

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 2, 2004, TO FILE PRIVILEGED REPORT ON LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2005

Mr. KINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Friday, July 2, 2004, to file a privileged report, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

#### GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4614, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 694 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4614.

The Chair designates the gentleman from Georgia (Mr. ISAKSON) as Chairman of the Committee of the Whole, and requests the gentleman from Michigan (Mr. UPTON) to assume the chair temporarily.

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#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4614) making appropriations for energy and water development for the fiscal year ending September 30, 2005, and for other purposes, with Mr. UPTON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Indiana (Mr. VISCLOSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill provides the annual funding for a wide range of Fed-

eral programs, including such diverse matters as flood control, navigation improvements, environmental restoration, nuclear waste disposal, advanced scientific research, maintenance of our nuclear stockpile, and nuclear non-proliferation. Total funding for the energy and water development in fiscal year 2005 is \$27.988 billion. This funding amount represents an increase of \$50 million over fiscal year 2004 and \$734 million over the President's budget request. The bill is right at our subcommittee's 302(b) allocation and provides adequate funds to meet the priority needs of the House.

I believe we do some good things for the Nation in our bill. Members will not receive as many water earmarks as they might like, but we did take care of their top priorities. Instead of a steady regimen of pork, we try to put the corps back on a balanced diet. We hope that we can leave the corps civil works program in better shape than we found it, and I am confident the changes we make in this bill will have lasting positive effects. The same holds true for DOE.

Lastly, I would like to thank all of the members of this subcommittee for their cooperation and especially thank my ranking member and partner, the gentleman from Indiana (Mr. VISCLOSKY). It has been a pleasure working with the gentleman and his staff on this bill, Dixon Butler and Peder Maarbjerg. I want also to thank the committee staff, Kevin Cook, Dennis Kern, Scott Burnison, and Tracey LaTurner, as well as Kenny Kraft on my own staff. I also want to recognize our agency detailees, Tim Winchell and Jim Spratt. Their assistance was invaluable in putting this bill and report together. I think this is a good bill. We ought to pass it expeditiously.

Mr. Chairman, it is my privilege to submit to the House for its consideration H.R. 4614, the 2005 Energy and Water Development Appropriations Bill for fiscal year 2005. The Appropriations Committee approved this bill unanimously on June 16th, and I believe it is a good bill that merits the support of the entire membership of the House.

I want to thank all the members of the Energy and Water Development Subcommittee for their help in bringing this bill to the floor today. I especially want to thank my Ranking Member, Mr. VISCLOSKY of Indiana, for his extraordinary cooperation. This is truly a bipartisan bill—that is not to say we agreed on every issue, but we did agree to work together in a professional manner to resolve our differences. I am proud of the product and equally proud of the process behind this bill. I also want to thank the Chairman of the Appropriations Committee, Mr. YOUNG, and the Ranking Minority Member, Mr. OBEY, for allowing us to move this bill forward in an expeditious manner.

Mr. Chairman, this bill provides annual funding for a wide range of Federal programs, including such diverse matters as flood control, navigation improvements, environmental restoration, nuclear waste disposal, advanced scientific research, maintenance of our nuclear stockpile, and nuclear nonproliferation. Total

funding for energy and water development in fiscal year 2005 is \$27.988 billion. This funding amount represents an increase of \$50 million over fiscal year 2004 and \$734 million over the President's budget request. This bill is right at our subcommittee's 302(b) allocation, and provides adequate funds to meet the priority needs of the House.

Title I of the bill provides funding for the Civil Works program of the Army Corps of Engineers, the Formerly Utilized Sites Remedial Action Program which is executed by the Corps, and the Office of the Assistant Secretary of the Army for Civil Works. The Committee recommends a total of \$4.833 billion for Title I activities, \$252 million above the current year and \$713 million above the budget request. That gives you an idea of how inadequate the budget request for the Corps really was. The Corps has been in an unhealthy situation the past couple of years because Congress has given them more work to do but not enough money to do it. This year, we were determined to correct that situation and put the Corps on the road to fiscal recovery. For a change, we have over-subscribed the Civil Works budget. We exercise restraint on the number of projects that we put on the Corps plate and we provide sufficient funds to get the work done. For the projects that we do fund in fiscal year 2005, we decided to concentrate on protecting existing water infrastructure and completing ongoing projects.

This country has invested over \$300 billion in current dollars in our existing water infrastructure, and this infrastructure provides over \$38 billion in annual benefits to the economy. We can't afford to ignore the maintenance of this critical infrastructure. Imagine what would happen if we have to shut down part of our inland navigation system because one of the lock structures fails—the consequences to our economy would be enormous.

Over recent years, we have created a huge backlog of work for the Corps. Existing projects take longer to complete and cost more. Let me give you just one example from my part of the country, the replacement of the McAlpine Lock on the Ohio River. Ideally, this lock replacement should take no more than 4 years to complete and should cost roughly \$230 million. However, it will cost the taxpayer an additional 10 percent for every year of additional delay on this project. We have to reverse that trend and finish what we started, and finish projects in a timely and cost-effective manner. We do not include any new project studies, new construction starts, or new project authorizations in our bill.

We task the Corps to begin preparing 5-year budget plans, similar to what the Department of Defense prepares in its Future Years Defense Plans. This should provide some consistency and stability if Congress has a clear picture of the future Civil Works program. Also, the Office of the Assistant Secretary of the Army for Civil Works is now funded in our Energy and Water bill rather than in Defense appropriations.

Title II of our bill provides \$1.1 billion for the Department of Interior and the Bureau of Reclamation, an increase of \$36 million above the amount appropriated in fiscal year 2004 and \$46 million over the budget request. The Committee does not provide funding for the California Bay-Delta Restoration program in California pending the enactment of authorizing legislation, but includes funding for several authorized components of this program.

The Department of Energy receives a total of \$22.48 billion in our bill, an increase of \$511 million over fiscal year 2004. As with the Corps, we task the Department of Energy to begin preparing 5-year budget plans, first for individual programs and then an integrated plan for the entire Department. This plan must include business plans for each of the DOE laboratories, so we understand the mission and resource needs of each laboratory.

The Committee funds the Yucca Mountain repository at the Administration's net budget request of \$131 million, and does not include the proposed authorization language to reclassify the fees paid into the Nuclear Waste Fund. As I have mentioned many times, OMB played Russian roulette when they assumed the House and Senate would pass the proposed reclassification language. By assuming the offset of \$749 million, OMB reduced the total request for discretionary spending by that amount. The House Budget Resolution reduced it even more. I don't like going forward with so little money for Yucca Mountain, but we are playing the hand that we were dealt. I remain supportive of the proposed reclassification language, and hope the efforts of the Energy and Commerce Committee to enact such legislation will be successful.

For the Energy Supply account, which funds the Department's research on renewable energy, nuclear energy, and electricity transmission and distribution technologies, the Committee provides \$817 million, an increase of \$84 million over the current year by \$18 million below the request. The Committee provides a modest increase of \$51 million for the Office of Nuclear Energy, with a focus on improving the infrastructure at the Idaho National Laboratory. We reduced the funding for hydrogen research by \$31 million below the request because the Department failed to comply with House and conference guidance regarding competition and cost sharing of hydrogen research.

The Committee provides an increase of \$168 million for the Office of Science to sup-

port research on an advanced leadership-class scientific computer and nanoscale science, and to increase the availability DOE user facilities to the scientific community.

Funding for the National Nuclear Security Administration (NNSA), is \$9 billion, an increase of \$372 million over fiscal year 2004 and a decrease of \$22 million from the budget request. The Congress just received a plan that finally shows major reductions in our nuclear weapons stockpile. However, much of the DOE weapons complex is still sized to support a Cold War stockpile. The NNSA needs to take a "time-out" on new initiatives until it completes a review of its weapons complex in relation to security needs, budget constraints, and this new stockpile plan.

The Committee provides no funds for advanced concepts research, the robust nuclear earth penetrator study, the modern pit facility, and enhanced test readiness. Our bill does provide significant increases for weapons dismantlement, for consolidation of weapons-grade materials, and for security upgrades at several sites in the weapons complex. The Committee fully funds the National Ignition Facility (NIF) and directs the National Nuclear Security Administration to complete NIF by 2008 and conduct all necessary experimental work to support first ignition in 2010.

For nuclear nonproliferation, the Committee provides the request of \$1.35 billion. We reduce funding for the domestic MOX plant and spend the resources on other high-priority non-proliferation needs.

The Committee provides the requested amount of \$943 million for non-defense environmental management, the same as the budget request. For defense environmental management activities, the Committee provides \$6.9 billion, \$301 million more than fiscal year 2004 and \$65 million less than the budget request. The Committee does not provide the full request of \$350 million for the Administration's high-level waste proposal for Waste Incidental to Reprocessing, and reduces the request by \$77 million for two specific projects

at the Savannah River Site. The Committee does not support partial solutions to the Waste Incidental to Reprocessing problem that do not address all of the affected States.

Across the entire Department of Energy, the Committee fully funds the request of \$1.4 billion for safeguards and security to protect sensitive materials, facilities, and information, and provide additional funds to address selected high-risk areas.

Title IV of our bill provides \$202 million for several Independent Agencies. The bill includes the requested funding for the Defense Nuclear Facilities Board, the Delta Regional Authority, the Nuclear Regulatory Commission and its Inspector General, and the Nuclear Waste Technical Review Board. Reduced funding is provided for the Appalachian Regional Commission, and no funding for the Denali Commission or the Office of Inspector General for the Tennessee Valley Authority.

I believe we do some good things for the Nation in our bill. Members won't receive as many water earmarks as they might like, but we did take care of their top priorities. Instead of a steady regimen of pork, we try to put the Corps back on a balanced diet. We hope that we can leave the Corps Civil Works program in better shape than we found it, and I am confident the changes we make in this bill will have lasting positive effects. The same holds true for DOE.

Lastly, I would like to thank all of the Members of this Subcommittee for their cooperation, and especially thank my Ranking Member, PETE VISCLOSKEY. Pete, it has been a pleasure working with you and your minority staff, Dixon Butler and Peder Maarbjerg. I want to thank the Committee staff—Kevin Cook, Dennis Kern, Scott Burnison, and Tracey LaTurner, as well as Kenny Kraft on my own staff. I also want to recognize our agency detailees, Tim Winchell and Jim Spratt. Their assistance was invaluable in putting this bill and report together.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 2005 (H.R. 4614)  
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
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TITLE I - DEPARTMENT OF DEFENSE - CIVIL					
DEPARTMENT OF THE ARMY					
Corps of Engineers - Civil					
General investigations.....	116,259	90,500	149,000	+32,741	+58,500
Construction, general.....	1,712,157	1,421,500	1,876,680	+164,523	+455,180
Miscellaneous appropriations (P.L. 108-199).....	13,669	---	---	-13,669	---
Miscellaneous appropriations (P.L. 108-199).....	22,268	---	---	-22,268	---
Rescissions.....	---	-94,000	---	---	+94,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee.....	322,309	270,000	325,000	+2,691	+55,000
Rescissions.....	---	-5,000	---	---	+5,000
Operation and maintenance, general.....	1,956,314	1,931,000	1,982,000	+25,686	+51,000
Regulatory program.....	139,174	150,000	140,000	+826	-10,000
FUSRAP.....	139,174	140,000	190,000	+50,826	+50,000
Flood control and coastal emergencies.....	---	50,000	---	---	-50,000
Rescissions.....	---	-1,000	---	---	+1,000
General expenses.....	159,056	167,000	167,000	+7,944	---
Office of Assistant Secretary of the Army.....	---	---	2,600	+2,600	+2,600
Total, title I, Department of Defense - Civil....	4,580,380	4,120,000	4,832,280	+251,900	+712,280
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TITLE II - DEPARTMENT OF THE INTERIOR					
Central Utah Project Completion Account					
Central Utah project construction.....	26,880	30,806	30,806	+3,926	---
Fish, wildlife, and recreation mitigation and conservation.....	9,367	15,469	15,469	+6,102	---
Subtotal.....	36,247	46,275	46,275	+10,028	---
Program oversight and administration.....	1,718	1,734	1,734	+16	---
Total, Central Utah project completion account..	37,965	48,009	48,009	+10,044	---
Bureau of Reclamation					
Water and related resources.....	852,439	794,476	855,305	+2,866	+60,829
Loan program.....	199	---	---	-199	---
Central Valley project restoration fund.....	39,366	54,695	54,695	+15,329	---
California Bay-Delta restoration.....	---	15,000	---	---	-15,000
Working capital fund (rescission).....	-4,525	---	---	+4,525	---
Policy and administration.....	55,197	58,153	58,153	+2,956	---
Total, Bureau of Reclamation.....	942,676	922,324	968,153	+25,477	+45,829
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Total, title II, Department of the Interior.....	980,641	970,333	1,016,162	+35,521	+45,829
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TITLE III - DEPARTMENT OF ENERGY					
Energy supply.....	733,190	835,266	817,126	+83,936	-18,140
Miscellaneous appropriations (P.L. 108-199).....	4,971	---	---	-4,971	---
Non-defense site acceleration completion.....	162,411	151,850	151,850	-10,561	---
Uranium enrichment decontamination and decommissioning fund.....	414,027	500,200	500,200	+86,173	---
Non-defense environmental services.....	337,465	291,296	291,296	-46,169	---
Science.....	3,431,335	3,431,718	3,599,964	+168,629	+168,246
Miscellaneous appropriations (P.L. 108-199).....	50,948	---	---	-50,948	---
Nuclear Waste Disposal.....	188,879	749,000	---	-188,879	-749,000
Departmental administration.....	215,255	261,873	243,876	+28,621	-17,997
Miscellaneous revenues.....	-123,000	-122,000	-122,000	+1,000	---
Net appropriation.....	92,255	139,873	121,876	+29,621	-17,997
Office of the Inspector General.....	39,229	41,508	41,508	+2,279	---

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 2005 (H.R. 4614)  
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
<b>Atomic Energy Defense Activities</b>					
National Nuclear Security Administration:					
Weapons activities.....	6,235,502	6,568,453	6,514,424	+278,922	-54,029
Defense nuclear nonproliferation.....	1,319,779	1,348,647	1,348,647	+28,868	---
Naval reactors.....	761,878	797,900	807,900	+46,022	+10,000
Office of the Administrator.....	337,974	333,700	356,200	+18,226	+22,500
Subtotal, National Nuclear Security Administration.....	8,655,133	9,048,700	9,027,171	+372,038	-21,529
Defense site acceleration completion.....	5,617,719	5,620,837	5,930,837	+313,118	+310,000
High-level waste (Waste Incidental to Reprocessing) (legislative proposal).....	---	350,000	---	---	-350,000
Defense environmental services.....	985,296	982,470	957,976	-27,320	-24,494
Defense environmental management privatization (rescission).....	-15,329	---	---	+15,329	---
Subtotal, Defense environmental management.....	6,587,686	6,953,307	6,888,813	+301,127	-64,494
Other defense activities.....	670,510	663,636	697,059	+26,549	+33,423
Defense nuclear waste disposal.....	387,699	131,000	131,000	-256,699	---
Total, Atomic Energy Defense Activities.....	16,301,028	16,796,643	16,744,043	+443,015	-52,600
<b>Power Marketing Administrations</b>					
Operation and maintenance, Southeastern Power Administration.....	4,869	5,200	5,200	+331	---
Operation and maintenance, Southwestern Power Administration.....	28,420	29,352	29,352	+932	---
Construction, rehabilitation, operation and maintenance, Western Area Power Administration.....	175,778	173,100	173,100	-2,678	---
Falcon and Amistad operating and maintenance fund.....	2,624	2,827	2,827	+203	---
Total, Power Marketing Administrations.....	211,691	210,479	210,479	-1,212	---
<b>Federal Energy Regulatory Commission</b>					
Salaries and expenses.....	203,194	210,000	210,000	+6,806	---
Revenues applied.....	-203,194	-210,000	-210,000	-6,806	---
Total, title III, Department of Energy.....	21,967,429	23,147,833	22,478,342	+510,913	-669,491
<b>TITLE IV - INDEPENDENT AGENCIES</b>					
Appalachian Regional Commission.....	65,611	66,000	38,500	-27,111	-27,500
Defense Nuclear Facilities Safety Board.....	19,444	20,268	20,268	+824	---
Delta Regional Authority.....	4,971	2,096	2,096	-2,875	---
Denali Commission.....	54,676	2,500	---	-54,676	-2,500
Nuclear Regulatory Commission:					
Salaries and expenses.....	618,328	662,777	662,777	+44,449	---
Revenues.....	-538,844	-534,354	-534,354	+4,490	---
Subtotal.....	79,484	128,423	128,423	+48,939	---
Office of Inspector General.....	7,297	7,518	7,518	+221	---
Revenues.....	-6,716	-6,766	-6,766	-50	---
Subtotal.....	581	752	752	+171	---
Total, Nuclear Regulatory Commission.....	80,065	129,175	129,175	+49,110	---
Nuclear Waste Technical Review Board.....	3,158	3,177	3,177	+19	---

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 2005 (H.R. 4614)  
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
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Tennessee Valley Authority:					
Office of Inspector General.....	---	9,000	---	---	-9,000
	=====	=====	=====	=====	=====
Total, title IV, Independent agencies.....	227,925	232,216	193,216	-34,709	-39,000
	=====	=====	=====	=====	=====
Grand total:					
New budget (obligational) authority.....	27,756,375	28,470,382	28,520,000	+763,625	+49,618
Appropriations.....	(27,776,229)	(28,570,382)	(28,520,000)	(+743,771)	(-50,382)
Rescissions.....	(-19,854)	(-100,000)	---	(+19,854)	(+100,000)
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Mr. Chairman, I reserve the balance of my time.

Mr. VISCLOSKEY. Mr. Chairman, I yield myself such time as I may consume. I want to first of all congratulate the gentleman from Ohio (Mr. HOBSON), as well, on a very well-crafted bill. I would start by thanking the chairman very much for his friendship as well as his fairness and discretion in his dedication to make sure that the right thing is done and that the agencies under our jurisdiction are made as efficient and as effective as possible.

As the chairman noted, we have an excellent staff that works very, very well together and they have helped us craft a very good bill. I too want to enumerate them because they are all so very important to us: Tracey LaTurner; Tim Winchell; Jim Spratt; Kenny Kraft; Dennis Kern; Scott Burnison; Kevin Cook, whom, I might add, is a Cornell graduate and has replaced a Notre Dame graduate as clerk of the committee; Dixon Butler and Peder Maarbjerg.

