

Calendar No. 218

108TH CONGRESS
1ST SESSION

H. R. 2754

IN THE SENATE OF THE UNITED STATES

JULY 21, 2003

Received; read twice and placed on the calendar

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That the following sums are appropriated, out of any
2 money in the Treasury not otherwise appropriated, for the
3 fiscal year ending September 30, 2004, for energy and
4 water development, and for other purposes, namely:

5 TITLE I
6 DEPARTMENT OF DEFENSE—CIVIL
7 DEPARTMENT OF THE ARMY
8 CORPS OF ENGINEERS—CIVIL

9 The following appropriations shall be expended under
10 the direction of the Secretary of the Army and the super-
11 vision of the Chief of Engineers for authorized civil func-
12 tions of the Department of the Army pertaining to rivers
13 and harbors, flood control, shore protection, aquatic eco-
14 system restoration, and related purposes.

15 GENERAL INVESTIGATIONS

16 For expenses necessary for the collection and study
17 of basic information pertaining to river and harbor, flood
18 control, shore protection, aquatic ecosystem restoration,
19 and related projects, restudy of authorized projects, mis-
20 cellaneous investigations, and, when authorized by law,
21 surveys and detailed studies and plans and specifications
22 of projects prior to construction, \$117,788,000, to remain
23 available until expended: *Provided*, That for the Ohio
24 Riverfront, Cincinnati, Ohio, project, the cost of planning
25 and design undertaken by non-Federal interests shall be

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

3 CONSTRUCTION, GENERAL

4 For the prosecution of river and harbor, flood control,
5 shore protection, aquatic ecosystem restoration, and re-
6 lated projects authorized by law; and detailed studies, and
7 plans and specifications, of projects authorized or made
8 eligible for selection by law, \$1,642,911,000, to remain
9 available until expended, of which such sums as are nec-
10 essary to cover the Federal share of construction costs for
11 facilities under the Dredged Material Disposal Facilities
12 program shall be derived from the Harbor Maintenance
13 Trust Fund; and of which such sums as are necessary to
14 cover one-half of the costs of construction and rehabilita-
15 tion of inland waterways projects (including rehabilitation
16 costs for the Lock and Dam 11, Mississippi River, Iowa;
17 Lock and Dam 24, Mississippi River, Illinois and Mis-
18 souri; and Lock and Dam 3, Mississippi River, Minnesota,
19 projects) shall be derived from the Inland Waterways
20 Trust Fund: *Provided*, That the Secretary of the Army,
21 acting through the Chief of Engineers, is directed to pro-
22 ceed with the construction of the New York and New Jer-
23 sey Harbor project, 50-foot deepening element, upon exe-
24 cution of the Project Cooperation Agreement: *Provided*
25 *further*, That no funds made available under this Act or

1 any other Act for any fiscal year may be used by the Sec-
2 retary of the Army to carry out the construction of the
3 Port Jersey element of the New York and New Jersey
4 Harbor or reimbursement to the Local Sponsor for the
5 construction of the Port Jersey element until commit-
6 ments for construction of container handling facilities are
7 obtained from the non-Federal sponsor for a second user
8 along the Port Jersey element: *Provided further*, That
9 funds appropriated in this Act for the preservation and
10 restoration of the Florida Everglades shall be made avail-
11 able for expenditure unless (1) the Secretary of the Army,
12 not later than 30 days after the date of enactment of this
13 Act, transmits to the State of Florida and the Committees
14 on Appropriations of the House of Representatives and the
15 Senate a report containing a finding and supporting mate-
16 rials indicating that the waters entering the A.R.M.
17 Loxahatchee National Wildlife Refuge and Everglades Na-
18 tional Park do not meet the water quality requirements
19 set forth in the Consent Decree entered in United States
20 v. South Florida Water Management District, (2) the
21 State fails to submit a satisfactory plan to bring the wa-
22 ters into compliance with the water quality requirements
23 within 45 days of the date of the report, (3) the Secretary
24 transmits to the State and the Committees a follow-up re-
25 port containing a finding that the State has not submitted

1 such a plan, and (4) either the Committee on Appropria-
2 tions of the House of Representatives or the Senate issues
3 a written notice disapproving of further expenditure of the
4 funds: *Provided further*, That the Secretary of the Army
5 shall provide the State of Florida with notice and an op-
6 portunity to respond to any determination of the Secretary
7 under the preceding proviso before the determination be-
8 comes final.

9 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

10 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA,

11 MISSISSIPPI, MISSOURI, AND TENNESSEE

12 For expenses necessary for the flood damage reduc-
13 tion program for the Mississippi River alluvial valley below
14 Cape Girardeau, Missouri, as authorized by law,
15 \$301,054,000, to remain available until expended.

