

1 ~~DIVISION C—ENERGY AND WATER DEVELOP-~~  
2 ~~MENT AND RELATED AGENCIES APPRO-~~  
3 ~~PRIATIONS ACT, 2009~~

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

8 The following appropriations shall be expended under  
9 the direction of the Secretary of the Army and the super-  
10 vision of the Chief of Engineers for authorized civil func-  
11 tions of the Department of the Army pertaining to rivers  
12 and harbors, flood and storm damage reduction, shore  
13 protection, aquatic ecosystem restoration, and related ef-  
14 forts.

15 INVESTIGATIONS

16 For expenses necessary where authorized by law for  
17 the collection and study of basic information pertaining  
18 to river and harbor, flood and storm damage reduction,  
19 shore protection, aquatic ecosystem restoration, and re-  
20 lated needs; for surveys and detailed studies, and plans  
21 and specifications of proposed river and harbor, flood and  
22 storm damage reduction, shore protection, and aquatic  
23 ecosystem restoration projects and related efforts prior to  
24 construction; for restudy of authorized projects; and for  
25 miscellaneous investigations and, when authorized by law,  
26 surveys and detailed studies, and plans and specifications

1 of projects prior to construction, \$168,100,000, to remain  
2 available until expended: *Provided*, That <sup>except as pro-</sup> )  
3 vided in section 101 of this Act, the amounts made avail-  
4 able under this paragraph shall be expended as authorized  
5 in law for the projects and activities specified in the text  
6 and table under this heading in the explanatory statement  
7 described in section 4 (in the matter preceding division  
8 A of this consolidated Act).

9 CONSTRUCTION

10 For expenses necessary for the construction of river  
11 and harbor, flood and storm damage reduction, shore pro-  
12 tection, aquatic ecosystem restoration, and related  
13 projects authorized by law; for conducting detailed studies,  
14 and plans and specifications, of such projects (including  
15 those involving participation by States, local governments,  
16 or private groups) authorized or made eligible for selection  
17 by law (but such detailed studies, and plans and specifica-  
18 tions, shall not constitute a commitment of the Govern-  
19 ment to construction); \$2,141,677,000, to remain avail-  
20 able until expended; of which such sums as are necessary  
21 to cover the Federal share of construction costs for facili-  
22 ties under the Dredged Material Disposal Facilities pro-  
23 gram shall be derived from the Harbor Maintenance Trust  
24 Fund as authorized by Public Law 104-303; and of which  
25 such sums as are necessary pursuant to Public Law 99-  
26 662 shall be derived from the Inland Waterways Trust

~~1 Fund, to cover one-half of the costs of construction, re-~~  
2 placement, rehabilitation, and expansion of inland water-  
3 ways projects (including only Chickamauga Lock, Ten-  
4 nessee; Kentucky Lock and Dam, Tennessee River, Ken-  
5 tucky; Lock and Dams 2, 3, and 4 Monongahela River,  
6 Pennsylvania; Marmet Lock and Dam, West Virginia;  
7 McAlpine Lock and Dam, Kentucky and Indiana; Olmsted  
8 Lock and Dam, Illinois and Kentucky; Gray's Landing  
9 Lock and Dam, Pennsylvania; R.C. Byrd Lock and Dam,  
10 Ohio and West Virginia; and Point Marion Lock and  
11 Dam, Pennsylvania) shall be derived from the Inland Wa-  
12 terways Trust Fund: *Provided*, That the Chief of Engi-  
13 neers is directed to use \$13,000,000 of the funds appro-  
14 priated herein for the Dallas Floodway Extension, Texas,  
15 project, including the Cadillac Heights feature, generally  
16 in accordance with the Chief of Engineers report dated  
17 December 7, 1999: *Provided further*, That the Chief of  
18 Engineers is directed to use \$8,000,000 of the funds ap-  
19 propriated herein for planning, engineering, design or con-  
20 struction of the Grundy, Buchanan County, and  
21 Dickenson County, Virginia, elements of the Levisa and  
22 Tug Forks of the Big Sandy River and Upper Cumberland  
23 River Project: *Provided further*, That the Chief of Engi-  
24 neers is directed to use \$8,500,000 of the funds appro-  
25 priated herein to continue planning, engineering, design

1 or construction of the Lower Mingo County, Upper Mingo  
2 County, Wayne County, McDowell County, West Virginia,  
3 elements of the Levisa and Tug Forks of the Big Sandy  
4 River and Upper Cumberland River Project: *Provided fur-*  
5 *ther*, That the Secretary of the Army, acting through the  
6 Chief of Engineers, is directed to use \$9,000,000 of the  
7 funds appropriated herein for the Clover Fork, City of  
8 Cumberland, Town of Martin, Pike County (including  
9 Levisa Fork and Tug Fork Tributaries), Bell County,  
10 Harlan County in accordance with the Draft Detailed  
11 Project Report dated January 2002, Floyd County, Mar-  
12 tin County, Johnson County, and Knox County, Kentucky,  
13 detailed project report, elements of the Levisa and Tug  
14 Forks of the Big Sandy River and Upper Cumberland  
15 River: *Provided further*, That the Chief of Engineers is  
16 directed to use \$17,048,000 of the funds provided herein  
17 for planning and design and construction of a rural health  
18 care facility on the Fort Berthold Reservation of the Three  
19 Affiliated Tribes, North Dakota: *Provided further*, That  
20 except as provided in section 101 of this Act, the amounts  
21 made available under this paragraph shall be expended as  
22 authorized in law for the projects and activities specified  
23 in the text and table under this heading in the explanatory  
24 statement described in section 4 (in the matter preceding  
25 division A of the consolidated Act).

1 ~~MISSISSIPPI RIVER AND TRIBUTARIES~~

2 For expenses necessary for flood damage reduction  
3 projects and related efforts in the Mississippi River allu-  
4 vial valley below Cape Girardeau, Missouri, as authorized  
5 by law, \$383,823,000, to remain available until expended,  
6 of which such sums as are necessary to cover the Federal  
7 share of eligible operation and maintenance costs for in-  
8 land harbors shall be derived from the Harbor Mainte-  
9 nance Trust Fund: *Provided*, That the Chief of Engineers  
10 is directed to use \$5,000,000 of the funds provided herein  
11 for design and real estate activities and pump supply ele-  
12 ments for the Yazoo Basin, Yazoo Backwater Pumping  
13 Plant, Mississippi: *Provided further*, That the Secretary of  
14 the Army, acting through the Chief of Engineers is di-  
15 rected to use \$8,000,000 appropriated herein for construc-  
16 tion of water withdrawal features of the Grand Prairie,  
17 Arkansas, project: *Provided further*, That, except as pro-  
18 vided in section 101 of this Act, the amounts made avail-  
19 able under this paragraph shall be expended as authorized  
20 in law for the projects and activities specified in the text  
21 and table under this heading in the explanatory statement  
22 described in section 4 (in the matter preceding division  
23 A of this consolidated Act).

24 OPERATION AND MAINTENANCE

25 For expenses necessary for the operation, mainte-  
26 nance, and care of existing river and harbor, flood and

1 storm damage reduction, aquatic ecosystem restoration,  
2 and related projects authorized by law; providing security  
3 for infrastructure owned or operated by the Corps, includ-  
4 ing administrative buildings and laboratories; maintaining  
5 harbor channels provided by a State, municipality, or  
6 other public agency that serve essential navigation needs  
7 of general commerce, where authorized by law; surveying  
8 and charting northern and northwestern lakes and con-  
9 necting waters; clearing and straightening channels; and  
10 removing obstructions to navigation, \$2,201,900,000, to  
11 remain available until expended, of which such sums as  
12 are necessary to cover the Federal share of eligible oper-  
13 ation and maintenance costs for coastal harbors and chan-  
14 nels, and for inland harbors shall be derived from the Har-  
15 bor Maintenance Trust Fund; of which such sums as be-  
16 come available from the special account for the Corps es-  
17 tablished by the Land and Water Conservation Act of  
18 1965, as amended (16 U.S.C. 4601-6a(i)), shall be derived  
19 from that account for resource protection, research, inter-  
20 pretation, and maintenance activities related to resource  
21 protection in the areas at which outdoor recreation is  
22 available; and of which such sums as become available  
23 from fees collected under section 217 of the Water Re-  
24 sources Development Act of 1996 (Public Law 104-303),  
25 shall be used to cover the cost of operation and mainte-

1 nance of the dredged material disposal facilities for which  
2 such fees have been collected: *Provided*, That of the  
3 amounts provided herein, not to exceed \$500,000 is pro-  
4 vided to the Secretary of the Army to reimburse travel  
5 expenses as provided for in section 9003(f) of the Water,  
6 Resources Development Act of 2007, Public Law 110-114  
7 (121 Stat. 1289-1290): *Provided further*, That 2 percent  
8 of the total amount of funds provided for each of the pro-  
9 grams, projects or activities funded under this heading  
10 shall not be allocated to a field operating activity prior  
11 to the beginning of the fourth quarter of the fiscal year  
12 and shall be available for use by the Chief of Engineers  
13 to fund such emergency activities as the Chief of Engi-  
14 neers determines to be necessary and appropriate; and  
15 that the Chief of Engineers shall allocate during the  
16 fourth quarter any remaining funds which have not been  
17 used for emergency activities proportionally in accordance  
18 with the amounts provided for the programs, projects or  
19 activities: *Provided further*, That, except as provided in  
20 section 101 of this Act, the amounts made available under  
21 this paragraph shall be expended as authorized in law for  
22 the projects and activities specified in the text and table  
23 under the heading in the explanatory statement described  
24 in section 4 (in the matter preceding division A of this  
25 consolidated Act).

1 ~~REGULATORY PROGRAM~~

2 For expenses necessary for administration of laws  
3 pertaining to regulation of navigable waters and wetlands,  
4 \$183,000,000, to remain available until expended: *Pro-*  
5 *vided*, That the Secretary of the Army, acting through the  
6 Chief of Engineers, may use up to \$3,200,000 of the funds  
7 appropriated herein to reimburse the Port of Arlington,  
8 Gillam County, Oregon, for those direct construction costs  
9 determined by the Secretary to have been incurred by the  
10 Port as a result of and following issuance of the Depart-  
11 ment of the Army Regulatory Program permit for the con-  
12 struction of a commercial dock and offload facility at the  
13 Port in February 2007, including the removal of the com-  
14 mercial dock and offload facility.

