, dated December 29, 2000: *Provided further*,  
22 That the Secretary of the Army, acting through the Chief  
23 of Engineers, is to proceed with the construction of the  
24 Brigantine Inlet to Great Egg Harbor, Brigantine Island,  
25 New Jersey, project, in accordance with the Report of the

1 Chief of Engineers, dated December 1999, and the eco-  
2 nomic justification contained therein: *Provided further*,  
3 That the Secretary of the Army, acting through the Chief  
4 of Engineers, is directed to proceed with planning, engi-  
5 neering, and design and initiate floodway buy outs for the  
6 Passaic River Management, New Jersey, project, generally  
7 in accordance with the Corps of Engineers Passaic River  
8 Floodway Buy-out Report, dated October 1995: *Provided*  
9 *further*, That the Secretary of the Army, acting through  
10 the Chief of Engineers, is to continue construction of the  
11 Passaic River Streambank Restoration, New Jersey,  
12 project: *Provided further*, That the Secretary of the Army,  
13 acting through the Chief of Engineers, is directed to con-  
14 tinue engineering and design for the Ramapo and Mahwah  
15 Rivers, Mahwah, New Jersey and Suffern, New York,  
16 project: *Provided further*, That the Secretary of the Army,  
17 acting through the Chief of Engineers, is directed to con-  
18 tinue construction of the Dare County Beaches, North  
19 Carolina (Bodie Island), project, in accordance with the  
20 Report of the Chief of Engineers, dated December 29,  
21 2000, and the economic justification contained therein:  
22 *Provided further*, That the Secretary of the Army, acting  
23 through the Chief of Engineers, is directed to continue  
24 construction of the Holes Creek, Ohio, project including  
25 the additional floodwall and relocations, generally in ac-

1 cordance with the Chief of Engineers report dated Decem-  
2 ber 23, 1981 and the Supplement to the Reevaluation Re-  
3 port, dated 2003: *Provided further*, That the Secretary of  
4 the Army, acting through the Chief of Engineers, is di-  
5 rected to continue with the design and construction of the  
6 Canton Lake, Oklahoma (Dam Safety) project, in accord-  
7 ance with the Corps of Engineer's Dam Safety Assurance  
8 Report, dated March 22, 2002: *Provided further*, That the  
9 Secretary of the Army, acting through the Chief of Engi-  
10 neers, is directed to continue with design and construction  
11 of the Lawton, Oklahoma, Waste Water Infrastructure  
12 Rehabilitation project, in accordance with the require-  
13 ments identified in the City of Lawton's Sewer Rehabilita-  
14 tion Program in conjunction with the Oklahoma Depart-  
15 ment of Environmental Quality's consent order: *Provided*  
16 *further*, That the Secretary of the Army, acting through  
17 the Chief of Engineers, is directed to proceed with the con-  
18 struction of the Columbia River Channel Improvements,  
19 Oregon and Washington, project in accordance with the  
20 Report of the Chief of Engineers, dated December 23,  
21 1999 and the economic justification and environmental  
22 features stated therein, as amended by the Final Supple-  
23 mental Integrated Feasibility Report and Environmental  
24 Impact Statement dated January 28, 2003: *Provided fur-*  
25 *ther*, That the Secretary of the Army, acting through the

1 Chief of Engineers, is directed to proceed with the con-  
2 struction of the Schuylkill River Park, Philadelphia, Penn-  
3 sylvania, project, in accordance with the Letter Report,  
4 dated February 2003, and the economic justification con-  
5 tained therein: *Provided further*, That the Secretary of the  
6 Army, acting through the Chief of Engineers, is directed  
7 to proceed with the preparation of plans and specifications  
8 for periodic nourishment of the Folly Beach, South Caro-  
9 lina, project, in accordance with the General Design  
10 Memorandum, dated May 1991 and approved by the Chief  
11 of Engineers on July 22, 1992, and the economic justifica-  
12 tion contained therein: *Provided further*, That the Sec-  
13 retary of the Army, acting through the Chief of Engineers,  
14 is directed to proceed to construction of the Missouri  
15 River, South Dakota, project, in accordance with the pro-  
16 visions contained in Title IX of WRDA 2000: *Provided*  
17 *further*, That the Secretary of the Army, acting through  
18 the Chief of Engineers, is directed to proceed with the  
19 Puget Sound Adjacent Waters Restoration, Washington  
20 project, as directed by Section 544 of Public Law 106–  
21 541: *Provided further*, That the Secretary of the Army,  
22 acting through the Chief of Engineers, is directed to pro-  
23 ceed with the Shoalwater Bay Shoreline Erosion, Wash-  
24 ington, project as directed by Section 545 of Public Law  
25 106–541: *Provided further*, That the Secretary of the

1 Army, acting through the Chief of Engineers, is directed  
 2 to proceed with the construction of the Jackson Hole, Wy-  
 3 oming, project, in accordance with Public Law 106-541,  
 4 and the economic justification contained therein: *Provided*  
 5 *further*, That the Secretary of the Army is directed to use  
 6 funds appropriated for the navigation project, Tampa  
 7 Harbor, Florida to carry out, as part of the project, con-  
 8 struction of passing lanes in an area approximately 3.5  
 9 miles long, centered on Tampa Bay Cut B, if the Sec-  
 10 retary determines that such construction is technically  
 11 sound, environmentally acceptable, and cost effective: *Pro-*  
 12 *vided further*, That no funds appropriated in this Act for  
 13 the purpose of construction of the projects for the Ever-  
 14 glades and South Florida Ecosystem Restoration shall be  
 15 available for expenditure unless the Administrator of the  
 16 Environmental Protection Agency certifies that the  
 17 projects meet all applicable state water quality standards  
 18 and numeric criteria adopted for phosphorus as well as  
 19 water quality requirements set forth in the Consent De-  
 20 cree by September 30, 2003 and every 12 months there-  
 21 after until September 30, 2006.

22 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,  
 23 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-  
 24 SISSIPPI, MISSOURI, AND TENNESSEE

25 For expenses necessary for prosecuting work of flood  
 26 control, rescue work, repair, restoration, or maintenance

1 of flood control projects threatened or destroyed by flood,  
 2 as authorized by law (33 U.S.C. 702a and 702g-1),  
 3 \$329,000,000, to remain available until expended: *Pro-*  
 4 *vided*, That the Secretary of the Army, acting through the  
 5 Chief of Engineers, using \$12,000,000 of the funds pro-  
 6 vided herein, is directed to continue design and real estate  
 7 activities and to initiate the pump supply contract for the  
 8 Yazoo Basin, Yazoo Backwater Pumping Plant, Mis-  
 9 sissippi: *Provided further*, That the pump supply contract  
 10 shall be performed by awarding continuing contracts in  
 11 accordance with 33 U.S.C. 621: *Provided further*, That the  
 12 Secretary of the Army, acting through the Chief of Engi-  
 13 neers is directed, with funds previously appropriated, to  
 14 continue construction of water withdrawal features of the  
 15 Grand Prairie, Arkansas, project.

16 OPERATION AND MAINTENANCE, GENERAL

17 For expenses necessary for the preservation, oper-  
 18 ation, maintenance, and care of existing river and harbor,  
 19 flood control, and related works, including such sums as  
 20 may be necessary for the maintenance of harbor channels  
 21 provided by a State, municipality or other public agency,  
 22 outside of harbor lines, and serving essential needs of gen-  
 23 eral commerce and navigation; surveys and charting of  
 24 northern and northwestern lakes and connecting waters;  
 25 clearing and straightening channels; and removal of ob-  
 26 structions to navigation, \$1,949,000,000, to remain avail-

1 able until expended, of which such sums as become avail-  
2 able in the Harbor Maintenance Trust Fund, pursuant to  
3 Public Law 99–662, may be derived from that Fund, and  
4 of which such sums as become available from the special  
5 account established by the Land and Water Conservation  
6 Act of 1965, as amended (16 U.S.C. 460l), may be derived  
7 from that account for construction, operation, and mainte-  
8 nance of outdoor recreation facilities: *Provided*, That of  
9 funds appropriated herein, for the Intracoastal Waterway,  
10 Delaware River to Chesapeake Bay, Delaware and Mary-  
11 land, the Secretary of the Army, acting through the Chief  
12 of Engineers, is directed to reimburse the State of Dela-  
13 ware for normal operation and maintenance costs incurred  
14 by the State of Delaware for the SR1 Bridge from station  
15 58 + 00 to station 293 + 00 between October 1, 2003, and  
16 September 30, 2004: *Provided further*, That the Secretary  
17 of the Army, acting through the Chief of Engineers, is  
18 directed to use funds appropriated herein to rehabilitate  
19 the existing dredged material disposal site for the project  
20 for navigation, Bodega Bay Harbor, California, and to  
21 continue maintenance dredging of the Federal channel:  
22 *Provided further*, That the Secretary shall make suitable  
23 material excavated from the site as part of the rehabilita-  
24 tion effort available to the non-Federal sponsor, at no cost  
25 to the Federal Government, for use by the non-Federal

1 sponsor in the development of public facilities: *Provided*  
 2 *further*, That the Corps of Engineers shall not allocate any  
 3 funds, to deposit dredge material, without the consent of  
 4 the landowners, on private property located along Reach  
 5 1, Reach 2, Reach 4, Reach 5, and Reach 6 of the Gulf  
 6 Coast Intracoastal Waterway as defined by the Draft La-  
 7 guna Madre GIWW Dredged Material Management Plan  
 8 prepared by the Corps of Engineers and the Interagency  
 9 Coordination Team dated October 11, 2002: *Provided fur-*  
 10 *ther*, That the Secretary is directed to use \$5,000,000 of  
 11 the funds appropriated herein to undertake the restoration  
 12 of Tar Creek and Vicinity, Oklahoma project.