16 OPERATION AND MAINTENANCE, GENERAL

17 For expenses necessary for the operation, mainte-
18 nance, and care of existing river and harbor, flood and
19 storm damage reduction, aquatic ecosystem restoration,
20 and related projects; for providing security for infrastruc-
21 ture owned and operated by, or on behalf of, the U.S.
22 Army Corps of Engineers, including administrative build-
23 ings and facilities, laboratories, and the Washington Aque-
24 duct; for the maintenance of harbor channels provided by
25 a State, municipality, or other public agency that serve

1 essential navigation needs of general commerce, where au-
2 thorized by law; and for surveys and charting of northern
3 and northwestern lakes and connecting waters, clearing
4 and straightening channels, and removal of obstructions
5 to navigation, \$1,932,575,000, to remain available until
6 expended, of which such sums as become available in the
7 Harbor Maintenance Trust Fund, pursuant to Public Law
8 99–662 may be derived from that fund, and of which such
9 sums as become available from the special account for the
10 U.S. Army Corps of Engineers established by the Land
11 and Water Conservation Act of 1965, as amended (16
12 U.S.C. 4601–6a(i)), may be derived from that account for
13 resource protection, research, interpretation, and mainte-
14 nance activities related to resource protection in the areas
15 at which outdoor recreation is available; and of which such
16 sums as become available under section 217 of the Water
17 Resources Development Act of 1996, Public Law 104–
18 303, shall be used to cover the cost of operation and main-
19 tenance of the dredged material disposal facilities for
20 which fees have been collected.

21 **REGULATORY PROGRAM**

22 For expenses necessary for administration of laws
23 pertaining to regulation of navigable waters and wetlands,
24 \$144,000,000, to remain available until expended.

1 FORMERLY UTILIZED SITES REMEDIAL ACTION
2 PROGRAM

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

7 FLOOD CONTROL AND COASTAL EMERGENCIES

8 For expenses necessary for emergency flood control,
9 response to hurricanes and other natural disasters, and
10 related activities, including the activities that the U.S.
11 Army Corps of Engineers undertakes to ensure its readi-
12 ness to respond to such emergencies, \$40,000,000 to re-
13 main available until expended.

14 GENERAL EXPENSES

15 For expenses necessary for general administration
16 and related civil works functions in the headquarters of
17 the U.S. Army Corps of Engineers, the offices of the Divi-
18 sion Engineers, the Humphreys Engineer Center Support
19 Activity, the Institute for Water Resources, the U.S. Army
20 Engineer Research and Development Center, and the U.S.
21 Army Corps of Engineers Finance Center, \$164,000,000,
22 to remain available until expended: *Provided*, That no part
23 of any other appropriation provided in title I of this Act
24 shall be available to fund the activities of the Office of
25 the Chief of Engineers or the executive direction and man-

1 agement activities of the division offices: *Provided further*,
2 That none of these funds shall be available to support an
3 office of congressional affairs within the executive office
4 of the Chief of Engineers.

5 ADMINISTRATIVE PROVISIONS

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

13 CORPS OF ENGINEERS—CIVIL

14 SEC. 101. Agreements proposed for execution by the
15 Assistant Secretary of the Army for Civil Works or the
16 United States Army Corps of Engineers after the date of
17 the enactment of this Act pursuant to section 4 of the
18 Rivers and Harbor Act of 1915, Public Law 64–291; sec-
19 tion 11 of the River and Harbor Act of 1925, Public Law
20 68–585; the Civil Functions Appropriations Act, 1936,
21 Public Law 75–208; section 215 of the Flood Control Act
22 of 1968, as amended, Public Law 90–483; sections 104,
23 203, and 204 of the Water Resources Development Act
24 of 1986, as amended, Public Law 99–662; section 206 of
25 the Water Resources Development Act of 1992, as amend-

1 section (a) shall be deemed to be a reference to the “C.W.
2 ‘Bill’ Young Lock and Dam”.

3 TITLE II

4 DEPARTMENT OF THE INTERIOR

5 CENTRAL UTAH PROJECT

6 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

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

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

16 BUREAU OF RECLAMATION

17 WATER AND RELATED RESOURCES

18 (INCLUDING TRANSFER OF FUNDS)

19 For management, development, and restoration of
20 water and related natural resources and for related activi-
21 ties, including the operation, maintenance, and rehabilita-
22 tion of reclamation and other facilities, participation in
23 fulfilling related Federal responsibilities to Native Ameri-
24 cans, and related grants to, and cooperative and other
25 agreements with, State and local governments, Indian
26 tribes, and others, \$817,913,000, to remain available until

1 expended, of which \$57,330,000 shall be available for
2 transfer to the Upper Colorado River Basin Fund and
3 \$33,570,000 shall be available for transfer to the Lower
4 Colorado River Basin Development Fund; of which such
5 amounts as may be necessary may be advanced to the Col-
6 orado River Dam Fund; and of which not more than
7 \$500,000 is for high priority projects which shall be car-
8 ried out by the Youth Conservation Corps, as authorized
9 by 16 U.S.C. 1706: *Provided*, That such transfers may
10 be increased or decreased within the overall appropriation
11 under this heading: *Provided further*, That of the total ap-
12 propriated, the amount for program activities that can be
13 financed by the Reclamation Fund or the Bureau of Rec-
14 lamation special fee account established by 16 U.S.C.
15 460l-6a(i) shall be derived from that Fund or account:
16 *Provided further*, That funds contributed under 43 U.S.C.
17 395 are available until expended for the purposes for
18 which contributed: *Provided further*, That funds advanced
19 under 43 U.S.C. 397a shall be credited to this account
20 and are available until expended for the same purposes
21 as the sums appropriated under this heading: *Provided*
22 *further*, That funds available for expenditure for the De-
23 partmental Irrigation Drainage Program may be expended
24 by the Bureau of Reclamation for site remediation on a
25 non-reimbursable basis: *Provided further*, That

1 \$10,000,000 of the funds appropriated herein shall be de-
2 posited in the San Gabriel Basin Restoration Fund estab-
3 lished by section 110 of division B, title I of Public Law
4 106–554, as amended: *Provided further*, That section 301
5 of Public Law 102–250, Reclamation States Emergency
6 Drought Relief Act of 1991, as amended, is amended fur-
7 ther by inserting “2003, and 2004” in lieu of “and 2003”.