15 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

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

20 EXPENSES

21 For expenses necessary for the supervision and gen-  
22 eral administration of the civil works program in the head-  
23 quarters of the United States Army Corps of Engineers,  
24 and the offices of the Division Engineers; and for the man-  
25 agement and operation of the Humphreys Engineer Cen-  
26 ter Support Activity, the Institute for Water Resources,



1 ~~the United States Army Engineer Research and Develop-~~  
2 ~~ment Center, and the United States Army Corps of Engi-~~  
3 ~~neers Finance Center, \$179,365,000, to remain available~~  
4 ~~until expended, of which not to exceed \$5,000 may be used~~  
5 ~~for official reception and representation purposes and only~~  
6 ~~during the current fiscal year: *Provided*, That no part of~~  
7 ~~any other appropriation provided in title I of this Act shall~~  
8 ~~be available to fund the civil works activities of the Office~~  
9 ~~of the Chief of Engineers or the civil works executive di-~~  
10 ~~rection and management activities of the division offices.~~

11 OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL  
12 WORKS)

13 For the Office of ~~the~~ Assistant Secretary of the Army e  
14 (Civil Works) as authorized by 10 U.S.C. 3016(b)(3),  
15 \$4,500,000, to remain available until expended.

16 ADMINISTRATIVE PROVISION

17 The Revolving Fund, Corps of Engineers, shall be  
18 available during the current fiscal year for purchase (not  
19 to exceed 100 for replacement only) and hire of passenger  
20 motor vehicles for the civil works program.

21 GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

22 SEC. 101. (a) None of the funds provided in title I.  
23 of this Act, or provided by previous appropriations Acts  
24 to the agencies or entities funded in title I of this Act  
25 that remain available for obligation or expenditure in fiscal

1 year 2009, shall be available for obligation or expenditure  
2 through a reprogramming of funds that:

3 (1) creates or initiates a new program, project,  
4 or activity;

5 (2) eliminates a program, project, or activity;

6 (3) increases funds or personnel for any pro-  
7 gram, project, or activity for which funds have been  
8 denied or restricted by this Act, unless prior ap-  
9 proval is received from the House and Senate Com-  
10 mittees on Appropriations;

11 (4) proposes to use funds directed for a specific  
12 activity for a different purpose, unless prior approval  
13 is received from the House and Senate Committees  
14 on Appropriations;

15 (5) augments or reduces existing programs,  
16 projects or activities in excess of the amounts con-  
17 tained in subsections 6 through 10, unless prior ap-  
18 proval is received from the House and Senate Com-  
19 mittees on Appropriations;

20 (6) INVESTIGATIONS.—For a base level over  
21 \$100,000, reprogramming of 25 percent of the base  
22 amount up to a limit of \$150,000 per project, study  
23 or activity is allowed: *Provided*, That for a base level  
24 less than \$100,000, the reprogramming limit is  
25 \$25,000; *Provided further*, That up to \$25,000 may

1 ~~be reprogrammed into any continuing study or activ-~~  
2 ~~ity that did not receive an appropriation for existing~~  
3 ~~obligations and concomitant administrative expenses;~~

4 (7) CONSTRUCTION.—For a base level over  
5 \$2,000,000, reprogramming of 15 percent of the  
6 base amount up to a limit of \$3,000,000 per project,  
7 study or activity is allowed: *Provided*, That for a  
8 base level less than \$2,000,000, the reprogramming  
9 limit is \$300,000: *Provided further*, That up to  
10 \$3,000,000 may be reprogrammed for settled con-  
11 tractor claims, changed conditions, or real estate de-  
12 ficiency judgments: *Provided further*, That up to  
13 \$300,000 may be reprogrammed into any continuing  
14 study or activity that did not receive an appropri-  
15 ation for existing obligations and concomitant admin-  
16 istrative expenses;

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

1 ~~study or activity is allowed: *Provided further,* That~~  
2 for a base level less than \$1,000,000, the re-  
3 programming limit is \$150,000: *Provided further,*  
4 That \$150,000 may be reprogrammed into any con-  
5 tinuing study or activity that did not receive an ap-  
6 propriation;

7 (9) MISSISSIPPI RIVER AND TRIBUTARIES.—  
8 The same reprogramming guidelines for the Inves-  
9 tigation, Construction, and Operation and Mainte-  
10 nance portions of the Mississippi River and Tribu-  
11 taries Account as listed above; and

12 (10) FORMERLY UTILIZED SITES REMEDIAL AC-  
13 TION PROGRAM.—Reprogramming of up to 15 per-  
14 cent of the base of the receiving project is permitted.

15 (b) CONTINUING AUTHORITIES PROGRAM.—Sub-  
16 section (a)(1) shall not apply to any project or activity  
17 funded under the continuing authorities program.

18 (c) Not later than 60 days after the date of enact-  
19 ment of this Act, the Corps of the Engineers shall submit  
20 a report to the House and Senate Committees on Appro-  
21 priations to establish the baseline for application of re-  
22 programming and transfer authorities for the current fis-  
23 cal year: *Provided,* That the report shall include:

24 (1) A table for each appropriation with a sepa-  
25 rate column to display the President's budget re-

1 quest, adjustments made by Congress, adjustments  
2 due to enacted rescissions, if appropriate, and the  
3 fiscal year enacted level;

4 (2) A delineation in the table for each appro-  
5 priation both by object class and program, project  
6 and activity as detailed in the budget appendix for  
7 the respective appropriations; and

8 (3) An identification of items of special congres-  
9 sional interest: *Provided further*, That the amount  
10 appropriated for salaries and expenses of the Corps  
11 of Engineers shall be reduced by \$100,000 per day  
12 for each day after the required date that the report  
13 has not been submitted to the Congress.

14 SEC. 102. None of the funds in this Act, or previous  
15 Acts, making funds available for Energy and Water Devel-  
16 opment, shall be used to implement any pending or future  
17 competitive sourcing actions under OMB Circular A-76  
18 or High Performing Organizations for the U.S. Army  
19 Corps of Engineers.

20 SEC. 103. None of the funds made available in this  
21 title may be used to award or modify any contract that  
22 commits an amount for a project in excess of the amounts  
23 appropriated for that project that remain unobligated.

24 SEC. 104. Within 90 days of the date of the Chief  
25 of Engineers Report on a water resource matter, the As-

1 sistant Secretary of the Army (Civil Works) shall submit  
2 the report to the appropriate authorizing and appro-  
3 priating committees of the Congress.

4       SEC. 105. WATER REALLOCATION, LAKE CUM-  
5 BERLAND, KENTUCKY. (a) IN GENERAL.—Subject to sub-  
6 section (b), none of the funds made available by this Act  
7 may be used to carry out any water reallocation project  
8 or component under the Wolf Creek Project, Lake Cum-  
9 berland, Kentucky, authorized under the Act of June 28,  
10 1938 (52 Stat. 1215, ch. 795) and the Act of July 24,  
11 1946 (60 Stat. 636, ch. 595).

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

17       SEC. 106. Section 121 of the Energy and Water De-  
18 velopment Appropriations Act, 2006 (Public Law 109-  
19 103; 119 Stat. 2256) is amended by striking subsection  
20 (a) and inserting the following:

21       “(a) Hereafter, the Secretary of the Army may carry  
22 out and fund planning studies, watershed surveys and as-  
23 sessments, or technical studies at 100 percent Federal ex-  
24 pense to accomplish the purposes of the 2003 Biological  
25 Opinion described in section 205(b) of the Energy and

1 Water Development Appropriations Act, 2005 (Public  
2 Law 108-447; 118 Stat. 2949) as amended by subsection  
3 (b) or any related subsequent biological opinion, and the  
4 collaborative program long-term plan. In carrying out a  
5 study, survey, or assessment under this subsection, the  
6 Secretary of the Army shall consult with Federal, State,  
7 tribal and local governmental entities, as well as entities  
8 participating in the Middle Rio Grande Endangered Spe-  
9 cies Collaborative Program referred to in section 205 of  
10 this Act: *Provided*, That the Secretary of the Army may  
11 also provide planning and administrative assistance to the  
12 Middle Rio Grande Endangered Species Collaborative Pro-  
13 gram, which shall not be subject to cost sharing require-  
14 ments with non-Federal interests.”.

15 SEC. 107. None of the funds in this Act, or previous  
16 Acts, making funds available for Energy and Water Devel-  
17 opment shall be used to award any continuing contract  
18 that commits additional funding from the Inland Water-  
19 way Trust Fund unless or until such time that a perma-  
20 nent solution to enhance revenues in the fund is enacted.

21 SEC. 108. The Secretary is authorized to conduct a  
22 study of the Missouri River Projects located within the  
23 Missouri River basin at a total cost of \$25,000,000 with  
24 the express purpose to review the original project purposes  
25 based on the Flood Control Act of 1944, as amended, and

~~1~~ other subsequent relevant legislation and judicial rulings  
2 to determine if changes to the authorized project purposes  
3 and existing Federal water resource infrastructure may be  
4 warranted: *Provided*, That this study shall be undertaken  
5 at full Federal expense.

6 SEC. 109. Section 134 of Public Law 108–137 (117  
7 Stat. 1842), as amended by section 128(b) of Public Law  
8 109–103 (119 Stat. 2260), is further amended by striking  
9 “\$30,000,000” wherever it appears and inserting  
10 “\$48,300,000” in lieu thereof.

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

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

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

16 “(B) CREDIT TOWARD NON-FEDERAL  
17 SHARE.—The Secretary shall credit toward the  
18 non-Federal share of the project the costs ex-  
19 pended by non-Federal interests for the replace-  
20 ment and reconstruction of the Soquel Avenue  
21 Bridge.

22 “(C) MAXIMUM AMOUNT OF CREDIT.—The  
23 credit under paragraph (B) may not exceed  
24 \$2,000,000.



1                   “(D) LIMITATION OF TOTAL PROJECT  
2                   COST.—The Secretary shall not include the  
3                   costs to be credited under paragraphs (B) and  
4                   (C) in total project costs in determining the  
5                   amounts of the Federal and non-Federal con-  
6                   tributions.”.

7           SEC. 111. The Missouri River Levee System (MRLS)  
8   Unit L-385 Project, Riverside, Missouri, authorized by  
9   the Flood Control Act of 1941, Public Law 77-228, and  
10   the Flood Control Act of 1944, Public Law 78-534, is  
11   modified to direct the Secretary, acting through the Chief  
12   of Engineers, to take such action as is necessary to correct  
13   deficiencies in the L-385 levee system in Riverside, Mis-  
14   souri at full Federal expense at a cost of no more than  
15   \$7,000,000.

16           SEC. 112. Section 115 of the Energy and Water De-  
17   velopment and Related Agencies Appropriations Act, 2008  
18   as contained in division C of Public Law 110-161, is  
19   amended by striking “\$20,000,000. The Secretary shall  
20   transfer this facility to the Secretary of the Interior for  
21   operation and maintenance upon the completion of con-  
22   struction.” and inserting in lieu thereof, “\$20,000,000:  
23   *Provided*, That the Secretary shall transfer ownership of  
24   this facility to the Secretary of Health and Human Serv-

~~ices for operation and maintenance upon the completion of construction.”.~~

SEC. 113. Section 103(e)(7) of the Water Resources Development Act of 1992 (106 Stat. 4811–12), as amended by section 117 of the Energy and Water Development Appropriations Act of 2006 (119 Stat. 2255), is further amended by striking “15,000,000” and inserting “26,000,000”.

