

VETO OF H.R. 4733

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 4733, THE "ENERGY AND WATER DEVELOPMENT
APPROPRIATIONS ACT, 2001"



OCTOBER 10, 2000.—Message and accompanying bill ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the House of Representatives:

I am returning herewith without my approval, H.R. 4733, the "Energy and Water Development Appropriations Act, 2001." The bill contains an unacceptable rider regarding the Army Corps of Engineers' master operating manual for the Missouri River. In addition, it fails to provide funding for the California-Bay Delta initiative and includes nearly \$700 million for over 300 unrequested projects.

Section 103 would prevent the Army Corps of Engineers from revising the operating manual for the Missouri River that is 40 years old and needs to be updated based on the most recent scientific information. In its current form, the manual simply does not provide an appropriate balance among the competing interests, both commercial and recreational, of the many people who seek to use this great American river. The bill would also undermine implementation of the Endangered Species Act by preventing the Corps of Engineers from funding reasonable and much-needed changes to the operating manual for the Missouri River. The Corps and the U.S. Fish and Wildlife Service are entering a critical phase in their Section 7 consultation on the effects of reservoir project operations. This provision could prevent the Corps from carrying out a necessary element of any reasonable and prudent alternative to avoid jeopardizing the continued existence of the endangered least tern and pallid sturgeon, and the threatened piping plover.

In addition to the objectionable restriction placed upon the Corps of Engineers, the bill fails to provide funding for the California-Bay Delta initiative. This decision could significantly hamper ongoing Federal and State efforts to restore this ecosystem, protect the drinking water of 22 million Californians, and enhance water supply and reliability for over 7 million acres of highly productive farmland and growing urban areas across California. The \$60 million budget request, all of which would be used to support activities that can be carried out using existing authorities, is the minimum necessary to ensure adequate Federal participation in these initiatives, which are essential to reducing existing conflicts among water users in California. This funding should be provided without legislative restrictions undermining key environmental statutes or disrupting the balanced approach to meeting the needs of water users and the environment that has been carefully developed through almost 6 years of work with the State of California and interested stakeholders.

The bill also fails to provide sufficient funding necessary to restore endangered salmon in the Pacific Northwest, which would interfere with the Corps of Engineers' ability to comply with the Endangered Species Act, and provides no funds to start the new construction project requested for the Florida Everglades. The bill also fails to fund the Challenge 21 program for environmentally

friendly flood damage reduction projects, the program to modernize Corps recreation facilities, and construction of an emergency outlet at Devil's Lake. In addition, it does not fully support efforts to research and develop nonpolluting, domestic sources of energy through solar and renewable technologies that are vital to America's energy security.

Finally, the bill provides nearly \$700 million for over 300 unrequested projects, including: nearly 80 unrequested projects totaling more than \$330 million for the Department of Energy; nearly 240 unrequested projects totaling over \$300 million for the Corps of Engineers; and, more than 10 unrequested projects totaling in excess of \$10 million for the Bureau of Reclamation. For example, more than 80 unrequested Corps of Engineers construction projects included in the bill would have a long-term cost of nearly \$2.7 billion. These unrequested projects and earmarks come at the expense of other initiatives important to taxpaying Americans.

The American people deserve Government spending based upon a balanced approach that maintains fiscal discipline, eliminates the national debt, extends the solvency of Social Security and Medicare, provides for an appropriately sized tax cut, establishes a new voluntary Medicare prescription drug benefit in the context of broader reforms, expands health care coverage to more families, and funds critical investments for our future. I urge the Congress to work expeditiously to develop a bill that addresses the needs of the Nation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 7, 2000.*

H. R. 4733

One Hundred Sixth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand*

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$160,038,000, to remain available until expended: *Provided*, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff: *Provided further*, That the Secretary of the Army is directed to use \$750,000 of the funds appropriated herein to continue preconstruction engineering and design for the Murrieta Creek, California flood protection and environmental restoration project in accordance with Alternative 6, based on the Murrieta Creek feasibility report and environmental impact statement dated June 2000 at a total cost of \$90,866,000, with an estimated Federal

H. R. 4733—2

cost of \$59,063,900 and an estimated non-Federal cost of \$31,803,100.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,695,699,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 12, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 3, Mississippi River, Minnesota; and London Locks and Dam, and Kanawha River, West Virginia, projects; and of which funds are provided for the following projects in the amounts specified:

San Gabriel Basin Groundwater Restoration, California, \$25,000,000;

San Timoteo Creek (Santa Ana River Mainstem), California, \$5,000,000;

Indianapolis Central Waterfront, Indiana, \$10,000,000;

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

Clover Fork, Middlesboro, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Martin County, and Harlan County, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, Kentucky, \$20,000,000: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with planning, engineering, design and construction of the Town of Martin, Kentucky, element, in accordance with Plan A as set forth in the preliminary draft Detailed Project Report, Appendix T of the General Plan of the Huntington District Commander;

Jackson County, Mississippi, \$2,000,000;

Bosque and Leon Rivers, Texas, \$4,000,000; and

Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, and McDowell County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, \$4,100,000:

Provided further, That using \$900,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the Bowie County Levee project, which is defined as Alternative B Local Sponsor Option, in the Corps of Engineers document entitled Bowie County Local Flood Protection, Red River, Texas, Project Design Memorandum No.