8 BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

9 For administrative expenses necessary to carry out
10 the program for direct loans and/or grants, \$200,000, to
11 remain available until expended, of which the amount that
12 can be financed by the Reclamation Fund shall be derived
13 from that fund.

14 CENTRAL VALLEY PROJECT RESTORATION FUND

15 For carrying out the programs, projects, plans, and
16 habitat restoration, improvement, and acquisition provi-
17 sions of the Central Valley Project Improvement Act,
18 \$39,600,000, to be derived from such sums as may be col-
19 lected in the Central Valley Project Restoration Fund pur-
20 suant to sections 3407(d), 3404(c)(3), 3405(f), and
21 3406(c)(1) of Public Law 102–575, to remain available
22 until expended: *Provided*, That the Bureau of Reclamation
23 is directed to assess and collect the full amount of the
24 additional mitigation and restoration payments authorized
25 by section 3407(d) of Public Law 102–575: *Provided fur-*
26 *ther*, That none of the funds made available under this

1 heading may be used for the acquisition or leasing of water
2 for in-stream purposes if the water is already committed
3 to in-stream purposes by a court adopted decree or order.

4 POLICY AND ADMINISTRATION

5 For necessary expenses of policy, administration, and
6 related functions in the office of the Commissioner, the
7 Denver office, and offices in the five regions of the Bureau
8 of Reclamation, to remain available until expended,
9 \$56,525,000, to be derived from the Reclamation Fund
10 and be nonreimbursable as provided in 43 U.S.C. 377:
11 *Provided*, That no part of any other appropriation in this
12 Act shall be available for activities or functions budgeted
13 as policy and administration expenses.

14 WORKING CAPITAL FUND

15 (RESCISSION)

16 From unobligated balances under this heading,
17 \$4,525,000 are rescinded.

18 ADMINISTRATIVE PROVISION

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

22 GENERAL PROVISIONS

23 DEPARTMENT OF THE INTERIOR

24 SEC. 201. (a) None of the funds appropriated or oth-
25 erwise made available by this Act may be used to deter-
26 mine the final point of discharge for the interceptor drain

1 for the San Luis Unit until development by the Secretary
2 of the Interior and the State of California of a plan, which
3 shall conform to the water quality standards of the State
4 of California as approved by the Administrator of the En-
5 vironmental Protection Agency, to minimize any detri-
6 mental effect of the San Luis drainage waters.

7 (b) The costs of the Kesterson Reservoir Cleanup
8 Program and the costs of the San Joaquin Valley Drain-
9 age Program shall be classified by the Secretary of the
10 Interior as reimbursable or nonreimbursable and collected
11 until fully repaid pursuant to the “Cleanup Program-Al-
12 ternative Repayment Plan” and the “SJVDP–Alternative
13 Repayment Plan” described in the report entitled “Repay-
14 ment Report, Kesterson Reservoir Cleanup Program and
15 San Joaquin Valley Drainage Program, February 1995”,
16 prepared by the Department of the Interior, Bureau of
17 Reclamation. Any future obligations of funds by the
18 United States relating to, or providing for, drainage serv-
19 ice or drainage studies for the San Luis Unit shall be fully
20 reimbursable by San Luis Unit beneficiaries of such serv-
21 ice or studies pursuant to Federal reclamation law.

22 SEC. 202. None of the funds appropriated or other-
23 wise made available by this or any other Act may be used
24 to pay the salaries and expenses of personnel to purchase
25 or lease water in the Middle Rio Grande or the Carlsbad

1 Projects in New Mexico unless said purchase or lease is
2 in compliance with the purchase requirements of section
3 202 of Public Law 106–60.

4 SEC. 203. Subsection 206(b) of Public Law 101–514
5 is amended as follows: In paragraph (1), strike “, with
6 annual quantities delivered under these contracts to be de-
7 termined by the Secretary based upon the quantity of
8 water actually needed within the Sacramento County
9 Water Agency service area and San Juan Suburban Water
10 District after considering reasonable efforts to: (i) pro-
11 mote full utilization of existing water entitlements within
12 Sacramento County, (ii) implement water conservation
13 and metering programs within the areas served by the con-
14 tract, and (iii) implement programs to maximize to the
15 extent feasible conjunctive use of surface water and
16 groundwater”.

17 SEC. 204. The Secretary of the Interior is authorized
18 and directed to amend the Central Valley Project water
19 supply contracts of the Sacramento County Water Agency
20 and the San Juan Suburban Water District by deleting
21 a provision requiring a determination of annual water
22 needs included pursuant to section 206 of Public Law
23 101–514.