SEC. 114. Section 3118 of Public Law 110–114 (121 Stat. 1137) is amended by—

(1) in paragraph (b) by inserting after “New Mexico” the following: “in accordance with the plans recommended in the feasibility report for the Middle Rio Grande Bosque, New Mexico, scheduled for completion in December 2008”;

(2) redesignating subsection (d) as subsection (e); and

(3) inserting a new subsection (d):

“(d) COST SHARING.—Any requirement for non-Federal participation in a project carried out in the bosque of Bernalillo County, New Mexico, pursuant to this section shall be limited to the provision of lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction, operation and maintenance of the project.”.

1       SEC. 115. The non-Federal interest for the project  
2 referenced in section 3154 of the Water Resources Devel-  
3 opment Act of 2007 (Public Law 110–114; 121 Stat.  
4 1148) may carry out design and construction work on the  
5 project in advance of Federal appropriations or may pro-  
6 vide funds directly to the Secretary for the Secretary to  
7 carry out such work: *Provided*, That the Secretary of the  
8 Army shall reimburse the non-Federal interest for any  
9 costs incurred by the non-Federal interest that are in ex-  
10 cess of the non-Federal share of total project costs subject  
11 to the availability of appropriations.

12       SEC. 116. The Colorado Department of Natural Re-  
13 sources is authorized to perform modifications of the facil-  
14 ity (Chatfield Reservoir, Colorado), and any required miti-  
15 gation which results from implementation of the project:  
16 *Provided*, That in carrying out the reassignment of storage  
17 space provided for in this section, the Secretary shall col-  
18 laborate with the Colorado Department of Natural Re-  
19 sources and local interests to determine costs to be repaid  
20 for storage that reflects the limited reliability of the re-  
21 sources and the capability of non-Federal interests to  
22 make use of the reallocated storage space in Chatfield Res-  
23 ervoir, Colorado.

24       SEC. 117. Section 117 of the Energy and Water De-  
25 velopment and Related Agencies Appropriations Act,

1 ~~2005, as contained in division C of Public Law 108-447~~ )  
2 is hereby repealed.

3 SEC. 118. The Secretary of Army, acting through the  
4 Chief of Engineers, shall reassign the regulatory bound-  
5 aries of the Chicago District to align with the existing civil  
6 works boundaries of the Chicago District.

7 TITLE II

8 DEPARTMENT OF THE INTERIOR

9 CENTRAL UTAH PROJECT

10 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

11 For carrying out activities authorized by the Central  
12 Utah Project Completion Act, \$40,360,000, to remain  
13 available until expended, of which \$987,000 shall be de-  
14 posited into the Utah Reclamation Mitigation and Con-  
15 servation Account for use by the Utah Reclamation Miti-  
16 gation and Conservation Commission. In addition, for nec-  
17 essary expenses incurred in carrying out related respon-  
18 sibilities of the Secretary of the Interior, \$1,640,000, to  
19 remain available until expended. For fiscal year 2009, the  
20 Commission may use an amount not to exceed \$1,500,000  
21 for administrative expenses.

22 BUREAU OF RECLAMATION

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

## 1                   WATER AND RELATED RESOURCES

## 2                   (INCLUDING TRANSFERS OF FUNDS)

3           For management, development, and restoration of  
4 water and related natural resources and for related activi-  
5 ties, including the operation, maintenance, and rehabilita-  
6 tion of reclamation and other facilities, participation in  
7 fulfilling related Federal responsibilities to Native Ameri-  
8 cans, and related grants to, and cooperative and other  
9 agreements with, State and local governments, federally  
10 recognized Indian tribes, and others, \$920,259,000, to re-  
11 main available until expended, of which \$46,655,000 shall  
12 be available for transfer to the Upper Colorado River  
13 Basin Fund and \$24,962,000 shall be available for trans-  
14 fer to the Lower Colorado River Basin Development Fund;  
15 of which such amounts as may be necessary may be ad-  
16 vanced to the Colorado River Dam Fund; of which not  
17 more than \$500,000 is for high priority projects which  
18 shall be carried out by the Youth Conservation Corps, as  
19 authorized by 16 U.S.C. 1706: *Provided*, That such trans-  
20 fers may be increased or decreased within the overall ap-  
21 propriation under this heading: *Provided further*, That of  
22 the total appropriated, the amount for program activities  
23 that can be financed by the Reclamation Fund or the Bu-  
24 reau of Reclamation special fee account established by 16  
25 U.S.C. 4601-6a(i) shall be derived from that Fund or ac-  
26 count: *Provided further*, That funds contributed under 43

1 ~~U.S.C. 395~~ are available until expended for the purposes  
2 for which contributed: *Provided further*, That funds ad-  
3 vanced under 43 U.S.C. 397a shall be credited to this ac-  
4 count and are available until expended for the same pur-  
5 poses as the sums appropriated under this heading: *Pro-*  
6 *vided further*, That funds available for expenditure for the  
7 Departmental Irrigation Drainage Program may be ex-  
8 pended by the Bureau of Reclamation for site remediation  
9 on a nonreimbursable basis: *Provided further*, That funds  
10 provided for the Friant-Kern and Madera Canals improve-  
11 ments may be expended on a non-reimbursable basis: *Pro-*  
12 *vided further*, That \$4,000,000 of the funds appropriated  
13 under this heading shall be deposited in the San Gabriel  
14 Basin Restoration Fund established by section 110 of title  
15 I of appendix D of Public Law 106-554: *Provided further*,  
16 That, except as provided in section 201 of this Act, the  
17 amounts made available under this paragraph shall be ex-  
18 pended as authorized in law for the projects and activities  
19 specified in the text and table under this heading in the  
20 explanatory statement described in section 4 (in the mat-  
21 ter preceding division A of this consolidated Act).

22 CENTRAL VALLEY PROJECT RESTORATION FUND

23 For carrying out the programs, projects, plans, habi-  
24 tat restoration, improvement, and acquisition provisions of  
25 the Central Valley Project Improvement Act, \$56,079,000,  
26 to be derived from such sums as may be collected in the

1 Central Valley Project Restoration Fund pursuant to sec-  
2 tions 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of  
3 Public Law 102-575, to remain available until expended:  
4 *Provided*, That the Bureau of Reclamation is directed to  
5 assess and collect the full amount of the additional mitiga-  
6 tion and restoration payments authorized by section  
7 3407(d) of Public Law 102-575: *Provided further*, That  
8 none of the funds made available under this heading may  
9 be used for the acquisition or leasing of water for in-  
10 stream purposes if the water is already committed to in-  
11 stream purposes by a court adopted decree or order.

12 CALIFORNIA BAY-DELTA RESTORATION

13 (INCLUDING TRANSFER OF FUNDS) S

14 For carrying out activities authorized by the Water  
15 Supply, Reliability, and Environmental Improvement Act,  
16 consistent with plans to be approved by the Secretary of  
17 the Interior, \$40,000,000, to remain available until ex-  
18 pended, of which such amounts as may be necessary to  
19 carry out such activities may be transferred to appropriate  
20 accounts of other participating Federal agencies to carry  
21 out authorized purposes: *Provided*, That funds appro-  
22 priated herein may be used for the Federal share of the  
23 costs of CALFED Program management: *Provided fur-*  
24 *ther*, That the use of any funds provided to the California  
25 Bay-Delta Authority for program-wide management and  
26 oversight activities shall be subject to the approval of the

1 Secretary of the Interior: *Provided further*, That CALFED  
2 implementation shall be carried out in a balanced manner  
3 with clear performance measures demonstrating concur-  
4 rent progress in achieving the goals and objectives of the  
5 Program.

6 POLICY AND ADMINISTRATION

7 (INCLUDING TRANSFER OF FUNDS)

8 For necessary expenses of policy, administration, and  
9 related functions in the Office of the Commissioner, the  
10 Denver office, and offices in the five regions of the Bureau  
11 of Reclamation, to remain available until expended,  
12 \$59,400,000, to be derived from the Reclamation Fund  
13 and be nonreimbursable as provided in 43 U.S.C. 377:  
14 *Provided*, That no part of any other appropriation in this  
15 Act shall be available for activities or functions budgeted  
16 as policy and administration expenses: *Provided further*,  
17 That, of the funds provided under this heading,  
18 \$10,000,000 shall be transferred to "Water and Related  
19 Resources" upon the expiration of the 90-day period fol-  
20 lowing the date of enactment of this Act if during such  
21 period, the Secretary of the Interior has not submitted to  
22 the Committees on Appropriations of the House of Rep-  
23 resentatives and the Senate the Bureau of Reclamation's  
24 five-year budget plan.



1 ----- ADMINISTRATIVE PROVISION -----

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

5 GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

6 SEC. 201. (a) None of the funds provided in title II  
7 of this Act for Water and Related Resources, or provided  
8 by previous appropriations Acts to the agencies or entities  
9 funded in title II of this Act for Water and Related Re-  
10 sources that remain available for obligation or expenditure  
11 in fiscal year 2009, shall be available for obligation or ex-  
12 penditure through a reprogramming of funds that—

13 (1) initiates or creates a new program, project,  
14 or activity;

15 (2) eliminates a program, project, or activity;

16 (3) increases funds for any program, project, or  
17 activity for which funds have been denied or re-  
18 stricted by this Act, unless prior approval is received  
19 from the Committees on Appropriations of the  
20 House of Representatives and the Senate;

21 (4) restarts or resumes any program, project or  
22 activity for which funds are not provided in this Act,  
23 unless prior approval is received from the Commit-  
24 tees on Appropriations of the House of Representa-  
25 tives and the Senate;

1           (5) transfers funds in excess of the following  
2 limits, unless prior approval is received from the  
3 Committees on Appropriations of the House of Rep-  
4 resentatives and the Senate:

5                   (A) 15 percent for any program, project or  
6 activity for which \$2,000,000 or more is avail-  
7 able at the beginning of the fiscal year; or

8                   (B) \$300,000 for any program, project or  
9 activity for which less than \$2,000,000 is avail-  
10 able at the beginning of the fiscal year;

11           (6) transfers more than \$500,000 from either  
12 the Facilities Operation, Maintenance, and Rehabili-  
13 tation category or the Resources Management and  
14 Development category to any program, project, or  
15 activity in the other category, unless prior approval  
16 is received from the Committees on Appropriations  
17 of the House of Representatives and the Senate; or

18           (7) transfers, where necessary to discharge legal  
19 obligations of the Bureau of Reclamation, more than  
20 \$5,000,000 to provide adequate funds for settled  
21 contractor claims, increased contractor earnings due  
22 to accelerated rates of operations, and real estate de-  
23 ficiency judgments, unless prior approval is received  
24 from the Committees on Appropriations of the  
25 House of Representatives and the Senate.

1           (b) Subsection (a)(5) shall not apply to any transfer  
2 of funds within the Facilities Operation, Maintenance, and  
3 Rehabilitation category.

4           (c) For purposes of this section, the term “transfer”  
5 means any movement of funds into or out of a program,  
6 project, or activity.

