

Calendar No. 263

110TH CONGRESS
1ST SESSION

S. 1751

[Report No. 110–127]

Making appropriations for energy and water development for the fiscal year ending September 30, 2008, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2007

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

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2008, 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, 2008, for energy and
6 water development and for other purposes, namely:

1 TITLE I
2 CORPS OF ENGINEERS—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 and storm damage reduction, shore
10 protection, aquatic ecosystem restoration, and related pur-
11 poses.

12 GENERAL INVESTIGATIONS

13 For expenses necessary for the collection and study
14 of basic information pertaining to river and harbor, flood
15 and storm damage reduction, shore protection, aquatic
16 ecosystem restoration, and related projects, restudy of au-
17 thorized projects, miscellaneous investigations, and, when
18 authorized by law, surveys and detailed studies and plans
19 and specifications of projects prior to construction,
20 \$172,147,000, to remain available until expended.

21 CONSTRUCTION, GENERAL

22 For expenses necessary for the construction of river
23 and harbor, flood and storm damage reduction, shore pro-
24 tection, aquatic ecosystem restoration, and related
25 projects authorized by law; for conducting detailed studies,
26 and plans and specifications, of such projects (including

1 those involving participation by States, local governments,
2 or private groups) authorized or made eligible for selection
3 by law (but such detailed studies, and plans and specifica-
4 tions, shall not constitute a commitment of the Govern-
5 ment to construction); \$2,059,474,000, to remain avail-
6 able until expended; of which such sums as are necessary
7 to cover the Federal share of construction costs for facili-
8 ties under the Dredged Material Disposal Facilities pro-
9 gram shall be derived from the Harbor Maintenance Trust
10 Fund as authorized by Public Law 104–303; and of which
11 such sums as are necessary pursuant to Public Law 99–
12 662 shall be derived from the Inland Waterways Trust
13 Fund, to cover one-half of the costs of construction and
14 rehabilitation of inland waterways projects (including the
15 rehabilitation costs for Lock and Dam 11, Mississippi
16 River, Iowa; Lock and Dam 19, Mississippi River, Iowa;
17 Lock and Dam 24, Mississippi River, Illinois and Mis-
18 souri; Lock 27, Mississippi River, Illinois; Markland Locks
19 and Dam, Kentucky and Indiana; Emsworth Locks and
20 Dam, Ohio River, Pennsylvania; and Lock and Dam 3,
21 Mississippi River, Minnesota) shall be derived from the In-
22 land Waterways Trust Fund: *Provided*, That the Chief of
23 Engineers is directed to use \$13,000,000 of the funds ap-
24 propriated herein for the Dallas Floodway Extension,
25 Texas, project, including the Cadillac Heights feature,

1 generally in accordance with the Chief of Engineers report
2 dated December 7, 1999: *Provided further*, That the Chief
3 of Engineers is directed to use \$2,000,000 of the funds
4 provided herein for the Hawaii Water Management
5 Project: *Provided further*, That the Chief of Engineers is
6 directed to use \$8,500,000 of the funds appropriated here-
7 in for planning, engineering, design or construction of the
8 Grundy, Buchanan County, and Dickenson County, Vir-
9 ginia, elements of the Levisa and Tug Forks of the Big
10 Sandy River and Upper Cumberland River Project: *Pro-*
11 *vided further*, That the Chief of Engineers is directed to
12 use \$18,000,000 of the funds appropriated herein to con-
13 tinue planning, engineering, design or construction of the
14 Lower Mingo County, Upper Mingo County, Wayne Coun-
15 ty, McDowell County, West Virginia, elements of the
16 Levisa and Tug Forks of the Big Sandy River and Upper
17 Cumberland River Project: *Provided further*, That the
18 Chief of Engineers is directed to use \$3,000,000 of the
19 funds provided herein to initiate planning and design of
20 a rural health care facility on the Fort Berthold Reserva-
21 tion of the Three Affiliated Tribes, North Dakota: *Pro-*
22 *vided further*, That the Chief of Engineers is directed to
23 proceed with work on the permanent bridge to replace Fol-
24 som Bridge Dam Road, Folsom, California, as authorized
25 by the Energy and Water Development Appropriations

1 Act, 2004 (Public Law 108–137), and, of the \$18,500,000
2 available for the American River Watershed (Folsom Dam
3 Mini-Raise), California, project, \$14,000,000 of those
4 funds be directed for completion of the permanent bridge,
5 with all remaining devoted to the Mini-Raise: *Provided*
6 *further*, That the Secretary of the Army shall use up to
7 \$6,000,000 including the prior unobligated balance of
8 \$4,972,000 from the Devils Lake Outlet, North Dakota,
9 project for the North Dakota environmental infrastructure
10 project: *Provided further*, That the Secretary of the Army
11 shall use the prior year unobligated balance of \$1,500,000
12 from the Waterbury Dam repairs project for the Lake
13 Champlain Watershed project.

14 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
15 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
16 SSISSIPPI, MISSOURI, AND TENNESSEE

17 For expenses necessary for the flood damage reduc-
18 tion program for the Mississippi River alluvial valley below
19 Cape Girardeau, Missouri, as authorized by law,
20 \$375,000,000, to remain available until expended, of
21 which such sums as are necessary to cover the Federal
22 share of operation and maintenance costs for inland har-
23 bors shall be derived from the Harbor Maintenance Trust
24 Fund: *Provided*, That the Chief of Engineers is directed
25 to use \$10,000,000 of the funds provided herein for design
26 and real estate activities and pump supply elements for

1 the Yazoo Basin, Yazoo Backwater Pumping Plant, Mis-
2 sissippi: *Provided further*, That the Secretary of the Army,
3 acting through the Chief of Engineers is directed to use
4 \$10,000,000 appropriated herein for construction of water
5 withdrawal features of the Grand Prairie, Arkansas,
6 project.

7 OPERATION AND MAINTENANCE

8 For expenses necessary for the operation, mainte-
9 nance, and care of existing river and harbor, flood and
10 storm damage reduction, aquatic ecosystem restoration,
11 and related projects authorized by law, for providing secu-
12 rity for infrastructure owned and operated by, or on behalf
13 of, the United States Army Corps of Engineers (the
14 “Corps”), including administrative buildings and facilities,
15 and laboratories, and the Washington Aqueduct; for the
16 maintenance of harbor channels provided by a State, mu-
17 nicipality, or other public agency that serve essential navi-
18 gation needs of general commerce, where authorized by
19 law; and for surveys and charting of northern and north-
20 western lakes and connecting waters, clearing and
21 straightening channels, and removal of obstructions to
22 navigation, \$2,291,971,000, to remain available until ex-
23 pended, of which such sums as are necessary to cover the
24 Federal share of operation and maintenance costs for
25 coastal harbors and channels, and inland harbors shall be
26 derived from the Harbor Maintenance Trust Fund, pursu-

1 ant to Public Law 99–662 may be derived from that fund,
 2 as amended; of which such sums as become available from
 3 the special account for the Corps established by the Land
 4 and Water Conservation Act of 1965, as amended (16
 5 U.S.C. 4601–6a(i)), may be derived from that account for
 6 resource protection, research, interpretation, and mainte-
 7 nance activities related to resource protection in the areas
 8 at which outdoor recreation is available; and of which such
 9 sums as become available under section 217 of the Water
 10 Resources Development Act of 1996, Public Law 104–
 11 303, shall be used to cover the cost of operation and main-
 12 tenance of the dredged material disposal facilities for
 13 which fees have been collected: *Provided*, That utilizing
 14 funds appropriated herein, for the Intracoastal Waterway,
 15 Delaware River to Chesapeake Bay, Delaware and Mary-
 16 land, the Chief of Engineers, is directed to reimburse the
 17 State of Delaware for normal operation and maintenance
 18 costs incurred by the State of Delaware for the SR1
 19 Bridge from station 58 + 00 to station 293 + 00 between
 20 October 1, 2007, and September 30, 2008.

21 FLOOD CONTROL AND COASTAL EMERGENCIES

22 For expenses necessary to prepare for flood, hurri-
 23 cane, and other natural disasters and support emergency
 24 operations, repairs, and other activities in response to
 25 flood and hurricane emergencies, as authorized by law,
 26 \$50,000,000, to remain available until expended.

1 REGULATORY PROGRAM

2 For expenses necessary for administration of laws
3 pertaining to regulation of navigable waters and wetlands,
4 \$180,000,000, to remain available until expended.

5 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

6 For expenses necessary to clean up contamination
7 from sites in the United States resulting from work per-
8 formed as part of the Nation's early atomic energy pro-
9 gram, \$140,000,000, to remain available until expended.

10 GENERAL EXPENSES

11 For expenses necessary for general administration
12 and related civil works functions in the headquarters of
13 the United States Army Corps of Engineers, the offices
14 of the Division Engineers, the Humphreys Engineer Cen-
15 ter Support Activity, the Institute for Water Resources,
16 the United States Army Engineer Research and Develop-
17 ment Center, and the United States Army Corps of Engi-
18 neers Finance Center, \$175,000,000, to remain available
19 until expended: *Provided*, That no part of any other appro-
20 priation provided in title I of this Act shall be available
21 to fund the civil works activities of the Office of the Chief
22 of Engineers or the civil works executive direction and
23 management activities of the division offices.

1 OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL
2 WORKS)

3 For the Office of the Assistant Secretary of the Army
4 (Civil Works), \$4,500,000 is provided.

5 ADMINISTRATIVE PROVISION

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

12 GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

13 SEC. 101. (a) None of the funds provided in title I
14 of this Act shall be available for obligation or expenditure
15 through a reprogramming of funds that—

16 (1) creates or initiates a program, project or ac-
17 tivity;

18 (2) GENERAL INVESTIGATIONS.—For a base
19 level over \$100,000, reprogramming of 25 percent of
20 the base amount up to a limit of \$150,000 per
21 project, study or activity is allowed: *Provided*, That
22 for a base level less than \$100,000, the reprogram-
23 ming limit is \$25,000: *Provided further*, That
24 \$25,000 may be reprogrammed into any continuing
25 study or activity that did not receive an appropria-
26 tion: *Provided further*, That reprogrammings that

1 exceed these limits must be submitted to the House
2 and Senate Subcommittees for approval;

3 (3) CONSTRUCTION, GENERAL.—For a base
4 level over \$2,000,000, reprogramming of 15 percent
5 of the base amount up to a limit of \$3,000,000 per
6 project, study or activity is allowed: *Provided*, That
7 for a base level less than \$2,000,000, the re-
8 programming limit is \$300,000: *Provided further*,
9 That \$300,000 may be reprogrammed into any con-
10 tinuing study or activity that did not receive an ap-
11 propriation: *Provided further*, That up to \$3,000,000
12 may be reprogrammed for settled contractor claims,
13 accelerated earnings, or real estate deficiency judg-
14 ments: *Provided further*, That reprogrammings that
15 exceed these limits must be submitted to the House
16 and Senate Subcommittees for approval;

17 (4) OPERATION AND MAINTENANCE.—Unlim-
18 ited reprogramming authority is granted in order for
19 the Corps to be able to respond to emergencies: *Pro-*
20 *vided*, That the Chief of Engineers must notify the
21 House and Senate Committees on Appropriations of
22 these emergency actions as soon thereafter as prac-
23 ticable: *Provided further*, That for a base level over
24 \$1,000,000, reprogramming of 15 percent of the
25 base amount up to a limit of \$5,000,000 per project,

1 study or activity is allowed: *Provided further*, That
2 for a base level less than \$1,000,000, the re-
3 programming limit is \$150,000: *Provided further*,
4 That \$150,000 may be reprogrammed into any con-
5 tinuing study or activity that did not receive an ap-
6 propriation: *Provided further*, That reprogrammings
7 that exceed these limits must be submitted to the
8 House and Senate Subcommittees for approval;

9 (5) MISSISSIPPI RIVER AND TRIBUTARIES.—
10 The same reprogramming guidelines for the General
11 Investigations, Construction, General and Operation
12 and Maintenance portions of the Mississippi River
13 and Tributaries Account as listed above.