13 FLOOD CONTROL AND COASTAL EMERGENCIES

14 For expenses necessary for emergency flood control,  
 15 hurricane response, and emergency shore protection and  
 16 related activities, \$40,000,000, to remain available until  
 17 expended.

18 REGULATORY PROGRAM

19 For expenses necessary for administration of laws  
 20 pertaining to regulation of navigable waters and wetlands,  
 21 \$139,000,000, to remain available until expended.

22 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

23 For expenses necessary to clean up contamination  
 24 from sites throughout the United States resulting from  
 25 work performed as part of the Nation's early atomic en-



1 ergy program, \$140,000,000, to remain available until ex-  
2 pended.

3 GENERAL EXPENSES

4 For expenses necessary for general administration  
5 and related functions in the Office of the Chief of Engi-  
6 neers and offices of the Division Engineers, activities of  
7 the Humphreys Engineer Center Support Activity, the In-  
8 stitute for Water Resources, and headquarters support  
9 functions at the USACE Finance Center, \$160,000,000,  
10 to remain available until expended: *Provided*, That no part  
11 of any other appropriation provided in title I of this Act  
12 shall be available to fund the activities of the Office of  
13 the Chief of Engineers or the executive direction and man-  
14 agement activities of the division offices: *Provided further*,  
15 That none of these funds shall be available to support an  
16 office of congressional affairs within the executive office  
17 of the Chief of Engineers.

18 ADMINISTRATIVE PROVISIONS

19 Appropriations in this title shall be available for offi-  
20 cial reception and representation expenses (not to exceed  
21 \$5,000); and during the current fiscal year the Revolving  
22 Fund, Corps of Engineers, shall be available for purchase  
23 (not to exceed 100 for replacement only) and hire of pas-  
24 senger motor vehicles.

## 1 GENERAL PROVISIONS

## 2 CORPS OF ENGINEERS—CIVIL

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

22 SEC. 102. None of the funds appropriated in this Act,  
23 or any other Act, shall be used to demonstrate or imple-  
24 ment any plans divesting or transferring of any Civil  
25 Works missions, functions, or responsibilities for the  
26 United States Army Corps of Engineers to other govern-

1 ment agencies without specific direction in a subsequent  
2 Act of Congress.

3       SEC. 103. ALAMOGORDO, NEW MEXICO. The project  
4 for flood protection at Alamogordo, New Mexico, author-  
5 ized by the Flood Control Act of 1962 (Public Law 87–  
6 874), is modified to authorize and direct the Secretary to  
7 construct a flood detention basin to protect the north side  
8 of the City of Alamogordo, New Mexico, from flooding.  
9 The flood detention basin shall be constructed to provide  
10 protection from a 100-year flood event. The project cost  
11 share for the flood detention basin shall be consistent with  
12 Section 103(a) of the Water Resources Development Act  
13 of 1986, notwithstanding Section 202(a) of the Water Re-  
14 sources Development Act of 1996.

15       SEC. 104. Section 10 of the Rivers and Harbors Act  
16 of 1922, 42 Stat. 1043, 33 U.S.C. 621, is amended by  
17 inserting a comma after the word “Congress” and insert-  
18 ing immediately thereafter “to include any and all pre-  
19 authorization planning, engineering, design, construction,  
20 and operation and maintenance,”.

21       SEC. 105. KAKE DAM REPLACEMENT, KAKE, ALAS-  
22 KA TECHNICAL CORRECTIONS. Section 105, Public Law  
23 106–377, is amended by striking “\$7,000,000” and in-  
24 serting in lieu thereof “\$11,000,000 at full Federal ex-  
25 pense”.

1        SEC. 106. DEAUTHORIZATION OF INACTIVE CORPS  
2 PROJECTS. The following projects, with a total estimated  
3 authorized cost of \$404,000,000, are not authorized after  
4 the date of enactment of this Act, except with respect to  
5 any portion of such a project which portion has been com-  
6 pleted before such date or is under construction on such  
7 date:

8            (1) The project for flood control, Green Bay  
9        Levee & Drainage District No. 2, Iowa, authorized  
10       by the Water Resources Development Act of 1986,  
11       deauthorized in fiscal year 1991, and reauthorized  
12       by the Water Resources Development Act of 1992;

13           (2) The project for navigation, Illinois Water-  
14       way Cal-Sag Part III, Illinois, authorized by the  
15       River and Harbor Act of 1946;

16           (3) The project for flood control, Lake George,  
17       Hobart, Indiana, authorized by the Water Resources  
18       Development Act of 1986;

19           (4) The project for flood control, Hazard, Ken-  
20       tucky, authorized by the Water Resources Develop-  
21       ment Act of 1988 (Public Law 100–876) and the  
22       Water Resources Development Act of 1990 (Public  
23       Law 101–640);

1           (5) The project for recreation, Taylorsville Lake  
2           (Uncompleted Recreation), Kentucky, authorized by  
3           the Flood Control Act of 1966;

4           (6) The project for flood control, Vanceburg,  
5           Kentucky, LPP, authorized by the Flood Control  
6           Act of 1937;

7           (7) The project for flood control, Libby Dam  
8           (Units 6–8), Montana, authorized by the Water Re-  
9           sources Development Act of 1996;

10          (8) The project for flood control, Epping, New  
11          Hampshire, authorized by the Water Resources De-  
12          velopment Act of 1992;

13          (9) The project for flood control, Manchester,  
14          New Hampshire, authorized by the Water Resources  
15          Development Act of 1992;

16          (10) The project for flood control, Rochester,  
17          New Hampshire, authorized by the Water Resources  
18          Development Act of 1992;

19          (11) The project for multiple purposes, Fort  
20          Gibson Lake, Oklahoma (Units 5 and 6), authorized  
21          by the Water Resources Development Act of 1986;

22          (12) The project for flood control, Parker Lake,  
23          Muddy Boggy Creek, Oklahoma, authorized by the  
24          Water Resources Development Act of 1986;

1           (13) The project for flood control, Tamaqua,  
2           Pennsylvania, authorized by the Water Resources  
3           Development Act of 1974;

4           (14) The project for shoreline protection, Cliff  
5           Walk, Newport, Rhode Island, authorized by the  
6           River and Harbor Act of 1956 and amended by the  
7           Water Resources Development Act of 1992;

8           (15) The project for navigation, Narragansett  
9           Town Beach, Narragansett, Rhode Island, author-  
10          ized by the Water Resources Development Act of  
11          1992 and amended by the Water Resources Develop-  
12          ment Act of 1996;

13          (16) The project for navigation, Quonset Point-  
14          Davisville, Rhode Island (Bulkhead Repairs), au-  
15          thorized by the Water Resources Development Act of  
16          1996;

17          (17) The project for flood control, Arroyo Colo-  
18          rado, Texas, authorized by the Water Resources De-  
19          velopment Act of 1986;

20          (18) The project for flood control, Cypress  
21          Creek-Structural, Texas, authorized by the Water  
22          Resources Development Act of 1988; and

23          (19) The project for flood control, Cache Coun-  
24          ty, Utah, authorized by the Water Resources Devel-

1        opment Act of 1992 and amended by the Water Re-  
 2        sources Development Act of 1999.

3        SEC. 107. DEAUTHORIZATION OF PROJECT FOR  
 4        NAVIGATION, PAWTUXET COVE, RHODE ISLAND. (a) IN  
 5        GENERAL.—The portions of the project for navigation,  
 6        Pawtuxet Cove, Rhode Island, authorized by section 101  
 7        of the River and Harbor Act of 1962 (76 Stat. 1173) and  
 8        described in subsection (b) shall no longer be authorized  
 9        after the date of enactment of this Act.