7           (d) The Bureau of Reclamation shall submit reports  
8 on a quarterly basis to the Committees on Appropriations  
9 of the House of Representatives and the Senate detailing  
10 all the funds reprogrammed between programs, projects,  
11 activities, or categories of funding. The first quarterly re-  
12 port shall be submitted not later than 60 days after the  
13 date of enactment of this Act.

14           SEC. 202. (a) None of the funds appropriated or oth-  
15 erwise made available by this Act may be used to deter-  
16 mine the final point of discharge for the interceptor drain  
17 for the San Luis Unit until development by the Secretary  
18 of the Interior and the State of California of a plan, which  
19 shall conform to the water quality standards of the State  
20 of California as approved by the Administrator of the En-  
21 vironmental Protection Agency, to minimize any detri-  
22 mental effect of the San Luis drainage waters.

23           (b) The costs of the Kesterson Reservoir Cleanup  
24 Program and the costs of the San Joaquin Valley Drain-  
25 age Program shall be classified by the Secretary of the

1 Interior as reimbursable or nonreimbursable and collected  
2 until fully repaid pursuant to the "Cleanup Program-Alternative  
3 Repayment Plan" and the "SJVDP-Alternative  
4 Repayment Plan" described in the report entitled "Repayment  
5 Report, Kesterson Reservoir Cleanup Program and  
6 San Joaquin Valley Drainage Program, February 1995",  
7 prepared by the Department of the Interior, Bureau of  
8 Reclamation. Any future obligations of funds by the  
9 United States relating to, or providing for, drainage service  
10 or drainage studies for the San Luis Unit shall be fully  
11 reimbursable by San Luis Unit beneficiaries of such service  
12 or studies pursuant to Federal reclamation law.

13 SEC. 203. None of the funds appropriated or otherwise  
14 made available by this or any other Act may be used  
15 to pay the salaries and expenses of personnel to purchase  
16 or lease water in the Middle Rio Grande or the Carlsbad  
17 Projects in New Mexico unless said purchase or lease is  
18 in compliance with the purchase requirements of section  
19 202 of Public Law 106-60.

20 SEC. 204. Funds under this title for Drought Emergency  
21 Assistance shall be made available primarily for  
22 leasing of water for specified drought related purposes  
23 from willing lessors, in compliance with existing State laws  
24 and administered under State water priority allocation.

1     ~~SEC. 205.~~ The Secretary of the Interior, acting  
2 through the Commissioner of the Bureau of Reclamation,  
3 is authorized to enter into grants, cooperative agreements,  
4 and other agreements with irrigation or water districts  
5 and States to fund up to 50 percent of the cost of plan-  
6 ning, designing, and constructing improvements that will  
7 conserve water, increase water use efficiency, or enhance  
8 water management through measurement or automation,  
9 at existing water supply projects within the States identi-  
10 fied in the Act of June 17, 1902, as amended, and supple-  
11 mented: *Provided*, That when such improvements are to  
12 federally owned facilities, such funds may be provided in  
13 advance on a nonreimbursable basis to an entity operating  
14 affected transferred works or may be deemed non-  
15 reimbursable for nontransferred works: *Provided further*,  
16 That the calculation of the non-Federal contribution shall  
17 provide for consideration of the value of any in-kind con-  
18 tributions, but shall not include funds received from other  
19 Federal agencies: *Provided further*, That the cost of oper-  
20 ating and maintaining such improvements shall be the re-  
21 sponsibility of the non-Federal entity: *Provided further*,  
22 That this section shall not supercede any existing project-  
23 specific funding authority: *Provided further*, That the Sec-  
24 retary is also authorized to enter into grants or coopera-

1 tive agreements with universities or nonprofit research in-  
2 stitutions to fund water use efficiency research.

3 SEC. 206. (a) Section 209 of the Energy and Water  
4 Development Appropriations Act, 2004 (Public Law 108-  
5 137; 117 Stat. 1850) is repealed.

6 (b) The Secretary of the Interior (referred to in this  
7 section as the “Secretary”) shall establish and maintain  
8 an Executive Committee of the Middle Rio Grande Endan-  
9 gered Species Collaborative Program (referred to in this  
10 section as the “Executive Committee”) consistent with the  
11 bylaws of the Middle Rio Grande Endangered Species Col-  
12 laborative Program adopted on October 2, 2006.

13 (c) Hereafter, in compliance with applicable Federal  
14 and State laws, the Secretary (acting through the Com-  
15 missioner of Reclamation), in collaboration with the Exec-  
16 utive Committee, may enter into any grants, contracts, co-  
17 operative agreements, interagency agreements, or other  
18 agreements that the Secretary determines to be necessary  
19 to comply with the 2003 Biological Opinion described in  
20 section 205(b) of the Energy and Water Development Ap-  
21 propriations Act, 2005 (Public Law 108-447; 118 Stat.  
22 2949) as amended by section 121(b) of the Energy and  
23 Water Development Appropriations Act, 2006 (Public  
24 Law 109-103; 119 Stat. 2256) or any related subsequent

1 biological opinion or in furtherance of the objectives set  
2 forth in the collaborative program long-term plan.

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

6 (2) Not more than 15 percent of amounts appro-  
7 priated to carry out subsection (c) shall be made available  
8 for the payment of administrative expenses associated with  
9 carrying out that subsection.

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

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

19 (f) Nothing in this section modifies or expands the  
20 discretion of the Secretary with respect to operating res-  
21 ervoir facilities under the jurisdiction of the Secretary in  
22 the Rio Grande Valley, New Mexico.

23 SEC. 207. Section 208 of the Energy and Water De-  
24 velopment and Related Agencies Appropriations Act, 2008  
25 (Public Law 110-161; 121 Stat. 1953) is amended—

1 ~~(1) in subsection (a)—~~

2 (A) in paragraph (2)(B), by inserting “, as  
3 determined by the nonprofit conservation orga-  
4 nization” after “Lake”; and

5 (B) in paragraph (4), by striking “retire-  
6 ment of water rights” and all that follows  
7 through the semicolon at the end and inserting  
8 “retirement of water rights;”; and

9 (2) in subsection (b), by striking “June 30,  
10 2010” and inserting “June 30, 2012”.

11 SEC. 208. Notwithstanding any other provision of  
12 law, of amounts made available under section 2507 of the  
13 Farm Security and Rural Investment Act of 2002 (43  
14 U.S.C. 2211 note; Public Law 107–171), the Secretary  
15 of the Interior acting through the Commissioner of Rec-  
16 lamation, shall allocate—

17 (1) \$300,000 to the Desert Research Institute  
18 for LIDAR acquisition data in the Walker River  
19 Basin, to supplement water rights research and data  
20 funded under section 208(a)(1) of the Energy and  
21 Water Development Appropriations Act, 2006 (Pub-  
22 lic Law 109–103; 119 Stat. 2268); and

23 (2) \$300,000 to the Director of the United  
24 States Fish and Wildlife Service to conduct a  
25 multiyear assessment of and monitoring of the abil-



1       ity of west central Nevada lakes to support migra-  
2       tory loons, and identification of wintering areas and  
3       annual range of loons using Walker Lake during mi-  
4       gration.

5                                   TITLE III

6                           DEPARTMENT OF ENERGY

7                           ENERGY PROGRAMS

8       ENERGY EFFICIENCY AND RENEWABLE ENERGY

9       For Department of Energy expenses including the  
10      purchase, construction, and acquisition of plant and cap-  
11      ital equipment, and other expenses necessary for energy  
12      efficiency and renewable energy activities in carrying out  
13      the purposes of the Department of Energy Organization  
14      Act (42 U.S.C. 7101 et seq.), including the acquisition or  
15      condemnation of any real property or any facility or for  
16      plant or facility acquisition, construction, or expansion,  
17      and the purchase of not to exceed two passenger vehicles  
18      for replacement, \$1,928,540,000, to remain available until  
19      expended: *Provided*, That, of the amount appropriated in  
20      this paragraph, \$228,803,380 shall be used for projects  
21      specified in the table that appears under the heading  
22      “Congressionally Directed Energy Efficiency and Renew-  
23      able Energy Projects” in the text and table under this  
24      heading in the explanatory statement described in section

1 4 (in the matter preceding division A of this consolidated  
2 Act).

3 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

4 For Department of Energy expenses including the  
5 purchase, construction, and acquisition of plant and cap-  
6 ital equipment, and other expenses necessary for elec-  
7 tricity delivery and energy reliability activities in carrying  
8 out the purposes of the Department of Energy Organiza-  
9 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-  
10 tion or condemnation of any real property or any facility  
11 or for plant or facility acquisition, construction, or expan-  
12 sion, \$137,000,000, to remain available until expended:  
13 *Provided*, That, of the amount appropriated in this para-  
14 graph, \$19,648,475 shall be used for projects specified in  
15 the table that appears under the heading "Congressionally  
16 Directed Electricity Delivery and Energy Reliability  
17 Projects" in the text and table under this heading in the  
18 explanatory statement described in section 4 (in the mat-  
19 ter preceding division A of this consolidated Act).

20 NUCLEAR ENERGY

21 (INCLUDING TRANSFER OF FUNDS)

22 For Department of Energy expenses including the  
23 purchase, construction, and acquisition of plant and cap-  
24 ital equipment, and other expenses necessary for nuclear  
25 energy activities in carrying out the purposes of the De-

1 partment of Energy Organization Act (42 U.S.C. 7101 et  
2 seq.), including the acquisition or condemnation of any  
3 real property or any facility or for plant or facility acquisi-  
4 tion, construction, or expansion, and the purchase of not  
5 to exceed 29 passenger motor vehicles, including three new  
6 buses and 26 replacement vehicles, including one ambu-  
7 lance, \$792,000,000, to remain available until expended:  
8 *Provided*, That, of the amount appropriated in this para-  
9 graph, \$2,854,500 shall be used for projects specified in  
10 the table that appears under the heading "Congressionally  
11 Directed Nuclear Energy Projects" in the text and table  
12 under this heading in the explanatory statement described  
13 in section 4 (in the matter preceding division A of this  
14 consolidated Act).

15 CLEAN COAL TECHNOLOGY

16 (INCLUDING TRANSFER OF FUNDS)

17 Of the funds made available under this heading for  
18 obligation in prior years, \$149,000,000 of uncommitted  
19 balances are transferred to Fossil Energy Research and  
20 Development to be used until expended: *Provided*, That  
21 funds made available in previous appropriations Acts shall  
22 be made available for any ongoing project regardless of  
23 the separate request for proposal under which the project  
24 was selected.