1, Bowie County Levee, dated April 1997: *Provided further*, That no part of any appropriation contained in this Act shall be expended or obligated to begin Phase II of the John Day Drawdown study or to initiate a study of the drawdown of McNary Dam unless authorized by law: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed hereafter to use available Construction, General funds in addition to funding provided in Public Law 104-206 to complete design and construction of the Red River Regional Visitors Center in the vicinity of Shreveport, Louisiana at an estimated cost of \$6,000,000: *Provided further*, That section 101(b)(4) of the Water Resources Development Act of 1996, is amended by striking "total cost of \$8,600,000" and inserting "total cost of \$15,000,000": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,000,000 of the funds appropriated herein for additional emergency bank stabilization measures at Galena, Alaska under the same terms and conditions as previous emergency bank stabilization work undertaken at Galena, Alaska pursuant to section 116 of Public Law 99-190: *Provided further*, That with \$4,200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Brunswick County Beaches, North Carolina-Ocean Isle Beach portion in accordance with the General Reevaluation Report approved by the Chief of Engineers on May 15, 1998: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed \$300,000 of funds appropriated herein to reimburse the City of Renton, Washington, at full Federal expense, for mitigation expenses incurred for the flood control project constructed pursuant to 33 U.S.C. 701s at Cedar River, City of Renton, Washington, as a result of over-dredging by the Army Corps of Engineers: *Provided further*, That \$2,000,000 of the funds appropriated herein shall be available for stabilization and renovation of Lock and Dam 10, Kentucky River, Kentucky, subject to enactment of authorization by law: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,000,000 of the funds appropriated herein to initiate construction of a navigation project at Kaunalapau Harbor, Hawaii: *Provided further*, That the Secretary of the Army is directed to use \$2,000,000 of the funds provided herein for Dam Safety and Seepage/Stability Correction Program to design and construct seepage control features at Waterbury Dam, Winooski River, Vermont: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct barge lanes at the Houston-Galveston Navigation Channels, Texas, project, immediately adjacent to either side of the Houston Ship Channel, from Bolivar Roads to Morgan Point, to a depth of 12 feet with prior years' Construction, General carry-over funds: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, may use Construction, General funding as directed in Public Law 105-62 and Public Law 105-245 to initiate construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, except that the funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the

H. R. 4733—4

construction is technically sound, economically justified, and environmentally acceptable, and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided further*, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: *Provided further*, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington, January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the "Boundary Waters Treaty of 1909"): *Provided further*, That the Secretary of the Army shall submit the final plans and other documents for the emergency outlet to Congress: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS,
ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TEN-
NESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g-1), \$347,731,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to complete his analysis and determination of Federal maintenance of the Greenville Inner Harbor, Mississippi navigation project in accordance with section 509 of the Water Resources Development Act of 1996.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, \$1,901,959,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of