24 LOWER COLORADO RIVER BASIN DEVELOPMENT

25 SEC. 205. (a) IN GENERAL.—Notwithstanding sec-
26 tion 403(f) of the Colorado River Basin Project Act (43

1 U.S.C. 1543(f)), no amount from the Lower Colorado
2 River Basin Development Fund shall be paid to the gen-
3 eral fund of the Treasury until each provision of the re-
4 vised Stipulation Regarding a Stay and for Ultimate
5 Judgment Upon the Satisfaction of Conditions, filed in
6 United States district court, in Central Arizona Water
7 Conservation District v. United States (No. CIV 95-625-
8 TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Con-
9 solidated Action)), and any amendment or revision there-
10 of, is met.

11 (b) PAYMENT TO GENERAL FUND.—If any of the
12 provisions of the stipulation referred to in subsection (a)
13 are not met by the date that is ten years after the date
14 of enactment of this Act, payments to the general fund
15 of the Treasury shall resume in accordance with section
16 403(f) of the Colorado River Basin Project Act (43 U.S.C.
17 1543(f)).

18 (c) AUTHORIZATION.—Amounts in the Lower Colo-
19 rado River Basin Development Fund that but for this sec-
20 tion would be returned to the general fund of the Treasury
21 shall not be expended until further Act of Congress.

22 SEC. 206. The second paragraph under the heading
23 “Administrative Provisions” in Public Law 102-377 (43
24 U.S.C. 377b) is amended by inserting “, not to exceed

1 \$5,000,000 for each causal event giving rise to a claim
2 or claims” after “activities of the Bureau of Reclamation”.

3

TITLE III

4

DEPARTMENT OF ENERGY

5

ENERGY PROGRAMS

6

ENERGY SUPPLY

7 For Department of Energy expenses including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment, and other expenses necessary for energy
10 supply activities in carrying out the purposes of the De-
11 partment of Energy Organization Act (42 U.S.C. 7101 et
12 seq.), including the acquisition or condemnation of any
13 real property or any facility or for plant or facility acqui-
14 sition, construction, or expansion, and the purchase of not
15 to exceed 12 passenger motor vehicles for replacement
16 only, including two buses; \$691,534,000, to remain avail-
17 able until expended.

18

NON-DEFENSE SITE ACCELERATION COMPLETION

19

20 For Department of Energy expenses, including the
21 purchase, construction, and acquisition of plant and cap-
22 ital equipment and other expenses necessary for non-de-
23 fense environmental management site acceleration activi-
24 ties in carrying out the purposes of the Department of
25 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
ing the acquisition or condemnation of any real property

1 or any facility or for plant or facility acquisition, construc-
2 tion, or expansion, \$170,875,000, to remain available until
3 expended.

4 NON-DEFENSE ENVIRONMENTAL SERVICES

5 For Department of Energy expenses necessary for
6 non-defense environmental services activities conducted as
7 a result of nuclear energy research and development activi-
8 ties that indirectly support the accelerated cleanup and
9 closure mission at environmental management sites, as
10 well as new work scope transferred to the Environmental
11 Management program, including the purchase, construc-
12 tion, and acquisition of plant and capital equipment and
13 other necessary expenses, \$320,468,000, to remain avail-
14 able until expended.

15 URANIUM ENRICHMENT DECONTAMINATION AND
16 DECOMMISSIONING FUND

17 For necessary expenses in carrying out uranium en-
18 richment facility decontamination and decommissioning,
19 remedial actions, and other activities of title II of the
20 Atomic Energy Act of 1954 and title X, subtitle A, of the
21 Energy Policy Act of 1992, \$392,002,000, to be derived
22 from the Fund, to remain available until expended, of
23 which \$51,000,000 shall be available in accordance with
24 title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

1
2 For Department of Energy expenses including the
3 purchase, construction and acquisition of plant and capital
4 equipment, and other expenses necessary for science ac-
5 tivities in carrying out the purposes of the Department
6 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
7 cluding the acquisition or condemnation of any real prop-
8 erty or facility or for plant or facility acquisition, construc-
9 tion, or expansion, and purchase of not to exceed 15 pas-
10 senger motor vehicles for replacement only, including not
11 to exceed one ambulance, \$3,480,180,000, to remain avail-
12 able until expended.

NUCLEAR WASTE DISPOSAL

13
14 For nuclear waste disposal activities to carry out the
15 purposes of Public Law 97-425, as amended, including
16 the acquisition of real property or facility construction or
17 expansion, \$335,000,000, to remain available until ex-
18 pended and to be derived from the Nuclear Waste Fund:
19 *Provided*, That of the funds made available in this Act,
20 \$70,000,000 shall be used to initiate development of a rail
21 line in the State of Nevada, connecting the existing na-
22 tional rail network with the repository site on the Nevada
23 Test Site: *Provided further*, That none of the funds pro-
24 vided in this or any other appropriations Act may be used
25 for the planning, design, or development of the rail cor-