This is a very good bill. There are a lot of good things to recommend it to the membership.

Mr. Chairman, let me begin by thanking the gentleman from Ohio, Chairman HOBSON, for the courtesy shown to me and the Democratic staff by him and the majority staff of our Subcommittee. The positive environment and cooperation engendered makes work on this bill a joy and pleasure.

I share with the Chairman the frustration that more cannot be done, particularly for the water and environmental infrastructure of our nation. The constraints imposed by the budget are very real. Our subcommittee mark increases funding for the U.S. Army Corps of Engineers above last year's level and well above the ridiculously low request of the President. That said, the level recommended for FY 2005 is only 2.6% above that enacted by FY 2003; clearly this increase is below the level of inflation, so the buying power of the Corps-Civil Works budget is again below what it was two years ago.

This bill puts a priority on completion of ongoing construction projects and studies and maintenance of high priority existing infrastructure. It does not contain any new starts, and this should help to begin to clear the current backlog of projects and enable the accomplishment of these projects in less time—thereby reducing total project costs and accelerating the realization of benefits to our economy. However, current funding levels will not truly fix this problem. In my opinion, substantive increases to the budget of the Corps are needed—increases above the rate of inflation. A transformation in the way that water infrastructure and environmental restoration are supported through the Corps of Engineers and the Bureau of Reclamation will require a transforming rather than simply sustaining increase in the funds we provide. Without this, completion of construction and maintenance projects and studies will continue to take too long and major new projects will languish.

There are those who have flirted with radical changes to our nation's approach to nuclear weapons—seeking to study new weapons for new missions and to develop a nuclear bunker buster. These same individuals have pushed

to have this Nation prepare to resume underground nuclear testing within 18 months of a Presidential decision and to begin development of a major new facility to build plutonium pits—also referred to as nuclear triggers. All of these steps jeopardize our position in the world as advocates of restraint in the development of weapons of mass destruction. They all portend major increases in funding requirements. Today, conventional national defense and homeland security, including nuclear nonproliferation, are far better investments than enhancements to our nuclear deterrent. Under the leadership of Chairman HOBSON, no funding is provided in the Energy and Water Development bill for any of these ill-considered policies.

As many members realize, plutonium, highly enriched uranium and some highly radioactive products of nuclear fission in the hands of terrorists could pose major hazards to the United States and its allies. Accordingly, this bill fully funds the President's request of almost \$1.35 billion for Defense Nuclear Nonproliferation at DOE. Some elements of the DOE program are stalled while other opportunities have opened up to protect major quantities of fissionable material. Accordingly, I fully support the shifts in this bill of \$177.25 million to priority targets for nonproliferation including: security of Russian Strategic Rocket Forces sites (+\$32M), MegaPorts (+\$30M), and efforts outside the Former Soviet Union (+\$60M). Also, I am pleased to note that this year no reductions are taken to nuclear nonproliferation efforts due to uncoded prior year funds; this helps keep the pressure on to move aggressively to initiate new projects in Russia.

Last year, in the first year that the gentleman from Ohio served as chairman of the subcommittee, the FY 2004 Energy and Water Development appropriation fenced some funds for advanced nuclear weapons concepts, specifying that \$4 million could not be spent until the Administration provided a revised nuclear stockpile plan. Thanks to this action, the Departments of Defense and Energy have finally delivered a revised plan that details how the United States will achieve our treaty commitments to bring the number of deployed nuclear weapons down to the range of 1,700 to 2,200 by the year 2012. The development of this plan is vital to our nation.

Now, the spending plans of the National Nuclear Security Administration need to be brought into alignment with the revised nuclear stockpile plan. I am committed to working with the majority and DOE to bring this about. For FY 2005, the bill will fund the beginning of this process by providing support for an ongoing program of disassembly for nuclear weapons that are no longer needed. A smaller stockpile will be less expensive to maintain and certify while still providing a more-than-adequate nuclear deterrent.

Experience shows that when the Department of Energy's labs are forced to compete with universities and other outside research groups, the country gets more for its money and the labs actually do better work. The Department has for some time asserted that open competition between its labs and external entities, such as universities, is not allowed under federal procurement law and regulations. I am particularly pleased that this year this bill instructs DOE to find a way to accomplish fully open competitions and to propose changes to law or regulation if any are

needed. I note that DOE labs are already involved in space missions where traditionally competition for science investigations, including major research instruments, is open to NASA centers, DOE and other agency labs, universities, and corporations, so DOE may find that this is easier than they have asserted in the past.

As we in the Congress push the Administration to develop a five-year plan for DOE and business plans for each of its labs, we also should work to clarify the role of DOE in the life sciences. Our nation continues to make major investments in the National Institutes of Health, yet the DOE is seeking to develop major facilities to support research in protein synthesis and the control genes exert over processes in living cells. Many of these facilities involve the use of advanced physics techniques—a traditional strength of DOE. Does this traditional role in physics research mandate that DOE fund these facilities? Furthermore, does DOE's traditional role as the chief supporter of high energy physics mean that DOE should co-fund satellite missions in astronomy that are traditionally the responsibility of NASA? NSF supports astronomy of all kinds and has since its inception, yet it does not seek funding for satellite missions.

This year, the bill again provides strong support to the Office of Science at DOE. This office is leading efforts to develop a U.S. supercomputer that will be the most capable in the world—a distinction currently held by the Japanese Earth Simulator. Last year, an extra \$30 million was provided to jump-start this effort. This year, the Department included this increase in its base budget, but this level of funding will not get the job done. So, again another increase of \$30 million is provided for this effort. DOE provides the science and industrial communities with powerful research tools. In the President's budget request, operating time on some of these user facilities would have been less than optimum. To get the most from our past investment in these facilities, funding levels are provided to increase the number of weeks they can operate in FY 2005. More support also is provided for nanoscale science and technology and maintenance of DOE science facilities around the nation.

Long ago, our nation made a commitment to to use nuclear energy to power our submarines and aircraft carriers and to provide a significant amount of our commercial electricity generation. We have operated a nuclear weapons complex for about 60 years. The result is considerable amounts of high-level nuclear waste that is currently spread around our country. For our safety and that of coming generations, this waste needs proper, long-term burial. The Congress and the Executive have decided that this burial will be in Yucca Mountain on the edge of the Nevada Test Site.

Funding for long-term disposal of high level nuclear waste in FY 2005 should be \$880 million, but OMB muddled the situation by needlessly proposing that the civilian support of \$749 million be funded through a legislated reclassification of money paid into the nuclear waste fund and kept in the general treasury. This, along with the constraints of the budget, has left us unable to provide these funds in this bill. I find it hard to believe that a poorly timed proposal, which in no way affects the

actual deficit, will undermine a policy consensus carefully developed over decades, but that is where we are.

So, I would say to my fellow members, the FY 2005 Energy and Water Development bill is a very good bill. It makes major progress on crucial issues. It provides for many activities that are critical to our nation and the world as well as to regions of our country and individual localities and member districts. I think it will give the House a strong position in our conference negotiations with the Senate. It does not fix all problems, but it provides for significant improvements. I strongly urge that it be passed by this House.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I want to first compliment Chairman HOBSON for having done an outstanding job in preparing this bill along with his ranking member, the gentleman from Indiana (Mr. VISCLOSKEY). One can tell from the way the markups in the subcommittee and the full committee went that they obviously did their work very effectively and have produced a really good bill.

I wanted to take just a couple of minutes to give the Members a bit of a status report on where we are with appropriations and what they can expect in the next couple of weeks. For example, from the time we received the President's budget request in February until we received the deeming resolution on the budget on May 19, the Committee on Appropriations and our 13 subcommittees held nearly 300 oversight hearings that were very lengthy and very thorough.

Since May 19 when the budget was deemed, there have been 16 legislative days. In those 16 legislative days, the committee marked up eight bills in subcommittee and seven bills in full committee. When we pass this bill today, we will have passed four bills in the House and sent them to the other body.

When we reconvene the week after next, we will mark up two more bills in subcommittee, the District of Columbia and Military Construction bills. We will also consider Military Construction and Foreign Operations in the full committee. So we are preparing a queue of bills to move through the House. We expect to consider the Commerce-State-Justice and the Legislative Branch appropriations bills in the House the very same week that we return and are doing the other markups. We also expect to appoint conferees on the Defense bill, which the House and Senate have passed. We are now preparing to go to conference on that bill. While the House is in the Fourth of July District Work Period, our staffs will be doing the preparation for the conference on the Defense bill. We plan to have that conference report completed and on the way to the Presi-

dent's desk before the August District Work Period begins.

The Appropriations Committee will report all 13 bills from full committee before the beginning of the August District Work Period, and the House will probably complete work on as many as 11 of those bills. There are only 14 legislative days remaining before the summer recess in August, so we have to expedite the consideration of these bills. But the Appropriations Committee, once we had the deeming resolution on the budget, has been going full speed. We hope to pass this bill quickly today and be on our way.

Mr. VISCLOSKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, in May 2004 the General Accounting Office released a report entitled "NRC Needs to More Aggressively and Comprehensively Resolve Issues Related to the Davis Besse Nuclear Power Plant's Shutdown." The report was requested by me, the gentleman from Ohio (Mr. LATOURETTE), and Senator VOINOVICH. The scope of the report was to examine the failures of the NRC related to the recent troubles at the Davis Besse nuclear power plant.

The report also examined options to improve the Nuclear Regulatory Commission's ability to effectively regulate. The report offers five important recommendations to the Nuclear Regulatory Commission that will greatly improve nuclear reactor safety. I would like to work with the chairman and the ranking member to include language in the conference report that directs the Nuclear Regulatory Commission to follow the recommendations found in the May 2004 General Accounting Office report.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I appreciate the gentleman's statement. I want to assure him that I will work with him to insert acceptable language into the Statement of Managers to accompany the conference report to encourage the Nuclear Regulatory Commission to address the recommendations found in the May 2004 General Accounting Office report.

Mr. KUCINICH. I want to thank the chairman and the ranking member for their assistance to resolve this matter.

Mr. HOBSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I wish to engage the chairman of the subcommittee of the appropriations subcommittee in a colloquy.

Mr. Chairman, I thank the gentleman from Ohio for bringing a bill to the floor that is responsible and yet still attempts to address the many water-related infrastructure needs throughout the Nation. I am concerned, however, with the prohibition on any new

starts in this bill, including new studies contained in title I of the bill. In the past 2 years, there has been severe flooding along the Wabash River in my congressional district. The Tippecanoe River and the Wabash River merge just above the greater Lafayette region. During the 2003 Labor Day weekend floods, more than 150 people were forced from their homes. During the more recent floods over the Memorial Day weekend, which were much more widespread, roads, culverts, bridges, and homes were significantly damaged.

In both instances, the President declared the flooding a national disaster, making flood victims eligible for FEMA grants and loans. Thus far, over 240 families have applied for assistance after the 2004 flooding. I had requested funding through the Army Corps of Engineers to assist in preparing a master plan for flood damage reduction and control associated with the Wabash River. This master plan would also help with economic redevelopment of the riverfront area of the greater Lafayette region affected by river flooding. Because of the new start prohibition, the funding is not included in this measure.

Mr. Chairman, I understand the difficult budget pressures on the subcommittee, but I ask that the gentleman work with me to ensure that consideration is provided for this worthy endeavor in the future.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I thank the gentleman for his comments. The committee wrestled with the need to balance existing commitments of the Corps of Engineers with new projects such as the Wabash River study in Tippecanoe County. Unfortunately, we were not able to satisfy both demands.

Mr. VISCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Indiana.

Mr. VISCLOSKEY. Mr. Chairman, I want to congratulate the gentleman from Indiana (Mr. BUYER), as well, for his dedication on trying to resolve this situation, helping his constituents, and also make note that he has also been in very close coordination with our office so that we can solve this problem. I do appreciate his very hard work on this.

Mr. BUYER. Mr. Chairman, I look forward to working with the gentleman from Indiana (Mr. VISCLOSKEY) and the gentleman from Ohio (Mr. HOBSON).

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Mr. VISCLOSKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time. And I rise to thank the gentleman from Ohio (Chairman HOBSON) and the gentleman from

Indiana (Mr. VISCLOSKEY), ranking member, for their cooperation on the issue of the Delaware River deepening. We have many friendships in our Delaware River region. We have a friendly disagreement about what to do with this project. I believe this project is the wrong thing to do for the taxpayers. The GAO has told us that for every dollar that we invest as federal taxpayers, we would only get back 43 cents. I think the project is wrong for the environment.

It will stir up potentially toxic substances on the bottom of the river and create an enormous disposal problem, and I think it is unfair the way the dredge spoils are going to be disposed.

The committee has heard our concerns and placed into this bill a very minor amount of funds that permits us in the region to work out our differences. I continue to strongly oppose the project and want to thank the committee for its assistance in this matter. I also want to thank the gentleman from Pennsylvania (Mr. HOLDEN), who has been a strong and active voice against this project. He has stood firmly for the concerns of his constituents so they are not dumped on. He has been a very worthy ally, and I want the RECORD to reflect that I am very pleased with his assistance and very grateful for his assistance in this matter.

I believe this is a wrongful use of federal taxpayers' funds. I appreciate the fact there was a need to put a very small amount in the bill to keep the discussion going, but I want to thank the committee.

Mr. HOBSON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. BIGGERT) for the purpose of a colloquy.

Mrs. BIGGERT. Mr. Chairman, I thank the gentleman from Ohio (Chairman HOBSON) for agreeing to engage in a colloquy about the efforts by the Army Corps of Engineers to keep an invasive species of fish, the Asian Carp, from reaching the Great Lakes. Preying upon and competing with native species for food, living space, and spawning areas, these voracious fish grow to between 50 and 150 pounds, eat up to 40 percent of their body weight every day, and each female can carry up to a million eggs.

If the Asian Carp reach Lake Michigan, they will devastate the ecosystem of the Great Lakes and endanger the multi-billion dollar commercial fishing industry.

That is why the Army Corps of Engineers built on the Chicago Ship and Sanitary Canal an invisible, electronic fence that repulses fish. Becoming operational in April, 2002, and designed to function for only 3 or 4 years, this demonstration barrier is fast approaching the end of its useful life. Only after the State of Illinois agreed to become the nonfederal sponsor was the Corps able to initiate the planning and construction of a permanent barrier. This permanent barrier is under construction right now.

I wish I could say that these barriers are up and running and ready to halt the spread of the Asian Carp into Lake Michigan, but they are not. Why not? Because the Army Corps of Engineers lacks the necessary funding and authority. The Corps needs \$500,000 to operate and maintain the original, temporary barrier until construction of the permanent barrier is complete and becomes fully operational. The Corps needs additional authority and \$5.5 million to upgrade and make permanent the original temporary barrier to provide redundant protection and to continue repelling aquatic invasive species when the power fails or maintenance is needed.

The Corps needs additional authority and \$3.5 million to reimburse the State of Illinois and other interested parties that have or will contribute to this year's construction of the permanent barrier, which is arguably a national, if not international, project. The Corps needs another \$500,000 to operate and maintain the permanent barrier so improvements can be made to the original, temporary barrier to make it permanent too.

Finally, the Corps needs additional authority to operate and maintain at full federal expense both barriers as a system to maximize their effectiveness.

Mr. Chairman, this additional authority and funding is urgently needed. Just last month the U.S. Fish and Wildlife Service spotted an Asian Carp in the Illinois River, just 21 miles away from the existing temporary barrier and 50 miles away from Lake Michigan. In 1 year alone, the Carp will travel the better part of 40 miles.

I know that the chairman of the subcommittee represents part of a Great Lakes State. I hope that he shares my concern about the spread of this invasive species, and I hope he will do any and everything possible in conference to ensure that the Corps has the authority and the resources it needs to respond quickly to the threat of the fast-approaching Asian Carp.

Mr. HOBSON. Mr. Chairman, will the gentlewoman yield?

Mrs. BIGGERT. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I do share the concerns of my colleague from Illinois. That is why I commit to her and the rest of our Great Lakes colleagues that I will work in conference, I am sure with my ranking member, to see that the Corps receives the funding and authority it needs to complete work on these barriers and have them up and running as soon as possible. I agree we need a permanent redundant protection against the spread of aquatic invasive species between the Great Lakes and the Mississippi River basins and the Federal Government should be responsible for the long-term operation and maintenance of this project of national and international significance.

Mrs. BIGGERT. Mr. Chairman, I thank the chairman for his commit-

ment, and I look forward to working with him to ensure that every precaution is taken to protect the Great Lakes from such a harmful species as the Asian Carp.

Mr. VISCLOSKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to congratulate the ranking member and the chairman of the subcommittee for bringing this important legislation to the floor. And I would like to associate myself with the remarks of the gentleman from New Jersey (Mr. ANDREWS).

First, let me say to my friend from Philadelphia that I understand his desire to have the Delaware River channel dredged for commerce reasons, particularly with the container ships getting larger, but as the gentleman from New Jersey (Mr. ANDREWS), who has been the leader on this issue for many years, has stated, it needs to be done in an economically sound and environmentally friendly manner.

The proposal that is before us is, as the gentleman from New Jersey (Mr. ANDREWS) has pointed out over the years, is not economically sound. The return to the taxpayers is not cost efficient. It does not make an awful lot of sense. The proposal also is not environmentally friendly. One of the proposals to take the dredged material out of the Delaware River and truck it or put it on rail and take it 100 miles northwest to my congressional district to the anthracite coal fields and dispose of it there.

The Army Corps of Engineers should be sensitive to local concerns, whether that be in New Jersey or Delaware or the anthracite coal fields of Pennsylvania. And, quite frankly, the boroughs of Tamaqua and the boroughs of Coaldale in Schuylkill County do not want these dredged materials dumped in their backyard. They have been on record with that at their borough council meetings. They have gone to the State legislature. They have gone to the county commissioners.

Also, I want to thank the chairman and the ranking member for this meager investment of \$300,000. That, quite frankly, I believe, will stop this project and not allow it to go forward.

So I again thank the chairman, I thank the ranking member, and I really want to thank the gentleman from New Jersey (Mr. ANDREWS) for being the leader in this fight over the years.