10       (b) DESCRIPTIONS.—The portions of the project re-  
 11       ferred to in subsection (a) are the following:

12            (1) Beginning at a point along the western edge  
 13        of the 6-foot channel just south of the 6-foot turning  
 14        basin: N247,856.00, E530,338.00, thence running  
 15        north 51 degrees 44 minutes 12.5 seconds west  
 16        214.77 feet to a point N247,989.00, E530,169.37,  
 17        thence running north 13 degrees 14 minutes 48.8  
 18        seconds west 149.99 feet to a point N248,135.00,  
 19        E530,135.00, thence running north 44 degrees 11  
 20        minutes 7.4 seconds east 137.77 feet to a point  
 21        N248,233.79, E530,231.02, thence running north 3  
 22        degrees 58 minutes 18.8 seconds west 300.00 feet to  
 23        a point N248,533.07, E530,210.24 thence running  
 24        north 86 degrees 1 minute 34.3 seconds east 35.00  
 25        feet to a point N248,535.50, E530,245.16, thence

1 running south 3 degrees 58 minutes 21.0 seconds  
 2 east 342.49 feet to a point N248,193.83,  
 3 E530,268.88, thence running south 44 degrees 11  
 4 minutes 7.4 seconds west 135.04 feet to a point  
 5 N248,097.00, E530,174.77, thence running south  
 6 13 degrees 14 minutes 48.8 seconds east 85.38 feet  
 7 to a point N248,013.89, E530,194.33, thence run-  
 8 ning south 51 degrees 44 minutes 12.5 seconds east  
 9 166.56 feet to a point N247,910.74, E530,325.11  
 10 thence running south 13 degrees 14 minutes 49.2  
 11 seconds east 56.24 feet to the point of origin.

12 (2) Beginning at a point along the eastern edge  
 13 of the 6-foot channel opposite the 6-foot turning  
 14 basin: N248,180.00, E530,335.00, thence running  
 15 south 32 degrees 12 minutes 35.3 seconds east  
 16 88.25 feet to a point N248,105.33, E530,382.04,  
 17 thence running south 13 degrees 14 minutes 49.2  
 18 seconds east 138.48 feet to a point N247,970.53,  
 19 E530,413.77, thence running north 32 degrees 12  
 20 minutes 35.3 seconds west 135.42 feet to a point  
 21 N248,085.12, E530,341.59, thence running north 3  
 22 degrees 58 minutes 21.0 seconds west 95.11 feet to  
 23 the point of origin.

24 (3) Beginning at a point along the eastern edge  
 25 of the channel adjacent to the 6-foot entrance chan-



1        nel: N246,630.77, E530,729.17, thence running  
2        south 13 degrees 14 minutes 49.2 seconds east  
3        35.55 feet to a point N246,596.16, E530,737.32,  
4        thence running south 51 degrees 31 minutes 38.6  
5        seconds east 283.15 feet to a point N246,420.00,  
6        E530,959.00, thence running north 47 degrees 28  
7        minutes 37.2 seconds west 311.84 feet returning to  
8        a point N246,630.77, E530,729.17.

9        SEC. 108. (a) The Secretary of the Army is author-  
10       ized to provide technical, planning, design and construc-  
11       tion assistance to non-Federal interests to remedy adverse  
12       environmental and human health impacts in Ottawa Coun-  
13       ty, Oklahoma. In providing assistance, the Secretary shall  
14       coordinate with the State, Tribal, and local interests. The  
15       Secretary may undertake implementation of such activities  
16       as the Secretary determines to be necessary or advisable  
17       to demonstrate practicable alternatives, such activities  
18       shall include measures to address lead exposure and other  
19       environmental problems related to historical mining activi-  
20       ties in the area.

21       (b) In carrying out subsection (a), the Secretary may  
22       utilize, through contracts or other means, the services of  
23       the University of Oklahoma, the Oklahoma Department  
24       of Environmental Quality, or such other entities as the  
25       Secretary determines to be appropriate.

1       (c) Notwithstanding any other provision of law, the  
2 Secretary shall not incur liability under the Comprehen-  
3 sive Environmental Response, Compensation, and Liabil-  
4 ity Act (42 U.S.C. 9601, et seq.) for activities undertaken  
5 pursuant to this section.

6       (d) Non-Federal interests shall be responsible for pro-  
7 viding any necessary lands, easements or rights-of-way re-  
8 quired for implementation of activities authorized by this  
9 section and shall be responsible for operating and main-  
10 taining any restoration alternatives constructed or carried  
11 out pursuant to this section. All other costs shall be borne  
12 by the Federal Government.

13       (e) There is authorized to be appropriated  
14 \$15,000,000 to carry out the purposes of this section.

15       SEC. 109. The amount of \$2,000,000 previously pro-  
16 vided under the heading “Construction, General” in Title  
17 I of the Energy and Water Development Appropriations  
18 Act, 2003, Division D of Public Law 108–7, is to be used  
19 to provide technical assistance at full Federal expense, to  
20 Alaskan communities to address the serious impacts of  
21 coastal erosion.

22       SEC. 110. The project for flood control for the Amer-  
23 ican and Sacramento Rivers, California, authorized by  
24 Section 101(a)(1) of the Water Resources Development  
25 Act of 1996 (Public Law 104–303) and Section 366 of

1 the Water Resources Development Act of 1999, is modi-  
2 fied to authorize the Secretary of the Army, acting  
3 through the Chief of Engineers, to construct the project  
4 at a total cost of \$205,000,000, with an estimated Federal  
5 share of \$153,840,000 and an estimated non-Federal  
6 share of \$51,160,000. For purposes of section 103 of the  
7 Water Resources Development Act of 1986 (33 U.S.C.  
8 2213), the modifications authorized by this section shall  
9 be subject to the same cost sharing in effect for the project  
10 authorized by 101(a)(1) of the Water Resources Develop-  
11 ment Act of 1996.

12 SEC. 111. ST. GEORGES BRIDGE, DELAWARE. None  
13 of the funds made available in this Act may be used to  
14 carry out any activity relating to closure or removal of  
15 the St. Georges Bridge across the Intracoastal Waterway,  
16 Delaware River to Chesapeake Bay, Delaware and Mary-  
17 land, including a hearing or any other activity relating to  
18 preparation of an environmental impact statement con-  
19 cerning the closure or removal.

20 SEC. 112. Section 214(a) of Public Law 106–541 is  
21 amended by striking “2003” and inserting in lieu thereof  
22 “2005”.

23 SEC. 113. The Secretary of the Army, acting through  
24 the Chief of Engineers, shall direct construction of Alter-  
25 native 1 (Northeast Corner) for the project authorized in

1 section 353 of Public Law 105–227 notwithstanding any  
2 other provision of law.

3 SEC. 114. The Secretary of the Army, acting through  
4 the Chief of Engineers, is authorized to undertake appro-  
5 priate planning, design, and construction measures for  
6 wildfire prevention and restoration in the Middle Rio  
7 Grande bosque in and around the City of Albuquerque.  
8 Work shall be directed toward those portions of the bosque  
9 which have been damaged by wildfire or are in imminent  
10 danger of damage from wildfire due to heavy fuel loads  
11 and impediments to emergency vehicle access. This work  
12 shall be undertaken at full Federal expense.

13 SEC. 115. Section 595 of the Water Resources Devel-  
14 opment Act of 1999, as amended, is further amended—

15 (1) by striking “SEC. 595. Rural Nevada, Mon-  
16 tana and Idaho.” and inserting in lieu thereof “SEC.  
17 595. Rural Nevada, Montana, Idaho, Utah and New  
18 Mexico.”;

19 (2) by striking “and Idaho” and inserting in  
20 lieu thereof “, Idaho, Utah, and New Mexico,”;

21 (3) by striking “and Idaho,” and inserting in  
22 lieu thereof “, Idaho, Utah, and New Mexico,”; and

23 (4) in (h)(1) by striking “and” and inserting  
24 after (h)(2) “and; (4) \$25,000,000 for Utah; (5)  
25 \$25,000,000 for New Mexico;”.