1 ridors that pass near the Las Vegas Metropolitan Area,
2 specifically the Valley Modified Corridor and the Jean
3 Corridor, and variations thereof, as these corridors are de-
4 lineated in the Final Environmental Impact Statement for
5 a Geologic Repository for the Disposal of Spent Nuclear
6 Fuel and High-Level Radioactive Waste at Yucca Moun-
7 tain, Nye County, Nevada, dated February 2002: *Provided*
8 *further*, That \$65,000,000 of the \$70,000,000 made avail-
9 able in this Act for Nevada rail transportation shall be
10 available only if the Secretary designates rail as the pre-
11 ferred mode of transportation within Nevada and selects
12 a Nevada rail corridor within 60 days of enactment of this
13 Act and commences the necessary environmental and engi-
14 neering analysis to develop and issue a Record of Decision
15 for a specific rail alignment within the selected rail cor-
16 ridor by June 30, 2005: *Provided further*, That not to ex-
17 ceed \$2,500,000 shall be provided to the State of Nevada
18 solely for expenditures, other than salaries and expenses
19 of State employees, to conduct scientific oversight respon-
20 sibilities and participate in licensing activities pursuant to
21 the Nuclear Waste Policy Act of 1982 (Public Law 97–
22 425), as amended: *Provided further*, That not to exceed
23 \$6,500,000 shall be provided to affected units of local gov-
24 ernments, as defined in Public Law 97–425, to conduct
25 appropriate activities pursuant to the Act: *Provided fur-*

1 *ther*, That the distribution of funds to the State of Nevada
2 and affected units of local government shall be solely for
3 activities approved in advance by the Department of En-
4 ergy: *Provided further*, That the funds for the State of
5 Nevada shall be made available solely to the Nevada Divi-
6 sion of Emergency Management by direct payment and
7 to affected units of local government by direct payment:
8 *Provided further*, That within 90 days of the completion
9 of each Federal fiscal year, the Nevada Division of Emer-
10 gency Management, the Governor of the State of Nevada,
11 and each affected unit of local government receiving pay-
12 ments under this section shall provide certification to the
13 Department of Energy that all funds expended from such
14 payments have been expended for activities authorized by
15 Public Law 97–425 and this Act. Failure to provide such
16 certification shall cause such entity to be prohibited from
17 receiving any further Federal funding provided for similar
18 activities: *Provided further*, That none of the funds herein
19 appropriated may be: (1) used directly or indirectly to in-
20 fluence legislative action on any matter pending before
21 Congress or a State legislature or for lobbying activity as
22 provided in 18 U.S.C. 1913; (2) used for litigation ex-
23 penses; or (3) used to support multi-State efforts or other
24 coalition building activities: *Provided further*, That all pro-
25 ceeds and recoveries realized by the Secretary in carrying

1 out activities authorized by the Nuclear Waste Policy Act
2 of 1982, as amended, including but not limited to, any
3 proceeds from the sale of assets shall be available without
4 further appropriation and shall remain available until ex-
5 pended.

6 DEPARTMENTAL ADMINISTRATION

7 (INCLUDING TRANSFER OF FUNDS)

8 For salaries and expenses of the Department of En-
9 ergy necessary for departmental administration in car-
10 rying out the purposes of the Department of Energy Orga-
11 nization Act (42 U.S.C. 7101 et seq.), including the hire
12 of passenger motor vehicles and official reception and rep-
13 resentation expenses (not to exceed \$35,000),
14 \$224,329,000, to remain available until expended, plus
15 such additional amounts as necessary to cover increases
16 in the estimated amount of cost of work for others not-
17 withstanding the provisions of the Anti-Deficiency Act (31
18 U.S.C. 1511 et seq.): *Provided*, That such increases in cost
19 of work are offset by revenue increases of the same or
20 greater amount, to remain available until expended: *Pro-*
21 *vided further*, That moneys received by the Department
22 for miscellaneous revenues estimated to total
23 \$123,000,000 in fiscal year 2004 may be retained and
24 used for operating expenses within this account, and may
25 remain available until expended, as authorized by section

1 201 of Public Law 95–238, notwithstanding the provisions
2 of 31 U.S.C. 3302: *Provided further*, That the sum herein
3 appropriated shall be reduced by the amount of miscella-
4 neous revenues received during fiscal year 2004, and any
5 related unappropriated receipt account balances remaining
6 from prior years' miscellaneous revenues, so as to result
7 in a final fiscal year 2004 appropriation from the General
8 Fund estimated at not more than \$101,329,000.

9 OFFICE OF THE INSPECTOR GENERAL

10 For necessary expenses of the Office of the Inspector
11 General in carrying out the provisions of the Inspector
12 General Act of 1978, as amended, \$39,462,000, to remain
13 available until expended.

14 ATOMIC ENERGY DEFENSE ACTIVITIES

15 NATIONAL NUCLEAR SECURITY

16 ADMINISTRATION

17 WEAPONS ACTIVITIES

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

1 one fixed wing aircraft for replacement only; and the pur-
2 chase of not to exceed six passenger motor vehicles, of
3 which four shall be for replacement only, including not to
4 exceed two buses; \$6,117,609,000, to remain available
5 until September 30, 2006.

6 DEFENSE NUCLEAR NONPROLIFERATION

7 For Department of Energy expenses, including the
8 purchase, construction and acquisition of plant and capital
9 equipment and other incidental expenses necessary for
10 atomic energy defense, defense nuclear nonproliferation
11 activities, in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or any facility or for plant or facility acquisition, con-
15 struction, or expansion, \$1,280,195,000, to remain avail-
16 able until September 30, 2006.

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, and the pur-
24 chase of not to exceed one bus; \$768,400,000, to remain
25 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), \$341,980,000, to remain avail-
6 able until September 30, 2006.