Mr. VISCLOSKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman from Indiana (Mr. VISCLOSKEY) for his leadership on the committee and for yielding me this time.

Mr. Chairman, in a few minutes, I am going to be offering a very important amendment to highlight an incredibly valuable program that affects the



Upper Mississippi River basin, the Environmental Management Program. It has been in existence since 1986. It deals with habitat restoration along the river, along with long-term resource monitoring so we can better manage the river basin and the ecosystem. I look forward to being able to continue the work on this important project with the chairman and the ranking member of the committee as we move to conference in dealing with the funding issue.

But right now, Mr. Chairman, I want to recognize and draw attention in this Chamber to a very important and fun event that is going to occur in the Upper Mississippi River over the next week. It is the re-creation of the Grand Excursion that occurred there 150 years ago. The Grand Excursion is regarded as one of the greatest promotional trips ever devised in our Nation's history, one that changed the face of the Upper Mississippi River forever. In 1854, the Chicago and Rock Island Railroad became the first railroad to reach the Mississippi River.

To celebrate, the owners and contractors for the railroad proposed an excursion for a select group of stockholders, friends, and family. But word spread quickly about the occasion, resulting in a 1,200 person entourage traveling from Rock Island, Illinois, to what is now known as Minneapolis, Minnesota. It was the Grand Excursion of paddle boats up the Mississippi River.

My district in Western Wisconsin has more miles along the Mississippi River than any other district and will play host to this excursion coming through our communities over the next week.

According to the Chicago Tribune, the excursionists were considered "the most brilliant ever assembled in the West." Statesmen, historians, diplomats, poets, newspaper editors. As the media wrote home to their newspapers, word spread about the wonders of the Nation's "dark interior."

This event turned into an opportunity to show some of our Nation's most influential people the fantastic beauty, numerous resources, and the unlimited opportunities that the Mississippi River and the West could provide. The year after, steamboat traffic along the Upper Mississippi River doubled, flooding the region with new settlers. The Grand Excursion also brought millions of dollars of investment to the area and positioned the Upper Mississippi region as a dominant force in the development of the Nation in the 19th Century.

The Grand Excursion of 2004 is an opportunity now to draw awareness from around the Nation and around the world about the recreational, the commercial, and the environmental opportunities that the Mississippi River and all its communities provide. In addition to the "Grand Flotilla," the re-tracing of the Grand Excursion's journey by trains, paddlewheelers, and steamboats, over 50 communities along the 419 mile route will hold festivals

and educational events to commemorate their 150th anniversary. Those who are unable to participate firsthand in the celebrations will be able to experience the excitement through the dynamic Web site that has been created.

I wish the participants of the Grand Excursion much fun and success in the upcoming week.

Mr. VISCLOSKEY. Mr. Chairman, I yield 4 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I would like to thank the gentleman from Indiana (Mr. VISCLOSKEY) for yielding me this time.

While we do not agree on the issue that I will be speaking on, he is a very good friend and a very good Member of Congress, and I appreciate his courtesy today.

I would like to begin by thanking the Committee on Rules for not allowing language that would have allowed budget gimmicks to pay for the Yucca Mountain Project.

I strongly oppose funding for the proposed Yucca Mountain Waste Repository. There is no single greater threat to the health and safety of Southern Nevada residents than the Bush administration's plan to dump high-level nuclear waste in the Silver State. The Nuclear Waste Technical Review Board, not a friend of the State of Nevada, has said that there is no question that canisters stored in Yucca Mountain will corrode, allowing deadly nuclear waste to escape and contaminate water supplies.

Listen to the language of the Nuclear Waste Technical Review Board. They said the canisters will leak and deposit thousands of tons of radioactivity into the groundwater at Yucca Mountain.

Decades of scientific study have failed to answer even the most fundamental questions about Yucca Mountain's ability to withstand earthquakes, volcanic activity, and now perhaps more immediate coordinated terrorist assault.

No plans have been put in place to address the risks that will be created by thousands of shipments of nuclear waste, traveling past schools, hospitals, churches, and through communities across 43 States in this country, across hundreds, literally hundreds, of congressional districts, to be buried in a hole in the Nevada desert. One terrorist strike or accident involving a load of high-level nuclear waste could seriously injure or kill those living nearby and cause millions of dollars of environmental damage.

Who will pay for this damage? Who will pay for the loss of property? Who will pay for the environmental damage? Who will pay to clean up the spill? Who will pay for the loss of life?

Fire and police departments are unequipped and untrained to deal with the hazards presented by nuclear waste, and no study has been completed to date on the vulnerability of shipments to a 9-11 terrorist-type attack.

I would also remind my colleagues that despite the administration's approval of Yucca Mountain, a license to construct the repository has yet to be issued, and with close to 200 scientific and technical questions left unanswered, the project is in real danger of collapsing as a result of a long list of problems that have been identified and remain uncorrected.

And if the Members want to have a chilling conversation, I invite them to speak to the representatives of the GAO, who did an exhaustive 10-month study and determined that there are over 200 remaining scientific and technical problems to work out before this project can be approved.

The State of Nevada has filed numerous lawsuits that are now pending in federal court which raise serious questions about the legality of DOE's design for the repository.

□ 1100

It is sloppy science. The State of Nevada would also like to recover the oversight funding stripped from the State of Nevada. So we do not even have the money to protect our own people.

Rather than waste one more cent on this dangerous and ill-conceived project, it is time that we put the health and safety of all Americans above the profits of the nuclear industry. Transporting nuclear waste to Yucca Mountain will require decades of shipments that will leave our communities vulnerable to accident and will provide inviting targets for would-be terrorists.

It is beyond comprehension that the Members of this body would accept this. I urge Members on both sides of the aisle to reconsider their position and vote against this ridiculous, expensive, dangerous project.

Mr. VISCLOSKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I thank the ranking member for yielding me time to discuss an issue of great importance to my constituents and to America's security. First, however, I want to offer my thanks to the chairman and the ranking member for their work and leadership on this bill.

As many of my colleagues who have DOE facilities in their district know, there is a significant backlog of applications for employee security clearances, especially those known as Q clearances. Many qualified and capable trade workers are unable to start work on a timely basis or sometimes are not able to work for the national laboratories at all. That means the jobs important for our national security are not getting done. It also means that citizens living near the national laboratories are not afforded the economic opportunities that should be made available to them.

Although I recognize the difficulties the investigative agencies face in processing security clearances in light of

September 11, the backlog has existed long since that tragic day, and this situation must be addressed.

The DOE reports that Q clearance processes are taking at least twice as long as they should, and stories on the ground indicate that people are waiting over a year for a clearance that should be completed in no more than 75 days.

I would like to clarify that the main reasons for the backlog exist not in DOE, but instead in the investigative agencies responsible for doing the background checks. Regardless, it impacts DOE directly, so Congress may choose to try to solve this problem through the energy and water spending bill. For example, perhaps we need to direct more funds towards programs such as the little known Accelerated Access Authorization Program, or the "Triple-A P." This program offers qualified applicants the opportunity to get an interim Q clearance and get to work while their full clearance is being processed. This program demonstrates that there are innovative solutions out there. But obviously the small numbers of workers that are able to process this will only scratch the surface.

Mr. Chairman, I hope that the chairman and ranking member are willing to work with me to find solutions on this serious problem.

Mr. HOBSON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. WAMP), the vice chairman of our committee.

Mr. WAMP. Mr. Chairman, I would like to engage in a colloquy with the distinguished chairman, and I appreciate very much his fielding it, for a clarification on some language in the report.

Mr. Chairman, is it your understanding that the language under the fusion energy section of the report dealing with the additional funds for development of "compact Stellarator Experiment" should actually be "experiments" plural?

Mr. HOBSON. Mr. Chairman, if the gentleman will yield, yes.

Mr. WAMP. Mr. Chairman, reclaiming my time, I thank the gentleman for the clarification.

Mr. VISCLOSKY. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member and chairman for their work on this bill.

Mr. Chairman, let me raise an issue of concern for my constituents. I appreciate very much the funding for the Army Corps of Engineers, but let me express my disappointment that we have not been able to stretch the dollars to provide work on new projects. I am speaking particularly about Sims Bayou, Greens Bayou, White Oaks Bayou and Braes Bayou.

More importantly, having worked on legislation dealing with inland flooding, I can tell you that we probably have now received more rain in this period of time in Houston and other re-

gions than any other years. Flooding is a very serious issue in our community, and I would look forward to working with this appropriations subcommittee through conference to be able to provide some greater assistance.

Mr. Chairman, might I also acknowledge my concern on the funding for nonproliferation in nuclear weapons. I wish we had been able to include more dollars in that area.

Mr. Chairman, I hope to be able to work with this committee in its very fine work to increase the resources for these very important programs.

Mr. Chairman, I would like to commend the chairman and ranking member of the Energy and Water Subcommittee of the Appropriations Committee for their excellent work on crafting this bill. There are several elements of debate between the majority and the minority, and between the House and the administration, but in general it seems that fair compromises have been reached.

The bill before us could have been improved by some incorporation of some of the good amendments offered by my colleagues from the minority side. Several of those were ruled out of order, but as we all know, when desired, points of order can be waived if true bipartisanship is desired by the majority. Those amendments could have made this Nation less dependent on foreign sources of fossil fuels, and could have improved fairness for consumers gouged by high energy costs. But there is much common ground reflected in the bill. I look forward to working with the chairman and the ranking member, to ensure that the funds provided in H.R. 4614 get to critical water supply and flood control programs in my district and around Texas.

Such programs greatly enhance the lives and security of my constituents. I am pleased that the Appropriations Committee rejected the administration's proposal to cut water project construction by the Army Corps of Engineers, by eliminating \$100 million and 41 current projects. I support the \$4.8 billion provided for the Corps, 15 percent more than the President requested. This is a smart investment. I wish there could have been added funds for new projects. Obviously, the needs of this Nation change on a daily basis. Saying that this year, we will not start any new projects is a bit illogical. New projects are extremely efficient in job creation. There are many competitive projects across the Nation and in my district, which should have been provided for. However, at least this bill is not a step backward, like the administration requested. I commend the committee for their leadership on this issue.

One portion of the bill I am concerned about is the underfunding of the National Nuclear Security Administration (NNSA), \$21.5 million less than the president's request. I understand that some of this withheld money would have gone to the "robust nuclear earth penetrator." I agree with the Committee that we need to think long and hard before we start creating new nuclear weapons, when we are pushing the rest of the world to put aside such implements of violence and destruction. We are being accused on every front of employing double standards: as we march to war and talk about peace in the Middle East; as we spurn our own neighbors in Cuba but ask people in the occupied territories or in Korea or in South Asia, to forgive and forget; as we talk

about liberating people but allow tens of millions to die from HIV/AIDS in Africa. We do not need to further degrade our own standing as a beacon of liberty and justice by creating such violent and polluting weaponry now. So, I am glad that this bill does not provide for the nuclear earth penetrator. But, I hope we can all work together to ensure that other critical non-proliferation work done by the NNSA will be fully provided for in the years to come.

Through my work on the Science Committee I have come to understand the amazing new technologies on the horizon that will decrease our reliance on foreign sources of fossil fuels, and help preserve our environment for generations to come. It is good to see that this bill has allotted \$3.6 billion, 5 percent more than the administration requested, on Science programs. However, of the energy research out there, hydrogen fuels and fuel cells are some of the most promising areas that need to be developed. The Science Committee has encouraged strong support of these programs, and the administration also has recognized the value. But this appropriations bill provides for less than half of what the administration has requested for hydrogen technology research. I represent Houston, the energy capital of the world. I understand the needs of this Nation for ample and affordable energy. As gas prices are high, and we are realizing that we are buying too much from people we might rather not be so dependent on, it seems irresponsible to under-invest in these next-generation technologies. Perhaps this is something that can be re-visited in conference.

Again I thank the chairman and the ranking member for their work on this bill. The lagging economy of the past 3 years, and huge deficits that have been created by our fiscal policies, have made budgets very tight. I wish this were not the case. But considering the box we are in, I believe our appropriators have done an admirable job here to fund important priorities and serve the Nation's energy and water needs.

Mr. VISCLOSKY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I thank the ranking member and the chairman.

Mr. Chairman, I rise to raise a concern and to support an amendment by the gentlewoman from California (Ms. ESHOO). I am particularly concerned with recent developments in my home State of California, where consumers are being forced to repay over \$270 million to Enron and other energy corporations amidst growing evidence of Enron and other energy companies' manipulative practices.

The recent release of Enron tapes, where traders openly discuss a manipulation of California power markets to the tune of \$1 million to \$2 million a day, is unfair to all residents of California. Instead of FERC ordering refunds repaid by States, they should step in and investigate, so that western consumers may receive well-deserved refunds for poor service. FERC should also give the American people the right to view all documents related to energy market deception in 2000 and 2001.

Mr. Chairman, the administration continues to give billions of dollars in

tax breaks to special interest oil, gas and coal companies that are doing nothing to help lower fuel prices, instead of giving tax breaks, we need to provide everything possible to help consumers in our States and right the wrongs the energy crisis created. I am appalled and dismayed with the administration's coddling of special interests, while leaving taxpayers the task of having to foot the bills for years of wrongdoing by Enron and other corporations.

The refunds my home State is forced to pay reward market manipulators for predatory pricing activities. As legislators we should punish, not reward, companies who have deceived our citizens.

Mr. Chairman, I urge my colleagues to support the Eshoo amendment.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Chairman, I thank my friend for yielding me time. I rise for the purpose of a colloquy with the gentleman from Ohio (Chairman HOBSON), the manager of the bill.

Mr. Chairman, I understand that the bill does not provide for any new investigations or other projects by the Corps of Engineers. However, as the chairman knows, last year's energy and water bill included \$40,000 for the Corps to proceed with a preliminary restoration plan for South Boulder Creek.

After enactment of the appropriations bill, at the request and recommendation of the Corps, the project was moved from section 206 to programming as a General Investigation Study. The President's budget then proposed an additional \$100,000 for this General Investigation Study. I regret that money for that purpose is not included in the bill because recent technical analysis shows that some 2,500 homes in the study area are subject to possible flood damage.

Mr. Chairman, I am concerned about how interruption of funding could affect this project and the people who live in the area.

So, I would like to ask whether the chairman would be willing to work with me as the bill goes to conference to try to enable the Corps to do its work.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. UDALL of Colorado. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I will agree to work with the gentleman on this as the bill goes to conference, but I want to remind him, though I am sure this study deserves to proceed, the fact is that not all deserving new studies can go forward at the same time.

It is one of the basic cornerstones of this bill that we tried to limit projects and studies until we finished some of the things we have already started. There has been a lot of criticism of the Corps that it does not get things done and costs get out of line. What we have tried to do is limit the new starts.

But I want to assure the gentleman that should the door open and new studies in conference are available, we will take another look at the merits of the Boulder Creek study.

Mr. UDALL of Colorado. Mr. Chairman, reclaiming my time, I thank the chairman.

I would like to ask the same question of the distinguished ranking member.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. UDALL of Colorado. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I assure the gentleman I will join the chairman in reconsideration of this project if the opportunity presents itself.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, I am very disappointed in my Republican colleagues on the Committee on Rules who did not allow the House to consider an effort to get refunds from Enron for our consumers. But, nonetheless, I want to rise to defend the Republican Vice President of the United States who this morning is taking some criticism and grief because he used some non-king's English on the floor of the Senate while discussing Halliburton.

I wanted to put that in context, because, you know, that happens to people sometimes when they get angry. For instance, when my consumers open up their power billings in Snohomish County, Washington, and find out they have gone up 52 percent because Enron has stolen millions of dollars from them, sometimes they think, if not say, an expletive.

Sometimes when people find out that millions of dollars were stolen from them, but FERC refused to lift a finger to help them get their money back, sometimes my constituents at least think for a moment of using something that is not in the dictionary.

Sometimes when my constituents find out that this administration refused to lift a finger to help the West Coast as we were going down in flames, sometimes my constituents think about using language that is not acceptable in Sunday school.

And sometimes when my constituents find out that when we went on a bipartisan basis to the vice president of the United States and begged him to help us solve this problem, because 32 percent of all the generating capacity was turned off at the moment that the stoplights were out in California, and he looked at us, and obviously someone was gaming the system, obviously the Enrons of the world were manipulating the system, obviously there were violations of Federal law, he looked at us and said, "You know what your problem is? You just don't understand economics."

Well, we do understand economics. We just do not understand Enronomics, and we do not understand how this administration could turn its back on Americans.

We should forgive the Vice President for his momentary lapse, but we should never forgive this administration for failing to stand up to Enron.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Chairman, I thank the gentleman for yielding me time to speak on this very important legislation.

Mr. Chairman, I rise today with very great concern for the future of our beaches. Beach tourism contributes \$260 billion to the United States economy every year. The administration's fiscal year 2005 budget, unfortunately, cuts shore protection projects and studies by nearly 50 percent. Now, this includes canceling the Fire Island to Montauk Point Reformulation Study, a project that provides storm protection and beach erosion control along an 83-mile portion of Long Island's south shore.

An estimated 11.3 million people visit Suffolk County's beaches every year. In Suffolk County alone, south shore beaches contribute \$256 million to the regional economy and thousands of jobs.

The Fire Island to Montauk Point Study is over 4 decades old and \$20 million in the making. Completing this nearly completed study is a top concern for thousands of homeowners and beachgoers in my congressional district.

This is like bringing the ball 99 yards downfield, putting it on the 1 yard line, and walking away.

The Army Corps of Engineers has recognized on Fire Island that it must work with different groups and associations, from homeowners' associations to environmental advocates. The Corps has utilized a process called project reformulation to build support among all agencies, governments and interest groups involved, and each of those groups recognizes that reaching an overall consensus is the best way to preserve this national treasure for future generations.

The U.S. Army Corps of Engineers has agreed to work with the Senate Committee on Appropriations to ensure the continuation of the Reformulation Study.

I want to express my very deep appreciation to the ranking member for his commitment to support the Fire Island to Montauk Point study in conference. As this legislation moves forward, I encourage all of my colleagues to continue working to protect our beaches and support a \$260 billion contributor to our Nation's economy.

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Mr. VISCLOSKY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, like many of my colleagues, I was disappointed that the Republican majority would not accept the Eshoo amendment to even be offered to the Members of the House as we had requested of the Committee on Rules. This will certainly come as a disappointment to Western families.