H. R. 4733—5

1965, as amended (16 U.S.C. 4601), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, from the funds provided herein for the operation and maintenance of New York Harbor, New York, is directed to prepare the necessary documentation and initiate removal of submerged obstructions and debris in the area previously marked by the Ambrose Light Tower in the interest of safe navigation: *Provided further*, That the Secretary of the Army is directed to use \$500,000 of funds appropriated herein to remove and reinstall the docks and causeway, in kind, at Astoria East Boat Basin, Oregon: *Provided further*, That \$500,000 of the funds appropriated herein for the Ohio River Open Channel, Illinois, Kentucky, Indiana, Ohio, West Virginia, and Pennsylvania, project, are provided for the Secretary of the Army, acting through the Chief of Engineers, to dredge a channel from the mouth of Wheeling Creek to Tunnel Green Park in Wheeling, West Virginia.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$125,000,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to: (1) by March 1, 2001, supplement the report, Cost Analysis For the 1999 Proposal to Issue and Modify Nationwide Permits, to reflect the Nationwide Permits actually issued on March 9, 2000, including changes in the acreage limits, preconstruction notification requirements and general conditions between the rule proposed on July 21, 1999, and the rule promulgated and published in the Federal Register; (2) after consideration of the cost analysis for the 1999 proposal to issue and modify nationwide permits and the supplement prepared pursuant to this Act and by September 30, 2001, prepare, submit to Congress and publish in the Federal Register a Permit Processing Management Plan by which the Corps of Engineers will handle the additional work associated with all projected increases in the number of individual permit applications and preconstruction notifications related to the new and replacement permits and general conditions. The Permit Processing Management Plan shall include specific objective goals and criteria by which the Corps of Engineers' progress towards reducing any permit backlog can be measured; (3) beginning on December 31, 2001, and on a biannual basis thereafter, report to Congress and publish in the Federal Register, an analysis of the performance of its program as measured against the criteria set out in the Permit Processing Management Plan; (4) implement a 1-year pilot program to publish quarterly on the U.S. Army Corps of Engineer's Regulatory Program website all Regulatory Analysis and Management Systems (RAMS) data for the South Pacific Division and North Atlantic Division beginning within 30 days of the enactment of this Act; and (5) publish in Division Office websites all findings, rulings, and decisions rendered under the administrative appeals process for the Corps of Engineers Regulatory Program as established in Public Law 106-60: *Provided further*, That, through the period ending on September 30, 2003, the Corps of Engineers shall allow any appellant to keep a verbatim

H. R. 4733—6

record of the proceedings of the appeals conference under the aforementioned administrative appeals process: *Provided further*, That within 30 days of the enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall require all U.S. Army Corps of Engineers Divisions and Districts to record the date on which a section 404 individual permit application or nationwide permit notification is filed with the Corps of Engineers: *Provided further*, That the Corps of Engineers, when reporting permit processing times, shall track both the date a permit application is first received and the date the application is considered complete, as well as the reason that the application is not considered complete upon first submission.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center, \$152,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: *Provided further*, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

REVOLVING FUND

Amounts in the Revolving Fund are available for the costs of relocating the U.S. Army Corps of Engineers headquarters to office space in the General Accounting Office headquarters building in Washington, D.C.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) The Secretary of the Army shall enter into an agreement with the City of Grand Prairie, Texas, wherein the City agrees to assume all of the responsibilities of the Trinity

H. R. 4733—7

River Authority of Texas under Contract No. DACW63-76-C-0166, other than financial responsibilities, except as provided for in subsection (c) of this section. The Trinity River Authority shall be relieved of all of its financial responsibilities under the Contract as of the date the Secretary of the Army enters into the agreement with the City.

(b) In consideration of the agreement referred to in subsection (a), the City shall pay the Federal Government a total of \$4,290,000 in two installments, one in the amount of \$2,150,000, which shall be due and payable no later than December 1, 2000, and one in the amount of \$2,140,000, which shall be due and payable no later than December 1, 2003.

(c) The agreement executed pursuant to subsection (a) shall include a provision requiring the City to assume all costs associated with operation and maintenance of the recreation facilities included in the Contract referred to in that subsection.

SEC. 102. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended (Public Law 99-662); section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303, and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year.

SEC. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

SEC. 104. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available by this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Chesapeake and Delaware Canal, Delaware, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 105. Within available funds under title I, the Secretary of the Army, acting through the Chief of Engineers, shall provide up to \$7,000,000 to replace and upgrade the dam in Kake, Alaska which collapsed July 2000, to provide drinking water and hydroelectricity.

H. R. 4733—8

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$38,724,000, to remain available until expended, of which \$19,566,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, \$5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and \$14,158,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,216,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$678,450,000, to remain available until expended, of which \$1,916,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$39,467,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which \$16,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106-163; of which not more than 25 percent of the amount provided for drought emergency assistance may be used for financial assistance for the preparation of cooperative drought contingency plans under title II of Public Law 102-250; and of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds

H. R. 4733—9

advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2000, and 2001" in lieu of "and 2000": *Provided further*, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294, section 1701(b) of Public Law 102-575, Public Law 105-245, and Public Law 106-60 is increased by \$2,000,000 (October 1998 prices): *Provided further*, That the amount authorized for Minidoka Project North Side Pumping Division, Idaho, by section 5 of Public Law 81-864, is increased by \$2,805,000: *Provided further*, That the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows: (1) by inserting in section 4(c) after "1984," and before "costs" the following: "and the additional \$95,000,000 further authorized to be appropriated by amendments to that Act in 2000,"; (2) by inserting in section 5 after "levels," and before "plus" the following: "and, effective October 1, 2000, not to exceed an additional \$95,000,000 (October 1, 2000, price levels),"; and (3) by striking "sixty days (which" and all that follows through "day certain)" and inserting "30 calendar days".