7 ENVIRONMENTAL AND OTHER DEFENSE

8 ACTIVITIES

9 DEFENSE SITE ACCELERATION COMPLETION

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 site acceleration completion activities in
14 carrying out the purposes of the Department of Energy
15 Organization Act (42 U.S.C. 7101 et seq.), including the
16 acquisition or condemnation of any real property or any
17 facility or for plant or facility acquisition, construction, or
18 expansion; \$5,758,278,000, to remain available until ex-
19 pended.

20 DEFENSE ENVIRONMENTAL SERVICES

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

1 equipment and other necessary expenses, and the purchase
2 of not to exceed one ambulance for replacement only,
3 \$990,179,000, to remain available until expended.

4 OTHER DEFENSE ACTIVITIES

5 For Department of Energy expenses, including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment and other expenses necessary for atomic
8 energy defense, other defense activities, in carrying out the
9 purposes of the Department of Energy Organization Act
10 (42 U.S.C. 7101 et seq.), including the acquisition or con-
11 demnation of any real property or any facility or for plant
12 or facility acquisition, construction, or expansion,
13 \$666,516,000, to remain available until expended.

14 DEFENSE NUCLEAR WASTE DISPOSAL

15 For nuclear waste disposal activities to carry out the
16 purposes of Public Law 97-425, as amended, including
17 the acquisition of real property or facility construction or
18 expansion, \$430,000,000, to remain available until ex-
19 pended.

20 CERRO GRANDE FIRE ACTIVITIES

21 (RESCISSION)

22 From unobligated balances under this heading,
23 \$75,000,000 are cancelled.

1 POWER MARKETING ADMINISTRATIONS

2 BONNEVILLE POWER ADMINISTRATION FUND

3 Expenditures from the Bonneville Power Administra-
4 tion Fund, established pursuant to Public Law 93-454,
5 are approved for official reception and representation ex-
6 penses in an amount not to exceed \$1,500. During fiscal
7 year 2004, no new direct loan obligations may be made.

8 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
9 ADMINISTRATION

10 For necessary expenses of operation and maintenance
11 of power transmission facilities and of marketing electric
12 power and energy, including transmission wheeling and
13 ancillary services, pursuant to the provisions of section 5
14 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
15 applied to the southeastern power area, \$5,100,000, to re-
16 main available until expended; in addition, notwith-
17 standing the provisions of 31 U.S.C. 3302, up to
18 \$19,000,000 collected by the Southeastern Power Admin-
19 istration pursuant to the Flood Control Act to recover pur-
20 chase power and wheeling expenses shall be credited to
21 this account as offsetting collections, to remain available
22 until expended for the sole purpose of making purchase
23 power and wheeling expenditures.

1 OPERATION AND MAINTENANCE, SOUTHWESTERN
2 POWER ADMINISTRATION

3 For necessary expenses of operation and maintenance
4 of power transmission facilities and of marketing electric
5 power and energy, for construction and acquisition of
6 transmission lines, substations and appurtenant facilities,
7 and for administrative expenses, including official recep-
8 tion and representation expenses in an amount not to ex-
9 ceed \$1,500 in carrying out the provisions of section 5
10 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
11 applied to the southwestern power area, \$28,600,000, to
12 remain available until expended: *Provided*, That, notwith-
13 standing the provisions of 31 U.S.C. 3302, up to
14 \$1,512,000 collected by the Southwestern Power Adminis-
15 tration pursuant to the Flood Control Act to recover pur-
16 chase power and wheeling expenses shall be credited to
17 this account as offsetting collections, to remain available
18 until expended for the sole purpose of making purchase
19 power and wheeling expenditures; in addition, notwith-
20 standing 31 U.S.C. 3302, beginning in fiscal year 2004
21 and thereafter, such funds as are received by the South-
22 western Power Administration from any State, munici-
23 pality, corporation, association, firm, district, or individual
24 as advance payment for work that is associated with
25 Southwestern's transmission facilities, consistent with

1 that authorized in section 5 of the Flood Control Act, shall
2 be credited to this account and be available until ex-
3 pended.

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

7 For carrying out the functions authorized by title III,
8 section 302(a)(1)(E) of the Act of August 4, 1977 (42
9 U.S.C. 7152), and other related activities including con-
10 servation and renewable resources programs as author-
11 ized, including official reception and representation ex-
12 penses in an amount not to exceed \$1,500, \$171,000,000,
13 to remain available until expended, of which \$167,236,000
14 shall be derived from the Department of the Interior Rec-
15 lamation Fund: *Provided*, That up to \$166,000,000 col-
16 lected by the Western Area Power Administration pursu-
17 ant to the Flood Control Act of 1944 and the Reclamation
18 Project Act of 1939 to recover purchase power and wheel-
19 ing expenses shall be credited to this account as offsetting
20 collections, to remain available until expended for the sole
21 purpose of making purchase power and wheeling expendi-
22 tures.

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, \$2,640,000, 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 \$192,000,000, to remain available until expended: *Pro-*
19 *vided*, That notwithstanding any other provision of law,
20 not to exceed \$192,000,000 of revenues from fees and an-
21 nual charges, and other services and collections in fiscal
22 year 2004 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 reve-

1 nues are received during fiscal year 2004 so as to result
2 in a final fiscal year 2004 appropriation from the General
3 Fund estimated at not more than \$0.