14 (6) FORMERLY UTILIZED SITES REMEDIAL AC-
15 TION PROGRAM.—Reprogramming of up to 15 per-
16 cent of the base of the receiving project is permitted
17 unless prior approval is received from the House and
18 Senate Committees on Appropriations.

19 (b) CONTINUING AUTHORITIES PROGRAM.—No
20 funds shall be reprogrammed into or out of section 205
21 of the Flood Control Act of 1948; section 14 of the Flood
22 Control Act of 1946; section 208 of the Flood Control Act
23 of 1954; section 107 of the River and Harbor Act of 1960;
24 section 103 of the River and Harbor Act of 1962; section
25 111 of the River and Harbor Act of 1968; section 1135

1 of the Water Resources Development Act of 1986; section
2 206 of the Water Resources Development Act of 1996;
3 sections 204 and 207 of the Water Resources Develop-
4 ment Act of 1992 or section 933 of the Water Resources
5 Development Act of 1986: *Provided*, That unlimited re-
6 programming is permitted within any of the Continuing
7 Authorities Programs Sections listed above.

8 SEC. 102. None of the funds in this Act, or previous
9 Acts, making funds available for Energy and Water Devel-
10 opment, shall be used to implement any pending or future
11 competitive sourcing actions under OMB Circular A-76
12 or High Performing Organizations for the U.S. Army
13 Corps of Engineers.

14 SEC. 103. None of the funds appropriated in this or
15 any other Act shall be used to demonstrate or implement
16 any plans divesting or transferring any Civil Works mis-
17 sions, functions, or responsibilities of the United States
18 Army Corps of Engineers to other government agencies
19 without specific direction in a subsequent Act of Congress.

20 SEC. 104. ST. GEORGES BRIDGE, DELAWARE.—
21 None of the funds made available in this Act may be used
22 to carry out any activity relating to closure or removal
23 of the St. Georges Bridge across the Intracoastal Water-
24 way, Delaware River to Chesapeake Bay, Delaware and
25 Maryland, including a hearing or any other activity relat-

1 ing to preparation of an environmental impact statement
2 concerning the closure or removal.

3 SEC. 105. Within 75 days of the date of the Chief
4 of Engineers Report on a water resource matter, the As-
5 sistant Secretary of the Army (Civil Works) shall submit
6 the report to the appropriate authorizing and appro-
7 priating committees of the Congress.

8 SEC. 106. WATER REALLOCATION, LAKE CUM-
9 BERLAND, KENTUCKY. (a) IN GENERAL.—Subject to sub-
10 section (b), none of the funds made available by this Act
11 may be used to carry out any water reallocation project
12 or component under the Wolf Creek Project, Lake Cum-
13 berland, Kentucky, authorized under the Act of June 28,
14 1938 (52 Stat. 1215, ch. 795) and the Act of July 24,
15 1946 (60 Stat. 636, ch. 595).

16 (b) EXISTING REALLOCATIONS.—Subsection (a) shall
17 not apply to any water reallocation for Lake Cumberland,
18 Kentucky, that is carried out subject to an agreement or
19 payment schedule in effect on the date of enactment of
20 this Act.

21 SEC. 107. The project for flood control at Milton,
22 West Virginia, authorized by section 580 of the Water Re-
23 sources Development Act of 1996 (110 Stat. 3790), as
24 modified by section 340 of the Water Resources Develop-
25 ment Act of 2000 (114 Stat. 2612), is modified to author-

1 ize the Secretary to construct the project substantially in
2 accordance with the draft report of the Corps of Engineers
3 dated April 2006, at an estimated total cost of
4 \$45,500,000, with an estimated Federal cost of
5 \$34,125,000 and an estimated non-Federal cost of
6 \$11,375,000.

7 SEC. 108. Using amounts available in the Revolving
8 Fund, the Secretary of the Army is authorized to con-
9 struct a new Environmental Laboratory and improve-
10 ments to the Information Technology Laboratory at the
11 Engineer Research and Development Center in Vicksburg,
12 Mississippi: *Provided*, That the Secretary shall ensure that
13 the Revolving Fund is appropriately reimbursed from ap-
14 propriations of the Corps' benefiting programs by collec-
15 tion each year of amounts sufficient to repay the capital-
16 ized cost of such construction and improvements.

17 SEC. 109. The Secretary of the Army may enter into
18 cooperative agreements with any Indian Tribe whose lands
19 are located in New Mexico and occupied by a flood control
20 project owned and operated by the Corps of Engineers,
21 to assist in carrying out Operation and Maintenance ac-
22 tivities associated with such project.

23 SEC. 110. Notwithstanding section 729 of the Water
24 Resources Development Act of 1986, as amended (33
25 U.S.C. 2267a), the Secretary shall credit toward the non-

1 Federal share of the cost of the Rio Grande Basin Water-
2 shed Study, New Mexico, Colorado and Texas, the cost
3 of in-kind services contributed by the New Mexico Inter-
4 state Stream Commission for the Study up to the full
5 amount of the required non-Federal share, in accordance
6 with the Agreement between the Commission and the De-
7 partment of the Army dated December 3, 2001 as modi-
8 fied on January 14, 2002.

9 SEC. 111. Section 121 of the Energy and Water De-
10 velopment Appropriations Act, 2006 (Public Law 109–
11 103; 119 Stat. 2256) is amended by striking subsection
12 (a) and inserting the following:

13 “(a) The Secretary of the Army may carry out and
14 fund planning studies, watershed surveys and assess-
15 ments, or technical studies at 100 percent Federal expense
16 to accomplish the purposes of the 2003 Biological Opinion
17 described in section 205(b) of the Energy and Water De-
18 velopment Appropriations Act, 2005 (Public Law 108–
19 447; 118 Stat. 2949) as amended by subsection (b) and
20 the collaborative program long-term plan. In carrying out
21 a study, survey, or assessment under this subsection, the
22 Secretary of the Army shall consult with Federal, State,
23 tribal and local governmental entities, as well as entities
24 participating in the Middle Rio Grande Endangered Spe-
25 cies Collaborative Program referred to in section 205 of

1 the Energy and Water Development Appropriations Act,
2 2008. The Secretary of the Army may also provide plan-
3 ning and administrative assistance to the Middle Rio
4 Grande Endangered Species Collaborative Program, which
5 shall not be subject to cost sharing requirements with non-
6 Federal interests.”.

7 SEC. 112. None of the funds provided in this or prior
8 Acts shall be expended on the update of the disputed water
9 control manuals for the Apalachicola-Chattahoochee-Flint
10 Rivers without the approval of the States of Alabama,
11 Florida, and Georgia or for the Alabama-Coosa-Tallapoosa
12 Rivers without the approval of the States of Alabama and
13 Georgia or until such time as all legal proceedings in rela-
14 tion to the water use disputes are concluded and all ap-
15 peals exhausted.

16 SEC. 113. The project for flood damage reduction,
17 Rio de Flag, Flagstaff, Arizona, authorized in section
18 101(b)(3) of the Water Resources Development Act, 2000,
19 is modified to authorize the Secretary to construct the
20 project, at a total cost of \$54,130,000, with an estimated
21 Federal cost of \$34,970,000, and an estimated non-Fed-
22 eral cost of \$19,160,000.

23 SEC. 114. Section 582(c)(2) of the Water Resources
24 Development Act of 1999 (Public Law 106–53) is modi-

1 fied by striking “\$1,000,000” and inserting
2 “\$2,000,000”, in lieu thereof.

3 SEC. 115. The project for flood control, Santa Ana
4 River Mainstem, including Santiago Creek, California, au-
5 thorized by section 401(a) of the Water Resources Devel-
6 opment Act of 1986 (Public Law 99–662), modified by
7 section 104 of the Energy and Water Development Appro-
8 priations Act, 1988 (Public Law 100–202), and by section
9 309 of the Water Resources Development Act of 1996
10 (Public Law 104–303), is further modified to authorize
11 the Chief of Engineers to carry out the project at a total
12 cost of \$1,800,000,000.

13 SEC. 116. The project for flood damage reduction and
14 recreation, Upper Guadalupe River, California, authorized
15 by section 101(a)(9) of the Water Resources Development
16 Act of 1999 (113 Stat. 275), is modified to authorize the
17 Secretary to construct the project generally in accordance
18 with the Upper Guadalupe River Flood Damage Reduc-
19 tion, San Jose, California, Limited Reevaluation Report,
20 dated March 2004, at a total cost of \$244,500,000, with
21 an estimated Federal cost of \$130,600,000 and an esti-
22 mated non-Federal cost of \$113,900,000.

23 SEC. 117. The Secretary of the Army, acting through
24 the Chief of Engineers, is directed to convey at no cost,
25 lands to Tate County School District, Tate County, Mis-

1 sissippi, the transfer of any real property interests, not
 2 to exceed 50 acres, at Arkabutla Lake deemed available
 3 by the Army that is located adjacent to school district
 4 property in the vicinity of State Highway 306 west of
 5 Coldwater, Mississippi. Such transfer shall be subject to
 6 the reservation of any required flowage easements for the
 7 operation of Arkabutla Lake and which preclude struc-
 8 tures for human habitation. This property shall be used
 9 by the Tate County School District for public educational
 10 purposes.

11 SEC. 118. Section 594 of the Water Resources Devel-
 12 opment Act of 1999 is amended by striking “**SEC. 594.**
 13 **OHIO.**” and inserting in lieu thereof “**SEC. 594.**
 14 **OHIO AND NORTH DAKOTA.**” and in (a) strike
 15 “Ohio.” and insert in lieu thereof “Ohio and North Da-
 16 kota.” and in (b) strike “Ohio,” and insert in lieu thereof
 17 “Ohio and North Dakota,” and in (g) strike
 18 “\$240,000,000.” and insert in lieu thereof “\$240,000,000
 19 for Ohio and \$100,000,000 for North Dakota.”

20 SEC. 119. The Secretary of the Army, acting through
 21 the Chief of Engineers, is directed and authorized to con-
 22 duct preconstruction engineering and design activities at
 23 full Federal expense for the Kahuku Storm Damage Re-
 24 duction Project, Oahu, Hawaii, which includes interior
 25 drainage and related improvements to be constructed on

1 lands that may include Federal land, the cost of the
2 preconstruction, engineering, and design activities shall be
3 included in total project costs to be cost shared at the rate
4 of 65 percent Federal and 35 percent non-Federal, as a
5 part of construction and the Decision Document contents
6 shall be limited to a design analysis and supporting NEPA
7 documentation for drainage improvements.

8 SEC. 120. The Secretary of the Army, acting through
9 the Chief of Engineers, is directed to fully utilize the Fed-
10 eral dredging fleet in support of all Army Corps of Engi-
11 neers missions and no restrictions shall be placed on the
12 use or maintenance of any dredge in the Federal Fleet.

13 SEC. 121. The Secretary of the Army, acting through
14 the Chief of Engineers, is directed to maintain the Federal
15 dredging fleet to technologically modern and efficient
16 standards.