1        SEC. 116. Of the amounts provided in section 312,  
2 the Secretary of Energy shall make the funds available  
3 to “Department of Defense—Civil, Department of the  
4 Army, Corps of Engineers—Civil, Construction, General”  
5 account, to remain available until expended, for the fol-  
6 lowing: \$5,000,000 for the Walter F. George Powerhouse,  
7 AL; \$3,400,000 for the Rio Salado, Phoenix and Tempe  
8 Reaches, AZ project; \$3,000,000 for the Montgomery  
9 Point Lock and Dam, AR project; \$2,250,000 for the Red  
10 River Below Denison Dam, AR and LA and TX project;  
11 \$3,750,000 for the Red River Emergency Bank, AR and  
12 LA project; \$5,000,000 for the Napa River, CA project;  
13 \$5,000,000 for the Oakland Harbor, CA project;  
14 \$5,000,000 for the Port of Los Angeles project;  
15 \$4,300,000 for the Santa Ana River Mainstem, CA  
16 project; \$2,900,000 for the South Sacramento Streams,  
17 CA project; \$1,286,000 for the Delaware Coast from Cape  
18 Henlopen to Fenwick Island, DE project; \$1,000,000 for  
19 the Delaware Bay Coastline, Port Mahon, DE project;  
20 \$1,250,000 for the Martin County, FL project;  
21 \$3,000,000 for the Brunswick Harbor, GA project;  
22 \$5,000,000 for the McCook and Thornton, IL project;  
23 \$15,000,000 for the Olmsted Locks and Dam, Ohio River,  
24 IL and KY project; \$600,000 for the Des Moines Rec-  
25 reational River and Greenbelt, IA project; \$250,000 for

1 the Lock and Dam 19, IA project; \$800,000 for the Perry  
 2 Creek, IA project; \$10,134,000 for the Kentucky Lock  
 3 and Dam, KY project; \$4,565,000 for the Inner Harbor  
 4 Navigation Canal Lock, LA project; \$3,000,000 for the  
 5 J Bennett Johnston Waterway, LA project; \$10,000,000  
 6 for the Southeast Louisiana project; \$262,000 for the  
 7 Genessee County, MI project; \$287,000 for the Negaunee,  
 8 MI project; \$1,000,000 for the Breckenridge, MN project;  
 9 \$1,500,000 for the Blue River Basin, Kansas City, MO  
 10 project; \$3,000,000 for the Meramec River Basin, Valley  
 11 Park Levee, MO project; \$5,000,000 for the Mississippi  
 12 River Between the Ohio and Missouri Rivers, MO project;  
 13 \$2,000,000 for the Fort Peck Fish Hatchery, MT project;  
 14 \$2,000,000 for the Rural Montana, MT project;  
 15 \$1,000,000 for the Western Sarpy and Clear Creek, NE  
 16 project; \$1,000,000 for the Great Egg Harbor Inlet and  
 17 Peck Beach, NJ project; \$1,000,000 for the Hackensack-  
 18 Meadowlands, Environmental Improvement, NJ project;  
 19 \$500,000 for the Passaic River Preservation of Natural  
 20 Storage Areas, NJ project; \$1,000,000 for the Passaic  
 21 River Streambank Restoration, (Minish Park), NJ  
 22 project; \$500,000 for the Dare County Beaches, Bodie Is-  
 23 land, NC project; \$5,000,000 for the Wilmington Harbor,  
 24 NC project; \$3,000,000 for the Grand Forks, ND-East  
 25 Grand Forks, MN project; \$1,600,000 for the Tenkiller

1 Ferry Lake, OK (Dam Safety) project; \$5,000,000 for the  
 2 Columbia River Channel Improvements, OR project;  
 3 \$5,000,000 for the Locks and Dams 2, 3, and 4, PA  
 4 project; \$3,000,000 for the Chief Joseph Dam Gas Abate-  
 5 ment, WA project; \$4,000,000 for the Marmet Lock,  
 6 Kanawa River, WV project; and \$2,366,000 for the Jack-  
 7 son Hole, WY project.

## 8 TITLE II

### 9 DEPARTMENT OF THE INTERIOR

#### 10 CENTRAL UTAH PROJECT

##### 11 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

12 For carrying out activities authorized by the Central  
 13 Utah Project Completion Act, \$36,463,000, to remain  
 14 available until expended, of which \$9,423,000 shall be de-  
 15 posited into the Utah Reclamation Mitigation and Con-  
 16 servation Account for use by the Utah Reclamation Miti-  
 17 gation and Conservation Commission.

18 In addition, for necessary expenses incurred in car-  
 19 rying out related responsibilities of the Secretary of the  
 20 Interior, \$1,728,000, to remain available until expended.

#### 21 BUREAU OF RECLAMATION

22 The following appropriations shall be expended to  
 23 execute authorized functions of the Bureau of Reclama-  
 24 tion:

1 WATER AND RELATED RESOURCES

2 (INCLUDING TRANSFER OF FUNDS)

3 For management, development, and restoration of  
 4 water and related natural resources and for related activi-  
 5 ties, including the operation, maintenance, and rehabilita-  
 6 tion of reclamation and other facilities, participation in  
 7 fulfilling related Federal responsibilities to Native Ameri-  
 8 cans, and related grants to, and cooperative and other  
 9 agreements with, State and local governments, Indian  
 10 tribes, and others, \$853,517,000, to remain available until  
 11 expended, of which \$56,330,000 shall be available for  
 12 transfer to the Upper Colorado River Basin Fund and  
 13 \$33,570,000 shall be available for transfer to the Lower  
 14 Colorado River Basin Development Fund; of which such  
 15 amounts as may be necessary may be advanced to the Col-  
 16 orado River Dam Fund; and of which not more than  
 17 \$500,000 is for high priority projects which shall be car-  
 18 ried out by the Youth Conservation Corps, as authorized  
 19 by 16 U.S.C. 1706: *Provided*, That such transfers may  
 20 be increased or decreased within the overall appropriation  
 21 under this heading: *Provided further*, That of the total ap-  
 22 propriated, the amount for program activities that can be  
 23 financed by the Reclamation Fund or the Bureau of Rec-  
 24 lamation special fee account established by 16 U.S.C.  
 25 460l-6a(i) shall be derived from that Fund or account:  
 26 *Provided further*, That funds contributed under 43 U.S.C.



1 395 are available until expended for the purposes for  
 2 which contributed: *Provided further*, That funds advanced  
 3 under 43 U.S.C. 397a shall be credited to this account  
 4 and are available until expended for the same purposes  
 5 as the sums appropriated under this heading: *Provided*  
 6 *further*, That funds available for expenditure for the De-  
 7 partmental Irrigation Drainage Program may be expended  
 8 by the Bureau of Reclamation for site remediation on a  
 9 non-reimbursable basis: *Provided further*, That section 301  
 10 of Public Law 102–250, Reclamation States Emergency  
 11 Drought Relief Act of 1991, as amended, is amended fur-  
 12 ther by inserting “2003, and 2004” in lieu of “and 2003”.

13 CENTRAL VALLEY PROJECT RESTORATION FUND

14 For carrying out the programs, projects, plans, and  
 15 habitat restoration, improvement, and acquisition provi-  
 16 sions of the Central Valley Project Improvement Act,  
 17 \$39,600,000, to be derived from such sums as may be col-  
 18 lected in the Central Valley Project Restoration Fund pur-  
 19 suant to sections 3407(d), 3404(c)(3), 3405(f), and  
 20 3406(c)(1) of Public Law 102–575, to remain available  
 21 until expended: *Provided*, That the Bureau of Reclamation  
 22 is directed to assess and collect the full amount of the  
 23 additional mitigation and restoration payments authorized  
 24 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 \$56,525,000, 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 14 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 and thereafter, the Secretary  
20 of the Interior, acting through the Commissioner of the  
21 Bureau of Reclamation, is authorized to enter into grants  
22 and cooperative agreements with any Indian tribe, institu-  
23 tion of higher education, national Indian organization, or  
24 tribal organization pursuant to 31 U.S.C. 6301–6308.  
25 Nothing in this Act is intended to modify or limit the pro-

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

SEC. 202. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

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

3 SEC. 203. None of the funds appropriated or other-  
4 wise made available by this or any other Act may be used  
5 to pay the salaries and expenses of personnel to purchase  
6 or lease water in the Middle Rio Grande or the Carlsbad  
7 Projects in New Mexico unless said purchase or lease is  
8 in compliance with the purchase requirements of section  
9 202 of Public Law 106–60.

10 SEC. 204. Funds under this title for Drought Emer-  
11 gency Assistance shall be made available primarily for  
12 leasing of water for specified drought related purposes  
13 from willing lessors, in compliance with existing State laws  
14 and administered under State water priority allocation.  
15 Such leases may be entered into with an option to pur-  
16 chase: *Provided*, That such purchase is approved by the  
17 State in which the purchase takes place and the purchase  
18 does not cause economic harm within the State in which  
19 the purchase is made.