4 GENERAL PROVISIONS

5 DEPARTMENT OF ENERGY

6 SEC. 301. (a) Notwithstanding any other provision
7 of law, including section 303(c)(1) of title III of the Fed-
8 eral Property and Administrative Services Act of 1949 (41
9 U.S.C. 253(c)(3)), none of the funds in this or any other
10 appropriations Act for fiscal year 2004 or any previous
11 fiscal year may be used to make payments for any man-
12 agement and operating contract of the Department of En-
13 ergy unless that contract was awarded using competitive
14 procedures within the past fifty fiscal years or unless the
15 Secretary of Energy, not later than sixty days after the
16 date of enactment of this Act, publishes in the Federal
17 Register and submits to the Committees on Appropria-
18 tions of the House of Representatives and the Senate a
19 notification of intent to use competitive procedures for the
20 procurement of each management and operating contract
21 when the current term of each such contract expires.

22 (b) The Secretary may not impose any conditions on
23 the competition of a management and operating contract
24 that is funded under this or any other appropriations Act
25 that may have the effect of biasing the competition in

1 favor of the incumbent contractor or otherwise providing
2 for anything less than full and open competition of such
3 contracts.

4 (c) For purposes of this section, the term “manage-
5 ment and operating contract” means a contract for the
6 management and operation of a Department of Energy
7 laboratory, facility, site, or plant as used in subpart
8 17.601 of the Federal Acquisition Regulation.

9 (d) For purposes of this section, the terms “competi-
10 tive procedures” and “full and open competition” have the
11 meanings provided in section 4 of the Office of Federal
12 Procurement Policy Act (41 U.S.C. 403).

13 (e) The provisions of subsection (a) in this section
14 apply to contracts awarded for a term of one year or more,
15 not to interim extensions of less than one year used to
16 extend contract performance until a long-term contract is
17 placed or to provide continuity of service between con-
18 tracts.

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

21 (1) develop or implement a workforce restruc-
22 turing plan that covers employees of the Department
23 of Energy; or

24 (2) provide enhanced severance payments or
25 other benefits for employees of the Department of

1 Energy, under section 3161 of the National Defense
2 Authorization Act for Fiscal Year 1993 (Public Law
3 102–484; 42 U.S.C. 7274h).

4 SEC. 303. None of the funds appropriated by this Act
5 may be used to augment the \$15,000,000 made available
6 for obligation by this Act for severance payments and
7 other benefits and community assistance grants under sec-
8 tion 3161 of the National Defense Authorization Act for
9 Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.
10 7274h) unless the Department of Energy submits a re-
11 programming request subject to approval by the appro-
12 priate congressional committees.

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

17 (TRANSFERS OF UNEXPENDED BALANCES)

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

25 SEC. 306. None of the funds in this or any other Act
26 for the Administrator of the Bonneville Power Administra-

1 tion may be used to enter into any agreement to perform
2 energy efficiency services outside the legally defined Bon-
3 neville service territory, with the exception of services pro-
4 vided internationally, including services provided on a re-
5 imburseable basis, unless the Administrator certifies in ad-
6 vance that such services are not available from private sec-
7 tor businesses.

8 SEC. 307. When the Department of Energy makes
9 a user facility available to universities and other potential
10 users, or seeks input from universities and other potential
11 users regarding significant characteristics or equipment in
12 a user facility or a proposed user facility, the Department
13 shall ensure broad public notice of such availability or
14 such need for input to universities and other potential
15 users. When the Department of Energy considers the par-
16 ticipation of a university or other potential user as a for-
17 mal partner in the establishment or operation of a user
18 facility, the Department shall employ full and open com-
19 petition in selecting such a partner. For purposes of this
20 section, the term “user facility” includes, but is not lim-
21 ited to: (1) a user facility as described in section
22 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
23 13503(a)(2)); (2) a National Nuclear Security Adminis-
24 tration Defense Programs Technology Deployment Cen-

1 ter/User Facility; and (3) any other Departmental facility
2 designated by the Department as a user facility.

3 SEC. 308. The Administrator of the National Nuclear
4 Security Administration may authorize the manager of a
5 covered nuclear weapons research, development, testing or
6 production facility to engage in research, development,
7 and demonstration activities with respect to the engineer-
8 ing and manufacturing capabilities at such facility in
9 order to maintain and enhance such capabilities at such
10 facility: *Provided*, That of the amount allocated to a cov-
11 ered nuclear weapons facility each fiscal year from
12 amounts available to the Department of Energy for such
13 fiscal year for national security programs, not more than
14 an amount equal to 2 percent of such amount may be used
15 for these activities: *Provided further*, That for purposes of
16 this section, the term “covered nuclear weapons facility”
17 means the following:

- 18 (1) the Kansas City Plant, Kansas City, Mis-
19 souri;
- 20 (2) the Y-12 Plant, Oak Ridge, Tennessee;
- 21 (3) the Pantex Plant, Amarillo, Texas;
- 22 (4) the Savannah River Plant, South Carolina;
- 23 and
- 24 (5) the Nevada Test Site.

1 SEC. 309. Funds appropriated by this or any other
2 Act, or made available by the transfer of funds in this
3 Act, for intelligence activities are deemed to be specifically
4 authorized by the Congress for purposes of section 504
5 of the National Security Act of 1947 (50 U.S.C. 414) dur-
6 ing fiscal year 2004 until the enactment of the Intelligence
7 Authorization Act for fiscal year 2004.