17 SEC. 122. The Secretary of the Army, acting through
18 the Chief of Engineers is directed to utilize funds from
19 the revolving fund to expeditiously undertake necessary
20 health and safety improvements to the dredge “McFar-
21 land”: *Provided*, That the Secretary shall ensure that the
22 Revolving Fund is appropriately reimbursed from appro-
23 priations of the Corps’ benefiting programs by collection
24 each year of amounts sufficient to repay the capitalized
25 cost of such construction and improvements.

1 SEC. 123. The Secretary of the Army is authorized
2 to use funds appropriated under the Missouri River Recov-
3 ery and Mitigation Program to assist the Bureau of Rec-
4 lamation in the design and construction of facilities of the
5 Bureau of Reclamation's Lower Yellowstone Project near
6 Intake, Montana, for the purpose of ecosystem restoration;
7 and if appropriate may transfer such funds to the Bureau
8 of Reclamation, which shall use such transferred funds for
9 such purposes.

10 SEC. 124. The U.S. Army Corps of Engineers' share
11 of the total cost for projects and activities authorized
12 under 16 U.S.C. 410-r-8 shall be limited to \$69,650,000.

13 SEC. 125. Section 108 under title I of Public Law
14 109-103 is repealed.

15 SEC. 126. Section 227 of Public Law 104-303 is
16 amended in section 5(a) by striking "7", and inserting
17 "12" in lieu thereof.

18 SEC. 127. All budget documents and justification ma-
19 terials for the Corps of Engineers annual budget submis-
20 sion to Congress shall be assembled and presented based
21 on the most recent annual appropriations Act: *Provided*,
22 That new budget proposals for fiscal year 2008 and there-
23 after, shall not be integrated into the budget justifications
24 submitted to Congress but shall be submitted separately
25 from the budget justifications documents.

1 SEC. 128. The Secretary of the Army acting through
2 the Chief of Engineers is directed to plan, design, and con-
3 struct a rural health care facility on the Fort Berthold
4 Indian Reservation of the Three Affiliated Tribes, North
5 Dakota, at an estimated Federal cost of \$20,000,000. The
6 Secretary shall transfer this facility to the Secretary of
7 the Interior for operation and maintenance upon the com-
8 pletion of construction.

9 SEC. 129. The last sentence of section 215(a) of the
10 Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) is
11 amended by striking “\$5,000,000” and inserting
12 “\$7,000,000”.

13 SEC. 130. JOHNSON CREEK, ARLINGTON, TEXAS. (a)
14 IN GENERAL.—The project for flood damage reduction,
15 environmental restoration and recreation, Johnson Creek,
16 Arlington, Texas, authorized by section 101(b)(14) of the
17 Water Resources Development Act of 1999 (113 Stat.
18 280–281) is modified to authorize the Secretary to con-
19 struct the project substantially in accordance with the re-
20 port entitled Johnson Creek: A Vision of Conservation,
21 dated March 30, 2006, at a total cost of \$80,000,000,
22 with an estimated Federal cost of \$52,000,000 and an es-
23 timated non-Federal cost of \$28,000,000 if the Secretary
24 determines that the project is technically sound and envi-
25 ronmentally acceptable.

1 (b) NON-FEDERAL SHARE.—

2 (1) IN GENERAL.—The non-Federal share of
3 the cost of the project may be provided in cash or
4 in the form of in-kind services or materials.

5 (2) CREDIT AND REIMBURSEMENT.—The Sec-
6 retary shall credit toward the non-Federal share of
7 the cost of the project the cost of planning, design,
8 and construction work carried out by the non-Fed-
9 eral interest for implementation of the project, if the
10 Secretary determines that the work is integral to the
11 project. Subject to the availability of funds, the non-
12 Federal interest shall be reimbursed for costs in-
13 curred by the non-Federal interest that exceed the
14 non-Federal share of project costs.

15 (c) CONFORMING AMENDMENT.—Section 134 of the
16 Energy and Water Development Appropriations Act, 2006
17 (119 Stat. 2264) is repealed.

18 SEC. 131. MCALPINE LOCK AND DAM, INDIANA AND
19 KENTUCKY. Section 101(a)(10) of the Water Resources
20 Development Act of 1990, Public Law 101–640, is amend-
21 ed by striking both occurrences of “\$219,000,000” and
22 inserting in their place “\$430,000,000”.

23 SEC. 132. The Secretary is authorized and directed
24 to reimburse local governments for expenses they have in-
25 curred in storm-proofing pumping stations, constructing

1 safe houses for operators, and other interim flood control
 2 measures in and around the New Orleans metropolitan
 3 area, provided the Secretary determines those elements of
 4 work and related expenses to be integral to the overall
 5 plan to ensure operability of the stations during hurri-
 6 canes, storms and high water events and the flood control
 7 plan for the area.

8 SEC. 133. Section 101(a)(5) of the Water Resources
 9 Development Act of 1996 (110 Stat. 3663) is amended—

10 (1) by inserting “(A) IN GENERAL.—” before
 11 “The”; and

12 (2) by adding at the end the following:

13 “(B) CREDIT TOWARD NON-FEDERAL
 14 SHARE.—The Secretary shall credit toward the
 15 non-Federal share of the project the costs ex-
 16 pended by non-Federal interests for the replace-
 17 ment and reconstruction of the Soquel Avenue
 18 Bridge, if the Secretary determines that the
 19 work is integral to the project.

20 “(C) MAXIMUM AMOUNT OF CREDIT.—
 21 The credit under paragraph (B) may not exceed
 22 \$2,000,000.

23 “(D) LIMITATION OF TOTAL PROJECT
 24 COST.—The Secretary shall not include the
 25 costs to be credited under paragraphs (B) and

1 (C) in total project costs in determining the
2 amounts of the Federal and non-Federal con-
3 tributions.”.

4 SEC. 134. MISSOURI AND MIDDLE MISSISSIPPI RIV-
5 ERS ENHANCEMENT PROJECT. Section 514(g) of the
6 Water Resources Development Act of 1999 (Public Law
7 106–53) is amended by striking the words “for the period
8 of fiscal years 2000 and 2001.” and inserting in lieu
9 thereof “per year, and that authority shall extend until
10 Federal fiscal year 2015.”.

11 SEC. 135. The project for flood damage reduction,
12 Nogales Wash, Arizona, authorized in section 101(a)(4)
13 of the Water Resources Development Act, 1990, is modi-
14 fied to authorize the Secretary to construct the project,
15 at a total cost of \$24,500,000, with an estimated Federal
16 cost of \$19,500,000, and an estimated non-Federal cost
17 of \$5,000,000.

18 SEC. 136. The project for flood damage reduction,
19 Tucson Drainage Area, Arizona, authorized in section
20 101(a)(5) of the Water Resources Development Act, 1999,
21 is modified to authorize the Secretary to construct the
22 project, at a total cost of \$66,700,000, with an estimated
23 Federal cost of \$43,350,000, and an estimated non-Fed-
24 eral cost of \$23,350,000.

1 SEC. 137. Section 219(f) of the Water Resources De-
2 velopment Act of 1992 (Public Law 102–580, 106 Stat.
3 4835 et seq.), as amended, is further amended by striking
4 subsection “(71) Coronado, California”, in its entirety and
5 inserting the following:

6 “(71) CORONADO, CALIFORNIA.

7 “(A) \$10,000,000 is authorized for waste-
8 water infrastructure, Coronado, California.

9 “(B) The Federal Share may be in the
10 form of grants or reimbursements of project
11 costs incurred by the non-Federal sponsor for
12 work performed by the non-Federal sponsor be-
13 fore or after the execution of a project coopera-
14 tion agreement, if the Secretary determines that
15 such work is integral to the project.

16 “(C) The Secretary is authorized to credit
17 towards the non-Federal share of project costs
18 the costs incurred by the non-Federal sponsor
19 for work performed by the non-Federal sponsor
20 before or after the execution of a project co-
21 operation agreement, if the Secretary deter-
22 mines that such work is integral to the
23 project.”

24 SEC. 138. Section 595(h) of the Water Resources De-
25 velopment Act of 1999 (113 Stat. 384; 117 Stat. 142; 117

1 Stat. 1836) is amended by striking “New Mexico, and
 2 rural Utah” and inserting “and New Mexico and
 3 \$50,000,000 for Rural Utah”.

4 SEC. 139. NAVAJO RESERVATION, ARIZONA, NEW
 5 MEXICO, AND UTAH.—Section 520(b) of the Water Re-
 6 sources Development Act of 1999 (Public Law 106–53;
 7 113 Stat. 345) is amended by inserting after the second
 8 sentence “The local match for the funds appropriated for
 9 flood plain delineation on the Navajo reservation in Ari-
 10 zona, New Mexico, and Utah may be provided as in-kind
 11 services.”.

12 SEC. 140. CONNECTICUT RIVER WATERSHED
 13 STUDY, NEW HAMPSHIRE, CONNECTICUT, MASSACHU-
 14 SETTS, AND VERMONT.—Notwithstanding section 221 of
 15 the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), The
 16 Nature Conservancy may act as the non-Federal interest
 17 for purposes of carrying out the work detailed in the
 18 agreement executed between The Nature Conservancy and
 19 the Department of the Army on August 5, 2005.

20 SEC. 141. CHICAGO SANITARY AND SHIP CANAL DIS-
 21 PERSAL BARRIERS PROJECT, ILLINOIS. (a) IN GEN-
 22 ERAL.—The Chicago Sanitary and Ship Canal Dispersal
 23 Barrier Project (referred to in this Act as “Barrier I”)
 24 (as in existence on the date of enactment of this Act), con-
 25 structed as a demonstration project under section

1 1202(i)(3) of the Nonindigenous Aquatic Nuisance Pre-
 2 vention and Control Act of 1990 (16 U.S.C. 4722(i)(3)),
 3 and the project relating to the Chicago Sanitary and Ship
 4 Canal Dispersal Barrier, as authorized by section 345 of
 5 the District of Columbia Appropriations Act, 2005 (Public
 6 Law 108–335; 118 Stat. 1352) (referred to in this Act
 7 as “Barrier II”), shall be considered to constitute a single
 8 project.

9 (b) ACTIVITIES RELATING TO BARRIER I AND BAR-
 10 RIER II.—

11 (1) DUTIES OF SECRETARY OF THE ARMY.—

12 The Secretary of the Army (referred to in this Act
 13 as the “Secretary”) shall, at full Federal expense—

14 (A) upgrade and make permanent Barrier

15 I;

16 (B) construct Barrier II, notwithstanding

17 the project cooperation agreement with the

18 State of Illinois dated June 14, 2005;

19 (C) operate and maintain Barrier I and

20 Barrier II as a system to optimize effectiveness;

21 (D) conduct, in consultation with appro-

22 priate Federal, State, local, and nongovern-

23 mental entities, a study of a full range of op-

24 tions and technologies for reducing impacts of

1 hazards that may reduce the efficacy of the
2 Barriers; and

3 (E) provide to each State a credit in an
4 amount equal to the amount of funds contrib-
5 uted by the State toward Barrier II.

6 (2) APPLICATION OF CREDIT.—A State may
7 apply a credit received under paragraph (1)(E) to
8 any cost-sharing responsibility for an existing or fu-
9 ture Federal project with the Corps of Engineers in
10 the State.