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, \$8,944,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$27,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, \$425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$38,382,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

H. R. 4733—10

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$50,224,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

SEC. 202. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 203. Beginning in fiscal year 2001 and thereafter, the Secretary of the Interior shall assess and collect annually from Central Valley Project (CVP) water and power contractors the sum of \$540,000 (June 2000 price levels) and remit, without further appropriation, the amount collected annually to the Trinity Public Utilities District (TPUD). This assessment shall be payable 70 percent by CVP Preference Power Customers and 30 percent by CVP Water Contractors. The CVP Water Contractor share of this assessment shall be collected by the Secretary through established Bureau of Reclamation (Reclamation) Operation and Maintenance ratesetting practices. The CVP Power Contractor share of this assessment shall be assessed by Reclamation to the Western Area Power Administration, Sierra Nevada Region (Western), and collected by Western through established power ratesetting practices.

SEC. 204. (a) IN GENERAL.—For fiscal year 2001 and each fiscal year thereafter, the Secretary of the Interior shall continue funding, from power revenues, the activities of the Glen Canyon Dam Adaptive Management Program as authorized by section 1807 of the Grand Canyon Protection Act of 1992 (106 Stat. 4672), at not more than \$7,850,000 (October 2000 price level), adjusted in subsequent years to reflect changes in the Consumer Price Index

H. R. 4733—11

for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(b) VOLUNTARY CONTRIBUTIONS.—Nothing in this section precludes the use of voluntary financial contributions (except power revenues) to the Adaptive Management Program that may be authorized by law.

(c) ACTIVITIES TO BE FUNDED.—The activities to be funded as provided under subsection (a) include activities required to meet the requirements of section 1802(a) and subsections (a) and (b) of section 1805 of the Grand Canyon Protection Act of 1992 (106 Stat. 4672), including the requirements of the Biological Opinion on the Operation of Glen Canyon Dam and activities required by the Programmatic Agreement on Cultural and Historic Properties, to the extent that the requirements and activities are consistent with the Grand Canyon Protection Act of 1992 (106 Stat. 4672).

(d) ADDITIONAL FUNDING.—To the extent that funding under subsection (a) is insufficient to pay the costs of the monitoring and research and other activities of the Glen Canyon Dam Adaptive Management Program, the Secretary of the Interior may use funding from other sources, including funds appropriated for that purpose. All such appropriated funds shall be nonreimbursable and nonreturnable.

SEC. 205. The Secretary of the Interior is authorized and directed to use not to exceed \$1,000,000 of the funds appropriated under title II to refund amounts received by the United States as payments for charges assessed by the Secretary prior to January 1, 1994 for failure to file certain certification or reporting forms prior to the receipt of irrigation water, pursuant to sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1226, 1272; 43 U.S.C. 390ff, 390ww(c)), including the amount of associated interest assessed by the Secretary and paid to the United States pursuant to section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)).

SEC. 206. CANYON FERRY RESERVOIR, MONTANA. (a) APPRAISALS.—Section 1004(c)(2)(B) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–713; 113 Stat. 1501A–307) is amended—

(1) in clause (i), by striking “be based on” and inserting “use”;

(2) in clause (vi), by striking “Notwithstanding any other provision of law,” and inserting “To the extent consistent with the Uniform Appraisal Standards for Federal Land Acquisition,”; and

(3) by adding at the end the following:

“(vii) APPLICABILITY.—This subparagraph shall apply to the extent that its application is practicable and consistent with the Uniform Appraisal Standards for Federal Land Acquisition.”.

(b) TIMING.—Section 1004(f)(2) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–714; 113 Stat. 1501A–308) is amended by inserting after “Act,” the following: “in accordance with all applicable law.”.

(c) INTEREST.—Section 1008(b) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–717; 113 Stat. 1501A–310) is amended by striking paragraph (4).

SEC. 207. Beginning in fiscal year 2000 and thereafter, any amounts provided for the Newlands Water Rights Fund for purchasing and retiring water rights in the Newlands Reclamation Project shall be non-reimbursable.

SEC. 208. USE OF COLORADO-BIG THOMPSON PROJECT FACILITIES FOR NONPROJECT WATER. The Secretary of the Interior may enter into contracts with the city of Loveland, Colorado, or its Water and Power Department or any other agency, public utility, or enterprise of the city, providing for the use of facilities of the Colorado-Big Thompson Project, Colorado, under the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water originating on the eastern slope of the Rocky Mountains for domestic, municipal, industrial, and other beneficial purposes; and

(2) the exchange of water originating on the eastern slope of the Rocky Mountains for the purposes specified in paragraph (1), using facilities associated with the Colorado-Big Thompson Project, Colorado.