8 TITLE IV

9 INDEPENDENT AGENCIES

10 APPALACHIAN REGIONAL COMMISSION

11 For expenses necessary to carry out the programs au-
12 thorized by the Appalachian Regional Development Act of
13 1965, as amended, for necessary expenses for the Federal
14 Co-Chairman and the alternate on the Appalachian Re-
15 gional Commission, for payment of the Federal share of
16 the administrative expenses of the Commission, including
17 services as authorized by 5 U.S.C. 3109, and hire of pas-
18 senger motor vehicles, \$33,145,000, to remain available
19 until expended.

20 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

21 SALARIES AND EXPENSES

22 For necessary expenses of the Defense Nuclear Fa-
23 cilities Safety Board in carrying out activities authorized
24 by the Atomic Energy Act of 1954, as amended by Public

1 Law 100–456, section 1441, \$19,559,000, to remain
2 available until expended.

3 DELTA REGIONAL AUTHORITY

4 SALARIES AND EXPENSES

5 For necessary expenses of the Delta Regional Author-
6 ity and to carry out its activities, as authorized by the
7 Delta Regional Authority Act of 2000, as amended, not-
8 withstanding sections 382C(b)(2), 382F(d), and 382M(b)
9 of said Act, \$2,000,000, to remain available until ex-
10 pended.

11 NUCLEAR REGULATORY COMMISSION

12 SALARIES AND EXPENSES

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

1 account, notwithstanding 31 U.S.C. 3302, and shall re-
2 main available until expended: *Provided further*, That the
3 sum herein appropriated shall be reduced by the amount
4 of revenues received during fiscal year 2004 so as to result
5 in a final fiscal year 2004 appropriation estimated at not
6 more than \$79,956,000.

7 OFFICE OF INSPECTOR GENERAL

8 For necessary expenses of the Office of Inspector
9 General in carrying out the Inspector General Act of 1978,
10 as amended, \$7,300,000, to remain available until Sep-
11 tember 30, 2005: *Provided*, That revenues from licensing
12 fees, inspection services, and other services and collections
13 estimated at \$6,716,000 in fiscal year 2004 shall be re-
14 tained and be available until expended, for necessary sala-
15 ries and expenses in this account notwithstanding 31
16 U.S.C. 3302: *Provided further*, That the sum herein ap-
17 propriated shall be reduced by the amount of revenues re-
18 ceived during fiscal year 2004 so as to result in a final
19 fiscal year 2004 appropriation estimated at not more than
20 \$584,000.

21 NUCLEAR WASTE TECHNICAL REVIEW BOARD

22 SALARIES AND EXPENSES

23 For necessary expenses of the Nuclear Waste Tech-
24 nical Review Board, as authorized by Public Law 100–

1 203, section 5051, \$3,177,000, to be derived from the Nu-
2 clear Waste Fund, and to remain available until expended.

3 TITLE V

4 GENERAL PROVISIONS

5 SEC. 501. None of the funds appropriated by this Act
6 may be used in any way, directly or indirectly, to influence
7 congressional action on any legislation or appropriation
8 matters pending before Congress, other than to commu-
9 nicate to Members of Congress as described in 18 U.S.C.
10 1913.

11 SEC. 502. PROHIBITION OF CONTRACTS WITH PER-
12 SONS FALSELY LABELING PRODUCTS AS MADE IN AMER-
13 ICA. If it has been finally determined by a court or Federal
14 agency that any person intentionally affixed a label bear-
15 ing a “Made in America” inscription, or any inscription
16 with the same meaning, to any product sold in or shipped
17 to the United States that is not made in the United
18 States, the person shall be ineligible to receive any con-
19 tract or subcontract made with funds made available in
20 this Act, pursuant to the debarment, suspension, and ineli-
21 gibility procedures described in sections 9.400 through
22 9.409 of title 48, Code of Federal Regulations.

23 SEC. 503. None of the funds made available in this
24 Act may be transferred to any department, agency, or in-
25 strumentality of the United States Government, except

1 pursuant to a transfer made by, or transfer authority pro-
2 vided in, this Act or any other appropriation Act.

3 SEC. 504. None of the funds made available in this
4 Act may be used to release water from the San Juan
5 Chama Project or Middle Rio Grande Project for the pur-
6 pose of complying with the Endangered Species Act of
7 1973 (16 U.S.C. 1531 et seq.).

8 SEC. 505. None of the funds made available by this
9 Act may be used to issue any license, approval, or author-
10 ization for the export or reexport, or the transfer or re-
11 transfer, either directly or indirectly, to the Democratic
12 Peoples' Republic of North Korea of—

13 (1) any special nuclear material or byproduct
14 material;

15 (2) any nuclear production or utilization facili-
16 ties; or

17 (3) any components, technologies, substances,
18 technical information, or related goods or services
19 used (or which could be used) in a nuclear produc-
20 tion or utilization facility; except that this restriction
21 shall not apply to exports, reexports, transfers, or
22 retransfers of radiation monitoring technologies.

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

Passed the House of Representatives July 18, 2003.

Attest: JEFF TRANDAHL,
Clerk.

Calendar No. 218

108TH CONGRESS
1ST SESSION

H. R. 2754

AN ACT

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

JULY 21, 2003

Received; read twice and placed on the calendar