## 1 .....FOSSIL ENERGY RESEARCH AND DEVELOPMENT

2 (INCLUDING TRANSFER OF FUNDS)

3 For necessary expenses in carrying out fossil energy  
4 research and development activities, under the authority  
5 of the Department of Energy Organization Act (Public  
6 Law 95-91), including the acquisition of interest, includ-  
7 ing defeasible and equitable interests in any real property  
8 or any facility or for plant or facility acquisition or expan-  
9 sion, and for conducting inquiries, technological investiga-  
10 tions and research concerning the extraction, processing,  
11 use, and disposal of mineral substances without objection-  
12 able social and environmental costs (30 U.S.C. 3, 1602,  
13 and 1603), \$876,320,000, to remain available until ex-  
14 pended, of which \$149,000,000 shall be derived by trans-  
15 fer from "Clean Coal Technology": *Provided*, That of the  
16 amounts provided, \$288,174,000 is available for the Clean  
17 Coal Power Initiative Round III solicitation, pursuant to  
18 title IV of the Public Law 109-58: *Provided further*, That  
19 funds appropriated for prior solicitations under the Clean  
20 Coal Technology Program, Power Plant Improvement Ini-  
21 tiative, Clean Coal Power Initiative, and FutureGen, but  
22 not required by the Department to meet its obligations  
23 on projects selected under such solicitations, may be uti-  
24 lized for the Clean Coal Power Initiative Round III solici-  
25 tation under this Act in accordance with the requirements

1 of this Act rather than the Acts under which the funds  
2 were appropriated: *Provided further*, That no Clean Coal  
3 Power Initiative project may be selected for which full  
4 funding is not available to provide for the total project:  
5 *Provided further*, That if a Clean Coal Power Initiative  
6 project selected after enactment of this legislation for ne-  
7 gotiation under this or any other Act in any fiscal year,  
8 is not awarded within 2 years from the date the applica-  
9 tion was selected, negotiations shall cease and the Federal  
10 funds committed to the application shall be retained by  
11 the Department for future coal-related research, develop-  
12 ment and demonstration projects, except that the time  
13 limit may be extended at the Secretary's discretion for  
14 matters outside the control of the applicant, or if the Sec-  
15 retary determines that extension of the time limit is in  
16 the public interest: *Provided further*, That the Secretary  
17 may not delegate this responsibility for applications great-  
18 er than \$10,000,000: *Provided further*, That financial as-  
19 sistance for costs in excess of those estimated as of the  
20 date of award of original Clean Coal Power Initiative fi-  
21 nancial assistance may not be provided in excess of the  
22 proportion of costs borne by the Government in the origi-  
23 nal agreement and shall be limited to 25 percent of the  
24 original financial assistance: *Provided further*, That funds  
25 shall be expended in accordance with the provisions gov-

1 erning the use of funds contained under the heading  
2 “Clean Coal Technology” in 42 U.S.C. 5903d as well as  
3 those contained under the heading “Clean Coal Tech-  
4 nology” in prior appropriations: *Provided further*, That  
5 any technology selected under these programs shall be  
6 considered a Clean Coal Technology, and any project se-  
7 lected under these programs shall be considered a Clean  
8 Coal Technology Project, for the purposes of 42 U.S.C.  
9 7651n, and chapters 51, 52, and 60 of title 40 of the Code  
10 of Federal Regulations: *Provided further*, That funds  
11 available for the Clean Coal Power Initiative Round III  
12 Funding Opportunity Announcement may be used to sup-  
13 port any technology that meets the requirements of the  
14 Round III Announcement relating to carbon capture and  
15 storage or other beneficial uses of CO<sub>2</sub>, without regard  
16 to the 70 and 30 percent funding allocations specified in  
17 section 402(b)(1)(A) and 402(b)(2)(A) of Public Law  
18 109–58: *Provided further*, That no part of the sum herein  
19 made available shall be used for the field testing of nuclear  
20 explosives in the recovery of oil and gas: *Provided further*,  
21 That, of the amount appropriated in this paragraph,  
22 \$43,864,150 shall be used for projects specified in the  
23 table that appears under the heading “Congressionally Di-  
24 rected Fossil Energy Projects” in the text and table under  
25 this heading in the explanatory statement described in sec-

tion 4 (in the matter preceding division A of this consoli-  
dated Act).

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum  
and oil shale reserve activities, including the hire of pas-  
senger motor vehicles, \$19,099,000, to remain available  
until expended: *Provided*, That, notwithstanding any other  
provision of law, unobligated funds remaining from prior  
years shall be available for all naval petroleum and oil  
shale reserve activities.

**[STRATEGIC PETROLEUM RESERVE**

For necessary expenses for Strategic Petroleum Re-  
serve facility development and operations and program  
management activities pursuant to the Energy Policy and  
Conservation Act (42 U.S.C. 6201 et seq.), \$172,600,000,  
to remain available until expended.]

*STRATEGIC PETROLEUM RESERVE*

*For necessary expenses for Strategic Petroleum Re-  
serve facility development and operations and program  
management activities pursuant to the Energy Policy and  
Conservation Act of 1975, as amended (42 U.S.C. 6201 et  
seq.), \$205,000,000, to remain available until expended, of  
which \$31,507,000 shall be provided to initiate new site ex-  
pansion activities, beyond land acquisition, consistent with  
the budget request.*

INSERT 39A

 Insert 39a

*Provided*, That none of the funds provided for new site expansion activities may be obligated or expended for authorized activities until the Secretary has submitted a report to the Congress on the effects of expansion of the Reserve on the domestic petroleum market, which is required to be submitted within 45 days of enactment of this act.



1 ----- NORTHEAST HOME HEATING OIL RESERVE

2 For necessary expenses for Northeast Home Heating  
3 Oil Reserve storage, operation, and management activities  
4 pursuant to the Energy Policy and Conservation Act,  
5 \$9,800,000, to remain available until expended.

6 ENERGY INFORMATION ADMINISTRATION

7 For necessary expenses in carrying out the activities  
8 of the Energy Information Administration, \$110,595,000,  
9 to remain available until expended.

10 NON-DEFENSE ENVIRONMENTAL CLEANUP

11 (INCLUDING TRANSFER OF FUNDS)

12 For Department of Energy expenses, including the  
13 purchase, construction, and acquisition of plant and cap-  
14 ital equipment and other expenses necessary for non-de-  
15 fense environmental cleanup activities in carrying out the  
16 purposes of the Department of Energy Organization Act  
17 (42 U.S.C. 7101 et seq.), including the acquisition or con-  
18 demnation of any real property or any facility or for plant  
19 or facility acquisition, construction, or expansion,  
20 \$261,819,000, to remain available until expended: *Pro-*

*That*

21 *vided,* The appropriation includes funds for environmental  
22 remediation activities associated with the Energy Tech-  
23 nology and Engineering Center (ETEC) at the Santa  
24 Susana Field Laboratory (SSFL), subject to the following:  
25 (1) the Department shall use a portion of this funding

1 to enter into an interagency agreement with the Environ-  
2 mental Protection Agency (EPA) regarding a comprehen-  
3 sive radioactive site characterization of Area IV of the  
4 SSFL and (2) the Department shall provide the amount  
5 required by EPA for the radioactive site characterization  
6 in fiscal year 2009 from within the available funds: *Pro-*  
7 *vided further*, That of the amounts provided, \$5,000,000  
8 is available for necessary expenses for the purpose of car-  
9 rying out remedial actions under this title at real property  
10 in the vicinity of the Tuba City processing site designated  
11 in section 102(a)(1), of the Uranium Mill Tailings Radi-  
12 ation Control Act of 1978 (Public Law 95-604, as amend-  
13 ed; 42 U.S.C. 7901, et seq.), notwithstanding section 112  
14 of that Act, at a dump site immediately adjacent to the  
15 north-northwest section of the Tuba City processing site,  
16 and on the north side of Highway 160: *Provided further*,  
17 That, of the amount appropriated in this paragraph,  
18 \$4,757,500 shall be used for projects specified in the table  
19 that appears under the heading “Congressionally Directed  
20 Non-Defense Environmental Cleanup Projects” in the text  
21 and table under this heading in the explanatory statement  
22 described in section 4 (in the matter preceding division  
23 A of this consolidated Act).

1 URANIUM-ENRICHMENT DECONTAMINATION AND  
2 DECOMMISSIONING FUND

3 For necessary expenses in carrying out uranium en-  
4 richment facility decontamination and decommissioning,  
5 remedial actions, and other activities of title II of the  
6 Atomic Energy Act of 1954, and title X, subtitle A, of  
7 the Energy Policy Act of 1992, \$535,503,000, to be de-  
8 rived from the Uranium Enrichment Decontamination and  
9 Decommissioning Fund, to remain available until ex-  
10 pended, of which \$10,000,000 shall be available in accord-  
11 ance with title X, subtitle A, of the Energy Policy Act  
12 of 1992.

13 SCIENCE

14 For Department of Energy expenses including the  
15 purchase, construction and acquisition of plant and capital  
16 equipment, and other expenses necessary for science ac-  
17 tivities in carrying out the purposes of the Department  
18 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-  
19 cluding the acquisition or condemnation of any real prop-  
20 erty or facility or for plant or facility acquisition, construc-  
21 tion, or expansion, and purchase of not to exceed 49 pas-  
22 senger motor vehicles for replacement only, including one  
23 law enforcement vehicle, one ambulance, and three buses,  
24 \$4,772,636,000, to remain available until expended: *Pro-*  
25 *vided*, That of the amount appropriated in this paragraph,

1 \$93,686,593 shall be used for projects specified in the  
 2 table that appears under the heading "Congressionally Di-  
 3 rected Science Projects" in the text and table under this  
 4 heading in the explanatory statement described in section  
 5 4 (in the matter preceding division A of this consolidated  
 6 Act).