SEC. 209. Amendment to Irrigation Project Contract Extension Act of 1998. (a) Section 2(a) of the Irrigation Project Contract Extension Act of 1998, Public Law 105–293, is amended by striking “December 31, 2000” and inserting “December 31, 2003”.

(b) Subsection 2(b) of the Irrigation Project Contract Extension Act of 1998, Public Law 105–293, is amended by—

(1) striking “not to go beyond December 31, 2001” and inserting “not to go beyond December 31, 2003”; and

(2) striking “terminates prior to December 31, 2000” and inserting “terminates prior to December 31, 2003”.

SEC. 210. Section 202 of division B, title I, chapter 2 of Public Law 106–246 is amended by adding at the end the following: “This section shall be effective through September 30, 2001.”

SEC. 211. Section 106 of the San Luis Rey Indian Water Rights Settlement Act (Public Law 100–675; 102 Stat. 4000 et seq.) is amended by adding at the end the following new subsection:

“(f) REQUIREMENT TO RESERVE AND FURNISH WATER.—Notwithstanding any other provision of law, the Secretary, acting through the Commissioner of Reclamation, shall permanently reserve and furnish annually the following:

“(1) WATER.—The first 16,000 acre-feet of any water conserved by the works authorized by title II, to the Indian Water Authority and the local entities in accordance with the settlement agreement.

“(2) CAPACITY AND ENERGY.—Capacity and energy from the Parker-Davis Project at the rates established for project use power sufficient to convey water conserved pursuant to paragraph (1) from Lake Havasu through the Colorado River Aqueduct to Lake Matthews and to the places of use on the Bands reservations or in the local entities service area in accordance with the settlement agreement.

Water conserved pursuant to paragraph (1) may be used on the Bands’ reservations or in the local entities’ service areas, leased for use outside the Bands’ reservations or the local entities’ service

H. R. 4733—13

areas, or exchanged for water from other sources for use by the Bands, the Indian Water Authority, or the local entities, in accordance with the settlement agreement.”.

SEC. 212. (a) DEFINITIONS.—For the purpose of this section, the term—

(1) “Secretary” means the Secretary of the Interior;

(2) “Sly Park Unit” means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 853), including those used to convey, treat, and store water delivered from Sly Park, as well as all recreation facilities thereto; and

(3) “District” means the El Dorado Irrigation District.

(b) IN GENERAL.—The Secretary shall, as soon as practicable after date of the enactment of this Act and in accordance with all applicable law, transfer all right, title, and interest in and to the Sly Park Unit to the District.

(c) SALE PRICE.—The Secretary is authorized to receive from the District \$2,000,000 to relieve payment obligations and extinguish the debt under contract number 14-06-200-949IR3, and \$9,500,000 to relieve payment obligations and extinguish all debts associated with contracts numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A. Notwithstanding the preceding sentence, the District shall continue to make payments required by section 3407(c) of Public Law 102-575 through year 2029.

(d) CREDIT REVENUE TO PROJECT REPAYMENT.—Upon payment authorized under subsection (b), the amount paid shall be credited toward repayment of capital costs of the Central Valley Project in an amount equal to the associated undiscounted obligation.

(e) FUTURE BENEFITS.—Upon payment, the Sly Park Unit shall no longer be a Federal reclamation project or a unit of the Central Valley Project, and the District shall not be entitled to receive any further reclamation benefits.

(f) LIABILITY.—Except as otherwise provided by law, effective on the date of conveyance of the Sly Park Unit under this Act, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

(g) COSTS.—All costs, including interest charges, associated with the Project that have been included as a reimbursable cost of the Central Valley Project are declared to be nonreimbursable and nonreturnable.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for energy supply, and uranium supply and enrichment 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

H. R. 4733—14

or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 17 passenger motor vehicles for replacement only, \$660,574,000 to remain available until expended: *Provided*, That, in addition, royalties received to compensate the Department of Energy for its participation in the First-Of-A-Kind-Engineering program shall be credited to this account to be available until September 30, 2002, for the purposes of Nuclear Energy, Science and Technology activities.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management 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, \$277,812,000, to remain available until expended.

URANIUM FACILITIES MAINTENANCE AND REMEDIATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to maintain, decontaminate, decommission, and otherwise remediate uranium processing facilities, \$393,367,000, of which \$345,038,000 shall be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended: *Provided*, That \$72,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science 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 facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 58 passenger motor vehicles for replacement only, \$3,186,352,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$191,074,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That not to exceed \$2,500,000 may be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That \$6,000,000 shall be provided to affected units of local governments, as defined in Public Law 97-425, to conduct appropriate

H. R. 4733—15

activities pursuant to the Act: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982 in Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$226,107,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$151,000,000 in fiscal year 2001 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation from the General Fund estimated at not more than \$75,107,000.