20 SEC. 205. (a) Notwithstanding any other provision  
21 of law, the Secretary of the Interior, acting through the  
22 Commissioner of the Bureau of Reclamation, may not obli-  
23 gate funds appropriated for the current fiscal year or any  
24 prior Energy and Water Development Appropriations Act,  
25 or funds otherwise made available to the Commissioner of

1 the Bureau of Reclamation, and may not use discretion,  
2 if any, to reduce or reallocate water to be delivered pursu-  
3 ant to San Juan-Chama Project contracts, including exe-  
4 cution of said contracts facilitated by the Middle Rio  
5 Grande Project, to meet the requirements of the Endan-  
6 gered Species Act, unless such water is acquired or other-  
7 wise made available from a willing seller or lessor and the  
8 use is in compliance with the laws of the State of New  
9 Mexico, including but not limited to, permitting require-  
10 ments.

11 (b) Complying with the reasonable and prudent alter-  
12 natives and the incidental take limits defined in the Bio-  
13 logical Opinion released by the United States Fish and  
14 Wildlife Service dated March 17, 2003 combined with ef-  
15 forts carried out pursuant to Public Law 106–377, Public  
16 Law 107–66, and Public Law 108–7 fully meet all re-  
17 quirements of the Endangered Species Act (16 U.S.C.  
18 1531 et seq.) for the conservation of the Rio Grande Sil-  
19 very Minnow (*Hybognathus amarus*) and the South-  
20 western Willow Flycatcher (*Empidonax trailii extimus*) on  
21 the Middle Rio Grande in New Mexico.

22 SEC. 206. ENDANGERED SPECIES COLLABORATIVE  
23 PROGRAM. (a) Using funds previously appropriated, the  
24 Secretary of the Interior, acting through the Commis-  
25 sioner of the Bureau of Reclamation and the Director of

1 the Fish and Wildlife Service, for purposes of improving  
2 the efficiency and expediting the efforts of the Endangered  
3 Species Act Collaborative Program Workgroup, is directed  
4 to establish an executive committee of seven members con-  
5 sisting of—

6 (1) one member from the Bureau of Reclama-  
7 tion;

8 (2) one member from the Fish and Wildlife  
9 Service; and

10 (3) one member at large representing each of  
11 the following six entities (selected at the discretion  
12 of the entity in consultation with the Bureau of Rec-  
13 lamation and the Fish and Wildlife Service) cur-  
14 rently participating as signatories to the existing  
15 Memorandum of Understanding:

16 (A) other Federal agencies;

17 (B) State agencies;

18 (C) municipalities;

19 (D) universities and environmental groups;

20 and

21 (E) business and industrial interests.

22 (b) Formation of this committee shall occur not later  
23 than 45 days after enactment of this Act.

1 (c) Fiscal year 2004 appropriations shall not be obli-  
2 gated or expended prior to approval by the Committee of  
3 a detailed spending plan.

4 SEC. 207. TULAROSA BASIN NATIONAL DESALINA-  
5 TION RESEARCH FACILITY. (a) DESALINATION DEM-  
6 ONSTRATION AND DEVELOPMENT.—Pursuant to section  
7 4(a) of Public Law 104–298, 110 Stat. 3622 (October 11,  
8 1996), the Secretary may hereafter conduct or contract  
9 for the design, construction, testing and operation of the  
10 Tularosa Basin National Desalination Research Facility.

11 (b) The Tularosa Basin National Desalination Re-  
12 search Facility is hereafter exempt from all provisions of  
13 section 7 of Public Law 104–298, 110 Stat. 3622 (Octo-  
14 ber 11, 1996). The Federal share of the cost of the  
15 Tularosa Basin National Desalination Research Facility  
16 may be up to 100 percent, including the cost of design,  
17 construction, operation, maintenance, repair and rehabili-  
18 tation.

19 SEC. 208. The Secretary of the Interior, in carrying  
20 out CALFED-related activities, may undertake feasibility  
21 studies for Sites Reservoir, Los Vaqueros Reservoir En-  
22 largement, and Upper San Joaquin Storage projects, here-  
23 after. These storage studies should be pursued along with  
24 ongoing environmental and other projects in a balanced  
25 manner.

1        SEC. 209. The Secretary of the Interior, acting  
2 through the Commissioner of the Bureau of Reclamation,  
3 is authorized to enter into grants, cooperative agreements,  
4 and other agreements with irrigation or water districts to  
5 fund up to 50 percent of the cost of planning, designing,  
6 and constructing improvements that will conserve water,  
7 increase water use efficiency, or enhance water manage-  
8 ment through measurement or automation, at existing  
9 water supply projects within the states identified in the  
10 Act of June 17, 1902, as amended, and supplemented:  
11 *Provided*, That when such improvements are to Federally  
12 owned facilities, such funds may be provided in advance  
13 on a non-reimbursable basis to an entity operating af-  
14 fected transferred works or may be deemed non-reimburs-  
15 able for non-transferred works: *Provided further*, That the  
16 calculation of the non-Federal contribution shall provide  
17 for consideration of the value of any in-kind contributions,  
18 but shall not include funds received from other Federal  
19 agencies: *Provided further*, That the cost of operating and  
20 maintaining such improvements shall be the responsibility  
21 of the non-Federal entity: *Provided further*, That this sec-  
22 tion shall not supercede any existing project-specific fund-  
23 ing authority. The Secretary is also authorized to enter  
24 into grants or cooperative agreements with universities or



1 non-profit research institutions to fund water use effi-  
 2 ciency research.

3 SEC. 210. HAWAII WATER RESOURCES STUDY. The  
 4 Hawaii Water Resources Act of 2000 (Public Law 106–  
 5 655, 114 Stat. 2818) is amended—

6 (1) in section 103—

7 (A) in subsection (b)(1), by striking “Not”  
 8 and all that follows through “the Secretary”  
 9 and inserting “The Secretary” and

10 (B) in subsection (e), by striking  
 11 “\$300,000” and all that follows and inserting  
 12 “\$2,000,000 for the Federal share of the activi-  
 13 ties authorized under this section”; and

14 (2) in section 104(b), by striking “cost-effec-  
 15 tive,” and all that follows and inserting “cost-effec-  
 16 tive.”.

17 SEC. 211. Notwithstanding the provisions of Title IV  
 18 of Public Law 102–575 (106 STAT. 4648), the contribu-  
 19 tions of the Western Area Power Administration to the  
 20 Utah Reclamation Mitigation and Conservation Account  
 21 shall expire ten fiscal years from the date of enactment  
 22 of this Act. Such contributions shall be from an account  
 23 established by the Western Area Power Administration for  
 24 this purpose and such contributions shall be made avail-  
 25 able to the Utah Reclamation Mitigation and Conservation

1 Account subject to appropriations. After ten fiscal years  
 2 from the date of enactment of this Act, the Utah Reclama-  
 3 tion Mitigation and Conservation Commission is hereby  
 4 authorized to utilize interest earned and accrued to the  
 5 Utah Reclamation Mitigation and Conservation Account.

### 6 TITLE III

## 7 DEPARTMENT OF ENERGY

### 8 ENERGY PROGRAMS

#### 9 ENERGY SUPPLY

10 For Department of Energy expenses including the  
 11 purchase, construction, and acquisition of plant and cap-  
 12 ital equipment, and other expenses necessary for energy  
 13 supply activities in carrying out the purposes of the De-  
 14 partment of Energy Organization Act (42 U.S.C. 7101 et  
 15 seq.), including the acquisition or condemnation of any  
 16 real property or any facility or for plant or facility acquisi-  
 17 tion, construction, or expansion, and the purchase of not  
 18 to exceed 12 passenger motor vehicles for replacement  
 19 only, including two buses; \$920,357,000, to remain avail-  
 20 able until expended.

#### 21 NON-DEFENSE SITE ACCELERATION COMPLETION

22 For Department of Energy expenses, including the  
 23 purchase, construction, and acquisition of plant and cap-  
 24 ital equipment and other expenses necessary for non-de-  
 25 fense environmental management site acceleration activi-

1 ties in carrying out the purposes of the Department of  
2 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-  
3 ing the acquisition or condemnation of any real property  
4 or any facility or for plant or facility acquisition, construc-  
5 tion, or expansion, \$171,875,000, to remain available until  
6 expended.

7       URANIUM ENRICHMENT DECONTAMINATION AND  
8                   DECOMMISSIONING FUND

9       For necessary expenses in carrying out uranium en-  
10 richment facility decontamination and decommissioning,  
11 remedial actions, and other activities of title II of the  
12 Atomic Energy Act of 1954 and title X, subtitle A, of the  
13 Energy Policy Act of 1992, \$396,124,000, to be derived  
14 from the Fund, to remain available until expended, of  
15 which \$26,000,000 shall be available in accordance with  
16 title X, subtitle A, of the Energy Policy Act of 1992.