#### 7 NUCLEAR WASTE DISPOSAL

8 For nuclear waste disposal activities to carry out the  
 9 purposes of the Nuclear Waste Policy Act of 1982, Public  
 10 Law 97-425, as amended (the "NWPA"), including the  
 11 acquisition of real property or facility construction or ex-  
 12 pansion, \$145,390,000, to remain available until ex-  
 13 pended, and to be derived from the Nuclear Waste Fund:  
 14 *Provided*, That of the funds made available in this Act  
 15 for Nuclear Waste Disposal, \$5,000,000 shall be provided  
 16 to the Office of the Attorney General of the State of Ne-  
 17 vada solely for expenditures, other than salaries and ex-  
 18 penses of State employees, to conduct scientific oversight  
 19 responsibilities and participate in licensing activities pur-  
 20 suant to the Act: *Provided further*, That notwithstanding  
 21 the lack of a written agreement with the State of Nevada  
 22 under section 117(c) of the NWPA, \$1,000,000 shall be  
 23 provided to Nye County, Nevada, for on-site oversight ac-  
 24 tivities under section 117(d) of that Act: *Provided further*,  
 25 That \$9,000,000 shall be provided to affected units of

1 local government, as defined in the NWPA, to conduct ap-  
2 propriate activities and participate in licensing activities:  
3 *Provided further*, That of the \$9,000,000 provided 7.5 per-  
4 cent of the funds provided shall be made available to af-  
5 fected units of local government in California with the bal-  
6 ance made available to affected units of local government  
7 in Nevada for distribution as determined by the Nevada  
8 units of local government: *Provided further*, This funding <sup>THAT</sup>  
9 shall be provided to affected units of local government, as  
10 defined in the NWPA: *Provided further*, That \$500,000  
11 shall be provided to the Timbisha-Shoshone Tribe solely  
12 for expenditures, other than salaries and expenses of tribal  
13 employees, to conduct appropriate activities and partici-  
14 pate in licensing activities under section 118(b) of the  
15 NWPA: *Provided further*, That notwithstanding the provi-  
16 sions of chapters 65 and 75 of title 31, United States  
17 Code, the Department shall have no monitoring, auditing  
18 or other oversight rights or responsibilities over amounts  
19 provided to affected units of local government: *Provided*  
20 *further*, That the funds for the State of Nevada shall be  
21 made available solely to the Office of the Attorney General  
22 by direct payment and to units of local government by di-  
23 rect payment: *Provided further*, That within 90 days of  
24 the completion of each Federal fiscal year, the Office of  
25 the Attorney General of the State of Nevada and each of

~~1 the affected units of local government shall provide certifi-~~  
2 cation to the Department of Energy that all funds ex-  
3 pended from such payments have been expended for activi-  
4 ties authorized by the NWPA and this Act: *Provided fur-*  
5 *ther*, That failure to provide such certification shall cause  
6 such entity to be prohibited from any further funding pro-  
7 vided for similar activities: *Provided further*, That none of  
8 the funds herein appropriated may be: (1) used directly  
9 or indirectly to influence legislative action, except for nor-  
10 mal and recognized executive-legislative communications,  
11 on any matter pending before Congress or a State legisla-  
12 ture or for lobbying activity as provided in 18 U.S.C.  
13 1913; (2) used for litigation expenses; or (3) used to sup-  
14 port multi-State efforts or other coalition building activi-  
15 ties inconsistent with the restrictions contained in this  
16 Act: *Provided further*, That all proceeds and recoveries re-  
17 alized by the Secretary in carrying out activities author-  
18 ized by the NWPA, including but not limited to, any pro-  
19 ceeds from the sale of assets, shall be available without  
20 further appropriation and shall remain available until ex-  
21 pended: *Provided further*, That no funds provided in this  
22 Act or any previous Act may be used to pursue repayment  
23 or collection of funds provided in any fiscal year to af-  
24 fected units of local government for oversight activities  
25 that had been previously approved by the Department of

1 Energy, or to withhold payment of any such funds: *Pro-*  
2 *vided further*, That, of the amount appropriated in this  
3 paragraph, \$1,855,425 shall be used for projects specified  
4 in the table that appears under the heading "Congression-  
5 ally Directed Nuclear Waste Disposal Projects" in the text  
6 and table under this heading in the explanatory statement  
7 described in section 4 (in the matter preceding division  
8 A of this consolidated Act).

9 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE  
10 PROGRAM

11 ~~Subject to section 502 of the Congressional Budget~~  
12 ~~Act of 1974, (in this and subsequent fiscal years) commit-~~  
13 ~~ments to guarantee loans under title XVII of the Energy~~  
14 ~~Policy Act of 2005, shall not exceed a total principal~~  
15 ~~amount of \$28,500,000,000 for eligible projects (other~~  
16 ~~than nuclear power facilities), and \$18,500,000,000 for el-~~  
17 ~~igible nuclear power facilities: *Provided*, That these~~  
18 ~~amounts are in addition to the authority provided under~~  
19 ~~section 20320 of division B of Public Law 109-289, as~~  
20 ~~amended by Public Law 110-5: *Provided further*, That~~  
21 ~~such sums are derived from amounts received from bor-~~  
22 ~~rowers pursuant to section 1702(b)(2) of the Energy Pol-~~  
23 ~~icy Act of 2005 under this heading in this and prior Acts,~~  
24 ~~shall be collected in accordance with section 502(7) of the~~  
25 ~~Congressional Budget Act of 1974: *Provided further*, That~~

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Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under title XVII of the Energy Policy Act of 2005, shall not exceed a total principal amount of \$47,000,000,000 for eligible projects, to remain available until committed, and of which \$18,500,000,000 shall be for nuclear power facilities: *Provided*, That these amounts are in addition to the authority provided under section 20320 of Division B of Public Law 109-289, as amended by Public Law 110-5: *Provided further*, That such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in this and prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: *Provided further*, That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: *Provided further*, That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees: *Provided further*, That for necessary administrative expenses to carry out this Loan Guarantee program, \$19,880,000 is appropriated, to remain available until expended: *Provided further*, That \$19,880,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2009 appropriations from the general fund estimated at not more than \$0: *Provided further*, That none of the funds made available in this Act shall be available for the execution of a new solicitation with respect to such guaranteed loans until 30 days after the Department of Energy has submitted to the Committees on Appropriations of the House of Representatives and the Senate a loan guarantee implementation plan that defines the proposed award levels and eligible technologies: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available for commitments to guarantee loans for any projects where funds, personnel, or property (tangible or intangible) of any federal agency, instrumentality, personnel or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further*, That the previous proviso shall not be interpreted as precluding the use of the loan guarantee authority in this act for commitments to guarantee loans for projects as a result of such projects benefiting from (a) otherwise allowable federal income tax benefits; (b) being located on federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is (i) paid exclusively in cash, (ii) deposited in the Treasury as offsetting receipts, and (iii) equal to the fair market value as determined by the head of the relevant federal agency; (c) federal insurance programs, including Price-Anderson; or (d) for electric generation projects, use of transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this title.

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1 the source of such payment received from borrowers is not  
2 a loan or other debt obligation that is guaranteed by the  
3 Federal Government: *Provided further*, That pursuant to  
4 section 1702(b)(2) of the Energy Policy Act of 2005, no  
5 appropriations are available to pay the subsidy cost of  
6 such guarantees: *Provided further*, That for necessary ad-  
7 ministrative (and) expenses to carry out this Loan Guar-  
8 antee program, \$19,880,000 is appropriated, to remain  
9 available until expended: *Provided further*, That  
10 \$19,880,000 of the fees collected pursuant to section  
11 1702(h) of the Energy Policy Act of 2005 shall be credited  
12 as offsetting collections to this account to cover adminis-  
13 trative expenses and shall remain available until expended,  
14 so as to result in a final fiscal year 2009 appropriations  
15 from the general fund estimated at not more than \$0; *Pro-*  
16 *vided further*, That none of the funds made available in  
17 this Act shall be available for the execution of a new solici-  
18 tation with respect to such guaranteed loans until 30 days  
19 after the Department of Energy has submitted to the  
20 Committees on Appropriations of the House of Represent-  
21 atives and the Senate a loan guarantee implementation  
22 plan that defines the proposed award levels and eligible  
23 technologies: *Provided further*, That fees collected under  
24 section 1702(h) in excess of the amount appropriated for

~~1 administrative expenses shall not be available until appro-~~  
~~2 priated.~~

3 DEPARTMENTAL ADMINISTRATION

4 (INCLUDING TRANSFER OF FUNDS)

5 For salaries and expenses of the Department of En-  
6 ergy necessary for departmental administration in car-  
7 rying out the purposes of the Department of Energy Orga-  
8 nization Act (42 U.S.C. 7101 et seq.), including the hire  
9 of passenger motor vehicles and official reception and rep-  
10 resentation expenses not to exceed \$30,000,  
11 \$272,643,000, to remain available until expended, plus  
12 such additional amounts as necessary to cover increases  
13 in the estimated amount of cost of work for others not-  
14 withstanding the provisions of the Anti-Deficiency Act (31  
15 U.S.C. 1511 et seq.): *Provided*, That such increases in  
16 cost of work are offset by revenue increases of the same  
17 or greater amount, to remain available until expended:  
18 *Provided further*, That moneys received by the Department  
19 for miscellaneous revenues estimated to total  
20 \$117,317,000 in fiscal year 2009 may be retained and  
21 used for operating expenses within this account, and may  
22 remain available until expended, as authorized by section  
23 201 of Public Law 95-238, notwithstanding the provisions  
24 of 31 U.S.C. 3302: *Provided further*, That the sum herein  
25 appropriated shall be reduced by the amount of miscella-

1 ~~neous revenues received during 2009, and any related ap-~~  
2 ~~propriated receipt account balances remaining from prior~~  
3 ~~years' miscellaneous revenues, so as to result in a final~~  
4 ~~fiscal year 2009 appropriation from the general fund esti-~~  
5 ~~mated at not more than \$155,326,000.~~

6 OFFICE OF THE INSPECTOR GENERAL

7 For necessary expenses of the Office of the Inspector  
8 General in carrying out the provisions of the Inspector  
9 General Act of 1978, as amended, \$51,927,000, to remain  
10 available until expended.

11 ATOMIC ENERGY DEFENSE ACTIVITIES

12 NATIONAL NUCLEAR SECURITY ADMINISTRATION

13 WEAPONS ACTIVITIES

14 For Department of Energy expenses, including the  
15 purchase, construction, and acquisition of plant and cap-  
16 ital equipment and other incidental expenses necessary for  
17 atomic energy defense weapons activities in carrying out  
18 the purposes of the Department of Energy Organization  
19 Act (42 U.S.C. 7101 et seq.), including the acquisition or  
20 condemnation of any real property or any facility or for  
21 plant or facility acquisition, construction, or expansion,  
22 the purchase of not to exceed two passenger motor vehi-  
23 cles, and one ambulance; \$6,380,000,000, to remain avail-  
24 able until expended: *Provided*, That \$19,300,000 is au-  
25 thorized to be appropriated for the 09-D-007 LANSCE

1 Refurbishment, PED, Los Alamos National Laboratory,  
2 Los Alamos, New Mexico: *Provided further*, That, of the  
3 amount appropriated in this paragraph, \$22,836,000 shall  
4 be used for projects specified in the table that appears  
5 under the heading “Congressionally Directed Weapons Ac-  
6 tivities Projects” in the text and table under this heading  
7 in the explanatory statement described in section 4 (in the  
8 matter preceding division A of this consolidated Act).

9           DEFENSE NUCLEAR NONPROLIFERATION

10       For Department of Energy expenses, including the  
11 purchase, construction, and acquisition of plant and cap-  
12 ital equipment and other incidental expenses necessary for  
13 defense nuclear nonproliferation activities, in carrying out  
14 the purposes of the Department of Energy Organization  
15 Act (42 U.S.C. 7101 et seq.), including the acquisition or  
16 condemnation of any real property or any facility or for  
17 plant or facility acquisition, construction, or expansion,  
18 and the purchase of not to exceed one passenger motor  
19 vehicle for replacement only, \$1,482,350,000, to remain  
20 available until expended: *Provided*, That, of the amount  
21 appropriated in this paragraph, \$1,903,000 shall be used  
22 for projects specified under the heading “Congressionally  
23 Directed Defense Nuclear Nonproliferation Projects” in  
24 the text and table under this heading in the explanatory

1 statement described in section 4 (in the matter preceding  
2 division A of this consolidated Act).