11 (c) FEASIBILITY STUDY.—The Secretary, in con-
12 sultation with appropriate Federal, State, local, and non-
13 governmental entities, shall conduct a feasibility study, at
14 full Federal expense, of the range of options and tech-
15 nologies available to prevent the spread of aquatic nui-
16 sance species between the Great Lakes and Mississippi
17 River Basins through the Chicago Sanitary and Ship
18 Canal and other aquatic pathways.

19 (d) CONFORMING AMENDMENT.—Section 345 of the
20 District of Columbia Appropriations Act, 2005 (Public
21 Law 108–335; 118 Stat. 1352) is amended to read as fol-
22 lows:

23 “SEC. 345. There are authorized to be appropriated
24 such sums as are necessary to carry out the Barrier II
25 project of the project for the Chicago Sanitary and Ship

1 Canal Dispersal Barrier, Illinois, initiated pursuant to sec-
2 tion 1135 of the Water Resources Development Act of
3 1986 (33 U.S.C. 2309a).”.

4 SEC. 142. None of the funds provided in this or prior
5 Acts may be used by the Secretary of the Army for
6 projects and activities authorized under 16 U.S.C. 410–
7 r–8 unless they are matched by an equal cost share from
8 the Department of the Interior: *Provided*, That the De-
9 partment of the Interior’s share of the cost may not be
10 provided as in-kind services or credit for previous work
11 performed: *Provided further*, That the Secretary of the
12 Army may not transfer funds to the Secretary of the Inte-
13 rior for projects and activities authorized under 16 U.S.C.
14 410–r–8.

15 SEC. 143. The Secretary of the Army may, under
16 such terms and conditions as the Secretary deems appro-
17 priate, contract with any public or private entity to provide
18 visitor reservation services. Any such contract in effect on
19 or after October 1, 2004, may provide that the contractor
20 shall be permitted to deduct a commission to be fixed by
21 the Secretary from the amount charged the public for pro-
22 viding such services and to remit the net proceeds there-
23 from to the contracting agency.

24 SEC. 144. The project for flood control, Redwood
25 River, Marshall, Minnesota, authorized by section 401(a)

1 of the Water Resources Development Act of 1986 and
2 modified by section 4(k) of the Water Resources Develop-
3 ment Act of 1988 is further modified to authorize the Sec-
4 retary to construct the project at a total cost of
5 \$11,863,000, with an estimated first Federal cost of
6 \$8,722,000 and an estimated first non-Federal cost of
7 \$3,141,000.

8 SEC. 145. The project for St. John’s Bayou and New
9 Madrid Floodway in the State of Missouri as authorized
10 by subsection (d) of the matter under the heading “Lower
11 Mississippi River” under section 203 of the Flood Control
12 Act of 1954 (68 Stat. 1258) and section 401(a) of the
13 Water Resources Development Act of 1986 (100 Stat.
14 4118), and as modified by section 331 of the Water Re-
15 sources Development Act of 1996 (110 Stat. 3658), is eco-
16 nomically justified and environmentally acceptable and the
17 Secretary shall, subject to the availability of funds, con-
18 struct this project in a manner that is consistent with the
19 terms and conditions described in the June 2002 Revised
20 Supplemental Impact Statement, as supplemented by the
21 March 2006 Revised Supplemental Environmental Impact
22 Statement 2 for this project: *Provided*, That the levee clo-
23 sure and gravity structure at the south end of the New
24 Madrid Floodway portion of the Project are part of the
25 Mississippi River Levee feature of the Mississippi River

1 and Tributaries Project and are not a separable element
2 of that Project.

3 SEC. 146. Title II, chapter 3 of Public Law 109–234
4 under the heading “Construction” is modified by striking
5 “construction: *Provided*,” and inserting in lieu thereof “:
6 *Provided*, That the Secretary of the Army, in imple-
7 menting projects and measures in the New Orleans metro-
8 politan area required to achieve certification for participa-
9 tion in the National Flood Insurance Program as directed
10 in Public Law 109–234 shall include all authorized fea-
11 tures of the Southeast Louisiana Flood Control project
12 and related internal pumping requirements as integral ele-
13 ments of the comprehensive protection system for the area
14 and shall complete all authorized work for the Southeast
15 Louisiana project concurrently and integrally with other
16 area projects: *Provided further*,”.

17 SEC. 147. Funds provided in title V, chapter 3 of
18 Public Law 110–28 under the heading “Construction”
19 may be used for restoration of shore protection projects
20 in New Jersey damaged by the same meteorological events
21 that resulted in Presidential Disaster Declaration FEMA–
22 1694–DR.

1 TITLE II
2 DEPARTMENT OF THE INTERIOR
3 CENTRAL UTAH PROJECT

4 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

5 For carrying out activities authorized by the Central
6 Utah Project Completion Act, \$41,380,000, to remain
7 available until expended, of which \$976,000 shall be de-
8 posited into the Utah Reclamation Mitigation and Con-
9 servation Account for use by the Utah Reclamation Miti-
10 gation and Conservation Commission.

11 In addition, for necessary expenses incurred in car-
12 rying out related responsibilities of the Secretary of the
13 Interior, \$1,620,000, to remain available until expended.

14 For fiscal year 2008, the Commission may use an
15 amount not to exceed \$1,500,000 for administrative ex-
16 penses.

17 BUREAU OF RECLAMATION

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

21 WATER AND RELATED RESOURCES

22 (INCLUDING TRANSFER OF FUNDS)

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

1 fulfilling related Federal responsibilities to Native Ameri-
2 cans, and related grants to, and cooperative and other
3 agreements with, State and local governments, Indian
4 tribes, and others, \$950,106,000, to remain available until
5 expended, of which \$62,865,000 shall be available for
6 transfer to the Upper Colorado River Basin Fund and
7 \$27,675,000 shall be available for transfer to the Lower
8 Colorado River Basin Development Fund; of which such
9 amounts as may be necessary may be advanced to the Col-
10 orado River Dam Fund; of which not more than \$500,000
11 is for high priority projects which shall be carried out by
12 the Youth Conservation Corps, as authorized by 16 U.S.C.
13 1706: *Provided*, That such transfers may be increased or
14 decreased within the overall appropriation under this
15 heading: *Provided further*, That of the total appropriated,
16 the amount for program activities that can be financed
17 by the Reclamation Fund or the Bureau of Reclamation
18 special fee account established by 16 U.S.C. 460l–6a(i)
19 shall be derived from that Fund or account: *Provided fur-*
20 *ther*, That funds contributed under 43 U.S.C. 395 are
21 available until expended for the purposes for which con-
22 tributed: *Provided further*, That funds advanced under 43
23 U.S.C. 397a shall be credited to this account and are
24 available until expended for the same purposes as the
25 sums appropriated under this heading: *Provided further*,

1 That funds available for expenditure for the Departmental
 2 Irrigation Drainage Program may be expended by the Bu-
 3 reau of Reclamation for site remediation on a non-reim-
 4 bursable basis: *Provided further*, That funds provided for
 5 the Friant-Kern and Madera Canals improvements may
 6 be expended on a non-reimbursable basis.

7 CENTRAL VALLEY PROJECT RESTORATION FUND

8 For carrying out the programs, projects, plans, and
 9 habitat restoration, improvement, and acquisition provi-
 10 sions of the Central Valley Project Improvement Act,
 11 \$51,622,000, to be derived from such sums as may be col-
 12 lected in the Central Valley Project Restoration Fund pur-
 13 suant to sections 3407(d), 3404(c)(3), 3405(f), and
 14 3406(c)(1) of Public Law 102-575, to remain available
 15 until expended: *Provided*, That the Bureau of Reclamation
 16 is directed to assess and collect the full amount of the
 17 additional mitigation and restoration payments authorized
 18 by section 3407(d) of Public Law 102-575: *Provided fur-*
 19 *ther*, That none of the funds made available under this
 20 heading may be used for the acquisition or leasing of water
 21 for in-stream purposes if the water is already committed
 22 to in-stream purposes by a court adopted decree or order.

23 CALIFORNIA BAY-DELTA RESTORATION

24 (INCLUDING TRANSFER OF FUNDS)

25 For carrying out activities authorized by the Water
 26 Supply, Reliability, and Environmental Improvement Act,

1 consistent with plans to be approved by the Secretary of
 2 the Interior, \$40,750,000, to remain available until ex-
 3 pended, of which such amounts as may be necessary to
 4 carry out such activities may be transferred to appropriate
 5 accounts of other participating Federal agencies to carry
 6 out authorized purposes: *Provided*, That funds appro-
 7 priated herein may be used for the Federal share of the
 8 costs of CALFED Program management: *Provided fur-*
 9 *ther*, That the use of any funds provided to the California
 10 Bay-Delta Authority for program-wide management and
 11 oversight activities shall be subject to the approval of the
 12 Secretary of the Interior: *Provided further*, That CALFED
 13 implementation shall be carried out in a balanced manner
 14 with clear performance measures demonstrating concur-
 15 rent progress in achieving the goals and objectives of the
 16 Program.

17 POLICY AND ADMINISTRATION

18 For necessary expenses of policy, administration, and
 19 related functions in the office of the Commissioner, the
 20 Denver office, and offices in the five regions of the Bureau
 21 of Reclamation, to remain available until expended,
 22 \$58,811,000, to be derived from the Reclamation Fund
 23 and be nonreimbursable as provided in 43 U.S.C. 377:
 24 *Provided*, That no part of any other appropriation in this
 25 Act shall be available for activities or functions budgeted
 26 as policy and administration expenses.

1 ADMINISTRATIVE PROVISIONS

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

5 GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

6 SEC. 201. (a) None of the funds appropriated or oth-
7 erwise made available by this Act may be used to deter-
8 mine the final point of discharge for the interceptor drain
9 for the San Luis Unit until development by the Secretary
10 of the Interior and the State of California of a plan, which
11 shall conform to the water quality standards of the State
12 of California as approved by the Administrator of the En-
13 vironmental Protection Agency, to minimize any detri-
14 mental effect of the San Luis drainage waters.

15 (b) The costs of the Kesterson Reservoir Cleanup
16 Program and the costs of the San Joaquin Valley Drain-
17 age Program shall be classified by the Secretary of the
18 Interior as reimbursable or nonreimbursable and collected
19 until fully repaid pursuant to the “Cleanup Program-Al-
20 ternative Repayment Plan” and the “SJVDP-Alternative
21 Repayment Plan” described in the report entitled “Repay-
22 ment Report, Kesterson Reservoir Cleanup Program and
23 San Joaquin Valley Drainage Program, February 1995”,
24 prepared by the Department of the Interior, Bureau of
25 Reclamation. Any future obligations of funds by the

1 United States relating to, or providing for, drainage serv-
2 ice or drainage studies for the San Luis Unit shall be fully
3 reimbursable by San Luis Unit beneficiaries of such serv-
4 ice or studies pursuant to Federal reclamation law.

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

12 SEC. 203. Funds under this title for Drought Emer-
13 gency Assistance shall be made available primarily for
14 leasing of water for specified drought related purposes
15 from willing lessors, in compliance with existing State laws
16 and administered under State water priority allocation.
17 Such leases may be entered into with an option to pur-
18 chase: *Provided*, That such purchase is approved by the
19 State in which the purchase takes place and the purchase
20 does not cause economic harm within the State in which
21 the purchase is made.