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, \$31,500,000, to remain available until expended.

H. R. 4733—16

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

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 passenger motor vehicles (not to exceed 12 for replacement only), \$5,015,186,000, to remain available until expended: *Provided*, That, \$130,000,000 shall be immediately available for Project 96-D-111, the National Ignition Facility at Lawrence Livermore National Laboratory: *Provided further*, That \$69,100,000 shall be available only upon a certification by the Administrator of the National Nuclear Security Administration to the Congress after March 31, 2001, that: (a) includes a recommendation on an appropriate path forward for the project; (b) certifies all established project and scientific milestones have been met on schedule and on cost; (c) certifies the first and second quarter project reviews in fiscal year 2001 determined the project to be on schedule and cost; (d) includes a study of requirements for and alternatives to a 192 beam ignition facility for maintaining the safety and reliability of the current nuclear weapons stockpile; (e) certifies an integrated cost-schedule earned-value project control system has been fully implemented; and (f) includes a 5-year budget plan for the stockpile stewardship program.

DEFENSE NUCLEAR NONPROLIFERATION

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, Defense Nuclear Nonproliferation 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, \$874,196,000, to remain available until expended: *Provided*, That not to exceed \$7,000 may be used for official reception and representation expenses for national security and nonproliferation (including transparency) activities in fiscal year 2001.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$690,163,000, to remain available until expended.

H. R. 4733—17

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$5,000), \$10,000,000, to remain available until expended.

OTHER DEFENSE RELATED ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management 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 30 passenger motor vehicles for replacement only, \$4,974,476,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, \$1,082,714,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), \$65,000,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense 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, \$585,755,000, to remain available until expended, of which \$17,000,000 shall be for the Department of Energy Employees Compensation Initiative upon enactment of authorization legislation into law.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$200,000,000, to remain available until expended.

H. R. 4733—18

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Nez Perce Tribe Resident Fish Substitution Program, the Cour D'Alene Tribe Trout Production facility, and for official reception and representation expenses in an amount not to exceed \$1,500.

During fiscal year 2001, no new direct loan obligations may be made. Section 511 of the Energy and Water Development Appropriations Act, 1997 (Public Law 104-206), is amended by striking the last sentence and inserting "This authority shall expire January 1, 2003."

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$3,900,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, amounts collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$34,463,000; for fiscal year 2002, up to \$26,463,000; for fiscal year 2003, up to \$20,000,000; and for fiscal year 2004, up to \$15,000,000.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER
ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$28,100,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed \$4,200,000 in reimbursements, to remain available until expended: *Provided*, That amounts collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$288,000; for fiscal year 2002, up to \$288,000; for fiscal year 2003, up to \$288,000; and for fiscal year 2004, up to \$288,000.

H. R. 4733—19

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE,
WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$165,830,000, to remain available until expended, of which \$154,616,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$5,950,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That amounts collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$65,224,000; for fiscal year 2002, up to \$33,500,000; for fiscal year 2003, up to \$30,000,000; and for fiscal year 2004, up to \$20,000,000.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,670,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$175,200,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$175,200,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2001 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation from the General Fund estimated at not more than \$0.

H. R. 4733—20

RESCISSIONS

DEFENSE NUCLEAR WASTE DISPOSAL

(RESCISSION)

Of the funds appropriated in Public Law 104-46 for interim storage of nuclear waste, \$75,000,000 are transferred to this heading and are hereby rescinded.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

(RESCISSION)

Of the funds appropriated in Public Law 106-60 and prior Energy and Water Development Acts for the Tank Waste Remediation System at Richland, Washington, \$97,000,000 of unexpended balances of prior appropriations are rescinded.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

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

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the \$24,500,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees.

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

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. Of the funds in this Act provided to government-owned, contractor-operated laboratories, not to exceed 6 percent shall be available to be used for Laboratory Directed Research and Development.

SEC. 307. (a) Of the funds appropriated by this title to the Department of Energy, not more than \$185,000,000 shall be available for reimbursement of management and operating contractor travel expenses, of which \$10,000,000 is available for use by the Chief Financial Officer of the Department of Energy for emergency travel expenses.