As everyone knows, in the year 2000 and 2001, energy companies like Enron ruthlessly gouged Nevada, California, Washington and Oregon. Yet for too long, this administration and the Federal Energy Regulatory Commission tried to hide this reality from Congress and the public.

In fact, energy Secretary Spencer Abraham dismissed the whole matter as a myth. Vice President CHENEY met with all of us and said it is overzealous environmental laws that are causing this problem. He did not tell us that at the same time he was meeting with Enron officials in the capacity as chairman of his energy committee, and he would not tell us who else he met with, because now even the Supreme Court has allowed him to continue without disclosing that information for a while.

Price gouging occurred in both 2000 and 2001. Yet FERC has said it only intends to grant refunds for gouging that occurred in October 2000 and thereafter.

The Eshoo amendment would have required FERC to issue refunds whenever the gouging occurred, whether the misconduct occurred before or after October 2000.

This is only common sense. A law breaker is a law breaker regardless of when the law is broken, and the people who have lost their funds and demand a refund as a result of this manipulation are entitled to it.

Without the Eshoo amendment, FERC will continue to settle cases behind closed doors for only pennies on the dollar. Without the Eshoo amendment, Western families stand to lose billions of dollars in legitimate refunds.

However, today, the House is going to agree unanimously to a small part of the Eshoo amendment, and that is to require FERC to turn over and reveal the documents and other evidence that they have about the misdeeds of Enron and other energy companies.

This is a positive step, but the real test will come to see whether the Republican majority will make sure that FERC now lives up to this directive. I am disappointed we did not go further. This is a small step forward, but the point that I want to underscore is that justice is not being done.

Mr. HOBSON. Mr. Chairman, I yield to the gentleman from California (Mr. OSE) such time as he may consume.

Mr. OSE. Mr. Chairman, I thank the gentleman from Ohio (Mr. HOBSON), and I thank the chairman.

I find it interesting to come to the floor today virtually 3 years on to discuss the issue of energy in California.

Frankly, I have spent my entire chairmanship on the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs dealing with energy issues, in particular the California issue.

We have heard a lot of talk about certain companies manipulating market behavior, and the transcripts clearly indicate that that is the case. The question that we ought to ask is what were the precursor conditions that led to that. I think that is a fair question. I mean, instead of treating the symptoms, let us treat the root cause of the issue; and the fact of the matter is that for all the complaints that might be registered against the current administration, the same requests being registered with them were registered with the previous administration. And in accordance with the law, the previous administration said there is not a thing we could do.

Go back and check the record. I encourage you to do that. Go back and see how many requests were made of the Clinton-Gore administration to intervene on this issue, and you will find that Clinton-Gore routinely and regularly said the law is very clear, and we cannot intervene. And the law has not changed. The law has not changed in terms of how FERC can intervene on these things. I think that is an important point to make. So if you are going to complain about how the law is interpreted, perhaps we ought to first look at the law itself and change that.

Now, the second thing is that in California there is this interesting mix in terms of how the energy markets are regulated. And California being kind of like the big market in the entire United States, the consequences of how the market in California operates have ramifications for Oregon and Washington, Nevada and Arizona and the rest of the country.

Well, in California the ability to build new plants or price the product is controlled by what is called the Public Utilities Commission, and in California at the very onset of this electricity crisis, a request was made of the Governor to ask the Public Utilities Commission to provide the investor-owned utilities, PG&E and Southern California Edison and Sempra in San Diego, the ability to forward contract for delivery of power.

There is a letter on record sent from the assembly Republicans to the Governor asking him to exercise his authority over the PUC and get this forward contracting ability in place. And you know what the Governor did? The Governor never responded. He did nothing.

The consequence of that is that the investor-owned utilities were left defenseless. Under a set of rules adopted unanimously by the California legislature, that effectively forced them into the day ahead of market. In other words, they had to go into the market no more than 24 hours ahead of time and buy the power for their customers.

Now, think about that. Do you buy your mortgage 24 hours ahead of the time when you occupy your house? No, you do not. Do you buy your gasoline or your food or your health care insurance, do you buy that 24 hours ahead of the time when you need it? No, you do not, because the price is not going to be very favorable. And yet the structure in which the California Public Utilities Commission set this up was such as to be self-defeating, and to now come forward 3 years on and complain about the circumstances that existed in California is somewhat interesting to me at best.

Now, there is a demand and supply imbalance in California. The demand and supply imbalance in California has ramifications for the folks in Oregon and for the folks in Nevada and for the folks in Arizona and Washington, because the demand in California is so great that we will suck up every kilowatt of power that is anywhere in the market. We will not let our families and our factories go quiet or be without power, and the price will act accordingly.

Now, there was a proposal that I put forward to allow FERC to immediately assess the impact of inappropriate behavior, rather than waiting for 60 days. I got no cosponsors from that side of the aisle for that. There is a proposal I put forward that eventually led FERC to a solution in terms of the pricing imbalance in California that allowed FERC to set overall prices in the marketplace at the last marginal pricing unit. I not only did not get any cosponsors from that side of the aisle; I got attacked from that side of the aisle. And now I find, interestingly enough, that is exactly the proposal my Democrat colleagues all are putting forward.

Mr. Chairman, we cannot solve these problems by snapping our fingers. These are not things that get solved 24 hours beforehand. We can no more solve this problem in 24 hours' time than we can reasonably expect investor-owned utilities in California or anywhere else to be able to meet their power demand in a 24-hour-ahead market. We cannot do it. We have to plan ahead.

Now, to come out here 3 years on and beat your chests about the behavior of the current administration, which is exactly the same as the behavior of the previous administration that you all refused to hold accountable, I mean, that is just unacceptable. Now, you can go on and do it, but the facts of the matter speak very loudly.

I invite you, and I have invited you, to look at the bills that I have put forward. I have been harangued by some of you; and upon examination, you have not even read the bills that I have put forward to try and solve this problem. I invite you to come help us. We are looking for partners to solve this thing.

There are three legs to this solution. The first is the PUC, which has yet, has yet to adopt the regulation in allowing

investor-owned utilities to contract for forward delivery of power. That is the first leg. The second leg is to allow the construction of new facilities instead of defending these dinosaur facilities that are high-polluting, using coal, or oil, or diesel for power generation; the second leg of this is to allow new technology to come to the market. But you stand over there and you object to everything. You stand there like Horatio at the pass, and you will not let us into the Valley of Solutions.

I ask you to stand next to us, not in front of us objecting or preventing us to move forward. I will tell my colleagues why. Because the facilities we can bring on line today with new technology, created in California, perfected in California will allow us to generate power with less adverse impact on the environment at lower price, at a higher efficiency. It is unfathomable to me, after 5½ years, the last 3½ years of which I have been chairman of a subcommittee, to find that my friends who happen to live in California with me are only now coming to look at this solution. And the path of solution that they propose is to beat their chests, attacking an administration which did exactly the same thing as the previous one.

Mr. Chairman, I ask my colleagues in California to look at these solutions. We need to give these investor-owned utilities the ability to forward-contract for power. That is a huge step in the right direction. We need to create the new facilities that use natural gas and far less polluting carbon-based power sources to provide us the energy for our homes and our factories. We need to find a way where we can talk sensibly about a market-based solution.

My Democrat colleagues cannot come down here and beat their chests in 2004 because it is a Presidential election year and try and rewrite history. Governor Davis tried that, and now he is writing his memoirs. That is just the fact. I am not interested in you guys writing your memoirs. I am interested in you joining with us to find solutions. That is what this is all about.

I am not going to be here a year from now. You all are going to have this in your lap, and you are going to have to deal with it. I am going to be out in California dealing with the consequences. But I ask you to please focus on solutions.

Mr. Chairman, I say to the gentleman from Ohio (Chairman HOBSON), he has been a mentor of mine and he has done heavy lifting across this country on energy issues, and I thank him. The CHAIRMAN pro tempore (Mr. UPTON). The gentleman from Indiana (Mr. VISCLOSKEY) has 2 minutes remaining; the gentleman from Ohio (Mr. HOBSON) has 8 minutes remaining.

Mr. VISCLOSKEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the distinguished ranking member for yielding me this time.

Since my friend from California would not yield any time, I just would like to set this down for the record. The amendment relative to the previous question this morning had solutions in it. We are now in the year 2004. We do not need any more debates about the markets. The energy companies have essentially signed confession slips on this. So let us not go back to 1999. We now have evidence.

That is why we are saying the FERC should order refunds. The gentleman, by voting for the previous question, he turned down the solution of refunds. Let us make that very clear here this morning.

Mr. PORTER. Mr. Chairman, I rise today to voice my opposition to the funding of the Yucca Mountain project in the Fiscal Year 2005 Energy and Water Appropriations Bill. As you know, the Yucca Mountain issue has for over two decades been of intense personal interest to me and my Nevada constituents.

Currently, the Yucca Mountain project is being fought in the halls of justice, and no more tax dollars should be allocated to this project until the courts have provided their input which I believe will be favorable for Nevada. Furthermore, nearly 200 key scientific questions remain unanswered by the Department of Energy and the facility has yet to obtain a license from the Nuclear Regulatory Commission. At a time when the project is facing potentially insurmountable licensing obstacles, why would we want to spend another dime on this ill-thought plan?

Any assessment of Yucca Mountain's suitability as the national nuclear waste repository must look at the feasibility of transporting waste to the site. Taking 70,000 metric tons of dangerous radioactive nuclear waste, removing it from reactor sites around the country, and putting it on trucks and trains and barges, and moving it through cities, towns and waterways across America is a disastrous scheme. This highly hazardous material will ultimately travel through 43 States and pass by more than 50 million Americans who live within 1 mile of the proposed transportation routes.

As many of you are aware, a GAO report concluded that the risk of an accident during nuclear waste transport is low and that even if an accident or terrorist attack were to occur, the potential for widespread harm is low. However, the GAO characterizes irradiated nuclear fuel as "one of the most hazardous materials made by man" and recommends that shipments be minimized.

Mr. Chairman, it's just not worth the risk to transport 70,000 metric tons of nuclear waste across our nation. Even with Yucca Mountain, there will continue to be nuclear waste stored at all operating reactor sites. All of this is completely unnecessary. Nuclear utilities can and do store waste safely on site at reactors. In fact, the very same storage technology that is planned to be used at Yucca Mountain is currently used at reactor sites around the country. No reactor in the United States has ever closed for lack of storage.

As a legislator, like all of you, I need to be fully informed about the effects legislation and issues will have on my constituents. The multiple risks associated with transporting large volumes of nuclear waste over long distances to Nevada cannot be justified. You are being asked to risk the health and safety of your

constituents for a scheme that will leave this country looking for another nuclear waste storage in the decades to come.

At the end of the day, all Yucca Mountain will do is create one more large storage facility and millions of new security threats, one for every road, rail, and water mile this waste will travel along. On September 11, we witnessed the single-most horrific event in our nation's history. Instantly we became all too aware of our country's vulnerability to threats from outside our borders. Transporting tens of thousands of tons of nuclear waste across the country was not a good idea before September 11, and it's certainly not a good idea now. We had never thought of a fully fueled passenger plane as a weapon. Let's not make the same mistake with the trucks, trains, and barges that will be transporting nuclear waste.

Mr. SHAYS. Mr. Chairman, I strongly support H.R. 4614, the Energy and Water Development Appropriations Act for Fiscal Year 2005, which contains funding for four important dredging projects in my district.

The maritime industry in Connecticut has enormous potential and these projects play pivotal roles in that industry.

With these much-needed funds, the Army Corps of Engineers will be able to advance dredging projects in Bridgeport, Norwalk and Southport Harbors, as well as Mill River in Stamford, ensuring our ports remain viable for recreation and commerce.

Long Island Sound is a valuable resource to our state both environmentally and economically—providing a watershed for 10 percent of the American population and contributing \$6 billion annually to the regional economy—and it is critical we treat it well. Dredging is necessary to maintain the Sound's safe navigation and long-term viability and vitality.

In Bridgeport, the funds will support efforts to find an environmentally sound disposal method for toxic sediment in Bridgeport Harbor. The harbor has not been dredged for 40 years due to contaminants in the dredged material that would be unsuitable for disposal in open water and the result is a shallow harbor, which restricts commercial viability.

In Norwalk, the money will allow the Army Corps of Engineers to complete the necessary planning to begin dredging Norwalk Harbor. Norwalk Harbor Federal Navigation Project has not been maintained since 1981. The channel's depths have become so low that the passage of commercial and recreational vessels is restricted to the point that public safety and the viability of water-dependent businesses have been adversely affected.

The funding for Southport will be used to dredge Southport Harbor, which has long served as a center of boating activity in western Long Island Sound and as a vital centerpiece of a historic district included on the National Register of Historic Places. The Southport Harbor FNP has not been maintained since 1962 and consequently the navigability is restricted by shoaling in a number of locations.

In Stamford, the funding will be used for a design project to address ecosystem restoration, sedimentation, and dredging issues at the Mill River. The Mill River ecosystem has been severely degraded by years of polluted urban runoff, thwarting public enjoyment of the resource and threatening its natural values. The funding will assist a multi-year effort to restore the shoreline and aquatic ecosystem of the

Mill River, acquire and preserve shoreline properties, reduce polluted urban runoff into the Long Island Sound, foster commercial and ferry navigation, and create public recreational facilities and other mixed-used development.

Bridgeport, Norwalk, Southport and Stamford desperately need this money to continue, or complete, essential dredging projects that will help alleviate the state's transportation issues while benefiting our state's economy and mitigating air pollution. I am grateful these critical funds are included in H.R. 4614 and am hopeful the House will approve the bill today.

Ms. MCCARTHY of Missouri. Mr. Chairman, I rise to address H.R. 4614, the FY05 Energy and Water Appropriations bill. Although I am pleased that this legislation includes funding for a number of important water projects in my district, including the Blue River Channel, Blue River Basin, Swope Park Industrial Area, Brush Creek Basin, Seven River Levees, and the Missouri Riverfront Habitat Restoration, I continue to have serious concerns about the overall level of funding in this legislation.

In particular, today's legislation provides only 3% more funding for critical energy and water projects than was provided in FY04. This is barely enough to account for the rate of inflation. Because of this shortage of funding, H.R. 4614 does not include any funding for new projects or studies, leaving us unprepared to properly respond to new flood control emergencies. In my own district, \$100,000 is urgently needed to begin addressing critical flood and stormwater control issues surrounding the Little Blue River watershed in Jackson County, Missouri. Rapid growth in this area has created numerous flood control and storm drainage challenges for communities throughout my district. Left unaddressed, these flood threats could cost local communities and businesses millions of dollars. We need to act now to adequately investigate and plan for these developing challenges. Delaying action will only force more expensive intervention at a later date. I hope that Chairman HOBSON and Ranking Member VISCLOSKEY will work with our colleagues in the Senate to ensure that these issues and other emerging flood threats are properly addressed in Conference.

This legislation also fails to address our renewable energy needs. The bill provides only \$343 million for renewable energy programs, \$31 million less than the administration requested. During a time when energy prices are soaring, we must remain committed to investments in long term renewable energy alternatives. In my own district, we have had great success encouraging the use of biodiesel as an alternative to dirtier, non-renewable fuel sources. We need to continue our commitment to this important initiative.

Finally, I am very concerned that this legislation fails to guarantee adequate funding for the Yucca Mountain Project. Specifically, I am alarmed that funding does not exist to ensure that all transportation routes to the mountain are as secure as possible. Missouri is a railroad and interstate hub. Given the likelihood that a majority of waste from east of the Mississippi River will be transported through Missouri, it is downright frightening to think of the consequences if we do not properly fund the secure transport of this waste. It is my understanding that the Office of Management and Budget has the ability to secure the additional funding for this project. I am hopeful that they

will take on this responsibility or that additional funds will be found in Conference.

Mr. TERRY. Mr. Chairman, it is with regret that I come to the floor today in opposition to this legislation—H.R. 4614, the Fiscal 2005 Energy and Water Appropriations bill. Unfortunately, this bill fails to adequately address America's future energy needs.

I realize H.R. 4614 is about more than just energy, and it does contain some good provisions. There is funding for important flood control projects, scientific research, nuclear non-proliferation programs, and environmental cleanup.

But this legislation falls well short in the realm of energy, especially in this time of tight energy supplies and volatile energy prices. The most glaring shortfall is that it provides only 14 percent of the amount requested for construction of the nuclear waste facility at Yucca Mountain, Nevada. The administration has stated that the Yucca Mountain facility will need to have about \$1.3 billion a year if it is to meet the 2010 deadline for opening. This bill appropriates only \$131 million for fiscal 2005.

Yesterday, the House Energy and Commerce Committee, on which I sit, overwhelmingly approved legislation introduced by Chairman JOE BARTON (H.R. 3981) that would dedicate the next 5 years of receipts in the Nuclear Waste Fund to the construction of the Yucca Mountain facility, keeping the project on schedule. The Barton bill would also ensure that the fund would be used only for Yucca Mountain and not diverted by appropriators for other purposes.

Chairman BARTON's legislation should have been attached to H.R. 4614. That was not permitted, and now this energy and water bill risks delaying the Yucca Mountain project—22 years after Congress first called for the creation of a single, secure repository for the Nation's spent nuclear fuel. Furthermore, it casts doubt on the growth of nuclear power, the cleanest, most abundant form of energy America has today.

My state of Nebraska is home to two nuclear power plants that provide almost a third of the electricity produced in our state. To date, Nebraskans have paid more than \$216 million into the Nuclear Waste Fund. Yet our public power utilities are being forced to build additional storage space for spent fuel because we are still without a national repository. In fairness to the ratepayers, we must keep the Yucca Mountain project on track for completion by 2010.

The Yucca project is also essential to our security concerns. Today, 50,000 tons of spent nuclear fuel are scattered across the country, at 131 sites in 39 states—including Nebraska. Oftentimes, these storage sites are near major cities and waterways.

Billions of dollars from U.S. electric consumers have already been invested in Yucca Mountain. It is the most suitable location for this repository. And with today's tough environmental standards and surging demand for electric power, nuclear energy must continue to play a substantial role in the Nation's energy portfolio. The bill on the floor today fails to recognize this.

I want to make it clear that I have objections to this bill beyond the funding for Yucca Mountain.