22 SEC. 204. The Secretary of the Interior, acting
23 through the Commissioner of the Bureau of Reclamation,
24 is authorized to enter into grants, cooperative agreements,
25 and other agreements with irrigation or water districts

1 and States to fund up to 50 percent of the cost of plan-
 2 ning, designing, and constructing improvements that will
 3 conserve water, increase water use efficiency, or enhance
 4 water management through measurement or automation,
 5 at existing water supply projects within the States identi-
 6 fied in the Act of June 17, 1902, as amended, and supple-
 7 mented: *Provided*, That when such improvements are to
 8 federally owned facilities, such funds may be provided in
 9 advance on a non-reimbursable basis to an entity oper-
 10 ating affected transferred works or may be deemed non-
 11 reimbursable for non-transferred works: *Provided further*,
 12 That the calculation of the non-Federal contribution shall
 13 provide for consideration of the value of any in-kind con-
 14 tributions, but shall not include funds received from other
 15 Federal agencies: *Provided further*, That the cost of oper-
 16 ating and maintaining such improvements shall be the re-
 17 sponsibility of the non-Federal entity: *Provided further*,
 18 That this section shall not supercede any existing project-
 19 specific funding authority: *Provided further*, That the Sec-
 20 retary is also authorized to enter into grants or coopera-
 21 tive agreements with universities or non-profit research in-
 22 stitutions to fund water use efficiency research.

23 SEC. 205. (a) Section 209 of the Energy and Water
 24 Development Appropriations Act, 2004 (Public Law 108–
 25 137; 117 Stat. 1850) is repealed.

1 (b) The Secretary of the Interior (referred to in this
2 section as the “Secretary”) shall establish an Executive
3 Committee of the Middle Rio Grande Endangered Species
4 Collaborative Program (referred to in this section as the
5 “Executive Committee”) consistent with the bylaws of the
6 Middle Rio Grande Endangered Species Collaborative Pro-
7 gram adopted on October 2, 2006.

8 (c) In compliance with applicable Federal and State
9 laws, the Secretary (acting through the Commissioner of
10 Reclamation), in collaboration with the Executive Com-
11 mittee, may enter into any grants, contracts, cooperative
12 agreements, interagency agreements, or other agreements
13 that the Secretary determines to be necessary to comply
14 with the 2003 Biological Opinion described in section
15 205(b) of the Energy and Water Development Appropria-
16 tions Act, 2005 (Public Law 108–447; 118 Stat. 2949)
17 as amended by section 121(b) of the Energy and Water
18 Development Appropriations Act, 2006 (Public Law 109–
19 103; 119 Stat. 2256) or in furtherance of the objectives
20 set forth in the collaborative program long-term plan.

21 (d)(1) The acquisition of water under subsection (c)
22 and any administrative costs associated with carrying out
23 subsection (c) shall be at full Federal expense.

24 (2) Not more than 15 percent of amounts appro-
25 priated to carry out subsection (c) shall be made available

1 for the payment of administrative expenses associated with
2 carrying out that subsection.

3 (e)(1) The non-Federal share of activities carried out
4 under subsection (c) (other than an activity or a cost de-
5 scribed in subsection (d)(1)) shall be 25 percent. The non-
6 Federal cost share shall be determined on a programmatic,
7 rather than a project-by-project basis.

8 (2) The non-Federal share required under paragraph
9 (1) may be in the form of in-kind contributions, the value
10 of which shall be determined by the Secretary in consulta-
11 tion with the executive committee.

12 (f) Nothing in this section modifies or expands the
13 discretion of the Secretary with respect to operating res-
14 ervoir facilities under the jurisdiction of the Secretary in
15 the Rio Grande Valley, New Mexico.

16 SEC. 206. In furtherance of section 529 of Public
17 Law 106–541, the Secretary of the Interior shall continue
18 to participate in implementation of the Project at Las
19 Vegas Wash and Lake Mead in accordance with the Plan,
20 and may provide grants to the Southern Nevada Water
21 Authority to carry out the implementation of the Project
22 at Las Vegas Wash and Lake Mead in accordance with
23 the Plan: *Provided*, That issuance of any such grants shall
24 not modify the cost sharing requirements provided in sec-
25 tion 529(b) of Public Law 106–541.

1 SEC. 207. RESTORATION OF FISH, WILDLIFE, AND
2 ASSOCIATED HABITATS IN WATERSHEDS OF CERTAIN
3 LAKES. In carrying out section 2507 of Public Law 107–
4 171, the Secretary of the Interior, acting through the
5 Commissioner of Reclamation, shall use \$7,000,000 to
6 provide grants, to be divided equally, to the State of Ne-
7 vada, the State of California, the Federal Watermaster,
8 the Truckee Meadows Water Authority, and the Pyramid
9 Lake Paiute Tribe, to implement the Truckee River Settle-
10 ment Act, Public Law 101–618.

11 SEC. 208. Using amounts made available under sec-
12 tion 2507 of the Farm and Rural Investment Act of 2002
13 (43 U.S.C. 2211 note; Public Law 107–171), the Sec-
14 retary shall provide—

15 (1) acting through the Commissioner of Rec-
16 lamation,

17 (A) \$3,000,000 for implementation of the
18 Carson Lake and Pasture Transfer Act, Public
19 Law 101–618, title II, section 206;

20 (B) \$10,000,000 for the removal of the
21 Numana Dam and other obsolete irrigation
22 structures located on the Pyramid Lake Paiute
23 Reservation;

24 (C) \$5,000,000 to be used, in consultation
25 with the Army Corps of Engineers where appli-

1 cable, to study and prepare plans for the devel-
2 opment and construction of a pipeline to convey
3 water from the Dixie Valley to Churchill Coun-
4 ty, Nevada;

5 (D) \$10,000,000 for improvements to the
6 Derby Dam Fish Screen and Ladder to allow
7 passage of the endangered cui-ui fish; and

8 (E) \$6,000,000 for the acquisition of two
9 small hydro-electric powerplants from the Si-
10 erra Pacific Power Company to improve water
11 allocations to the Truckee River and improve
12 fish passage.

13 (2) \$10,000,000 to the Truckee Meadows
14 Water Authority and a nonprofit conservation orga-
15 nization for the acquisition and protection of Inde-
16 pendence Lake;

17 (3) \$6,000,000 to be transferred to the Army
18 Corps of Engineers for the Assistant Secretary of
19 the Army, acting through the Chief of Engineers to
20 construct Lower Truckee Restoration Projects iden-
21 tified by the cities of Reno and Sparks, Nevada, and
22 Washoe County, Nevada;

23 (4) \$2,000,000 to the Summit Lake Tribe to
24 plan and complete restoration efforts at the Summit

1 Lake desert terminus lake in Northern Washoe
2 County, Nevada;

3 (5) \$4,000,000 to the Newlands Project Water
4 Rights Fund for a Federal, State, Pyramid Lake
5 Paiute Tribe program for the retirement of water
6 rights pursuant to title II of Public Law 101-618,
7 the Truckee-Carson-Pyramid Lake Water Rights
8 Settlement Act;

9 (6) \$3,000,000 to be transferred to the Depart-
10 ment of the Interior, Fish and Wildlife Service, to
11 analyze in cooperation and consultation with exter-
12 nal experts, the impacts of low water flows on repro-
13 duction at the Walker Lake fishery, including means
14 to prevent permanent effects on the fishery from low
15 water flows;

16 (7) \$5,000,000 for the State of Nevada to pre-
17 pare watershed inventories, with a particular focus
18 on the Walker and Carson Basins;

19 (8) \$5,000,000 for joint planning and develop-
20 ment activities for wastewater and sewer facilities by
21 the city of Fernley and the Pyramid Lake Paiute
22 Tribe; and

23 (9) \$500,000 for the Walker River Paiute Tribe
24 for legal and professional services in support of set-

1 tling tribal water claims in the Walker River Basin
2 and to Walker Lake.

3 SEC. 209. Section 10(a) of the Mni Wiconi Project
4 Act of 1988 (Public Law 100–516; 102 Stat. 2571; 116
5 Stat. 3033) is amended in the second sentence by striking
6 “2008” and inserting “2013”.

7 SEC. 210. TULAROSA BASIN NATIONAL DESALINA-
8 TION RESEARCH FACILITY. Section 210 of Public Law
9 108–137 (117 Stat. 1850) is amended—

10 (1) by striking in subsection (a), “testing and
11 operation” and replacing it with “and testing”; and

12 (2) inserting after subsection (b) the following:

13 “(c) The Secretary shall enter into an agreement with
14 New Mexico State University for the operations, mainte-
15 nance, and the administration of research activities under-
16 taken at the Tularosa Basin National Desalination Re-
17 search Facility. Operation and maintenance shall occur at
18 full Federal cost and title to the facility shall remain in
19 the United States.”.

20 SEC. 211. Prior to the unilateral termination or re-
21 moval of cabin or trailer sites on Bureau of Reclamation
22 lands in North Dakota for the purpose of changing land
23 use, the Secretary of the Interior is directed to submit a
24 report describing the action the Committee on Energy and
25 Natural Resources, United States Senate and the Com-

1 mittee on Resources, United States House of Representa-
2 tives: *Provided*, That the Secretary shall not move forward
3 with the proposed action until 60 days after the report
4 is submitted to the Committee Chairmen.

5 SEC. 212. Section 3507(b) of Public Law 102–575
6 (106 Stat. 4600) is amended by striking “\$4,660,000”
7 and inserting “\$12,660,000”.

8 TITLE III

9 DEPARTMENT OF ENERGY

10 ENERGY PROGRAMS

11 ENERGY EFFICIENCY AND RENEWABLE ENERGY

12 For Department of Energy expenses including the
13 purchase, construction, and acquisition of plant and cap-
14 ital equipment, and other expenses necessary for energy
15 efficiency and renewable energy activities in carrying out
16 the purposes of the Department of Energy Organization
17 Act (42 U.S.C. 7101 et seq.), including the acquisition or
18 condemnation of any real property or any facility or for
19 plant or facility acquisition, construction, or expansion,
20 \$1,715,551,000, to remain available until expended: *Pro-*
21 *vided*, That the Secretary is directed to make fiscal year
22 2008 weatherization funding available from October 1,
23 2007, through March 31, 2009, for States that submit
24 plans requesting allocations for all or part of this period.

1 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

2 For Department of Energy expenses including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment, and other expenses necessary for elec-
5 tricity delivery and energy reliability activities in carrying
6 out the purposes of the Department of Energy Organiza-
7 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
8 tion or condemnation of any real property or any facility
9 or for plant or facility acquisition, construction, or expan-
10 sion, \$168,437,000, to remain available until expended.

11 NUCLEAR ENERGY

12 For Department of Energy expenses including the
13 purchase, construction, and acquisition of plant and cap-
14 ital equipment, and other expenses necessary for nuclear
15 energy activities in carrying out the purposes of the De-
16 partment of Energy Organization Act (42 U.S.C. 7101 et
17 seq.), including the acquisition or condemnation of any
18 real property or any facility or for plant or facility acquisi-
19 tion, construction, or expansion, \$720,558,000, to remain
20 available until expended.

21 LEGACY MANAGEMENT

22 For Department of Energy expenses for Legacy Man-
23 agement activities, \$35,104,000, to remain available until
24 expended.

1 CLEAN COAL TECHNOLOGY

2 (DEFERRAL AND RESCISSION AND TRANSFER)

3 Of the funds made available under this heading for
4 obligation in prior years, \$149,000,000 shall not be avail-
5 able until October 1, 2008: *Provided*, That funds made
6 available in previous appropriations Acts shall be made
7 available for any ongoing project regardless of the sepa-
8 rate request for proposal under which the project was se-
9 lected: *Provided further*, That \$166,000,000 of uncommit-
10 ted balances are transferred to Fossil Energy Research
11 and Development to be used until expended.