(b) Funds appropriated by this title to the Department of Energy may be used to reimburse a Department of Energy management and operating contractor for travel costs of its employees under the contract only to the extent that the contractor applies to its employees the same rates and amounts as those that apply to Federal employees under subchapter I of chapter 57 of title 5, United States Code, or rates and amounts established by the Secretary of Energy. The Secretary of Energy may provide exceptions to the reimbursement requirements of this section as the Secretary considers appropriate.

(c) The limitation in subsection (a) shall not apply to reimbursement of management and operating contractor travel expenses within the Laboratory Directed Research and Development program.

SEC. 308. No funds are provided in this Act or any other Act for the Administrator of the Bonneville Power Administration to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies that such services are not available from private sector businesses.

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

SEC. 310. The Administrator of the National Nuclear Security Administration may authorize the plant manager of a covered nuclear weapons production plant to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such plant in order to maintain and enhance such capabilities at such plant: *Provided*, That of

H. R. 4733—22

the amount allocated to a covered nuclear weapons production plant each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons production plant" means the following:

- (1) The Kansas City Plant, Kansas City, Missouri.
- (2) The Y-12 Plant, Oak Ridge, Tennessee.
- (3) The Pantex Plant, Amarillo, Texas.
- (4) The Savannah River Plant, South Carolina.

SEC. 311. Notwithstanding any other law, and without fiscal year limitation, each Federal Power Marketing Administration is authorized to engage in activities and solicit, undertake and review studies and proposals relating to the formation and operation of a regional transmission organization.

SEC. 312. Not more than \$10,000,000 of funds previously appropriated for interim waste storage activities for Defense Nuclear Waste Disposal in Public Law 104-46, the Energy and Water Development Appropriations Act, 1996, may be made available to the Department of Energy upon written certification by the Secretary of Energy to the House and Senate Committees on Appropriations that the Site Recommendation Report cannot be completed on time without additional funding.

SEC. 313. TERM OF OFFICE OF PERSON FIRST APPOINTED AS UNDER SECRETARY FOR NUCLEAR SECURITY OF THE DEPARTMENT OF ENERGY. (a) LENGTH OF TERM.—The term of office as Under Secretary for Nuclear Security of the Department of Energy of the first person appointed to that position shall be 3 years.

(b) EXCLUSIVE REASONS FOR REMOVAL.—The exclusive reasons for removal from office as Under Secretary for Nuclear Security of the person described in subsection (a) shall be inefficiency, neglect of duty, or malfeasance in office.

(c) POSITION DESCRIBED.—The position of Under Secretary for Nuclear Security of the Department of Energy referred to in this section is the position established by subsection (c) of section 202 of the Department of Energy Organization Act (42 U.S.C. 7132), as added by section 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 954).

SEC. 314. SCOPE OF AUTHORITY OF SECRETARY OF ENERGY TO MODIFY ORGANIZATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION. (a) SCOPE OF AUTHORITY.—Subtitle A of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 957; 50 U.S.C. 2401 et seq.) is amended by adding at the end the following new section:

"SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF ENERGY TO MODIFY ORGANIZATION OF ADMINISTRATION.

"Notwithstanding the authority granted by section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) or any other provision of law, the Secretary of Energy may not establish, abolish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 3291."

(b) CONFORMING AMENDMENTS.—Section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) is amended—

H. R. 4733—23

(1) by striking "The Secretary" and inserting "(a) Subject to subsection (b), the Secretary"; and

(2) by adding at the end the following new subsection:
 "(b) The authority of the Secretary to establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the National Nuclear Security Administration is governed by the provisions of section 3219 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65)."

SEC. 315. PROHIBITION ON PAY OF PERSONNEL ENGAGED IN CONCURRENT SERVICE OR DUTIES INSIDE AND OUTSIDE NATIONAL NUCLEAR SECURITY ADMINISTRATION. Subtitle C of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 50 U.S.C. 2441 et seq.) is amended by adding at the end the following new section:

"SEC. 3245. PROHIBITION ON PAY OF PERSONNEL ENGAGED IN CONCURRENT SERVICE OR DUTIES INSIDE AND OUTSIDE ADMINISTRATION.

"(a) Except as otherwise expressly provided by statute, no funds authorized to be appropriated or otherwise made available for the Department of Energy may be obligated or utilized to pay the basic pay of an officer or employee of the Department of Energy who—

"(1) serves concurrently in a position in the Administration and a position outside the Administration; or

"(2) performs concurrently the duties of a position in the Administration and the duties of a position outside the Administration.

"(b) The provision of this section shall take effect 60 days after the date of enactment of this section."

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$66,400,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$18,500,000, to remain available until expended.