Under H.R. 4614, renewable energy resources are shortchanged by \$31.5 million,

about 9 percent less than the President's request. I am especially disappointed that the bill provides less than half of what the President wanted for hydrogen technology research, about \$31 million (48 percent) under the requested amount.

Funding for hydropower is \$1 million (20 percent) under the administration's request. And the measure provides \$15.5 million (20 percent) less than requested for the Office of Electricity Transmission and Distribution, the newest division of the Department of Energy, which is leading efforts nationwide to modernize and expand our electric delivery system.

It seems the appropriators chose to ignore the energy challenge facing our Nation. Or maybe they simply forgot that America today imports 60 percent of its oil supply; that gasoline prices are hovering around \$2; that natural gas supplies are at an all time low; and that just 10 months ago, the worst blackout in our history left a quarter of the country in the dark.

Still, appropriators managed to spend \$28 billion in this legislation—about \$50 million more than the President's request. H.R. 4614 is yet another example of what happens when the appropriators ignore their colleagues who sit on the authorizing committees, hold hearings, conduct oversight, and produce thoughtful legislation. In failing to address the Yucca Mountain issue today, appropriators have essentially overlooked the hard work of the Energy and Commerce Committee.

Congress must address the Nation's outdated energy infrastructure. As a father of three young children and as a Member of this chamber who has long pushed for a modernized energy policy, I cannot in good conscience vote for this legislation.

Mr. BISHOP of New York. Mr. Chairman, I rise in support of this legislation. Given difficult budget choices, and an egregious Administration budget proposal for the Army Corps of Engineers, the Chair and Ranking Member of the Subcommittee have done their best to craft a good bill.

I am particularly pleased that this legislation adequately funds our country's national labs. In this time of budget cuts, we cannot forget that basic science is a building block for scientific innovation and economic growth in the information age. Under this budget, Brookhaven Lab, which is located in my district, will continue to make great contributions in the areas of nuclear physics, structural biology, environmental research and nonproliferation.

This bill also adequately funds environmental cleanup efforts at the Lab vital to the health and safety of residents on the East End of Long Island. I am grateful to the Chair and Ranking Member of the Subcommittee for attending to these vital needs.

I am concerned, however, with one particular project in this bill of vital importance to the south shore of Long Island. The Fire Island to Montauk Point Reformulation study—which covers an 83 mile stretch of Southern Long Island—has been underway for decades at a cost of more than \$20 million. Unfortunately, this bill contains no funding to continue this study.

I understand, however, that the Ranking Member of the Subcommittee is committed to work with me and my Long Island colleagues in conference, to protect any funding included



in the Senate bill for this study. I look forward to the successful and timely completion of this project, and I again thank the Chair and Ranking Member for their cooperation and good work.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I want to thank the gentleman from Ohio (Chairman HOBSON) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking minority member, for the leadership they have provided in putting together this legislation to fund important programs like the Army Corps of Engineers, Dallas Floodway Extension and for continued work on a study of flood control on the Upper Trinity.

I support the fiscal year 2005 Energy and Water development appropriation measure.

Mr. Chairman, in 1998, the voters of Dallas approved the largest bond issue in the City's history, \$246 million, to make improvements to the Trinity River Corridor. There are many aspects to these projects, including transportation, recreation, and economic development. But at its heart, the Trinity River Corridor is about flood control. It is about protecting homes, businesses, people, and property. The flood control protection currently afforded to the City and its residents is simply no longer adequate.

Urban development and growth patterns have occurred that require improvements and extensions to the existing flood control system. These improvements and extensions must be designed, engineered, and constructed in a manner that will not only improve flood control protection for the City and its residents, but will do so in a manner that is sensitive to our other needs.

We must improve flood protection, but we need to be certain that such flood protection infrastructure also enhances our quality of life. The legislation before us includes funding to help assure that the quality of life of the people of Dallas, and our economic vitality, are indeed improved.

This legislation includes \$10 million for the construction of the Dallas Floodway Extension. This will consist of a chain of flood conveyance wetlands and a system of protective levees that will enhance the security of 12,500 structures in the Dallas area.

While I recognize the difficult constraints the Committee worked under in developing this legislation, and appreciate the funding included, I also know it is imperative to the public health and safety of the people of Dallas that this project proceed as quickly as possible.

With that in mind, I do wish to note that it will be my intent to try and secure a total of \$20 million for this project; an amount consistent with the capability that the Corps has expressed for 2005.

This legislation contains \$1.3 million for continued work on a study of flood control on the Upper Trinity as well as additional flood control improvements to the existing Dallas Floodway. This is such an exciting project that should include the development of two flood conveyance lakes within the floodway, along with new wetlands, river meandering, and boardwalks that will serve to unite the City and bring families to the levees, which currently have the impact of, literally dividing our communities.

Mr. Chairman, I appreciate the bipartisan effort that went into the drafting of this legislation, commend that effort as a model for the

way in which this Chamber ought to routinely work, and urge the support of all our colleagues for passage of H.R. 4614.

Mr. EVERETT. Mr. Chairman. I rise today in support of this legislation, but as chairman of the Strategic Forces Subcommittee on Armed Services, I must express my concerns about some of the funding levels for important National Nuclear Security Administration (NNSA) programs that are authorized within my subcommittee. The Fiscal Year 2005 Energy and Water Appropriations bill provides no funds for the robust nuclear earth penetrator (RNEP), advanced concepts, modern pit facility, nor enhanced test readiness. The Fiscal Year 2005 National Defense Authorization bill, which passed this House overwhelmingly just weeks ago, fully funded the President's request for these important initiatives. Furthermore, this elimination of funding for these programs jeopardizes our country's ability to respond to future national security threats, as pointed out in the Statement of Administration Policy. I now include that complete Statement of Administration in this RECORD.

Of particular concern to me is the \$27.6 million authorized in the House-passed bill for RNEP would support the Air Force-led study concerning the feasibility of modifying an existing nuclear weapon to destroy what are known as hardened and deeply buried targets. It has long been recognized that these hardened targets are increasingly being used by potential adversaries to conceal and protect leadership, command and control, weapons of mass destruction, and ballistic missiles. I believe it is imperative that we finish this review as part of a larger effort to ensure that we further our technological edge.

Critics of RNEP say that they are not convinced that this money will only fund a study. This simply is not the case. This funding does not authorize the production of any weapons. In fact, Section 3117 of Fiscal Year 2004 National Defense Authorization Act (Public Law 108-136) clearly states and I quote, "The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress."

Opponents also point to the NNSA Future Years Security Plan inclusion of \$484.7 million for RNEP in the future. This budget estimation is required by congressional direction, and represents a placeholder should Congress and the President decide to go any further than a study. Without the placeholders by both NNSA and the Department of Defense (DoD) in the out year budgets, if authorized, the start of the RNEP's next phase would be delayed until funding was appropriated. This would nullify the schedule and cost estimates and require the costing and schedule to be redone causing additional taxpayer cost. Moreover, by the statute cited earlier, these funds could not be used for anything other than basic research without subsequent approval by Congress.

Although I plan to support this legislation, as chairman of the subcommittee of jurisdiction, I felt it necessary to set the record straight concerning this program, and I am hopeful that the House/Senate conference will provide a reasonable level of funding for these programs.

#### STATEMENT OF ADMINISTRATION POLICY

The Administration supports House passage of the FY 2005 Energy and Water Development Appropriations Bill.

The President supports a discretionary spending total of not more than \$819 billion, in addition to the \$2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibility holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery.

Consistent with the need for responsible spending restraint, the Administration urges the Congress to fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration. Within this context, the Administration urges the House to fully fund Presidential priorities, such as the Nuclear Waste Repository at Yucca Mountain, NV and the Hydrogen Fuel initiative.

The Administration is pleased that the Committee-reported bill is consistent with the overall \$819 billion discretionary total and looks forward to working with the House to address the following concerns.

#### ADMINISTRATION PRIORITIES

**Nuclear Waste Repository.** It is vital to secure nuclear waste now scattered at 126 sites in 39 States in one appropriate underground facility. Further delay increases the costs and security risk of storing materials at these various sites. Therefore, it is imperative that the Department of Energy (DOE) have the necessary resources for licensing and constructing the repository at Yucca Mountain, Nevada. The President's Budget contains a proposal to facilitate the long-term financing for this project and the Energy and Commerce Committee has reported a bill consistent with the proposal. We strongly urge the House to adopt this financing proposal and will continue to work with the Congress to ensure its enactment.

**Hydrogen Fuel Initiative.** The Administration strongly urges the House to fund the President's Hydrogen Fuel Initiative, which will reduce the Nation's dependence on foreign oil and provide cleaner air. The Committee's \$31 million reduction for fuel cell technologies should be restored by redirecting funds from the Corps of Engineers, which is funded well above the President's request.

**National Security.** The Administration strongly opposes the elimination of funding for the Advanced Concepts Initiative, the Robust Nuclear Earth Penetrator study, and planning for the Modern Pit Facility. These reductions, if sustained, would diminish the Nation's ability to respond to future national security threats. Once again, this reduction could be restored by redirecting some of the funds from the Corps of Engineers or DOE's nuclear energy research and development program.

#### ARMY CORPS OF ENGINEERS—CIVIL WORKS

The Administration commends the Committee for focusing the Civil Works program on completing projects already under construction and limiting new starts. These efforts are consistent with the Administration's policy to reduce the backlog of ongoing civil works construction projects. We urge the House to eliminate funding and cancel balances for projects that have low estimated economic or environmental returns or

that are outside the Corps main mission, as requested.

We urge the House to restore funding that is necessary to sustain operations on four nationally significant Corps projects: \$18 million for Columbia River fish recovery to comply with a biological opinion pursuant to the Endangered Species Act (ESA); \$12 million to revitalize the side channels of the Upper Mississippi River; \$8 million for Everglades Restoration; and \$51 million to improve Missouri River habitat and support continued operation of the river in compliance with the ESA. We also request that the House restore \$10 million to the Regulatory Program to avoid delays in the permitting process and ensure effective enforcement.

#### DEPARTMENT OF ENERGY

The Administration strongly opposes reductions to the National Nuclear Security Administration's (NNSA) Nonproliferation programs to eliminate weapons-grade plutonium production in Russia and to dispose of 68 metric tons of surplus weapons-usable plutonium in the Russian Federation and the United States. The proposed reductions could delay the programs and escalate their costs, thereby damaging critical components of the Nation's comprehensive nonproliferation strategy.

The Administration objects to the bill's reductions to important nuclear stockpile stewardship programs, such as the Life Extension Programs, Directed Stockpile Work, and the science and engineering campaigns. Furthermore, the Committee's restrictive funding controls for the complex Inertial Confinement Fusion National Ignition Facility program may prevent NNSA from achieving the milestones the Congress has directed for the program.

The Administration is concerned with the \$76 million reduction to the high-level waste proposal. The Defense Nuclear Facilities Safety Board has recently communicated to DOE its view that the safety consequences of delaying radioactive waste disposition activities at the Savannah River site are unacceptable. Moreover, the Administration and the State of South Carolina have reached agreement on radioactive waste disposal and underground storage tank closure at DOE's Savannah River site. While we share the Committee's preference for a legislative solution that extends beyond the Savannah River site and are continuing to pursue a consensus with all affected States on such legislation, the funds are crucial to allowing the clean up of the Savannah River tanks.

The Administration rejects the Committee's suggestion to reduce spending on the International Thermonuclear Experimental Reactor in FY 2005, as well as its shift in funding for the Gridwise and Gridworks programs from the Office of Electric Transmission and Distribution (OETD) to the Office of Energy Assurance. OETD was established to provide a single, focused organization to strengthen Federal leadership on electricity reliability.

While we understand the need to restrain expenses for departmental overhead, the funding reductions to the Department Administration account in the House bill would hinder the Secretary's ability to manage the Department.

#### BUREAU OF RECLAMATION AND THE CENTRAL UTAH PROJECT

The Administration appreciates the Committee's support for fully funding the Water 2025 Initiative and for directly funding the Utah mitigation and conservation activities through the Central Utah Project rather than indirectly through the Western Area Power Administration. However, we urge the House to include the Administration's proposal to make a corresponding transfer of

authority for project mitigation from the Secretary of Energy to the Secretary of the Interior.

#### TENNESSEE VALLEY AUTHORITY (TVA)

The Administration is disappointed that the Committee did not provide, as the Subcommittee did, the requested appropriation of \$9 million for TVA's Office of Inspector General (OIG) to be derived from the TVA Fund. This proposal would allow the OIG to conduct its duties in a more independent manner, similar to the Inspectors General of other Federal agencies.

#### CONSTITUTIONAL CONCERNS

Section 501 of the bill purports to limit the use of appropriated funds by the Executive Branch in communicating with the Congress. To the extent this provision would preclude the President or his subordinates from initiating communications with the Congress, it would interfere with the Executive Branch's ability to influence congressional action and would violate the Recommendations Clause of the Constitution. The Administration urges the House to remove this provision or amend it to allow normal and necessary Executive Branch communications.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 4614, the Fiscal Year 2005 Energy and Water Appropriation's bill.

First, let me thank the distinguished Chairman of this Committee, DAVE HOBSON, for this work in crafting this legislation. He and ranking member PETE VISCLOSKEY have drafted an excellent bill that focuses on our national priorities.

Mr. Chairman, our country continues to benefit from advances in science, technology and engineering. We've discovered the potential for fusion energy, advanced renewable energy, and improved energy efficiency. Through cutting research and the development of these programs at the U.S. Department of Energy, we are rapidly advancing our scientific knowledge.

Mr. Chairman, I have long supported funding for renewable energy sources. The Committee's investment of \$343 million in renewable energy resources will be integral to creating alternative energy solutions for our nation. The Department of Energy is pursuing other new technologies to meet future energy and environmental needs. These technologies will change how we use and produce energy. The DOE, with this Committee's support, is pursuing a path towards making affordable, safe zero emission fuel cell vehicles.

I am pleased that year after year this Committee continues to recognize the incredible potential of fusion energy by providing a \$12 million dollar increase in funding for a total of \$276 million in funding for the program—which will advance the vital work of the domestic fusion community to prosper at sites such as New Jersey's Princeton Plasma Physics Laboratory.

The Committee also continues to address electricity reliability, of special importance to the East Coast with last summer's blackout. We've included funds for transmission reliability, research and development.

Since 1775 when the Continental Congress authorized the first Chief Engineer—whose first task it was to build fortifications near Boston at Bunker Hill—the Army Corps of Engineers has grown to be the world's largest public engineering, design and construction management agency.

The Army Corps keeps our waterways open for business, prevents our communities from flooding and our beaches from eroding.

In New Jersey alone, the Army Corps budget helps keep the 127 miles of New Jersey coastline open to visitors from across the country. Serving as one of New Jersey's greatest attractions, our beaches generate over 30 billion dollars for our state's economy each year, while providing over 800,000 people with jobs.

One of the most important Army Corps projects is the Port of New York and New Jersey Harbor Deepening. For the second year in a row, President Bush's budget message recognized the dredging of this port as a national priority and called for it to be one of five national navigational projects.

It goes without saying that projects like the Port drive our national economy it is a national secret asset. As the largest port in the northeast and a leading job center for the New Jersey/New York Metropolitan area, we must continue to focus our efforts on deepening its major navigation channels so that the port is able to meet the 21st Century needs of our economy.

The importance of the Army Corps budget is not limited to just navigational projects. In an effort to protect New Jerseyans, their homes, and their businesses from the destruction and devastation of flooding, this bill also provides the framework and the funding to purchase wetlands for natural storage areas, and to work with the local governments in across northern New Jersey to develop long-term solutions to re-occurring floods. In New Jersey this means that projects like the Jackson Brook Flood Control project in my own district and the dredging of the Hudson Raritan Estuary Lower Passaic River Restoration, among several other critical local projects have the funding to remain on track.

Mr. Chairman, for all of these reasons, I urge my colleagues to support this important legislation.

Mr. SIMPSON. Mr. Chairman, I rise in strong support of the Energy and Water bill. I want to commend Chairman HOBSON and the ranking member, Mr. VISCLOSKEY, for producing a bill that should enjoy the support of every single member of this chamber. I am impressed by the way in which Chairman HOBSON and Mr. VISCLOSKEY worked together to produce the Energy and Water bill and you both should be congratulated for the bipartisan way in which you wrote this bill.

This bill is certainly a good bill for my home state of Idaho—and I want to thank the committee for that. But more importantly, this is a good bill for the nation as a whole. It addresses national and international needs by improving our nation's water infrastructure, expanding our efforts to produce more energy for a growing economy, and protecting nuclear materials from falling into the hands of terrorists.

I fully support the Subcommittee's efforts to demand some accountability from the DOE and the Russians regarding our efforts to help secure nuclear materials in the former Soviet Union.

Spending money in Russia and the former Soviet Union to locate, identify and secure nuclear materials is clearly in our own national interest as well as the interests of the rest of the world. However, as I have repeatedly pointed out to Russian officials, I cannot explain to my constituents why we spend American taxpayers' money to secure nuclear materials in Russia while at the same time Russia is planning to cooperate with Iran in their



efforts to develop nuclear energy. In light of recent IAEA statements regarding the lack of openness regarding Iran's nuclear program—Russia must reexamine its position vis-a-vis Iran.

I also strongly support the Subcommittee's continued efforts to limit activities associated with the development of a Robust Nuclear Earth Penetrator. Our nation clearly has many priorities regarding the management of our nuclear stockpile without adding new nuclear weapons to the list.

Finally, this bill fully funds the Federal government's responsibility to cleanup nuclear sites across the nation—including in my home state of Idaho. The bill rejects the DOE's attempt to wall off hundreds of millions of dollars in cleanup funding and provides sufficient direction to ensure the DOE keeps its commitments to States like Idaho and Washington.

Mr. Chairman, I will enthusiastically vote in favor of the Energy and Water Appropriations bill and urge my colleagues to do the same.

Ms. LEE. Mr. Chairman, I rise in support of this bill.

I would first like to thank the Chairman of the Subcommittee, Mr. HOBSON, and the Ranking Member, Mr. VISCLOSKEY for their work in putting together Energy and Water Appropriations Bill.

I also want to thank both of them for including \$35 million in the bill to continue funding the Port of Oakland's 50-foot dredging project in my district in California.

As the fourth largest container port in the country, the Port of Oakland serves as one of our premier international trade gateways to Asia and the Pacific Ocean.