12 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

13 For necessary expenses in carrying out fossil energy
14 research and development activities, under the authority
15 of the Department of Energy Organization Act (Public
16 Law 95–91), including the acquisition of interest, includ-
17 ing defeasible and equitable interests in any real property
18 or any facility or for plant or facility acquisition or expan-
19 sion, and for conducting inquiries, technological investiga-
20 tions and research concerning the extraction, processing,
21 use, and disposal of mineral substances without objection-
22 able social and environmental costs (30 U.S.C. 3, 1602,
23 and 1603), \$808,113,000, to remain available until ex-
24 pended, of which \$166,000,000 shall be derived by trans-
25 fer from “Clean Coal Technology”: *Provided*, That of the

1 amounts provided, \$88,000,000, of which \$73,000,000
2 shall be derived by transfer from “Clean Coal Tech-
3 nology”, and is available, after coordination with the pri-
4 vate sector, for a financial assistance solicitation for the
5 Clean Coal Power Initiative in accordance with section
6 402 of Public Law 109–58: *Provided further*, That funds
7 appropriated for prior solicitations under the Clean Coal
8 Technology Program, Power Plant Improvement Initia-
9 tive, and Clean Coal Power Initiative, but not required by
10 the Department to meet its obligations on projects selected
11 under such solicitations, may be utilized for the solicita-
12 tion under this Act in accordance with the requirements
13 of this Act rather than the Acts under which the funds
14 were appropriated: *Provided further*, That no project may
15 be selected for which full funding is not available to pro-
16 vide for the total project: *Provided further*, That financial
17 assistance for costs in excess of those estimated as of the
18 date of award of original Clean Coal Power Initiative fi-
19 nancial assistance may not be provided in excess of the
20 proportion of costs borne by the Government in the origi-
21 nal agreement and shall be limited to 25 percent of the
22 original financial assistance: *Provided further*, That at
23 least 50 percent cost-sharing shall be required in each
24 budget period of a project: *Provided further*, That in ac-
25 cordance with section 988(e) of Public Law 109–58, re-

1 payment of the DOE contribution to a project shall not
2 be a condition of making an award under this solicitation:
3 *Provided further*, That the Secretary may reduce the
4 amount of required cost sharing in accordance with section
5 988(c)(2) of Public Law 109–58: *Provided further*, That
6 no part of the sum herein made available shall be used
7 for the field testing of nuclear explosives in the recovery
8 of oil and gas: *Provided further*, That, in this Act and fu-
9 ture Acts, up to 4 percent of program direction funds
10 available to the National Energy Technology Laboratory
11 may be used to support Department of Energy activities
12 not included in this account in this Fossil Energy account:
13 *Provided further*, That, in this Act and future Acts, the
14 salaries for Federal employees performing research and
15 development activities at the National Energy Technology
16 Laboratory can continue to be funded from any appro-
17 priate DOE program accounts: *Provided further*, That rev-
18 enues and other moneys received by or for the account
19 of the Department of Energy or otherwise generated by
20 sale of products in connection with projects of the Depart-
21 ment appropriated under the Fossil Energy Research and
22 Development account may be retained by the Secretary
23 of Energy, to be available until expended, and used only
24 for plant construction, operation, costs, and payments to

1 cost-sharing entities as provided in appropriate cost-shar-
2 ing contracts or agreements.

3 NAVAL PETROLEUM AND OIL SHALE RESERVES

4 For expenses necessary to carry out naval petroleum
5 and oil shale reserve activities, including the hire of pas-
6 senger motor vehicles, \$21,301,000, to remain available
7 until expended: *Provided*, That, notwithstanding any other
8 provision of law, unobligated funds remaining from prior
9 years shall be available for all naval petroleum and oil
10 shale reserve activities.

11 STRATEGIC PETROLEUM RESERVE

12 For necessary expenses for Strategic Petroleum Re-
13 serve facility development and operations and program
14 management activities pursuant to the Energy Policy and
15 Conservation Act of 1975, as amended (42 U.S.C. 6201
16 et seq.), including the hire of passenger motor vehicles,
17 the hire, maintenance, and operation of aircraft, the pur-
18 chase, repair, and cleaning of uniforms, the reimburse-
19 ment to the General Services Administration for security
20 guard services, \$163,472,000, to remain available until ex-
21 pended.

22 NORTHEAST HOME HEATING OIL RESERVE

23 For necessary expenses for Northeast Home Heating
24 Oil Reserve storage, operation, and management activities

1 pursuant to the Energy Policy and Conservation Act,
2 \$12,825,000, to remain available until expended.

3 ENERGY INFORMATION ADMINISTRATION

4 For necessary expenses in carrying out the activities
5 of the Energy Information Administration, \$105,095,000,
6 to remain available until expended.

7 NON-DEFENSE ENVIRONMENTAL CLEANUP

8 For Department of Energy expenses, including the
9 purchase, construction, and acquisition of plant and cap-
10 ital equipment and other expenses necessary for non-de-
11 fense environmental cleanup activities in carrying out the
12 purposes of the Department of Energy Organization Act
13 (42 U.S.C. 7101 et seq.), including the acquisition or con-
14 demnation of any real property or any facility or for plant
15 or facility acquisition, construction, or expansion, and the
16 purchase of not to exceed three passenger motor vehicles
17 for replacement only, \$195,437,000, to remain available
18 until expended: *Provided*, That \$13,000,000 is appro-
19 priated for environmental remediation activities associated
20 with the Energy Technology and Engineering Center
21 (ETEC) at the Santa Susana Field Laboratory (SSFL),
22 subject to the following: (1) the Department (DOE) shall
23 use a portion of this funding to enter into an interagency
24 agreement with the Environmental Protection Agency to
25 conduct a joint comprehensive radioactive site character-

1 ization of Area IV of the SSFL; (2) the Department shall
 2 ensure that all aspects of the cleanup of radioactive con-
 3 tamination at Area IV of the SSFL comply fully with the
 4 Comprehensive Environmental Response, Compensation
 5 and Liability Act, if applicable; and (3) the Department
 6 shall retain Federal control of ETEC and it shall not be
 7 released for other use until such time as the Department
 8 has complied with actions directed in subsections (1) and
 9 (2).

10 URANIUM ENRICHMENT DECONTAMINATION AND
 11 DECOMMISSIONING FUND

12 For necessary expenses in carrying out uranium en-
 13 richment facility decontamination and decommissioning,
 14 remedial actions, and other activities of title II of the
 15 Atomic Energy Act of 1954, as amended, and title X, sub-
 16 title A, of the Energy Policy Act of 1992, \$573,509,000,
 17 to be derived from the Fund, to remain available until ex-
 18 pended, of which \$0 shall be available in accordance with
 19 title X, subtitle A, of the Energy Policy Act of 1992.

20 SCIENCE

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

1 cluding the acquisition or condemnation of any real prop-
 2 erty or facility or for plant or facility acquisition, construc-
 3 tion, or expansion, and purchase of not to exceed twenty-
 4 five passenger motor vehicles for replacement only,
 5 \$4,496,759,000, to remain available until expended: *Pro-*
 6 *vided*, That of the funds appropriated herein, \$45,000,000
 7 shall be for the Physical Sciences Facility, Project 07–SC–
 8 05, and other associated construction at the Pacific North-
 9 west National Laboratory, and funds heretofore appro-
 10 priated and held in reserve shall be obligated for expendi-
 11 ture immediately upon enactment of this Act.

12 NUCLEAR WASTE DISPOSAL

13 For nuclear waste disposal activities to carry out the
 14 purposes of the Nuclear Waste Policy Act of 1982, Public
 15 Law 97–425, as amended (the “Act”), including the ac-
 16 quisition of real property or facility construction or expan-
 17 sion, \$204,054,000, to remain available until expended,
 18 and to be derived from the Nuclear Waste Fund: *Provided*,
 19 That of the funds made available in this Act for Nuclear
 20 Waste Disposal, \$5,000,000 shall be provided to the State
 21 of Nevada solely for expenditures, other than salaries and
 22 expenses of State employees, to conduct scientific over-
 23 sight responsibilities and participate in licensing activities
 24 pursuant to the Act: *Provided further*, That notwith-
 25 standing the lack of a written agreement with the State

1 of Nevada under section 117(c) of the Nuclear Waste Pol-
2 icy Act of 1982, Public Law 97-425, as amended, not less
3 than \$1,200,000 shall be provided to Nye County, Nevada,
4 for on-site oversight activities under section 117(d) of that
5 Act: *Provided further*, That \$9,000,000 shall be provided
6 to affected units of local government, as defined in the
7 Act, to conduct appropriate activities and participate in
8 licensing activities: *Provided further*, That of the
9 \$9,000,000 provided, 7.5 percent of the funds provided
10 shall be made available to affected units of local govern-
11 ment in California with the balance made available to af-
12 fected units of local government in Nevada for distribution
13 as determined by the Nevada units of local government.
14 This funding shall be provided to affected units of local
15 government, as defined in the Act, to conduct appropriate
16 activities and participate in licensing activities. The Com-
17 mittee requires the entities to certify that within 90 days
18 of the completion of each Federal fiscal year, the Nevada
19 Division of Emergency Management and the Governor of
20 the State of Nevada and each of the affected units of local
21 government shall provide certification to the Department
22 of Energy that all funds expended from such payments
23 have been expended for the activities authorized by the
24 Act and this Act: *Provided*, That notwithstanding the pro-
25 visions of chapters 65 and 75 of title 31, United States

1 Code, the Department shall have no monitoring, auditing
2 or other oversight rights or responsibilities over amounts
3 provided to affected units of local government in this or
4 any previous year: *Provided further*, That the funds for
5 the State of Nevada shall be made available solely to the
6 Nevada Division of Emergency Management by direct
7 payment and to units of local government by direct pay-
8 ment: *Provided further*, That within 90 days of the comple-
9 tion of each Federal fiscal year, the Nevada Division of
10 Emergency Management and the Governor of the State
11 of Nevada and each of the affected units of local govern-
12 ment shall provide certification to the Department of En-
13 ergy that all funds expended from such payments have
14 been expended for activities authorized by the Act and this
15 Act: *Provided further*, That failure to provide such certifi-
16 cation shall cause such entity to be prohibited from any
17 further funding provided for similar activities: *Provided*
18 *further*, That none of the funds herein appropriated may
19 be: (1) used directly or indirectly to influence legislative
20 action, except for normal and recognized executive-legisla-
21 tive communications, on any matter pending before Con-
22 gress or a State legislature or for lobbying activity as pro-
23 vided in 18 U.S.C. 1913; (2) used for litigation expenses;
24 or (3) used to support multi-State efforts or other coali-
25 tion building activities inconsistent with the restrictions

1 contained in this Act: *Provided further*, That all proceeds
2 and recoveries realized by the Secretary in carrying out
3 activities authorized by the Act, including but not limited
4 to, any proceeds from the sale of assets, shall be available
5 without further appropriation and shall remain available
6 until expended: *Provided further*, That no funds provided
7 in this Act or any previous Act may be used to pursue
8 repayment or collection of funds provided in any fiscal
9 year to affected units of local government for oversight
10 activities that had been previously approved by the De-
11 partment of Energy, or to withhold payment of any such
12 funds.