17       NON-DEFENSE ENVIRONMENTAL SERVICES

18       For Department of Energy expenses necessary for  
19 non-defense environmental services activities conducted as  
20 a result of nuclear energy research and development activi-  
21 ties that indirectly support the accelerated cleanup and  
22 closure mission at environmental management sites, as  
23 well as new work scope transferred to the Environmental  
24 Management program, including the purchase, construc-  
25 tion, and acquisition of plant and capital equipment and

1 other necessary expenses, \$302,121,000, to remain avail-  
2 able until expended.

3 SCIENCE

4 For Department of Energy expenses including the  
5 purchase, construction and acquisition of plant and capital  
6 equipment, and other expenses necessary for science ac-  
7 tivities in carrying out the purposes of the Department  
8 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-  
9 cluding the acquisition or condemnation of any real prop-  
10 erty or facility or for plant or facility acquisition, construc-  
11 tion, or expansion, and purchase of not to exceed 15 pas-  
12 senger motor vehicles for replacement only, including not  
13 to exceed one ambulance, \$3,360,435,000, to remain avail-  
14 able until expended.

15 NUCLEAR WASTE DISPOSAL

16 For nuclear waste disposal activities to carry out the  
17 purposes of Public Law 97-425, as amended, including  
18 the acquisition of real property or facility construction or  
19 expansion, \$140,000,000, to remain available until ex-  
20 pended and to be derived from the Nuclear Waste Fund:  
21 *Provided*, That not to exceed \$2,500,000 shall be provided  
22 to the State of Nevada solely for expenditures, other than  
23 salaries and expenses of State employees, to conduct sci-  
24 entific oversight responsibilities and participate in licens-  
25 ing activities pursuant to the Nuclear Waste Policy Act

1 of 1982, Public Law 97–425, as amended: *Provided fur-*  
2 *ther*, That \$7,000,000 shall be provided to affected units  
3 of local governments, as defined in Public Law 97–425,  
4 to conduct appropriate activities pursuant to the Act: *Pro-*  
5 *vided further*, That the distribution of the funds as deter-  
6 mined by the units of local government shall be approved  
7 by the Department of Energy: *Provided further*, That the  
8 funds for the State of Nevada shall be made available sole-  
9 ly to the Nevada Division of Emergency Management by  
10 direct payment and units of local government by direct  
11 payment: *Provided further*, That within 90 days of the  
12 completion of each Federal fiscal year, the Nevada Divi-  
13 sion of Emergency Management and the Governor of the  
14 State of Nevada and each local entity shall provide certifi-  
15 cation to the Department of Energy that all funds ex-  
16 pended from such payments have been expended for activi-  
17 ties authorized by Public Law 97–425 and this Act. Fail-  
18 ure to provide such certification shall cause such entity  
19 to be prohibited from any further funding provided for  
20 similar activities: *Provided further*, That none of the funds  
21 herein appropriated may be: (1) used directly or indirectly  
22 to influence legislative action on any matter pending be-  
23 fore Congress or a State legislature or for lobbying activity  
24 as provided in 18 U.S.C. 1913; (2) used for litigation ex-  
25 penses; or (3) used to support multi-State efforts or other

1 coalition building activities inconsistent with the restric-  
 2 tions contained in this Act: *Provided further*, That all pro-  
 3 ceeds and recoveries realized by the Secretary in carrying  
 4 out activities authorized by the Nuclear Waste Policy Act  
 5 of 1982, Public Law 97-425, as amended, including but  
 6 not limited to, any proceeds from the sale of assets, shall  
 7 be available without further appropriation and shall re-  
 8 main available until expended.

## 9 DEPARTMENTAL ADMINISTRATION

### 10 DEPARTMENTAL ADMINISTRATION

#### 11 (INCLUDING TRANSFER OF FUNDS)

12 For salaries and expenses of the Department of En-  
 13 ergy necessary for departmental administration in car-  
 14 rying out the purposes of the Department of Energy Orga-  
 15 nization Act (42 U.S.C. 7101 et seq.), including the hire  
 16 of passenger motor vehicles and official reception and rep-  
 17 resentation expenses (not to exceed \$35,000),  
 18 \$309,564,000, to remain available until expended, plus  
 19 such additional amounts as necessary to cover increases  
 20 in the estimated amount of cost of work for others not-  
 21 withstanding the provisions of the Anti-Deficiency Act (31  
 22 U.S.C. 1511 et seq.): *Provided*, That such increases in cost  
 23 of work are offset by revenue increases of the same or  
 24 greater amount, to remain available until expended: *Pro-*  
 25 *vided further*, That moneys received by the Department

1 for miscellaneous revenues estimated to total  
 2 \$146,668,000 in fiscal year 2004 may be retained and  
 3 used for operating expenses within this account, and may  
 4 remain available until expended, as authorized by section  
 5 201 of Public Law 95–238, notwithstanding the provisions  
 6 of 31 U.S.C. 3302: *Provided further*, That the sum herein  
 7 appropriated shall be reduced by the amount of miscella-  
 8 neous revenues received during fiscal year 2004, and any  
 9 related unappropriated receipt account balances remaining  
 10 from prior years' miscellaneous revenues, so as to result  
 11 in a final fiscal year 2004 appropriation from the General  
 12 Fund estimated at not more than \$162,896,000.

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, \$39,462,000, to remain  
 17 available until expended.

18 ATOMIC ENERGY DEFENSE ACTIVITIES

19 NATIONAL NUCLEAR SECURITY ADMINISTRATION

20 WEAPONS ACTIVITIES

21 For Department of Energy expenses, including the  
 22 purchase, construction, and acquisition of plant and cap-  
 23 ital equipment and other incidental expenses necessary for  
 24 atomic energy defense weapons activities in carrying out  
 25 the purposes of the Department of Energy Organization

1 Act (42 U.S.C. 7101 et seq.), including the acquisition or  
2 condemnation of any real property or any facility or for  
3 plant or facility acquisition, construction, or expansion;  
4 one fixed wing aircraft for replacement only; and the pur-  
5 chase of not to exceed six passenger motor vehicles, of  
6 which four shall be for replacement only, including not to  
7 exceed two buses; \$6,473,814,000, to remain available  
8 until expended: *Provided*, That \$105,000,000 is author-  
9 ized to be appropriated for Project 01–D–108, Micro-  
10 systems and engineering sciences applications (MESA),  
11 Sandia National Laboratories, Albuquerque, New Mexico:  
12 *Provided further*, That \$3,564,000 is authorized to be ap-  
13 propriated for Project 04–D–103, Project engineering and  
14 design (PED), various locations: *Provided further*, That a  
15 plant or construction project for which amounts are made  
16 available under this heading in this fiscal year with a cur-  
17 rent estimated cost of less than \$10,000,000 is considered  
18 for purposes of section 3622 of Public Law 107–314 as  
19 a plant project for which the approved total estimated cost  
20 does not exceed the minor construction threshold and for  
21 purposes of section 3623 of Public Law 107–314 as a con-  
22 struction project with a current estimated cost of less than  
23 the minor construction threshold.



## 1           DEFENSE NUCLEAR NONPROLIFERATION

2           For Department of Energy expenses, including the  
3 purchase, construction and acquisition of plant and capital  
4 equipment and other incidental expenses necessary for  
5 atomic energy defense, defense nuclear nonproliferation  
6 activities, in carrying out the purposes of the Department  
7 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-  
8 cluding the acquisition or condemnation of any real prop-  
9 erty or any facility or for plant or facility acquisition, con-  
10 struction, or expansion, \$1,340,195,000, to remain avail-  
11 able until expended.

## 12                           NAVAL REACTORS

13          For Department of Energy expenses necessary for  
14 naval reactors activities to carry out the Department of  
15 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-  
16 ing the acquisition (by purchase, condemnation, construc-  
17 tion, or otherwise) of real property, plant, and capital  
18 equipment, facilities, and facility expansion, and the pur-  
19 chase of not to exceed one bus; \$768,400,000, to remain  
20 available until expended.

## 21                           OFFICE OF THE ADMINISTRATOR

22          For necessary expenses of the Office of the Adminis-  
23 trator in the National Nuclear Security Administration,  
24 including official reception and representation expenses

1 (not to exceed \$12,000), \$337,980,000, to remain avail-  
 2 able until expended.

3 ENVIRONMENTAL AND OTHER DEFENSE  
 4 ACTIVITIES

5 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 atomic  
 9 energy defense site acceleration completion activities in  
 10 carrying out the purposes of the Department of Energy  
 11 Organization Act (42 U.S.C. 7101 et seq.), including the  
 12 acquisition or condemnation of any real property or any  
 13 facility or for plant or facility acquisition, construction, or  
 14 expansion; \$5,770,695,000, to remain available until ex-  
 15 pended: *Provided*, That the Secretary of Energy is di-  
 16 rected to use \$1,000,000 of the funds provided for regu-  
 17 latory and technical assistance to the State of New Mex-  
 18 ico, to amend the existing WIPP Hazardous Waste Permit  
 19 to comply with the provisions of section 310 of this Act.