The 50 foot dredging project serves to underpin an \$800 million expansion project funded by the Port that will improve the infrastructure at Oakland by expanding capacity and increasing efficiencies throughout the distribution chain.

Current projections indicated that at the conclusion of the project an additional 8,800 jobs will be added, business revenue will increase by \$1.9 billion, local tax revenues will go up by \$55.5 million, and 100% of the dredging materials will be reused for wetlands restoration, habitat enhancement, and upland use within the San Francisco Bay Area.

I'm glad that the Subcommittee understands the importance of this project, and I look forward to continuing to work with the Chairman and Ranking Member to complete it.

Mr. GREEN of Texas. Mr. Chairman, I rise in strong support of the work that Chairman HOBSON and Ranking Member VISCLOSKEY have done on this legislation. And as always, my colleague Congressman CHET EDWARDS from Texas has been a champion for the significant port, harbor, and flood control needs of the great state of Texas.

The House Subcommittee on Energy and Water has done the best they could with the inadequate allocation for energy and water projects that they have been given. This bill provides \$4.8 billion for the Corps—\$712 million (15%) more than requested and \$252 million (5%) more than this year's level.

Unfortunately the Administration does not often agree on the necessity of investing in water infrastructure.

The Corps of Engineers' work keeping our ports and harbors expanding and maintained is absolutely essential to our national economy. When crafting the U.S. Constitution our

founders recognized the necessity of functioning ports and waterways to interstate and international commerce, so they gave the federal government the responsibility for maintaining the navigable waters of the United States.

Without the proper resources, we will fall behind this Constitutional responsibility.

In particular, I wish to thank the Subcommittee of Energy and Water and its leadership for providing \$24 million in construction general funding for the Houston-Galveston navigation channels and \$14 million for operations and maintenance.

We will try to increase those numbers in conference with the Senate, particularly the operations and maintenance account, which if left underfunded year after year will undermine the benefits of the investments we have made.

I also wish to thank the Subcommittee for including \$750,000 in construction general funding for Hunting Bayou and \$340,000 in General Investigations funding for Greens Bayou.

Both of these watersheds have experienced major flooding over the past years and are crying out for investment to protect the hundreds of thousands of residents and thousands of businesses in those areas.

And finally, I want to note that while this bill does not yet provide general investigations funding to begin a study of a federal project for Halls Bayou, a tributary of Greens Bayou, that project is authorized as part of the Water Resources Development Act of 1990.

Also, there is a section of the pending House Water Resources Development Act of 2004 (H.R. 2557) that would reclassify Halls Bayou as a section 211 reimbursement project under the Water Resources Development Act of 1990.

Again, I thank the subcommittee, its leadership, and particularly Congressman EDWARDS of Texas for their fine work on this piece of legislation. I urge support of H.R. 4614.

Mr. GUTKNECHT. Mr. Chairman, as the House passes the FY2005 Energy and Water Development appropriations bill today, I would like to draw attention to the Lewis & Clark Rural Water project. While Minnesota has thousands of lakes, southwest Minnesota, in my district, is described as the place the glaciers missed. In fact, Rock County the southwestern most county in Minnesota, it the only county in my home state that does not have a single lake.

To deal with this problem, sixteen communities and five rural water systems joined together in 1990 to create the non-profit Lewis & Clark Rural Water System. This water system project, when completed, will cover an area of 5,000 square miles in southwest Minnesota, northwest Iowa, and southeast South Dakota. The twenty-one members of the Lewis & Clark Rural Water System serve a population of over 200,000 people.

Construction on the Lewis & Clark Rural Water Project is underway and moving ahead. The groundbreaking and first official construction took place in August 2003. A large diameter casing and two wells have been installed and the first segment of pipe was installed on June 14, 2004. Another contract, for roughly \$15 million, will be awarded in July. This contract, using funds appropriated in FY2004, will complete the Raw Water Pipeline, which will take the untreated water from the well fields to the water treatment plant.

This important project will greatly improve quality of life and enhance economic opportunity in my district. Over 100 rural families in southwest Minnesota are on a waiting list to receive water from Lincoln-Pipestone Rural Water (L-PRWS), one of the members of Lewis & Clark. Until the Lewis & Clark project in this area is completed, there will not be enough water for these families.

Economic development will be enhanced by allowing communities to provide additional water to expanding industries and value-added agriculture, thereby preserving jobs, as well as attracting new industries. One community in my district, Worthington, has actually had to turn away inquiries from companies considering locating their because of the lack of water. This is a serious problem and I applaud the dedication of those individuals who have worked long and hard to get this project going.

In the 108th Congress I have made the Lewis & Clark project a priority of mine and submitted a request for \$35 million dollars. Included in this appropriations bill is \$17.5 million for the Lewis & Clark project. While this funding is less than the amount for which we had hoped, it is a good start, and I applaud the President for making this a priority in his budget request.

Rural Minnesota, South Dakota, and Iowa need the Lewis & Clark Rural Water Project and I am excited construction has begun. For the sake of these communities I urge Congress to continue to make this project a priority.

Mr. BARRETT of South Carolina. Mr. Chairman, as a Representative of the Savannah River Site located in South Carolina's Third Congressional District, I rise today to voice my concerns regarding this bill. The Savannah River Site (SRS) is South Carolina's largest single site employer, employing approximately 13,500 workers from around the southeast region, and it serves a vital function to our nation's nuclear infrastructure. The Fiscal Year 2005 Energy and Water Appropriations bill in its current form potentially jeopardizes several programs at the SRS including the waste incidental to reprocessing, the Savannah River National Laboratory, the mixed-oxide fuel program, and the modern pit facility.

While I strongly commend the Committee for preventing the DOE from setting aside funding for their High-level Waste Proposal pending the outcome of the waste incidental to reprocessing issue, I respectfully disagree with the Committee's position regarding resolution of that issue. Although efforts to agree in good faith on comprehensive legislation to uniformly resolve the issue failed between the DOE, Washington, Idaho, and South Carolina, other alternative solutions should be pursued. For example, state specific solutions should be supported so long as those states retain the authority to ensure the DOE takes into consideration the state's regulations upon implementation of its nuclear cleanup program.

Moreover, failure to support agreements between each interested state and the DOE places increased risk to each site's surrounding communities and imposes greater costs to America's taxpayers. I fear the longer a delay occurs the longer period of time the residual waste will be left in its liquid form,

which poses a greater threat to the nearby rivers that may serve as a water source for surrounding communities. If single state agreements would allow sufficient environmental remediation method to proceed in a safe manner, it is unnecessary for our nation's taxpayers to incur additional costs to research and develop new, unproven cleanup methods. As a result, single state solutions, would preclude continued delay of processing waste stored at the affected sites, which would prevent undue additional risk and increased costs to cleanup the sites.

I also respectfully disagree with the Committee's support for the DOE's decision that the Salt Waste Processing Facility and the Salt Waste Process Facility Alternative are prohibited by the Idaho District Court ruling regarding waste incidental to reprocessing. On the contrary, the objectives of these facilities are approximately a mirror image of the work being conducted at the Defense Waste Processing Facility, which has been processing nuclear waste for several years and continues to do so despite the outstanding waste incidental to reprocessing issue. By the Committee's zeroing out finding for these projects in FY05, the SRS community is greatly concerned with the future job outlook that these facilities are scheduled to provide in the near and long term.

With respect to the Committee's position on the Savannah River National Laboratory, I understand the Committee's concern with the level of consultation provided by the DOE regarding the designation of the Savannah River National Laboratory. However, I am disappointed this bill fails to provide funding for one of nation's premier science labs. I believe now is the time for our nation to show its commitment to scientific research and development at our national labs to encourage young American professionals to enter a scientific field that is increasingly losing many of America's best scientists to retirement. Our national labs are a unique asset to our nation's scientific community and national security, and unfortunately, limiting the number of labs limits the opportunities we provide to America's scientific youth. As a result, I strongly support designation of the Savannah River Technology Center as our Nation's 13th national laboratory.

In regards to the mixed-oxide fuel program, the United States and Russia need to continue to expedite negotiations over the program's liability provisions, and I appreciate the Committee's consideration to restore the program's funding cuts should an agreement be reached in 2005.

Finally, I respectfully disagree with the Committee's decision to zero out funding for the modern pit facility (MPF), and to prohibit site selection from occurring in FY05. The MPF is crucial to sustaining the integrity of the United States nuclear deterrent for the foreseeable future. After 1989, the United States became the only nuclear power without the ability to manufacture plutonium pits for its nuclear stockpile. Many of the weapons in our nuclear stockpile have outlived their intended design life, and while the integrity of these weapons is not currently in jeopardy, the potential risk for functional degradation of the plutonium pit is too great not to take action. Therefore, I fully support the Administration's efforts to develop advanced nuclear concepts like the MPF to mitigate against the risk of being unable to maintain our current nuclear deterrent.

Furthermore, locating the MPF at the Savannah River site (SRS) is important for the country and the state of South Carolina. SRS is the most capable location for the mission because it has an excellent safety and security record, all necessary infrastructure requirements for any capacity size, and a proven and successful history of plutonium operations. As a result, locating the mission at SRS should save from \$300 to over \$500 million in taxpayer funds. Also, the mission is estimated to create 3,600 additional jobs in the private sector, which would partially offset SRS employment losses as it nuclear clean-up missions are completed. The SRS community has a long history of proudly serving our nation and fully supports the MPF. As a result, I am hopeful the Committee will remove its objections to site selection as it conferences with the Senate on this bill.

Mr. Chairman, while I support the interests of my Congressional district, I understand the enormous responsibility this Committee must endure as it considered appropriations legislation for our nation's energy programs. Although this bill does not fully provide the SRS community with the resources the Administration has requested, I do believe the Chairman and the Committee are steadfastly working in good faith to enhance our nation's energy problems, and I look forward to working with the Chairman on future issues related to the Savannah River Site and our nation.

Mr. VISCLOSKEY. Mr. Chairman, I yield back the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, for energy and water development, and for other purposes, namely:

#### TITLE I

#### DEPARTMENT OF DEFENSE—CIVIL

#### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

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

#### GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to rivers and harbors, flood control, shore protection, storm damage reduction, and related projects, restudy of authorized projects, miscellaneous investigations, and, when author-

ized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$149,000,000, to remain available until expended: *Provided*, That for the Ohio Riverfront, Cincinnati, Ohio, project, the cost of planning and design undertaken by non-Federal interests shall be credited toward the non-Federal share of project design costs: *Provided further*, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff.

#### POINT OF ORDER

The CHAIRMAN. For what purpose does the gentleman from Tennessee rise?

Mr. DUNCAN. Mr. Chairman, I raise a point of order against the paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DUNCAN. Mr. Chairman, at the request of the gentleman from Alaska (Chairman YOUNG) and on behalf of the Committee on Transportation and Infrastructure I rise to raise a point of order against page 2 line 23 beginning with "provided further" through page 3 line 5.

Let me say, first of all, that I want to commend the gentleman from Ohio (Chairman HOBSON) and the gentleman from Indiana (Ranking Member VISCLOSKEY) who have done such an outstanding job on this legislation. But this provision, this particular provision, violates clause 2 of rule 21. It directs the Secretary of Army to include additional analysis in the southwest Valley Flood Damage Reduction Study and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

In that case, the Chair will rule.

The Chair finds this provision includes language imparting direction to the Secretary of the Army. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

#### CONSTRUCTION GENERAL

For expenses necessary for the prosecution of river and harbor, flood control, shore protection, storm damage reduction, and related projects authorized by law; and for conducting detailed studies, and plans and specifications, of such projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$1,876,680,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public

Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund for one-half of the costs of construction and rehabilitation of inland waterways projects (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota); *Provided*, That using \$10,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Los Angeles Harbor, California, project authorized by section 101(b)(5) of Public Law 106-541: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the New York and New Jersey Harbor project, 50-foot deepening element, upon execution of the Project Cooperation Agreement: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the construction of the Port Jersey element of the New York and New Jersey Harbor or reimbursement to the Local Sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$6,000,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated for the navigation project, Tampa Harbor, Florida, to carry out, as part of the project, construction of passing lanes in an area approximately 3.5 miles long, centered on Tampa Bay Cut B, if the Secretary determines that such construction is technically sound, environmentally acceptable, and cost effective: *Provided further*, That using \$500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and initiate reconstruction of the Cape Girardeau, Missouri, project, originally authorized by the Flood Control Act of 1950, at an estimated total cost of \$9,000,000, with cost sharing on the same basis as cost sharing for the project as originally authorized, if the Secretary determines that the reconstruction is technically sound and environmentally acceptable: *Provided further*, That the planned reconstruction shall be based on the most cost-effective engineering solution and shall require no further economic justification: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed without further delay with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the \$8,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, up to \$5,000,000 of those funds

be directed for the permanent bridge, with all remaining devoted to the Mini-Raise.

#### FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$325,000,000, to remain available until expended.

#### OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation; \$1,982,000,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund; of which such sums as become available from the special account for the United States Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, Bodega Bay Harbor, California, and to continue maintenance dredging of the Federal channel: *Provided further*, That the Secretary shall make suitable material excavated from the site as part of the rehabilitation effort available to the non-Federal sponsor, at no cost to the Federal Government, for use by the non-Federal sponsor in the development of public facilities.

#### AMENDMENT NO. 4 OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

#### Amendment No. 4 offered by Ms. NORTON:

Page 3, line 17, after the dollar amount insert the following: "(increased by \$20,000,000) (reduced by \$20,000,000)".

(Ms. NORTON asked and was given permission to revise and extend her remarks.)

Ms. NORTON. Mr. Chairman, my amendment addresses a crisis that affects Members of Congress and all who live and work here resulting from a public health advisory regarding lead in the drinking water in the Nation's Capitol.

I am seeking to increase general project construction money in the amount of \$20 million by increasing the amount of savings in slippage. The \$20 million will help to address a federally created drinking water crisis caused by leaching from lead pipes installed by the U.S. Army Corps of Engineers more than 100 years ago amidst controversy that lead pipes were not safe even then.

EPA standards for lead in the drinking water is 15 parts per billion, yet thousands of homes in this city have tested above this standard, hundreds above 300 parts per billion. The water crisis I am asking Congress to address, however, not only affects people who live here but 200,000 Federal employees in the Capitol, the Supreme Court, the White House and Federal office buildings and millions of tourists from throughout the country and world who come here.

Public health officials testified at a May 21 Committee on Government Reform hearing that lead contaminated drinking water is dangerous for everyone, but can be especially dangerous to fetuses and young children under the age of 6, hindering their brain development and lowering their IQs. Yet, pregnant women and young children drank the water here not knowing about dangerous levels of lead. At the hearing a mother, Katherine Funk, testified that she unknowingly drank lead contaminated water throughout her entire pregnancy.

I support what we are spending to provide safe drinking water for the innocent people of Iraq. Today I am requesting a mere \$20 million to begin the process here in the Nation's Capitol. The \$20 million will help replace lead lines. The lion's share is being borne locally, but some contribution from the Federal Government to reduce this crisis is particularly appropriate.

The lead water crisis emanates from the decision of the U.S. Army Corps of Engineers to build the District's water infrastructure system using lead pipes more than 100 years ago. And that was so controversial then. I will insert into the RECORD two articles from the Washington Post of 1893 and 1895 discussing the controversy. Also discussed there is the role that the Army Corps of Engineers played in constructing these pipes.

The articles point out that the Army Corps knew of the health dangers of lead pipes that carried the District's drinking water but chose to use them anyway.

The Federal Government's role in providing water here goes beyond the pipes to the treatment of water itself. The Army Corps also built and still runs the Washington aqueduct which treats the water supply for the district and parts of northern Virginia.

The Committee on Government Reform hearing heard testimony from scientific experts that the switch in chemical treatment of the drinking water in 2000 at the aqueduct without

adequate testing is the likely cause of leaching of lead pipes into the drinking water.

With the Corps embedded in the crisis through lead lines and faulty chemical treatment, the government should assume at least some share of the responsibility. The amount being requested here will not and is not intended to cover anything close to the cost of replacing these lines, but it will hasten the current replacement efforts being undertaken by the D.C. Water and Sewer Authority.

I certainly ask that the Federal Government step up to its responsibility. The residents of the District of Columbia have more than stepped up to their responsibility. This was done well before there was any home rule when the residents could have and did have no affect upon it.

The water I am talking about is the water that is on our rostrums every time we go to committee hearing. We should do something to protect ourselves, to protect Federal employees, and to protect the residents of the District of Columbia.

Mr. Chairman, at this point, I will insert the two articles I previously referred to.

[From the Washington Post, June 9, 1893]

#### LEAD PIPES UNSATISFACTORY

Capt. Powell, the Engineer Commissioner, has determined that a substitute must be found for lead pipes which, according to the present plumbing regulations, must be used in providing a water service for residences. The general fear that such pipes might cause lead poisoning under certain conditions makes their general adoption in the District a menace to the health of the people.

It has been shown that the chemical character of Potomac water causes such pipes to become coated on the inside with an insulation of carbonate of lime, soda, and clay, held in solution in the water. This coating, it has been argued, is a sure protection from danger of lead poisoning, but the engineer department has decided that it is too slight a safeguard. It is probable that the city's supply of water will be filtered at some future day, as sand filtration of drinking water has been adopted in many large cities abroad and is rapidly becoming popular.

Just what effect the filtered water may have in the coating of lead pipes has not been determined. The fact that iron pipes become thickly rusted on the inside, which causes a material loss of water pressure, makes their use unsatisfactory. Yesterday Capt. Derby, in charge of the division of water and sewers, examined the first substitute for lead pipe that has been presented since the investigation began. It was what is known as the improved Bower-Barff process, being a steel pipe coated inside and out with black oxide of iron. Capt. Derby reported it was "worth experimenting with," and tests of the pipe will be commenced at once. Several other styles of pipe are to be examined.

[From the Washington Post, Sept. 15, 1895]

#### POTOMAC WATER AND LEAD PIPE

A.W. Dow, inspector of asphalt and cements, yesterday made his report to the Engineer Commissioner. In it he says considerable change has been made in the past year in asphalt pavement by the addition of a fine sand to a sand similar to that formerly used. Under the present circumstances this is the

best that can be done. The only fine sand now available is that dredged off the foot of Seventeenth Street.