13 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

14 For fiscal year 2008, for the cost of the guaranteed
15 loans as authorized by section 1702(b)(2) of the Energy
16 Policy Act of 2005, such sums as are hereafter derived
17 from amounts received from borrowers pursuant to section
18 1702(b)(2) of that Act, to remain available until expended:
19 *Provided*, That the source of such payment received from
20 borrowers is not a loan other debt obligation that is guar-
21 anteed by the Federal Government. In addition, for nec-
22 essary administrative expenses to carry out this Loan
23 Guarantee Program, \$8,390,000, to remain available until
24 expended: *Provided*, That fees collected pursuant to sec-
25 tion 1702(h) shall be credited as offsetting collections to

1 this account: *Provided further*, That any such fees col-
2 lected shall not be available until appropriated.

3 DEPARTMENTAL ADMINISTRATION

4 (INCLUDING TRANSFER OF FUNDS)

5 For salaries and expenses of the Department of En-
6 ergy necessary for departmental administration in car-
7 rying out the purposes of the Department of Energy Orga-
8 nization Act (42 U.S.C. 7101 et seq.), including the hire
9 of passenger motor vehicles and official reception and rep-
10 resentation expenses not to exceed \$35,000,
11 \$308,596,000, to remain available until expended, plus
12 such additional amounts as necessary to cover increases
13 in the estimated amount of cost of work for others not-
14 withstanding the provisions of the Anti-Deficiency Act (31
15 U.S.C. 1511 et seq.): *Provided*, That such increases in cost
16 of work are offset by revenue increases of the same or
17 greater amount, to remain available until expended: *Pro-*
18 *vided further*, That moneys received by the Department
19 for miscellaneous revenues estimated to total
20 \$161,818,000 in fiscal year 2008 may be retained and
21 used for operating expenses within this account, and may
22 remain available until expended, as authorized by section
23 201 of Public Law 95–238, notwithstanding the provisions
24 of 31 U.S.C. 3302: *Provided further*, That the sum herein
25 appropriated shall be reduced by the amount of miscella-

neous revenues received during 2008, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2008 appropriation from the general fund estimated at not more than \$146,778,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$47,732,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 14 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,489,024,000, to remain available until ex-

1 pended: *Provided*, That \$95,586,000 is provided for the
2 04–D–125 Chemistry and Metallurgy facility replacement
3 project: *Provided further*, That \$45,000,000 is provided
4 for 08–D–805 Classified Vaults, Los Alamos National
5 Laboratory to initiate construction.

6 DEFENSE NUCLEAR NONPROLIFERATION

7 For Department of Energy expenses, including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment and other incidental expenses necessary for
10 atomic energy defense, defense nuclear nonproliferation
11 activities, in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or any facility or for plant or facility acquisition, con-
15 struction, or expansion, \$1,872,646,000, to remain avail-
16 able until expended.

17 NAVAL REACTORS

18 For Department of Energy expenses necessary for
19 naval reactors activities to carry out the Department of
20 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
21 ing the acquisition (by purchase, condemnation, construc-
22 tion, or otherwise) of real property, plant, and capital
23 equipment, facilities, and facility expansion,
24 \$808,219,000, to remain available until expended.

1 OFFICE OF THE ADMINISTRATOR

2 For necessary expenses of the Office of the Adminis-
3 trator in the National Nuclear Security Administration,
4 including official reception and representation expenses
5 not to exceed \$12,000, \$394,656,000, to remain available
6 until expended.

7 ENVIRONMENTAL AND OTHER DEFENSE

8 ACTIVITIES

9 DEFENSE ENVIRONMENTAL CLEANUP

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 atomic
13 energy defense environmental cleanup activities 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 acqui-
16 sition or condemnation of any real property or any facility
17 or for plant or facility acquisition, construction, or expan-
18 sion, \$5,690,380,000, to remain available until expended,
19 of which \$463,000,000 shall be transferred to the “Ura-
20 nium Enrichment Decontamination and Decommissioning
21 Fund”.

22 OTHER DEFENSE ACTIVITIES

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

1 energy defense, other defense activities, and classified ac-
 2 tivities, in carrying out the purposes of the Department
 3 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
 4 cluding the acquisition or condemnation of any real prop-
 5 erty or any facility or for plant or facility acquisition, con-
 6 struction, or expansion, and the purchase of not to exceed
 7 ten passenger motor vehicles for replacement only,
 8 \$765,464,000, to remain available until expended.

9 DEFENSE NUCLEAR WASTE DISPOSAL

10 For nuclear waste disposal activities to carry out the
 11 purposes of Public Law 97-425, as amended, including
 12 the acquisition of real property or facility construction or
 13 expansion, \$242,046,000, to remain available until ex-
 14 pended.

15 POWER MARKETING ADMINISTRATIONS

16 BONNEVILLE POWER ADMINISTRATION FUND

17 Expenditures from the Bonneville Power Administra-
 18 tion Fund, established pursuant to Public Law 93-454,
 19 are approved for the Lower Granite Dam fish trap, the
 20 Kootenai River White Sturgeon Hatchery, the Nez Perce
 21 Tribal Hatchery, Redfish Lake Sockeye Captive Brood ex-
 22 pansion, hatchery production facilities to supplement Chi-
 23 nook salmon below Chief Joseph Dam in Washington,
 24 Hood River Production Facility, Klickitat production ex-
 25 pansion, Mid Columbia Coho restoration, and Yakama

1 Coho restoration, and in addition, for official reception
2 and representation expenses in an amount not to exceed
3 \$1,500. During fiscal year 2008, no new direct loan obli-
4 gations may be made.

5 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
6 ADMINISTRATION

7 For necessary expenses of operation and maintenance
8 of power transmission facilities and of marketing electric
9 power and energy, including transmission wheeling and
10 ancillary services pursuant to section 5 of the Flood Con-
11 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
12 eastern power area, \$6,463,000, to remain available until
13 expended: *Provided*, That, notwithstanding the provisions
14 of 31 U.S.C. 3302, beginning in fiscal year 2008 and
15 thereafter, such funds as are received by the Southeastern
16 Power Administration from any State, municipality, cor-
17 poration, association, firm, district, or individual as ad-
18 vance payment for work that is associated with
19 Southeastern's Operations and Maintenance, consistent
20 with that authorized in section 5 of the Flood Control Act
21 of 1944, shall be credited to this account and be available
22 until expended: *Provided further*, That, notwithstanding
23 31 U.S.C. 3302, up to \$48,413,000 collected by the
24 Southeastern Power Administration pursuant to the Flood
25 Control Act of 1944 to recover purchase power and wheel-

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

5 OPERATION AND MAINTENANCE, SOUTHWESTERN
6 POWER ADMINISTRATION

7 For necessary expenses of operation and maintenance
8 of power transmission facilities and of marketing electric
9 power and energy, for construction and acquisition of
10 transmission lines, substations and appurtenant facilities,
11 and for administrative expenses, including official recep-
12 tion and representation expenses in an amount not to ex-
13 ceed \$1,500 in carrying out section 5 of the Flood Control
14 Act of 1944 (16 U.S.C. 825s), as applied to the south-
15 western power administration, \$30,442,000, to remain
16 available until expended: *Provided*, That, notwithstanding
17 31 U.S.C. 3302, up to \$35,000,000 collected by the
18 Southwestern Power Administration pursuant to the
19 Flood Control Act to recover purchase power and wheeling
20 expenses shall be credited to this account as offsetting col-
21 lections, to remain available until expended for the sole
22 purpose of making purchase power and wheeling expendi-
23 tures.

1 CONSTRUCTION, REHABILITATION, OPERATION AND
2 MAINTENANCE, WESTERN AREA POWER ADMINIS-
3 TRATION

4 For carrying out the functions authorized by title III,
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42
6 U.S.C. 7152), and other related activities including con-
7 servation and renewable resources programs as author-
8 ized, including official reception and representation ex-
9 penses in an amount not to exceed \$1,500; \$231,030,000,
10 to remain available until expended, of which \$221,094,000
11 shall be derived from the Department of the Interior Rec-
12 lamation Fund: *Provided*, That of the amount herein ap-
13 propriated, \$7,167,000 is for deposit into the Utah Rec-
14 lamation Mitigation and Conservation Account pursuant
15 to title IV of the Reclamation Projects Authorization and
16 Adjustment Act of 1992: *Provided further*, That notwith-
17 standing the provision of 31 U.S.C. 3302, up to
18 \$308,702,000 collected by the Western Area Power Ad-
19 ministration pursuant to the Flood Control Act of 1944
20 and the Reclamation Project Act of 1939 to recover pur-
21 chase power and wheeling expenses shall be credited to
22 this account as offsetting collections, to remain available
23 until expended for the sole purpose of making purchase
24 power and wheeling expenditures.

1 FALCON AND AMISTAD OPERATING AND MAINTENANCE
2 FUND

3 For operation, maintenance, and emergency costs for
4 the hydroelectric facilities at the Falcon and Amistad
5 Dams, \$2,500,000, to remain available until expended,
6 and to be derived from the Falcon and Amistad Operating
7 and Maintenance Fund of the Western Area Power Ad-
8 ministration, as provided in section 423 of the Foreign
9 Relations Authorization Act, Fiscal Years 1994 and 1995.

10 FEDERAL ENERGY REGULATORY COMMISSION
11 SALARIES AND EXPENSES

12 For necessary expenses of the Federal Energy Regu-
13 latory Commission to carry out the provisions of the De-
14 partment of Energy Organization Act (42 U.S.C. 7101 et
15 seq.), including services as authorized by 5 U.S.C. 3109,
16 the hire of passenger motor vehicles, and official reception
17 and representation expenses not to exceed \$3,000,
18 \$255,425,000, to remain available until expended: *Pro-*
19 *vided*, That notwithstanding any other provision of law,
20 not to exceed \$255,425,000 of revenues from fees and an-
21 nual charges, and other services and collections in fiscal
22 year 2008 shall be retained and used for necessary ex-
23 penses in this account, and shall remain available until
24 expended: *Provided further*, That the sum herein appro-
25 priated from the general fund shall be reduced as revenues

1 are received during fiscal year 2008 so as to result in a
2 final fiscal year 2008 appropriation from the general fund
3 estimated at not more than \$0.

4 GENERAL PROVISIONS, DEPARTMENT OF
5 ENERGY

6 SEC. 301. CONTRACT COMPETITION. (a)(1) None of
7 the funds in this or any other appropriations Act for fiscal
8 year 2008 or any previous fiscal year may be used to make
9 payments for a noncompetitive management and operating
10 contract unless the Secretary of Energy has published in
11 the Federal Register and submitted to the Committees on
12 Appropriations of the House of Representatives and the
13 Senate a written notification, with respect to each such
14 contract, of the Secretary's decision to use competitive
15 procedures for the award of the contract, or to not renew
16 the contract, when the term of the contract expires.

17 (2) Paragraph (1) does not apply to an extension for
18 up to 2 years of a noncompetitive management and oper-
19 ating contract, if the extension is for purposes of allowing
20 time to award competitively a new contract, to provide
21 continuity of service between contracts, or to complete a
22 contract that will not be renewed.

23 (b) In this section:

24 (1) The term "noncompetitive management and
25 operating contract" means a contract that was

1 awarded more than 50 years ago without competi-
2 tion for the management and operation of Ames
3 Laboratory, Argonne National Laboratory, Lawrence
4 Berkeley National Laboratory, Lawrence Livermore
5 National Laboratory, and Los Alamos National Lab-
6 oratory.

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

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

1 Appropriations of the House of Representatives and the
2 Senate a report notifying the Committees of the waiver
3 and setting forth, in specificity, the substantive reasons
4 why the Secretary believes the requirement for competition
5 should be waived for this particular award.