20 DEFENSE ENVIRONMENTAL SERVICES

21 For Department of Energy expenses necessary for  
 22 defense-related environmental services activities that indi-  
 23 rectly support the accelerated cleanup and closure mission  
 24 at environmental management sites, including the pur-  
 25 chase, construction, and acquisition of plant and capital

1 equipment and other necessary expenses, and the purchase  
 2 of not to exceed one ambulance for replacement only,  
 3 \$987,679,000, to remain available until expended.

#### 4 OTHER DEFENSE ACTIVITIES

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 atomic  
 8 energy defense, other defense activities, in carrying out the  
 9 purposes of the Department of Energy Organization Act  
 10 (42 U.S.C. 7101 et seq.), including the acquisition or con-  
 11 demnation of any real property or any facility or for plant  
 12 or facility acquisition, construction, or expansion,  
 13 \$492,209,000, to remain available until expended.

#### 14 DEFENSE NUCLEAR WASTE DISPOSAL

15 For nuclear waste disposal activities to carry out the  
 16 purposes of Public Law 97–425, as amended, including  
 17 the acquisition of real property or facility construction or  
 18 expansion, \$285,000,000, to remain available until ex-  
 19 pended.

#### 20 POWER MARKETING ADMINISTRATIONS

##### 21 BONNEVILLE POWER ADMINISTRATION FUND

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

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, \$5,100,000, to re-  
11 main available until expended; in addition, notwith-  
12 standing the provision of 31 U.S.C. 3302, up to  
13 \$34,400,000 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

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official 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, \$28,600,000, to  
 5 remain available until expended; in addition, notwith-  
 6 standing 31 U.S.C. 3302, beginning in fiscal year 2004  
 7 and thereafter, such funds as are received by the South-  
 8 western Power Administration from any State, munici-  
 9 pality, corporation, association, firm, district, or individual  
 10 as advance payment for work that is associated with  
 11 Southwestern's transmission facilities, consistent with  
 12 that authorized in section 5 of the Flood Control Act, shall  
 13 be credited to this account and be available until ex-  
 14 pended: *Provided*, That notwithstanding the provision of  
 15 31 U.S.C. 3302, up to \$2,800,000 collected by the South-  
 16 western Power Administration pursuant to the Flood Con-  
 17 trol Act to recover purchase power and wheeling expenses  
 18 shall be credited to this account as offsetting collections,  
 19 to remain available until expended for the sole purpose  
 20 of making purchase power and wheeling expenditures.

21 CONSTRUCTION, REHABILITATION, OPERATION AND  
 22 MAINTENANCE, WESTERN AREA POWER ADMINIS-  
 23 TRATION

24 For carrying out the functions authorized by title III,  
 25 section 302(a)(1)(E) of the Act of August 4, 1977 (42

1 U.S.C. 7152), and other related activities including con-  
 2 servation and renewable resources programs as author-  
 3 ized, including official reception and representation ex-  
 4 penses in an amount not to exceed \$1,500, \$177,950,000,  
 5 to remain available until expended, of which \$167,236,000  
 6 shall be derived from the Department of the Interior Rec-  
 7 lamation Fund: *Provided*, That of the amount herein ap-  
 8 propriated, \$6,200,000 is for deposit into the Utah Rec-  
 9 lamation Mitigation and Conservation Account pursuant  
 10 to title IV of the Reclamation Projects Authorization and  
 11 Adjustment Act of 1992: *Provided further*, That notwith-  
 12 standing the provision of 31 U.S.C. 3302, up to  
 13 \$186,100,000 collected by the Western Area Power Ad-  
 14 ministration pursuant to the Flood Control Act of 1944  
 15 and the Reclamation Project Act of 1939 to recover pur-  
 16 chase power and wheeling expenses shall be credited to  
 17 this account as offsetting collections, to remain available  
 18 until expended for the sole purpose of making purchase  
 19 power and wheeling expenditures.

20 FALCON AND AMISTAD OPERATING AND MAINTENANCE  
 21 FUND

22 For operation, maintenance, and emergency costs for  
 23 the hydroelectric facilities at the Falcon and Amistad  
 24 Dams, \$2,640,000, to remain available until expended,  
 25 and to be derived from the Falcon and Amistad Operating

1 and Maintenance Fund of the Western Area Power Ad-  
2 ministration, as provided in section 423 of the Foreign  
3 Relations Authorization Act, Fiscal Years 1994 and 1995.

4       FEDERAL ENERGY REGULATORY COMMISSION

5                   SALARIES AND EXPENSES

6       For necessary expenses of the Federal Energy Regu-  
7 latory Commission to carry out the provisions of the De-  
8 partment of Energy Organization Act (42 U.S.C. 7101 et  
9 seq.), including services as authorized by 5 U.S.C. 3109,  
10 the hire of passenger motor vehicles, and official reception  
11 and representation expenses (not to exceed \$3,000),  
12 \$199,400,000, to remain available until expended: *Pro-*  
13 *vided*, That notwithstanding any other provision of law,  
14 not to exceed \$199,400,000 of revenues from fees and an-  
15 nual charges, and other services and collections in fiscal  
16 year 2004 shall be retained and used for necessary ex-  
17 penses in this account, and shall remain available until  
18 expended: *Provided further*, That the sum herein appro-  
19 priated from the General Fund shall be reduced as reve-  
20 nues are received during fiscal year 2004 so as to result  
21 in a final fiscal year 2004 appropriation from the General  
22 Fund estimated at not more than \$0.

## 1 DEFENSE ENVIRONMENTAL MANAGEMENT

## 2 PRIVATIZATION

## 3 (RESCISSION)

4 Of the funds appropriated in prior Energy and Water  
5 Development Appropriation Acts, \$15,329,000 of unex-  
6 pended balances of prior appropriations are rescinded:  
7 *Provided*, That \$13,329,000 shall be derived from the Pa-  
8 ducah Disposal Facility Privatization (OR-574) and  
9 \$2,000,000 shall be derived from the Portsmouth Disposal  
10 Facility Privatization (OR-674).

## 11 GENERAL PROVISIONS

12 SEC. 301. (a) None of the funds appropriated by this  
13 Act may be used to award a management and operating  
14 contract, or a contract for environmental remediation or  
15 waste management in excess of \$100 million in annual  
16 funding at a current or former management and operating  
17 contract site or facility, or award a significant extension  
18 or expansion to an existing management and operating  
19 contract, or other contract covered by this section, unless  
20 such contract is awarded using competitive procedures or  
21 the Secretary of Energy grants, on a case-by-case basis,  
22 a waiver to allow for such a deviation. The Secretary may  
23 not delegate the authority to grant such a waiver.

24 (b) Within 30 days of formally notifying an incum-  
25 bent contractor that the Secretary intends to grant such



1 a waiver, the Secretary shall submit to the Subcommittees  
2 on Energy and Water Development of the Committees on  
3 Appropriations of the House of Representatives and the  
4 Senate a report notifying the Subcommittees 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 Act  
9 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,

16 under section 3161 of the National Defense Authorization  
17 Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.  
18 7274h).

19 SEC. 303. None of the funds appropriated by this Act  
20 may be used to augment the \$12,321,000 made available  
21 for obligation by this Act for severance payments and  
22 other benefits and community assistance grants under sec-  
23 tion 3161 of the National Defense Authorization Act for  
24 Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.  
25 7274h) unless the Department of Energy submits a re-

1 programming request subject to approval by the appro-  
2 priate congressional committees.

3 SEC. 304. None of the funds appropriated by this Act  
4 may be used to prepare or initiate Requests For Proposals  
5 (RFPs) for a program if the program has not been funded  
6 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 Administra-  
17 tion may be used to enter into any agreement to perform  
18 energy efficiency services outside the legally defined Bon-  
19 neville service territory, with the exception of services pro-  
20 vided internationally, including services provided on a re-  
21 imbursable basis, unless the Administrator certifies in ad-  
22 vance that such services are not available from private sec-  
23 tor businesses.

24 SEC. 307. The Administrator of the National Nuclear  
25 Security Administration may authorize the plant manager  
26 of a covered nuclear weapons production plant to engage

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

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

20 SEC. 308. Funds appropriated by this or any other  
 21 Act, or made available by the transfer of funds in this  
 22 Act, for intelligence activities are deemed to be specifically  
 23 authorized by the Congress for purposes of section 504  
 24 of the National Security Act of 1947 (50 U.S.C. 414) dur-

1 ing fiscal year 2004 until the enactment of the Intelligence  
2 Authorization Act for fiscal year 2004.