H. R. 4733—24

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to establish the Delta Regional Authority and to carry out its activities, \$20,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$30,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), \$481,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$21,600,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$447,958,000 in fiscal year 2001 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That \$3,200,000 of the funds herein appropriated for regulatory reviews and assistance to other Federal agencies and States shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than \$33,942,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$5,500,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$5,390,000 in fiscal year 2001 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than \$110,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051,

H. R. 4733—25

\$2,900,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

FISCAL YEAR 2001 EMERGENCY APPROPRIATIONS

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

CERRO GRANDE FIRE ACTIVITIES

For necessary expenses to remediate damaged Department of Energy facilities and for other expenses associated with the Cerro Grande fire, \$203,460,000, to remain available until expended, of which \$2,000,000 shall be made available to the United States Army Corps of Engineers to undertake immediate measures to provide erosion control and sediment protection to sewage lines, trails, and bridges in Pueblo and Los Alamos Canyons downstream of Diamond Drive in New Mexico: *Provided*, That the entire amount shall be available only to the extent an official budget request for \$203,460,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For necessary expenses to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, \$11,000,000, to remain available until expended, which shall be available only to the extent an official budget request for \$11,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE VI

GENERAL PROVISIONS

SEC. 601. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 602. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest

extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

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

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 603. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

SEC. 604. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 605. (a) IN GENERAL.—None of the funds made available in this Act may be used to pay any basic pay of an individual who simultaneously holds or carries out the responsibilities of—

(1) a position within the National Nuclear Security Administration; and

(2) a position within the Department of Energy not within the Administration.

H. R. 4733—27

(b) EXCEPTIONS FOR ADMINISTRATOR FOR NUCLEAR SECURITY AND DEPUTY ADMINISTRATOR FOR NAVAL REACTORS.—The limitation in subsection (a) shall not apply to the following cases:

(1) The Under Secretary of Energy for Nuclear Security serving as the Administrator for Nuclear Security, as provided in section 3212(a)(2) of the National Nuclear Security Administration Act (50 U.S.C. 2402(a)(2)).

(2) The director of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order serving as the Deputy Administrator for Naval Reactors, as provided in section 3216(a)(1) of such Act (50 U.S.C. 2406(a)(1)).

SEC. 606. Funding of the Coastal Wetlands Planning, Protection and Restoration Act. Section 4(a) of the Act of August 9, 1950 (16 U.S.C. 777c(a)), is amended in the second sentence by striking “2000” and inserting “2009”.

SEC. 607. REDESIGNATION OF INTERSTATE SANITATION COMMISSION AND DISTRICT. (a) INTERSTATE SANITATION COMMISSION.—

(1) IN GENERAL.—The district known as the “Interstate Sanitation Commission”, established by article III of the Tri-State Compact described in the Resolution entitled, “A Joint Resolution granting the consent of Congress to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission”, approved August 27, 1935 (49 Stat. 933), is redesignated as the “Interstate Environmental Commission”.

(2) REFERENCES.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the Interstate Sanitation Commission shall be deemed to be a reference to the Interstate Environmental Commission.

(b) INTERSTATE SANITATION DISTRICT.—

(1) IN GENERAL.—The district known as the “Interstate Sanitation District”, established by article II of the Tri-State Compact described in the Resolution entitled, “A Joint Resolution granting the consent of Congress to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission”, approved August 27, 1935 (49 Stat. 932), is redesignated as the “Interstate Environmental District”.

(2) REFERENCES.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the Interstate Sanitation District shall be deemed to be a reference to the Interstate Environmental District.

TITLE VII

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

GIFTS TO THE UNITED STATES FOR REDUCTION OF THE PUBLIC DEBT

For deposit of an additional amount for fiscal year 2001 into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt, \$5,000,000,000.

H. R. 4733—28

TITLE VIII

NUCLEAR REGULATORY COMMISSION

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)(3), by striking “September 30, 1999” and inserting “September 20, 2005”; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting “or certificate holder” after “licensee”; and

(B) by striking paragraph (2) and inserting the following:

“(2) AGGREGATE AMOUNT OF CHARGES.—

“(A) IN GENERAL.—The aggregate amount of the annual charges collected from all licensees and certificate holders in a fiscal year shall equal an amount that approximates the percentages of the budget authority of the Commission for the fiscal year stated in subparagraph (B), less—

“(i) amounts collected under subsection (b) during the fiscal year; and

“(ii) amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year.

“(B) PERCENTAGES.—The percentages referred to in subparagraph (A) are—

“(i) 98 percent for fiscal year 2001;

“(ii) 96 percent for fiscal year 2002;

“(iii) 94 percent for fiscal year 2003;

“(iv) 92 percent for fiscal year 2004; and

“(v) 90 percent for fiscal year 2005.”.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2001”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