6 SEC. 302. WORKFORCE RESTRUCTURING. None of
7 the funds appropriated by this Act may be used to—

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

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

16 SEC. 303. SECTION 3161 ASSISTANCE. None of the
17 funds appropriated by this Act may be used to augment
18 the funds made available for obligation by this Act for sev-
19 erance payments and other benefits and community assist-
20 ance grants under section 3161 of the National Defense
21 Authorization Act for Fiscal Year 1993 (Public Law 102–
22 484; 42 U.S.C. 7274h) unless the Department of Energy
23 submits a reprogramming request to the appropriate con-
24 gressional committees.

1 SEC. 304. UNFUNDED REQUESTS FOR PROPOSALS.

2 None of the funds appropriated by this Act may be used
3 to prepare or initiate Requests For Proposals (RFPs) for
4 a program if the program has not been funded by Con-
5 gress.

6 SEC. 305. UNEXPEND BALANCES. The unexpended
7 balances of prior appropriations provided for activities in
8 this Act may be available to the same appropriation ac-
9 counts for such activities established pursuant to this title.
10 Available balances may be merged with funds in the appli-
11 cable established accounts and thereafter may be ac-
12 counted for as one fund for the same time period as origi-
13 nally enacted.

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

24 SEC. 307. USER FACILITIES. When the Department
25 of Energy makes a user facility available to universities

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

18 SEC. 308. INTELLIGENCE ACTIVITIES. Funds appro-
19 priated by this or any other Act, or made available by the
20 transfer of funds in this Act, for intelligence activities are
21 deemed to be specifically authorized by the Congress for
22 purposes of section 504 of the National Security Act of
23 1947 (50 U.S.C. 414) during fiscal year 2008 until the
24 enactment of the Intelligence Authorization Act for fiscal
25 year 2008.

1 SEC. 309. LABORATORY DIRECTED RESEARCH AND
2 DEVELOPMENT. Of the funds made available by the De-
3 partment of Energy for activities at government-owned,
4 contractor-operator operated laboratories funded in this
5 Act or subsequent Energy and Water Development Appro-
6 priations Acts, the Secretary may authorize a specific
7 amount, not to exceed 8 percent of such funds, to be used
8 by such laboratories for laboratory-directed research and
9 development: *Provided*, That the Secretary may also au-
10 thorize a specific amount not to exceed 4 percent of such
11 funds, to be used by the plant manager of a covered nu-
12 clear weapons production plant or the manager of the Ne-
13 vada Site Office for plant or site-directed research and de-
14 velopment: *Provided further*, That notwithstanding De-
15 partment of Energy order 413.2A, dated January 8, 2001,
16 beginning in fiscal year 2006 and thereafter, all DOE lab-
17 oratories may be eligible for laboratory directed research
18 and development funding.

19 SEC. 310. For fiscal year 2008, except as otherwise
20 provided by law in effect as of the date of this Act or
21 unless a rate is specifically set by an Act of Congress
22 thereafter, the Administrators of the Southeastern Power
23 Administration, the Southwestern Power Administration,
24 and the Western Area Power Administration, shall use the
25 “yield” rate in computing interest during construction and

1 interest on the unpaid balance of the costs of Federal
2 power facilities. The yield rate shall be defined as the aver-
3 age yield during the preceding fiscal year on interest-bear-
4 ing marketable securities of the United States which, at
5 the time the computation is made, have terms of 15 years
6 or more remaining to maturity.

7 SEC. 311. The Use Permit granted to the contractor
8 for activities conducted at the Pacific Northwest National
9 Laboratory by Agreement DE-GM05-00RL01831 be-
10 tween the Department of Energy and the contractor shall
11 continue in effect during the term of the existing Oper-
12 ating Contract and the extensions or renewals thereof and
13 shall be incorporated into any future management and op-
14 erating contract for the Pacific Northwest National Lab-
15 oratory and such Use Permit may not be waived, modified
16 or terminated unless agreed to by both contractor and the
17 Department of Energy.

18 SEC. 312. None of the funds made available under
19 this or any other Act shall be used during fiscal year 2008
20 to make, or plan or prepare to make, any payment on
21 bonds issued by the Administrator of the Bonneville Power
22 Administration (referred in this section as the “Adminis-
23 trator”) or for an appropriated Federal Columbia River
24 Power System investment, if the payment is both—

1 (1) greater, during any fiscal year, than the
 2 payments calculated in the rate hearing of the Ad-
 3 ministrator to be made during that fiscal year using
 4 the repayment method used to establish the rates of
 5 the Administrator as in effect on October 1, 2006;
 6 and

7 (2) based or conditioned on the actual or ex-
 8 pected net secondary power sales receipts of the Ad-
 9 ministrator.

10 SEC. 313. EXPANSION OF STRATEGIC PETROLEUM
 11 RESERVE. (a) IN GENERAL.—Section 999H(a) of the En-
 12 ergy Policy Act of 2005 (42 U.S.C. 16378(a)) is amend-
 13 ed—

14 (1) in the first sentence, by striking “For each
 15 of fiscal years” and inserting the following: “(1) IN
 16 GENERAL.—Except as provided in paragraph (2), for
 17 each of fiscal years”;

18 (2) in the second sentence, by striking “For
 19 purposes of this” and inserting the following: “(3)
 20 DEFINITION OF ROYALTIES.—In this”; and

21 (3) by inserting after paragraph (1) (as des-
 22 ignated by paragraph (1)) the following:

23 “(2) STRATEGIC PETROLEUM RESERVE.—For
 24 fiscal year 2008 the Secretary of Energy shall direct
 25 not more than \$25,000,000 from Federal royalties,

1 rents, and bonuses described in paragraph (1) shall
2 be used to carry out land acquisition activities for
3 the Strategic Petroleum Reserve required under sec-
4 tion 301(e)(1).”.

5 (b) LOUISIANA, TEXAS, AND MISSISSIPPI.—The Sec-
6 retary of Energy shall use not more than \$25,000,000
7 from the accounts made available under section 1001(e)
8 of the Energy Policy Act of 2005 (42 U.S.C. 16391(e))
9 for fiscal year 2008 to support the land acquisition of the
10 Strategic Petroleum Reserve at Bayou Choctaw, Lou-
11 isiana; Big Hill, Texas; and Richton, Mississippi; to meet
12 the 1,000,000,000 barrel capacity required under section
13 301(e)(1) of that Act (42 U.S.C. 6240 note; Public Law
14 109–58).

15 (c) The Secretary of Energy is not authorized to
16 begin contracting for filling the new capacity of the Stra-
17 tegic Petroleum Reserve, either through means of pur-
18 chase or royalty-in-kind, until such time as the Secretary
19 certifies construction is complete.

20 TITLE IV

21 INDEPENDENT AGENCIES

22 APPALACHIAN REGIONAL COMMISSION

23 For expenses necessary to carry out the programs au-
24 thorized by the Appalachian Regional Development Act of
25 1965, as amended, not withstanding 40 U.S.C. 14704,

1 and, for necessary expenses for the Federal Co-Chairman
 2 and the alternate on the Appalachian Regional Commis-
 3 sion, for payment of the Federal share of the administra-
 4 tive expenses of the Commission, including services as au-
 5 thorized by 5 U.S.C. 3109, and hire of passenger motor
 6 vehicles, \$75,000,000, to remain available until expended:
 7 *Provided*, That any congressionally directed spending shall
 8 be taken from within that State's allocation in the fiscal
 9 year in which it is provided.

10 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

11 SALARIES AND EXPENSES

12 For necessary expenses of the Defense Nuclear Fa-
 13 cilities Safety Board in carrying out activities authorized
 14 by the Atomic Energy Act of 1954, as amended by Public
 15 Law 100-456, section 1441, \$22,499,000, to remain
 16 available until expended.

17 DELTA REGIONAL AUTHORITY

18 SALARIES AND EXPENSES

19 For necessary expenses of the Delta Regional Author-
 20 ity and to carry out its activities, as authorized by the
 21 Delta Regional Authority Act of 2000, as amended, not-
 22 withstanding sections 382C(b)(2), 382F(d), and 382M(b)
 23 of said Act, \$12,000,000, to remain available until ex-
 24 pended.

1 DENALI COMMISSION

2 For expenses of the Denali Commission including the
3 purchase, construction and acquisition of plant and capital
4 equipment as necessary and other expenses, \$31,800,000,
5 to remain available until expended, notwithstanding the
6 limitations contained in section 306(g) of the Denali Com-
7 mission Act of 1998.

8 NUCLEAR REGULATORY COMMISSION

9 SALARIES AND EXPENSES

10 For necessary expenses of the Commission in car-
11 rying out the purposes of the Energy Reorganization Act
12 of 1974, as amended, and the Atomic Energy Act of 1954,
13 as amended, including official representation expenses not
14 to exceed \$19,000, \$910,559,000, to remain available
15 until expended: *Provided*, That of the amount appro-
16 priated herein, \$37,250,000 shall be derived from the Nu-
17 clear Waste Fund: *Provided further*, That revenues from
18 licensing fees, inspection services, and other services and
19 collections estimated at \$757,720,000 in fiscal year 2008
20 shall be retained and used for necessary salaries and ex-
21 penses in this account, notwithstanding 31 U.S.C. 3302,
22 and shall remain available until expended: *Provided fur-*
23 *ther*, That the sum herein appropriated shall be reduced
24 by the amount of revenues received during fiscal year

1 2008 so as to result in a final fiscal year 2008 appropria-
 2 tion estimated at not more than \$152,839,000.

3 OFFICE OF INSPECTOR GENERAL

4 For necessary expenses of the Office of Inspector
 5 General in carrying out the provisions of the Inspector
 6 General Act of 1978, as amended, \$8,744,000, to remain
 7 available until expended: *Provided*, That revenues from li-
 8 censing fees, inspection services, and other services and
 9 collections estimated at \$7,870,000 in fiscal year 2008
 10 shall be retained and be available until expended, for nec-
 11 essary salaries and expenses in this account, notwith-
 12 standing 31 U.S.C. 3302: *Provided further*, That the sum
 13 herein appropriated shall be reduced by the amount of rev-
 14 enues received during fiscal year 2008 so as to result in
 15 a final fiscal year 2008 appropriation estimated at not
 16 more than \$874,000.

17 NUCLEAR WASTE TECHNICAL REVIEW BOARD

18 SALARIES AND EXPENSES

19 For necessary expenses of the Nuclear Waste Tech-
 20 nical Review Board, as authorized by Public Law 100-
 21 203, section 5051, \$3,621,000, to be derived from the Nu-
 22 clear Waste Fund, and to remain available until expended.

23 OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA

24 NATURAL GAS TRANSPORTATION PROJECTS

25 For necessary expenses for the Office of the Federal
 26 Coordinator for Alaska Natural Gas Transportation

1 Projects pursuant to the Alaska Natural Gas Pipeline Act
2 of 2004, \$2,322,000.

3 GENERAL PROVISION, INDEPENDENT AGENCIES

4 SEC. 401. Section 2(f)(2) of the Tennessee Valley Au-
5 thority Act of 1933 (16 U.S.C. 831a(f)(2)) is amended
6 by striking the phrase “stipend under paragraph
7 (1)(A)(i)” and inserting in lieu thereof “stipends under
8 paragraph (1)(A)”.

9 TITLE V

10 GENERAL PROVISIONS

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

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

22 This Act may be cited as the “Energy and Water De-
23 velopment Appropriations Act, 2008”.

Calendar No. 263

110TH CONGRESS
1ST Session

S. 1751

[Report No. 110-127]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2008, and for other purposes.

JULY 9, 2007

Read twice and placed on the calendar