3   NAVAL REACTORS

4       For Department of Energy expenses necessary for  
5 naval reactors activities to carry out the Department of  
6 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-  
7 ing the acquisition (by purchase, condemnation, construc-  
8 tion, or otherwise) of real property, plant, and capital  
9 equipment, facilities, and facility expansion,  
10 \$828,054,000, to remain available until expended.

11   OFFICE OF THE ADMINISTRATOR

12       For necessary expenses of the Office of the Adminis-  
13 trator in the National Nuclear Security Administration,  
14 including official reception and representation expenses  
15 not to exceed \$12,000, \$439,190,000, to remain available  
16 until expended: *Provided*, That, of the amount appro-  
17 priated in this paragraph, \$23,311,750 shall be used for  
18 the projects specified in the table that appears under the  
19 heading "Congressionally Directed Office of the Adminis-  
20 trator (NNSA) Projects" in the text and table under this  
21 heading in the explanatory statement described in section  
22 4 (in the matter preceding division A of this consolidated  
23 Act).

## 1 ENVIRONMENTAL AND OTHER DEFENSE

## 2 ACTIVITIES

## 3 DEFENSE ENVIRONMENTAL CLEANUP

## 4 (INCLUDING TRANSFER OF FUNDS)

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 environmental cleanup activities in car-  
9 rying out the purposes of the Department of Energy Orga-  
10 nization Act (42 U.S.C. 7101 et seq.), including the acqui-  
11 sition or condemnation of any real property or any facility  
12 or for plant or facility acquisition, construction, or expan-  
13 sion, and the purchase of not to exceed four ambulances  
14 and three passenger motor vehicles for replacement only,  
15 \$5,657,250,000, to remain available until expended, of  
16 which \$463,000,000 shall be transferred to the "Uranium  
17 Enrichment Decontamination and Decommissioning  
18 Fund": *Provided*, That, of the amount appropriated in this  
19 paragraph, \$17,908,391 shall be used for projects speci-  
20 fied in the table that appears under the heading "Congres-  
21 sionally Directed Defense Environmental Cleanup  
22 Projects" in the text and table under this heading in the  
23 explanatory statement described in section 4 (in the mat-  
24 ter preceding division A of this consolidated Act).

## 1 OTHER DEFENSE ACTIVITIES

2 For Department of Energy expenses, including the  
3 purchase, construction, and acquisition of plant and cap-  
4 ital equipment and other expenses, necessary for atomic  
5 energy defense, other defense activities, and classified ac-  
6 tivities, in carrying out the purposes of the Department  
7 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-  
8 cluding the acquisition or condemnation of any real prop-  
9 erty or any facility or for plant or facility acquisition, con-  
10 struction, or expansion, and the purchase of not to exceed  
11 10 passenger motor vehicles for replacement only,  
12 \$1,314,063,000, to remain available until expended: *Pro-*  
13 *vided*, That of the funds provided herein, \$487,008,000  
14 is for project 99-D-143 Mixed Oxide (MO<sub>x</sub>) Fuel Fab-  
15 rication Facility, Savannah River Site, South Carolina;  
16 *Provided further*, That the Department of Energy adhere  
17 strictly to Department of Energy Order 413.3A for  
18 Project 99-D-143: *Provided further*, That of the amount  
19 appropriated in this paragraph, \$999,075 shall be used  
20 for projects specified in the table that appears under the  
21 heading "Congressionally Directed Other Defense Activi-  
22 ties Projects" in the text and table under this heading in  
23 the explanatory statement described in section 4 (in the  
24 matter preceding division A of this consolidated Act).

## 1           DEFENSE NUCLEAR WASTE DISPOSAL

2           For nuclear waste disposal activities to carry out the  
3 purposes of Public Law 97-425, as amended, including  
4 the acquisition of real property or facility construction or  
5 expansion, \$143,000,000, to remain available until ex-  
6 pended.

## 7           POWER MARKETING ADMINISTRATIONS

## 8           BONNEVILLE POWER ADMINISTRATION FUND

9           Expenditures from the Bonneville Power Administra-  
10 tion Fund, established pursuant to Public Law 93-454,  
11 are approved for official reception and representation ex-  
12 penses in an amount not to exceed \$1,500. During fiscal  
13 year 2009, no new direct loan obligations may be made.

14 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER  
15 ADMINISTRATION

16           For necessary expenses of operation and maintenance  
17 of power transmission facilities and of marketing electric  
18 power and energy, including transmission wheeling and  
19 ancillary services pursuant to section 5 of the Flood Con-  
20 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-  
21 eastern power area, \$7,420,000, to remain available until  
22 expended: *Provided*, That, notwithstanding 31 U.S.C.  
23 3302, up to \$49,520,000 collected by the Southeastern  
24 Power Administration pursuant to the Flood Control Act  
25 of 1944 to recover purchase power and wheeling expenses



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

4 OPERATION AND MAINTENANCE, SOUTHWESTERN  
5 POWER ADMINISTRATION

6 For necessary expenses of operation and maintenance  
7 of power transmission facilities and of marketing electric  
8 power and energy, for construction and acquisition of  
9 transmission lines, substations and appurtenant facilities,  
10 and for administrative expenses, including official recep-  
11 tion and representation expenses in an amount not to ex-  
12 ceed \$1,500 in carrying out section 5 of the Flood Control  
13 Act of 1944 (16 U.S.C. 825s), as applied to the South-  
14 western Power Administration, \$28,414,000, to remain  
15 available until expended: *Provided*, That, notwithstanding  
16 31 U.S.C. 3302, up to \$35,000,000 collected by the  
17 Southwestern Power Administration pursuant to the  
18 Flood Control Act of 1944 to recover purchase power and  
19 wheeling expenses shall be credited to this account as off-  
20 setting collections, to remain available until expended for  
21 the sole purpose of making purchase power and wheeling  
22 expenditures.

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

4 For carrying out the functions authorized by title III,  
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42  
6 U.S.C. 7152), and other related activities including con-  
7 servation and renewable resources programs as author-  
8 ized, including official reception and representation ex-  
9 penses in an amount not to exceed \$1,500; \$218,346,000,  
10 to remain available until expended, of which \$208,642,000  
11 shall be derived from the Department of the Interior Rec-  
12 lamation Fund: *Provided*, That of the amount herein ap-  
13 propriated, \$7,342,000 is for deposit into the Utah Rec-  
14 lamation Mitigation and Conservation Account pursuant  
15 to title IV of the Reclamation Projects Authorization and  
16 Adjustment Act of 1992: *Provided further*, That notwith-  
17 standing the provision of 31 U.S.C. 3302, up to  
18 \$403,118,000 collected by the Western Area Power Ad-  
19 ministration pursuant to the Flood Control Act of 1944  
20 and the Reclamation Project Act of 1939 to recover pur-  
21 chase power and wheeling expenses shall be credited to  
22 this account as offsetting collections, to remain available  
23 until expended for the sole purpose of making purchase  
24 power and wheeling expenditures.

1 ~~FALCON AND AMISTAD OPERATING AND MAINTENANCE~~  
2 FUND

3 For operation, maintenance, and emergency costs for  
4 the hydroelectric facilities at the Falcon and Amistad  
5 Dams, \$2,959,000, 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 \$273,400,000, to remain available until expended: *Pro-*  
19 *vided*, That notwithstanding any other provision of law,  
20 not to exceed \$273,400,000 of revenues from fees and an-  
21 nual charges, and other services and collections in fiscal  
22 year 2009 shall be retained and used for necessary ex-  
23 penses in this account, and shall remain available until  
24 expended: *Provided further*, That the sum herein appro-  
25 priated from the general fund shall be reduced as revenues

1 ~~are received during fiscal year 2009~~ so as to result in a  
2 final fiscal year 2009 appropriation from the general fund  
3 estimated at not more than \$0.

4 GENERAL PROVISIONS—DEPARTMENT OF  
5 ENERGY

6 SEC. 301. CONTRACT COMPETITION. (a) None of the  
7 funds in this or any other appropriations Act for fiscal  
8 year 2009 or any previous fiscal year may be used to make  
9 payments for a noncompetitive management and operating  
10 contract, or a contract for environmental remediation or  
11 waste management in excess of \$100,000,000 in annual  
12 funding at a current or former management and operating  
13 contract site or facility, or to award a significant extension  
14 or expansion to an existing management and operating  
15 contract, or other contract covered by this section, unless  
16 such contract is awarded using competitive procedures or  
17 the Secretary of Energy grants, on a case-by-case basis,  
18 a waiver to allow for such a deviation. The Secretary may  
19 not delegate the authority to grant such a waiver.

20 (b) Within 30 days of formally notifying an incum-  
21 bent contractor that the Secretary intends to grant such  
22 a waiver, the Secretary shall submit to the Subcommittees  
23 on Energy and Water Development of the Committees on  
24 Appropriations of the House of Representatives and the  
25 Senate a report notifying the Subcommittees of the waiver

1 and setting forth, in specificity, the substantive reasons  
2 why the Secretary believes the requirement for competition  
3 should be waived for this particular award.

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

11 SEC. 302. UNFUNDED REQUESTS FOR PROPOSALS.  
12 None of the funds appropriated by this Act may be used  
13 to prepare or initiate Requests For Proposals (RFPs) for  
14 a program if the program has not been funded by Con-  
15 gress.

16 SEC. 303. DEPARTMENT OF ENERGY DEFENSE NU-  
17 CLEAR FACILITIES WORKFORCE RESTRUCTURING. None  
18 of the funds appropriated by this Act may be used—

19 (1) to augment the funds made available for ob-  
20 ligation by this Act for severance payments and  
21 other benefits and community assistance grants  
22 under section 4604 of the Atomic Energy Defense  
23 Act (50 U.S.C. 2704) unless the Department of En-  
24 ergy submits a reprogramming request to the appro-  
25 priate congressional committees; or

1 ~~(2) to provide enhanced severance payments or~~  
2 other benefits for employees of the Department of  
3 Energy under such section; or

4 (3) develop or implement a workforce restruc-  
5 turing plan that covers employees of the Department  
6 of Energy.

7 SEC. 304. UNEXPENDED BALANCES. The unex-  
8 pended balances of prior appropriations provided for ac-  
9 tivities in this Act may be available to the same appropria-  
10 tion accounts for such activities established pursuant to  
11 this title. Available balances may be merged with funds  
12 in the applicable established accounts and thereafter may  
13 be accounted for as one fund for the same time period  
14 as originally enacted.

15 SEC. 305. BONNEVILLE POWER AUTHORITY SERV-  
16 ICE TERRITORY. None of the funds in this or any other  
17 Act for the Administrator of the Bonneville Power Admin-  
18 istration may be used to enter into any agreement to per-  
19 form energy efficiency services outside the legally defined  
20 Bonneville service territory, with the exception of services  
21 provided internationally, including services provided on a  
22 reimbursable basis, unless the Administrator certifies in  
23 advance that such services are not available from private  
24 sector businesses.