3 SEC. 309. None of the funds in this Act may be used  
4 to dispose of transuranic waste in the Waste Isolation  
5 Pilot Plant which contains concentrations of plutonium in  
6 excess of 20 percent by weight for the aggregate of any  
7 material category on the date of enactment of this Act,  
8 or is generated after such date. For the purposes of this  
9 section, the material categories of transuranic waste at the  
10 Rocky Flats Environmental Technology Site include: (1)  
11 ash residues; (2) salt residues; (3) wet residues; (4) direct  
12 repackaging residues; and (5) scrub alloy as referenced in  
13 the “Final Environmental Impact Statement on Manage-  
14 ment of Certain Plutonium Residues and Scrub Alloy  
15 Stored at the Rocky Flats Environmental Technology  
16 Site”.

17 SEC. 310. (a) The Secretary of Energy is directed  
18 to file a permit modification to the Waste Analysis Plan  
19 (WAP) and associated provisions contained in the Haz-  
20 ardous Waste Facility Permit for the Waste Isolation Pilot  
21 Plant (WIPP). For purposes of determining compliance  
22 of the modifications to the WAP with the hazardous waste  
23 analysis requirements of the Solid Waste Disposal Act (42  
24 U.S.C. 6901 et seq.), or other applicable laws waste con-  
25 firmation for all waste received for storage and disposal

1 shall be limited to (1) confirmation that the waste contains  
2 no ignitable, corrosive, or reactive waste through the use  
3 of either radiography or visual examination of a statis-  
4 tically representative subpopulation of the waste; and (2)  
5 review of the Waste Stream Profile Form to verify that  
6 the waste contains no ignitable, corrosive, or reactive  
7 waste and that assigned Environmental Protection Agency  
8 hazardous waste numbers are allowed for storage and dis-  
9 posal by the WIPP Hazardous Waste Facility Permit.

10 (b) Compliance with the disposal room performance  
11 standards of the WAP shall be demonstrated exclusively  
12 by monitoring airborne volatile organic compounds in un-  
13 derground disposal rooms in which waste has been em-  
14 placed until panel closure.

15 SEC. 311. Notwithstanding any other provision of  
16 law, the material in the concrete silos at the Fernald ura-  
17 nium processing facility currently managed by the Depart-  
18 ment of Energy shall be considered “byproduct material”  
19 as defined by section 11e.(2) of the Atomic Energy Act  
20 of 1954, as amended (42 U.S.C. 2014(e)(2)). The Nuclear  
21 Regulatory Commission or an Agreement State, as appro-  
22 priate, shall regulate the material as “11e.(2) by-product  
23 material” in the event that the Department of Energy pro-  
24 poses to dispose of the material in an NRC-regulated or  
25 Agreement State-regulated facility.

1        SEC. 312. CORPS OF ENGINEERS HYDROPOWER OP-  
2    ERATION AND MAINTENANCE FUNDING. (a) Notwith-  
3    standing 31 U.S.C. 3302 and the last sentence of section  
4    5 of the Flood Control Act of 1944 (16 U.S.C. 825s) and  
5    subject to (d), the Secretary of Energy shall collect fees,  
6    as offsetting collections, in the amount of \$145,000,000,  
7    pursuant to those acts which authorize Southeastern  
8    Power Administration, Southwestern Power Administra-  
9    tion, and Western Power Administration to collect reve-  
10   nues for power provided. The Secretary of Energy shall  
11   make the collection available to the Secretary of the Army  
12   hereafter referred to as “the Secretary”.

13        (b) The Secretary shall accept funds made available  
14   pursuant to subsection (a) and shall use such funds for  
15   Construction, General. The funds provided under this sec-  
16   tion shall remain available until expended.

17        (c) Subsection (b) of this section shall be carried out  
18   in consultation with preference customers under Federal  
19   law to the marketing of power.

20        (d) This section shall become effective only upon the  
21   enactment of authorizing legislation changing the nature  
22   of receipts collected by Southeastern Power Administra-  
23   tion, Southwestern Power Administration, and the West-  
24   ern Area Power Administration by making the collection  
25   of not less than \$145,000,000 of such receipts in fiscal

1 year 2004 subject to approval in an annual appropriations  
2 Act.

#### 3 TITLE IV

#### 4 INDEPENDENT AGENCIES

##### 5 APPALACHIAN REGIONAL COMMISSION

6 For expenses necessary to carry out the programs au-  
7 thorized by the Appalachian Regional Development Act of  
8 1965, as amended, for necessary expenses for the Federal  
9 Co-Chairman and the alternate on the Appalachian Re-  
10 gional Commission, for payment of the Federal share of  
11 the administrative expenses of the Commission, including  
12 services as authorized by 5 U.S.C. 3109, and hire of pas-  
13 senger motor vehicles, \$71,145,000, to remain available  
14 until expended.

##### 15 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

##### 16 SALARIES AND EXPENSES

17 For necessary expenses of the Defense Nuclear Fa-  
18 cilities Safety Board in carrying out activities authorized  
19 by the Atomic Energy Act of 1954, as amended by Public  
20 Law 100–456, section 1441, \$19,559,000, to remain  
21 available until expended.

##### 22 DELTA REGIONAL AUTHORITY

##### 23 SALARIES AND EXPENSES

24 For necessary expenses of the Delta Regional Author-  
25 ity and to carry out its activities, as authorized by the

1 Delta Regional Authority Act of 2000, as amended, not-  
2 withstanding sections 382C(b)(2), 382F(d), and 382M(b)  
3 of said Act, \$7,000,000, to remain available until ex-  
4 pended.

5 DENALI COMMISSION

6 For expenses of the Denali Commission including the  
7 purchase, construction and acquisition of plant and capital  
8 equipment as necessary and other expenses, \$48,500,000,  
9 to remain available until expended.

10 NUCLEAR REGULATORY COMMISSION

11 SALARIES AND EXPENSES

12 For necessary expenses of the Commission in car-  
13 rying out the purposes of the Energy Reorganization Act  
14 of 1974, as amended, and the Atomic Energy Act of 1954,  
15 as amended, including official representation expenses  
16 (not to exceed \$15,000), and purchase of promotional  
17 items for use in the recruitment of individuals for employ-  
18 ment, \$618,800,000, to remain available until expended:  
19 *Provided*, That of the amount appropriated herein,  
20 \$33,100,000 shall be derived from the Nuclear Waste  
21 Fund: *Provided further*, That revenues from licensing fees,  
22 inspection services, and other services and collections esti-  
23 mated at \$538,844,000 in fiscal year 2004 shall be re-  
24 tained and used for necessary salaries and expenses in this  
25 account, notwithstanding 31 U.S.C. 3302, and shall re-



1 main available until expended: *Provided further*, That the  
 2 sum herein appropriated shall be reduced by the amount  
 3 of revenues received during fiscal year 2004 so as to result  
 4 in a final fiscal year 2004 appropriation estimated at not  
 5 more than \$79,956,000.

6 OFFICE OF INSPECTOR GENERAL

7 For necessary expenses of the Office of Inspector  
 8 General in carrying out the provisions of the Inspector  
 9 General Act of 1978, as amended, \$7,300,000, to remain  
 10 available until expended: *Provided*, That revenues from li-  
 11 censing fees, inspection services, and other services and  
 12 collections estimated at \$6,716,000 in fiscal year 2004  
 13 shall be retained and be available until expended, for nec-  
 14 essary salaries and expenses in this account notwith-  
 15 standing 31 U.S.C. 3302: *Provided further*, That the sum  
 16 herein appropriated shall be reduced by the amount of rev-  
 17 enues received during fiscal year 2004 so as to result in  
 18 a final fiscal year 2004 appropriation estimated at not  
 19 more than \$584,000.

20 NUCLEAR WASTE TECHNICAL REVIEW BOARD

21 SALARIES AND EXPENSES

22 For necessary expenses of the Nuclear Waste Tech-  
 23 nical Review Board, as authorized by Public Law 100-  
 24 203, section 5051, \$3,177,000, to be derived from the Nu-  
 25 clear Waste Fund, and to remain available until expended.

## 1 TITLE V

## 2 GENERAL PROVISIONS

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. TECHNICAL CORRECTION. Section 506 of  
8 Division D of the Consolidated Appropriations Resolution,  
9 2003 (Public Law 108–7) is amended by striking “42  
10 U.S.C. 7274g” and inserting in lieu thereof “42 U.S.C.  
11 7274q”.

12       This Act may be cited as the “Energy and Water De-  
13 velopment Appropriations Act, 2004”.



Calendar No. 213

108TH CONGRESS  
1ST Session

**S. 1424**

[Report No. 108-105]

**A BILL**

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

JULY 17, 2003

Read twice and placed on the calendar