The inspector deals also with the public wells analyzed. There were found to be 96 good ones, 41 suspicious, and 57 condemned.

The most interesting part of the report deals with the investigation of the action of Potomac water on lead pipe, to determine if enough lead is dissolved by the water to be injurious to public health. In order to have all conditions corresponding as near as possible with those of actual service, the inspector had one new forty foot lead service pipe in Anacostia and fifty feet of new lead pipe attached to the high service main at the U street pumphouse. From the investigation the inspector concludes that the only great source of danger is where the coating becomes detached by a rapid flow of water after the pipe had remained unused for some time. He will continue the investigation.

Mr. HOBSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I share my colleague's concern about the lead in parts of the D.C. water system. However, I have to point out that such work is really not in the Corps of Engineers bailiwick. They are not authorized and we do not include any new water project authorization in our bill at this time.

I should also note that the Corps is probably not the best agency to conduct this kind of work. The Corps' role in the water system for the District of Columbia is limited to operating the water treatment plant. The Corps currently has no responsibility after the water leaves the plant for the water distribution and supply lines are a district responsibility and not that of the Corps.

Therefore, regrettably, I mean this sincerely, I do not have any way to really take care of this right now. This is a problem that the District has. At some point we ought to find a solution to help the District solve this problem. I just do not have the tools at this time to do that. Therefore, I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the District of Columbia (Ms. NORTON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from the District of Columbia (Ms. NORTON) will be postponed.

Mr. KIND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, based on previous conversations and the agreement I had with the Chair and the ranking member of the committee, I was offering this amendment with the intent to ask unanimous consent to withdraw and continue working with them and with the conferees in regards to a very important program that affects the upper Mississippi river basin, the Environmental Management Program.

It is an authorized program that first passed in 1986. It was reauthorized on a

permanent basis in 1999. The authorization level has gone up to \$33 million. My concern is that we have over the last few years been backtracking in regards to the funding of this important program.

As co-chair of the bipartisan upper Mississippi river basin Congressional task force, I have worked with my colleagues from this five-State region to build consensus about how best to protect and restore the nationally significant and environmental treasures of the upper Mississippi River.

I want to commend my colleagues who are here today, the gentlewoman from Minnesota (Ms. McCOLLUM) and my good friend, the gentleman from Missouri, Mr. HULSHOF, for their strong support for the EMP program and the support we have had in the bipartisan Mississippi River Caucus.

Earlier this year, 013 of us of the River Caucus wrote to the committee asking the committee to respect and appropriate funds for EMP at the President's budget request of \$28 million. The committee, however, in this underlying report is only recommending \$16 million.

The fear is we are backsliding on current projects that are in the works that will delay the completion of these projects by years. It will delay the implementation of new identified habitat restoration projects along the upper Mississippi River, along with the crucial long-term resource monitoring and the data collection which helps us better manage this important national treasure that we have in middle America.

The upper Mississippi and the entire Mississippi River basin area is North America's largest migratory route for waterfowl. It is the primary drinking source for 33 million Americans. It adds countless billions of dollars to our regional economy through industry and companies and farmers with the commercial navigation that is available along the Mississippi, not to mention a \$6 billion tourism impact on the upper area and close to \$2 billion recreation impact in the upper Mississippi River area.

And we have always recognized the legislation that has preceded us today that this is a multi-use river system between commercial navigation, which has existed in the past since the 1930s when the lock and dam system was created to harness the power of the river, to the recreation and the tourist impact.

The EMP program was established in the 1980s recognizing the need to maintain that important balance along the river between the infrastructure needs that are ongoing, but also the habitat restoration and long-term resource monitoring that the EMP program currently does. But, unfortunately, again, we have had backsliding over the last few years in regards to the commitment of the program.

Fortunately, the administration sees it a little bit differently. Based on a

letter that I wrote to the administration requesting funding earlier this year, the President responded to my request by a letter dated April 20, and I quote, "As you know, the President submitted his 2005 budget on February 2004. I am pleased to say that the budget identifies EMP as one of the eight highest priority Army Corps of Engineer construction projects in the Nation and proposes \$28 million in funding for it an increase of \$9 million or 47 percent from the previous fiscal year."

The point is, this has received wide bipartisan support, support from the governors and the five States of Wisconsin, Minnesota, Iowa, Illinois, and Missouri, that have supported this project. Various groups that are concerned about river management issues are very supportive of the environmental management program. The Corps of Engineers has had a multiyear, multimillion dollar navigation study that they have initially released a preliminary report upon asking in part for \$5.3 billion ecosystem management project to go along with a proposed lock and dam expansion project.

In light of where we seem to be heading in regards to the river management issues, we would hope we could get more support for the funding of a program that has proven itself year in and year out with wide bipartisan support, with tangible results that we see along the upper Mississippi River, something that thousands of people will see in the coming week as the 1854 grand excursion is recreated with a grand flotilla going up the Mississippi and finally ending up, I believe, in the district of the gentlewoman from Minnesota (Ms. MCCOLLUM) for a 4th of July celebration.

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The river has played an incredibly important role in the development of middle America, the Great Plains States, and the upper Midwest generally. From the exposure it received in 1854 with the Grand Excursion to the great American novels that Mark Twain wrote of two kids growing up on the Mississippi, Tom Sawyer and Huck Finn, to the ongoing uses of the river, we believe we need to do a better job of funding the EMP; and hopefully with the leadership's cooperation, we can accomplish that in conference.

Mr. HULSHOF. Mr. Chairman, I move to strike the last word.

(Mr. HULSHOF asked and was given permission to revise and extend his remarks.)

Mr. HULSHOF. Mr. Chairman, I want to, first of all, say thank you to my friend for his kind words and the work that he has done on the upper Mississippi; and, two, the chairman of the subcommittee during general debate, the chairman talked about trying to find a balanced approach, and I applaud that; and I think the underlying bill does just that.

We certainly appreciate trying to fund the critical programs through the

upper Mississippi River basin. Despite, quite frankly, the recent core budgets that have made this task extremely challenging, it is critical that adequate funding be provided to support a multiple-use river, as the gentleman from Wisconsin spoke of.

Whether it is the Environmental Management Plan that he spoke of to the navigation study and a comprehensive plan for flood control and floodplain management, the Mississippi River does, in fact, have diverse uses and, accordingly, diverse needs.

Again, I applaud the chairman and the subcommittee who have worked with our office and our constituents to make a difference in the basin. In fact, I know that the chairman has logged thousands of miles personally to inspect and view many of the civil works projects around the country, and I would be remiss if I did not extend a personal invitation to the gentleman to come to Missouri and to see the upper Mississippi and especially the locks and dams as the previous chairman did some years ago.

In fact, it was on that visit that we had a chance to view from the air some of the true benefits of the Environmental Management Plan specifically, and it really gave me a sense of a greater appreciation for what the Corps of Engineers was doing with the EMP. Already hundreds of acres of prime wetlands have been reclaimed, critical back waters have been restored, habitats are thriving. We are helping to promote flood control throughout the region, and we know too often, I think, the Corps of Engineers receives only barbs for its environmental record; but I think its successes in the EMP, which has really only been limited by funding issues, are indeed worthy of praise.

So accordingly, I support the bipartisan efforts of the gentleman from Wisconsin (Mr. KIND), my friend, as well as the gentleman from Ohio (Mr. HOBSON), to achieve this balanced approach to the management of one of our Nation's greatest natural resources, the mighty Mississippi.

WITHDRAWAL OF REQUEST FOR RECORDED VOTE ON AMENDMENT NO. 4 OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, after speaking with the distinguished chairman concerning matters involving lead in the water that are transpiring in the other body, I think a vote is unnecessary. I ask unanimous consent to withdraw my request for a vote.

The CHAIRMAN. The gentlewoman withdraws her request. Accordingly, the noes have it, and the amendment is not agreed to.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that the remainder of the bill through title II be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the remainder of the bill through title II is as follows:

#### REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$140,000,000, to remain available until expended.

#### FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination at sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$190,000,000, to remain available until expended.

#### GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$167,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: *Provided further*, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

#### OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$2,600,000.

#### ADMINISTRATIVE PROVISIONS

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

#### GENERAL PROVISIONS

##### CORPS OF ENGINEERS—CIVIL

SEC. 101. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915 (P.L. 64-291); section 11 of the River and Harbor Act of 1925 (P.L. 68-585); the Civil Functions Appropriations Act, 1936 (P.L. 75-208); section 215 of the Flood Control, Act of 1968, as amended (P.L. 90-483); sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended (P.L. 99-662); section 206 of the Water Resources Development Act of 1992, as amended (P.L. 102-580); section 211 of the Water Resources Development Act of 1996 (P.L. 104-303); and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year.

SEC. 102. None of the funds appropriated in this or any other Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Ridge Landfill in Tuscarawas County, Ohio.

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

SEC. 104. None of the funds appropriated in this or any other Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Indian Run Sanitary Landfill in Sandy Township, Stark County, Ohio.

SEC. 105. ALAMOGORDO, NEW MEXICO. The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (P.L. 87-874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

SEC. 106. Section 214(a) of Public Law 106-541 is amended by striking "2003" and inserting "2007".

SEC. 107. FLOOD DAMAGE REDUCTION, MILL CREEK, CINCINNATI, OHIO. The Secretary of the Army is directed to complete the General Reevaluation Report on the Mill Creek, Ohio, project not later than March 1, 2005, at 100 percent Federal cost. The report shall provide plans for flood damage reduction throughout the basin equivalent to and commensurate with that afforded by the authorized, partially implemented, Mill Creek, Ohio, Flood Damage Reduction Project, as authorized in section 201 of the Flood Control Act of 1970 (P.L. 91-611).

SEC. 108. The Secretary shall provide credit to the non-Federal sponsor for preconstruction engineering and design work performed by the non-Federal sponsor for the environmental dredging project at Ashtabula River, Ohio, prior to execution of a Project Cooperation Agreement.

SEC. 109. The Secretary of the Army, acting through the Chief of Engineers, is directed to design the Central Riverfront Park project on the Ohio Riverfront in Cincinnati, Ohio, as described in the Central Riverfront Park Master Plan performed by the City of Cincinnati, dated December 1999, and the Section 905(b) analysis, performed by the Louisville District of the Corps of Engineers, dated August 2002. The cost of project work undertaken by the non-Federal interests, including but not limited to prior and current planning and design, shall be credited toward the non-Federal share of design costs.

SEC. 110. Amounts in the revolving fund may not be used for the Dredge MCFARLAND overhaul, the replacement of the side-casting propulsion system of the Dredge MERRITT, the pontoon pipeline replacement of the Dredge JADWIN, the bow discharge replacement and repowering for the Dredge ESSAYONS, the repowering of the Dredge YAQUINA, or the floating pipeline replacement for the Dredge POTTER.

#### TITLE II

#### DEPARTMENT OF THE INTERIOR CENTRAL UTAH PROJECT CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$48,009,000 to remain available until expended, of which \$15,469,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,734,000, to remain available until expended.

#### BUREAU OF RECLAMATION

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

#### WATER AND RELATED RESOURCES (INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$860,000,000, to remain available until expended, of which \$53,299,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$33,794,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; and of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That section 301 of Public Law 102-250, the Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2004, and 2005" in lieu of "and 2004".

#### CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$54,695,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court-adopted decree or order.

#### POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$58,153,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions

budgeted as policy and administration expenses.

#### ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

#### GENERAL PROVISIONS

##### DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

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

The CHAIRMAN. Are there points of order against that portion of the bill?

#### POINTS OF ORDER

Mr. DUNCAN. Mr. Chairman, once again, I will say that I certainly commend the gentleman from Ohio (Chairman HOBSON) and his staff for the fine work they have done on this bill, but I do have six points of order that I am required to raise at this time.

The CHAIRMAN. The gentleman will state his points of order.

Mr. DUNCAN. Mr. Chairman, I raise a point of order against section 105. This section violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Hearing none, the Chair finds that this provision directly modifies an existing flood project. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. The provision is stricken from the bill.

Mr. DUNCAN. Mr. Chairman, I raise a point of order against section 106. This provision violates clause 2 of rule XXI. It changes existing law and,



therefore, constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be recognized on the point of order? If not, the Chair will rule.

The Chair finds that this provision directly amends existing law. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained. The provision is stricken from the bill.

Mr. DUNCAN. Mr. Chairman, I raise a point of order against section 107. This provision violates clause 2 of rule XXI. It establishes a deadline for completing the general reevaluation report for the Mill Creek, Ohio, project and adds a planning requirement. This constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member wish to be heard on the point of order? If not, the Chair will rule.

The Chair finds that this provision includes language imparting direction to the Secretary of the Army. The provision, therefore, constitutes legislation under clause 2 of rule XXI. Therefore, the point of order is sustained. The provision is stricken from the bill.

Mr. DUNCAN. Mr. Chairman, I raise a point of order against section 108. This provision violates clause 2 of rule XXI. It authorizes the Secretary to provide certain credit to the non-Federal sponsor for the project at Ash-Tabula River, Ohio. It, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds this provision includes language imparting direction to the Secretary of the Army. The provision, therefore, constitutes legislation in violation of clause 2, rule XXI. The point of order is sustained. The provision is stricken from the bill.

Mr. DUNCAN. Mr. Chairman, I raise a point of order against section 109. This section violates clause 2 of rule XXI. It directs the Corps of Engineers to proceed to the design phase of the Central Riverfront Project on the Ohio riverfront in Cincinnati. This, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member wish to address the point of order? If not, the Chair is prepared to rule.

The Chair finds this provision includes language imparting direction to the Secretary of the Army. The provision of the legislation is in violation of clause 2 of rule XXI. The point of order is sustained, and the provision is stricken from the bill.

Mr. DUNCAN. Finally, Mr. Chairman, once again, on behalf of the Committee on Transportation and Infrastructure and the gentleman from Alaska (Chairman YOUNG), I raise a point of order against section 110. Mr. Chairman, this section violates clause

2 of rule XXI. It prohibits amounts in the Corps of Engineers revolving fund from being used for certain maintenance work on corps dredges. It limits the use of funds not made available in this bill and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any other Member wish to address the point of order? If not, the Chair is prepared to rule.

The Chair finds this provision addresses funds and other acts. The provision, therefore, constitutes legislation in violation of clause 2, rule XXI. The point of order is sustained. The provision is stricken from the bill.

Are there any amendments to this portion of the bill?

Ms. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like today to rise in strong support for what the gentleman from Wisconsin was so eloquently up here speaking about before, the Environmental Management Program.

This is a program that provides critical resources to keep the Mississippi River healthy and enjoyable for all of our citizens. The Mississippi River is a working river, and it is a river, which, when navigation takes place and projects by the Army Corps are put in effect for flood control projects, we quite often find ourselves with unintended consequences to the river's habitat.

Without additional funding, the river habitat will continue to be lost and hundreds of species that depend upon the health of the river will struggle to survive, but it is not just fish and wildlife at stake. Millions of visitors spend annually billions of dollars on recreating along the Mississippi-Illinois rivers supporting thousands of jobs.

The Mississippi River is also a source of drinking water for millions of Americans. The Environmental Management Program is the Nation's premier large-river monitoring and restoration program. It is a model for interagency and interstate cooperation on an equal system level national resources management.

This is a very important management program; and as the committee moves forward, I would encourage it to look for any additional funding dollars.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### TITLE III

#### DEPARTMENT OF ENERGY

#### ENERGY PROGRAMS

#### ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 9 passenger motor vehicles for replacement only, and one ambulance,

\$817,126,000, to remain available until expended.

AMENDMENT NO. 5 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SANDERS:

Page 19, line 14, after the dollar amount, insert the following: "(increased by \$30,000,000)".

Page 23, line 5, after the dollar amount, insert the following: "(reduced by \$30,000,000)".

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 24 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) is recognized for 12 minutes.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by thanking the gentleman from Ohio (Chairman HOBSON) and the gentleman from Indiana (Ranking Member VISCLOSKEY) for all of their hard work on this important legislation.

The amendment that I am offering is cosponsored by the gentleman from New York (Mr. HINCHHEY) and the gentleman from Oregon (Mr. DEFAZIO) and the gentlewoman from Ohio (Ms. KAPTUR).

Mr. Chairman, this amendment deals, in fact, with one of the important issues of our time, and that is, whether the United States Government will take the bold step to break our dependency on fossil fuels, break our dependency on nuclear power and move forward as aggressively as we can into the new world of safe, clean, cost-effective, sustainable energy.

The truth is that we have made some progress in recent years, but the truth also is that we have a long, long way to go; and this amendment will help us move in that direction.

Mr. Chairman, specifically, the legislative intent of this amendment is to increase funding for renewable energy programs such as solar energy, wind, biomass, clean hydrogen, and geothermal by \$30 million, to be offset by a decrease of \$30 million in funding for the nuclear weapons advance simulation and computing program in the weapons activities budget. That offset, by the way, is a decrease of less than 5 percent for this program and a tiny fraction of the \$6.5 billion for weapons that are funded in this bill.

Mr. Chairman, this amendment would bolster critical research and development so that we can deliver unlimited clean energy for generations to come. Improving the technology for sustainable energy is a huge step forward in protecting our environment,

improving our economy and making this world a safer place so that our foreign policy is not significantly dictated by energy needs.

Mr. Chairman, this amendment is supported by every major environmental organization in the country, including the League of Conservation Voters, the Sierra Club, the Natural Resources Defense Council, American Rivers, U.S. PIRG and Public Citizen.

Mr. Chairman, if one looks at the big picture, it is clear that we are on the cusp of a historic opportunity to move from finite polluting fossil fuels to abundant, nonpolluting, clean energy sources that can be developed, refined, and manufactured here in the United States of America, not in the Mideast. The potential for these technologies is without limits as long as we adequately fund the research and development now.

The programs increased under this amendment, solar, wind, clean hydrogen, biomass and geothermal, offer our country a new path of abundant clean energy that will revolutionize our impact on this planet.

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Passage of this amendment would send a message to the Nation that we are going to take the right path, that we are going to break from our destructive fossil fuel habits of the past and commit to a sane, clean, and cost effective energy future. When taken together, the funding for renewable energy sources in this bill falls \$31.6 million below the President's own request. So this amendment for \$30 million simply brings us up to what the President wants, which is, by no means, a radical concept.