1       ~~SEC. 306. USER FACILITIES.~~ When the Department  
2 of Energy makes a user facility available to universities  
3 or other potential users, or seeks input from universities  
4 or other potential users regarding significant characteris-  
5 ties or equipment in a user facility or a proposed user fa-  
6 cility, the Department shall ensure broad public notice of  
7 such availability or such need for input to universities and  
8 other potential users. When the Department of Energy  
9 considers the participation of a university or other poten-  
10 tial user as a formal partner in the establishment or oper-  
11 ation of a user facility, the Department shall employ full  
12 and open competition in selecting such a partner. For pur-  
13 poses of this section, the term "user facility" includes, but  
14 is not limited to: (1) a user facility as described in section  
15 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.  
16 13503(a)(2)); (2) a National Nuclear Security Adminis-  
17 tration Defense Programs Technology Deployment Cen-  
18 ter/User Facility; and (3) any other Departmental facility  
19 designated by the Department as a user facility.

20       SEC. 307. INTELLIGENCE ACTIVITIES. Funds appro-  
21 priated by this or any other Act, or made available by the  
22 transfer of funds in this Act, for intelligence activities are  
23 deemed to be specifically authorized by the Congress for  
24 purposes of section 504 of the National Security Act of  
25 1947 (50 U.S.C. 414) during fiscal year 2009 until the

1 enactment of the Intelligence Authorization Act for fiscal  
2 year 2009.

3       SEC. 308. LABORATORY DIRECTED RESEARCH AND  
4 DEVELOPMENT. Of the funds made available by the De-  
5 partment of Energy for activities at government-owned,  
6 contractor-operator operated laboratories funded in this  
7 Act or subsequent Energy and Water Development Appro-  
8 priations Acts, the Secretary may authorize a specific  
9 amount, not to exceed 8 percent of such funds, to be used  
10 by such laboratories for laboratory directed research and  
11 development: *Provided*, That the Secretary may also au-  
12 thorize a specific amount not to exceed 4 percent of such  
13 funds, to be used by the plant manager of a covered nu-  
14 clear weapons production plant or the manager of the Ne-  
15 vada Site Office for plant or site directed research and de-  
16 velopment: *Provided further*, That notwithstanding De-  
17 partment of Energy order 413.2A, dated January 8, 2001,  
18 beginning in fiscal year 2006 and thereafter, all DOE lab-  
19 oratories may be eligible for laboratory directed research  
20 and development funding.

21       SEC. 309. RELIABLE REPLACEMENT WARHEAD.  
22 None of the funds provided in this Act shall be available  
23 for the Reliable Replacement Warhead (RRW).

24       SEC. 310. GENERAL PLANT PROJECTS. Plant or con-  
25 struction projects for which amounts are made available



1 under this and subsequent appropriation Acts with a cur-  
2 rent estimated cost of less than \$10,000,000 are consid-  
3 ered for purposes of section 4703 of Public Law 107-314  
4 as a plant project for which the approved total estimated  
5 cost does not exceed the minor construction threshold and  
6 for purposes of section 4704 of Public Law 107-314 as  
7 a construction project with a current estimated cost of less  
8 than a minor construction threshold.

9       SEC. 311. ENERGY PRODUCTION. The Secretary of  
10 Energy shall provide funding to the National Academy of  
11 Sciences to conduct an inventory of the energy develop-  
12 ment potential on all lands currently managed by the De-  
13 partment of Energy together with a report, to be sub-  
14 mitted not later than July 1, 2009, which includes (1) a  
15 detailed analysis of all such resources including oil, gas,  
16 coal, solar, wind, geothermal and other renewable re-  
17 sources on such lands, (2) a delineation of the resources  
18 presently available for development as well as those poten-  
19 tially available in the future, and (3) an analysis of the  
20 environmental impacts associated with any future develop-  
21 ment including actions necessary to mitigate negative im-  
22 pacts.

23       SEC. 312. RENO HYDROGEN FUEL PROJECT. (a) The  
24 non-Federal share of project costs shall be 20 percent.

1 ~~-----~~(b) The cost of project vehicles, related facilities, and  
2 other activities funded from the Federal Transit Adminis-  
3 tration sections 5307, 5308, 5309, and 5314 program, in-  
4 cluding the non-Federal share for the FTA funds, is an  
5 eligible component of the non-Federal share for this  
6 project.

7 (c) Contribution of the non-Federal share of project  
8 costs for all grants made for this project may be deferred  
9 until the entire project is completed.

10 (d) All operations and maintenance costs associated  
11 with vehicles, equipment, and facilities utilized for this  
12 project are eligible project costs.

13 (e) This section applies to project appropriations be-  
14 ginning in fiscal year 2004.

15 SEC. 313. INTEGRATED UNIVERSITY PROGRAM. (a)  
16 The Secretary of Energy, along with the Administrator  
17 of the National Nuclear Security Administration and the  
18 Chairman of the Nuclear Regulatory Commission, shall es-  
19 tablish an Integrated University Program.

20 (b) For the purposes of carrying out this section,  
21 \$45,000,000 is authorized to be appropriated in each of  
22 fiscal years 2009 to 2019 as follows:

23 (1) \$15,000,000 for the Department of Energy;

24 (2) \$15,000,000 for the Nuclear Regulatory

25 Commission; and



1 ~~be taken from within that State's allocation in the fiscal~~  
2 ~~year in which it is provided.~~

3           DEFENSE NUCLEAR FACILITIES SAFETY BOARD

4                           SALARIES AND EXPENSES

5           For necessary expenses of the Defense Nuclear Fa-  
6 cilities Safety Board in carrying out activities authorized  
7 by the Atomic Energy Act of 1954, as amended by Public  
8 Law 100-456, section 1441, \$25,000,000, to remain  
9 available until expended.

10                           DELTA REGIONAL AUTHORITY

11                           SALARIES AND EXPENSES

12           For necessary expenses of the Delta Regional Author-  
13 ity and to carry out its activities, as authorized by the  
14 Delta Regional Authority Act of 2000, as amended, not-  
15 withstanding sections 382C(b)(2), 382F(d), 382M, and  
16 382N of said Act, \$13,000,000, to remain available until  
17 expended.

18                           DENALI COMMISSION

19           For expenses of the Denali Commission including the  
20 purchase, construction, and acquisition of plant and cap-  
21 ital equipment as necessary and other expenses,  
22 \$11,800,000, to remain available until expended, notwith-  
23 standing the limitations contained in section 306(g) of the  
24 Denali Commission Act of 1998.

## 1                   NUCLEAR REGULATORY COMMISSION

## 2                   SALARIES AND EXPENSES

3           For necessary expenses of the Commission in car-  
4 rying out the purposes of the Energy Reorganization Act  
5 of 1974, as amended, and the Atomic Energy Act of 1954,  
6 as amended, including official representation expenses  
7 (not to exceed \$25,000), \$1,034,656,000, to remain avail-  
8 able until expended: *Provided*, That of the amount appro-  
9 priated herein, \$49,000,000 shall be derived from the Nu-  
10 clear Waste Fund: *Provided further*, That revenues from  
11 licensing fees, inspection services, and other services and  
12 collections estimated at \$860,857,000 in fiscal year 2009  
13 shall be retained and used for necessary salaries and ex-  
14 penses in this account, notwithstanding 31 U.S.C. 3302,  
15 and shall remain available until expended: *Provided fur-*  
16 *ther*, That the sum herein appropriated shall be reduced  
17 by the amount of revenues received during fiscal year  
18 2009 so as to result in a final fiscal year 2009 appropria-  
19 tion estimated at not more than \$173,799,000: *Provided*  
20 *further*, That such funds as are made available for nec-  
21 essary expenses of the Commission by this Act or any  
22 other Act may be used for the acquisition and lease of  
23 additional office space provided by the General Services  
24 Administration for personnel of the U.S. Nuclear Regu-  
25 latory Commission as close as reasonably possible to the

1 Commission's headquarters location in Rockville, Mary-  
2 land, and of such square footage and for such lease term,  
3 as are determined by the Commission to be necessary to  
4 maintain the agency's regulatory effectiveness, efficiency,  
5 and emergency response capability: *Provided further*, That  
6 notwithstanding any other provision of law or any pre-  
7 vailing practice, the acquisition and lease of space for such  
8 purpose shall, to the extent necessary to obtain the space,  
9 be based on the prevailing rates in the immediate vicinity  
10 of the Commission's headquarters.

11 OFFICE OF INSPECTOR GENERAL

12 For necessary expenses of the Office of Inspector  
13 General in carrying out the provisions of the Inspector  
14 General Act of 1978, \$10,860,000, to remain available  
15 until expended: *Provided*, That revenues from licensing  
16 fees, inspection services, and other services and collections  
17 estimated at \$9,774,000 in fiscal year 2009 shall be re-  
18 tained and be available until expended, for necessary sala-  
19 ries and expenses in this account, notwithstanding 31  
20 U.S.C. 3302: *Provided further*, That the sum herein ap-  
21 propriated shall be reduced by the amount of revenues re-  
22 ceived during fiscal year 2009 so as to result in a final  
23 fiscal year 2009 appropriation estimated at not more than  
24 \$1,086,000.

## 1           NUCLEAR WASTE TECHNICAL REVIEW BOARD

## 2                           SALARIES AND EXPENSES

3           For necessary expenses of the Nuclear Waste Tech-  
4 nical Review Board, as authorized by Public Law 100-  
5 203, section 5051, \$3,811,000, to be derived from the Nu-  
6 clear Waste Fund, and to remain available until expended.

## 7           OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA

## 8                           NATURAL GAS TRANSPORTATION PROJECTS

9           For necessary expenses for the Office of the Federal  
10 Coordinator for Alaska Natural Gas Transportation  
11 Projects pursuant to the Alaska Natural Gas Pipeline Act  
12 of 2004, \$4,400,000: *Provided*, That any fees, charges, or  
13 commissions received pursuant to section 802 of Public  
14 Law 110-140 in fiscal year 2009 in excess of \$4,660,000  
15 shall not be available for obligation until appropriated in  
16 a subsequent Act of Congress.

## 17                           TITLE V

## 18                           GENERAL PROVISIONS

19           SEC. 501. None of the funds appropriated by this Act  
20 may be used in any way, directly or indirectly, to influence  
21 congressional action on any legislation or appropriation  
22 matters pending before Congress, other than to commu-  
23 nicate to Members of Congress as described in 18 U.S.C.  
24 1913.

1 ~~SEC. 502.~~ None of the funds made available in this  
2 Act may be transferred to any department, agency, or in-  
3 strumentality of the United States Government, except  
4 pursuant to a transfer made by, or transfer authority pro-  
5 vided in this Act or any other appropriation Act.

6 This division may be cited as the "Energy and Water  
7 Development and Related Agencies Appropriations Act,  
8 2009".