Certainly we can add a modest amount of money to research, develop, discriminate and disseminate these technologies, which will prevent smog, acid rain, and global climate change. Certainly we can redirect a mere \$30 million in a bill of over \$28 billion to R&D that promises to dramatically reduce lung damaging sulfur dioxide and neurotoxic mercury in the air we breathe and the water we drink.

For those who might wonder whether we are already doing enough to support renewable energy, let me put our Government's support for different energy sources in historic perspective. From 1943 through 1999, cumulative Federal Government subsidies to nuclear photovoltaic, solar thermal and wind electric generating technologies, excluding hydropower, totaled about \$151 billion. The nuclear industry received \$145 billion, or over 96 percent of the subsidies.

Remarkably, even the alternative technology available today, which has been subsidized at a fraction of the amount we have historically thrown at nuclear power and fossil fuels, is competitive in the market and can eliminate substantial amounts of toxins from the air. If it is competitive in the marketplace today, let us think about what we can do if we adequately fund research.

In solar, we are making significant progress, but we are not funding solar any more today than we did in 1993. In wind, we are making progress, making real efforts to lower the cost of generating electricity from wind, but we are not adequately funding wind. Biomass, in my State of Vermont, 23 schools are now heated with wood chips. We are making progress. But everybody understands we can do a lot more. Geothermal the same, hydrogen the same.

Mr. Chairman, this is a modest amendment, but it is an important step forward in telling the world that we understand that a revolution can happen in breaking our dependency on fossil fuels, on nuclear power, and moving forward to clean, safe, sustainable energy.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I must rise reluctantly to oppose this amendment. As an energy consumer and a strong environmentalist, I fully support the increased development of renewable sources of energy. California, my State, has suffered tremendously in recent years from felonious manipulations, interruptions, and fluctuations in the energy market. Increasing the availability of renewable energy is absolutely necessary to achieving energy independence, and that is why this House should have passed a more balanced energy bill that makes the right investments in renewable energy and resources.

Unfortunately, Mr. Chairman, this amendment would take needed money away from the Advanced Simulation and Computing Initiative, better known as ASCI. ASCI is an essential component of our Nation's Stockpile Stewardship Program, which is designed to evaluate nuclear weapons so we do not have to return to nuclear testing. The ASCI program has developed some of the most powerful computers in the world to examine the aging of our nuclear stockpile. It has also led to breakthrough discoveries in science that have important civilian applications.

The funding for ASCI in this bill is already \$75 million below the level requested by the President. Mr. Chairman, while I strongly support increased development of renewable energy resources, I cannot do it at further expense of the ASCI program. So I urge my colleagues to oppose the Sanders amendment.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume, and I rise to oppose the amendment to increase funding for the renewable energy program. Everything we did in the major renewable accounts, with the exception of the hydrogen program, which were reduced because the Department ignored congressional guidance on competition and cost sharing, is at or above the President's budget request.

While I am supportive of the renewable energy programs, there are many other areas of the bill I would have included additional funds, if possible. However, the committee's allocation was tight and we had to make some tough decisions. I believe we wrote a fair and balanced bill, and the renewable energy programs did very well.

I might point out that I have already taken a hard line in our committee with the nuclear weapons computer programs, and additional major reductions, I do not think, are helpful or necessary at this time. So I urge a "no" vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume, and I will close in a minute by saying that what we are talking about here is not a huge sum of money. It is \$30 million. And one can always argue that where you take the money there is a reason for that money, and I respect that. But I think the evidence is overwhelming that we are on the cusp of major breakthroughs which can change our entire use of energy in this country and lead us and the entire world to move toward clean, sustainable energy and away from nuclear power, of which we do not know how to dispose of today, and away from fossil fuels, which are causing so many serious environmental problems.

So this amendment is not just a \$30 million amendment, but I think it is an indication of the sentiment of this Congress to tell the American people and the world that we are prepared to go forward in a bold new way with huge potential, and so I would urge support for this amendment.

Mr. MARKEY. Mr. Chairman, before I speak in support of the Sanders amendment, I would like to applaud the Chairman, Ranking Member and all the members of the subcommittee for their wise decision to eliminate all funding for new nuclear weapons initiatives, including the nuclear bunker buster, mini-nukes, the Modern Pit Facility, and accelerated nuclear test readiness. The committee has taken a farsighted and courageous step toward nuclear sanity by eliminating funding for these wasteful, dangerous and entirely unnecessary programs, and this action will help restore America's nonproliferation credibility around the world.

The Sanders amendment would inject some of that same farsightedness into our allocation of funding for energy research and development by increasing funding for solar, wind, biomass, hydrogen and geothermal renewable energy technology.

President Bush's Fiscal Year 2005 budget request and this legislation take us backward, not forward, in our national investment in the clean, renewable technologies that will power us safely and reliably in the 21st century. In this legislation, renewable energy research and development programs are either cut or flat funded from last year. Mr. Sanders' amendment would ensure that we increase funding for each of the renewable energy programs next year, not cut them.

The amendment would shift \$30 million from "Advanced Simulation and Computing" in the



nuclear weapons activities program to five renewable energy programs. This cut of \$30 million represents less than a five percent of the total \$633 million budget for advanced simulation and computing and would leave the program with almost twice as much funding as the total funding for solar and renewable energy research and development.

Renewable energy is good for America. It creates jobs. It lowers electricity prices. It eliminates pollution and waste. It increases our national energy security. But the appropriation levels in front of us suggest that Congress does not consider renewable energy important. If my colleagues believe that renewable energy is important, I urge them to support the Sanders amendment so that funding for renewable energy programs can be increased, not cut, next year.

Mr. SANDERS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent the remainder of the bill through page 42, line 6 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the remainder of the bill through page 42, line 6 is as follows:

#### NON-DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$151,850,000, to remain available until expended.

#### URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$500,200,000, to be derived from the Fund, to remain available until expended, of which \$100,614,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

#### NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other

necessary expenses, \$291,296,000, to remain available until expended.

#### SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed four passenger motor vehicles for replacement only, including one ambulance, \$3,599,964,000, to remain available until expended.

#### DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$243,876,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$122,000,000 in fiscal year 2005 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2005, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2005 appropriation from the general fund estimated at not more than \$121,876,000.

#### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$41,508,000, to remain available until expended.

#### ATOMIC ENERGY DEFENSE ACTIVITIES

##### NATIONAL NUCLEAR SECURITY ADMINISTRATION

##### WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 19 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,514,424,000 to remain available until expended.

##### DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear non-proliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), includ-

ing the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,348,647,000, to remain available until expended.

#### NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$807,900,000, to remain available until expended.

#### OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$12,000), \$356,200,000, to remain available until expended.

#### ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

##### DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$5,930,837,000, to remain available until expended.

##### DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for defense-related environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, and the purchase of not to exceed three ambulances for replacement only, \$957,976,000, to remain available until expended.

##### OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$697,059,000, to remain available until expended.

##### DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$131,000,000, to remain available until expended.

#### POWER MARKETING ADMINISTRATIONS

##### BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2005, no new direct loan obligations may be made.

#### OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities

and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,200,000, to remain available until expended: *Provided*, That, notwithstanding the provisions of 31 U.S.C. 3302, up to \$34,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

#### OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$29,352,000, to remain available until expended: *Provided*, That, notwithstanding the provisions of 31 U.S.C. 3302, up to \$1,800,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

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

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$173,100,000, to remain available until expended, of which \$170,756,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That, notwithstanding the provisions of 31 U.S.C. 3302, up to \$186,000,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

#### FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,827,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

#### FEDERAL ENERGY REGULATORY COMMISSION SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$210,000,000, to

remain available until expended: *Provided*, That, notwithstanding any other provision of law, not to exceed \$210,000,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2005 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation from the general fund estimated at not more than \$0.

#### GENERAL PROVISIONS DEPARTMENT OF ENERGY

SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2005 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for up to two years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

(b) In this section:

(1) The term "noncompetitive management and operating contract" means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term "competitive procedures" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

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

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

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

SEC. 303. None of the funds appropriated by this Act may be used to augment the funds made available for obligation by this Act or any other appropriations Act for fiscal year 2005 or any previous fiscal year for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate congressional committees.

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

#### (TRANSFERS OF UNEXPENDED BALANCES)

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

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: *Provided*, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

(1) the Kansas City Plant, Kansas City, Missouri;

(2) the Y-12 Plant, Oak Ridge, Tennessee;

(3) the Pantex Plant, Amarillo, Texas;  
(4) the Savannah River Plant, South Carolina; and

(5) the Nevada Test Site.

SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of the Intelligence Authorization Act for fiscal year 2005.

SEC. 310. None of the funds made available in this or any other appropriations Act for fiscal year 2005 or any previous fiscal year may be used to select a site for a Modern Pit Facility during fiscal year 2005.

SEC. 311. None of the funds made available in this Act for fiscal year 2005 or any previous fiscal year may be used to finance laboratory directed research and development activities at Department of Energy laboratories on behalf of other Federal agencies.

SEC. 312. (a) None of the funds made available by this Act may be used to issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of the Atomic Energy Act of 1954 and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

(b) This section shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(c) The President may waive the application of subsection (a) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(1) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(2) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(3) the waiver of that subsection is in the vital national security interest of the United States; or

(4) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(d) This section shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

#### TITLE IV

##### INDEPENDENT AGENCIES

###### APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109 and hire of passenger motor vehicles, \$38,500,000, to remain available until expended.

###### DEFENSE NUCLEAR FACILITIES SAFETY BOARD

###### SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$20,268,000, to remain available until expended.

###### DELTA REGIONAL AUTHORITY

###### SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$2,096,000, to remain available until expended.

###### NUCLEAR REGULATORY COMMISSION

###### SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$662,777,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$69,050,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$534,354,300 in fiscal year 2005 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$128,422,700: *Provided further*, that none of the funds made available in this Act or any other appropriations Act for fiscal year 2005, or for any previous fiscal year, may be used by the Commission to issue a license during fiscal year 2005 to construct or operate a new commercial nuclear power plant in the United States.

###### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$7,518,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$6,766,200 in fiscal year 2005 shall be retained and be available until expended, for necessary salaries and expenses in this account,

notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$751,800.

###### NUCLEAR WASTE TECHNICAL REVIEW BOARD

###### SALARIES AND EXPENSES

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

#### TITLE V

##### GENERAL PROVISIONS

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

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

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

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

###### POINT OF ORDER

Mrs. WILSON of New Mexico. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentlewoman from New Mexico will state her point of order.

Mrs. WILSON of New Mexico. Mr. Chairman, section 311 of the bill violates clause 2 of rule XXI of the Rules of the House of Representatives prohibiting legislation on appropriation bills.

Section 311 restricts funding in the bill for certain Department of Energy laboratory functions in fiscal year 2005 and any previous fiscal year. Because the language restricts funding not just for 2005 but for all previous years, it constitutes legislation on an appropriation bill. For that reason, it violates clause 2 of rule XXI of the Rules of the House.

The CHAIRMAN. Does any other Member wish to speak to the point of order?

If not, the Chair is prepared to rule.

The gentlewoman from New Mexico makes a point of order that section 311 addresses funds in other acts. The gentlewoman asserts that a valid reading of the section is to limit any funds

made available in any previous fiscal year.

The Chair finds the language in this section ambiguous. The Chair would note that previous rulings cited in section 1052 of the House Rules and Manual allow the Chair to examine legislative history when attempting to resolve an ambiguity when ruling on a point of order.

In this case, the Chair finds that the committee report to accompany this bill, on page 174, indicates that section 311 intends to limit funds in this or any other appropriation act. Also, as recorded in the note in Deschler's Precedence, volume 8, chapter 26, section 57.17, where the terms in a purported limitation are challenged because of their ambiguity, the burden is on the proponent to show that no legislation is found in the relevant language.

In the opinion of the Chair, the committee has not met its burden and the section constitutes legislation. The point of order is sustained, and section 311 is stricken.

Are there any other points of order?

AMENDMENT OFFERED BY MR. HOBSON

Mr. HOBSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOBSON:

Page 35, insert the following new section after line 11:

SEC. 311. None of the funds made available in this Act may be used to finance laboratory directed research and development activities at Department of Energy laboratories on behalf of other Federal agencies.

Mr. HOBSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HOBSON. Mr. Chairman, I would just ask for approval of the amendment. This restores the language for one year in the bill.

Mr. VISCLOSKEY. Mr. Chairman, I rise in support of the gentleman's amendment.

Mrs. WILSON of New Mexico. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the chairman of the subcommittee is certainly within his rights to try to restrict language to one year, but I would point out that the intent of this section of legislation seriously undermines the ability of the laboratories to do their work. And while he may be able to do this in a narrow way, this is a very important piece of law, and from a policy point of view, very unwise.

I look forward to working with him in conference on substantive matters related to this problem, but I will have to be voting against this amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of the Eshoo, DeFazio, Inslee amendment, and I want to thank the committee for agreeing to accept that amendment later, and to thank the committee for their consideration of the economic development projects for shipping in the San Francisco Bay area.

I rise in support of the amendment. Nearly four years ago, energy companies led by Enron purposefully manipulated consumer markets and ruthlessly price gouged California consumers. Recently publicized tapes and financial records from Enron's West Coast trading desk provide the proof. On the tapes, Enron traders can be heard bragging about how they were taking the California utilities—the "grandmothers"—to the "tune of a million bucks or two a day." Just last week, the San Francisco Chronicle noted that the market manipulation and the Enron tapes are a "display of arrogance and abuse that . . . argue powerfully for the need for government to maintain a level of oversight on energy markets."

California consumers have a right to recover the billions of energy overcharges that resulted from this widespread illegal behavior. Yet nearly 4 years after the fact, the Federal Energy Regulatory Commission (FERC) has simply failed to deliver justice to California's energy consumers. Instead of providing timely refunds for the unreasonable rates California consumers were forced to pay, FERC has ignored court orders to give the parties representing the people of California the opportunity to gather new evidence concerning energy market manipulation during the summer of 2000. As a result, FERC has been able to minimize the amount that energy wholesalers and marketers will be required to pay back. Instead, FERC has initiated a slew of largely closed door investigations against individual generators. Settlements in these dockets represent only a fraction of the billions taken from California consumers and industry during the energy crisis.

In Rules Committee, we offered an amendment to help move the process forward fairly by requiring the Commission to publicly disclose all the documents and evidence obtained in its legal proceedings; by allowing the states, like California, affected by market manipulation to fully participate in any and all settlement negotiations; and by adjusting the timeline for the investigation to adequately reflect the period of suspected criminal behavior. That amendment was ruled out of order.

Mr. Chairman, it's time for the Bush Administration to stop dragging its heels and deliver real justice to the people of California—and all up and down the West coast—who were bilked by the bigwigs at Enron out of their hard earned paychecks.

Since the broader amendment was not made in order, we are instead offering an amendment to ensure that none of the money appropriated under this act can be used to circumvent the court order to shine some sunlight into this process by making public the evidence attained through the investigations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HOBSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. ESHOO

Ms. ESHOO. Yes, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ESHOO:

At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_\_. None of the funds made available in this Act may be used to deny requests for the public release of documents or evidence obtained through or in the Western Energy Markets: Enron Investigation (Docket No. PA02-2), the California Refund case (Docket No. EL00-95), the Anomalous Bidding Investigation (Docket No. IN03-10), or the Physical Withholding Investigation.

Ms. ESHOO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 30 minutes to be equally divided and controlled by the proponent and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentlewoman from California (Ms. ESHOO) is recognized for 15 minutes.

Ms. ESHOO. Mr. Chairman, I yield myself such time as I may consume.

This is a very simple and clear amendment and it states that none of the funds made available in this act may be used to deny requests for the public release of documents or evidence obtained through or in the western energy markets.

What brings this amendment, the intent of this amendment, and why we are making it, Mr. Chairman, is really very clear. There are mounds of evidence relative to the manipulation of energy and the energy markets in the Pacific Northwest and in California between 2000 and 2001. We need to secure what is there. There is so much evidence that is being withheld. That is why we bring this amendment forward.

Mr. Chairman, I yield 1 minutes to the gentlewoman from California (Ms. PELOSI), the very distinct minority leader of the House.

Ms. PELOSI. Mr. Chairman, I thank the distinguished gentlewoman, member of the Committee on Energy and Commerce, for yielding me this time.

I am pleased to rise in support of the Eshoo, DeFazio, Inslee amendment to the energy and water bill. Before I speak to it, though, I want to sing the praises of the very distinguished chairman of the committee, the gentleman from Ohio (Mr. HOBSON), for the leadership that he brings to this committee and the understanding that he has of the issues before it. He is a long-standing and respected member of the Committee on Appropriations on both sides of the aisle. I thank him for his service and leadership.

I also recognize the contribution to all of this and leadership of the gentleman from Indiana (Mr. VISCLOSKEY),

the ranking member on the Democratic side of the Subcommittee on Energy and Water Development. I commend them both for this excellent product that they have brought to the floor today.

□ 1215

Mr. Chairman, before I speak directly to the amendment on the floor, I want to put it in context. Last night, the gentlewoman from California (Ms. ESHOO) went to the Committee on Rules to request a waiver to offer an amendment that would help Western families to get the refunds they deserve after they were ripped off by Enron and others.

The Eshoo amendment as advanced last night would have also allowed States to participate in claims at FERC on behalf of consumers and provided more time for the public to file complaints. The amendment would have put this Congress on record recognizing the misconduct of Enron and other energy companies, and it would have required perspective to disclose the evidence of manipulation that it has accumulated over the past 4 years. It was a very wise amendment. It was exactly what the consumers of the Western States needed to remedy the energies against them.

Unfortunately, and it is hard to understand why, the Committee on Rules, chaired by the gentleman from California (Mr. DREIER), did not allow the amendment to be offered today. We are told this is an open rule with open debate, but the Committee on Rules ruled against Western consumers when it did not allow the original Eshoo amendment to come to the floor. It did not give the consumers the measure they deserve.

That is why I am very pleased that we were able at least to bring a partial amendment and that the gentleman from Ohio (Mr. HOBSON), as I understand, will perhaps be accepting this amendment offered by the gentlewoman from California (Ms. ESHOO), the gentleman from Oregon (Mr. DEFAZIO), and the gentleman from Washington (Mr. INSLEE). This much more limited amendment would ensure public access to documents on the 2000 and 2001 electricity crisis in California and other western States held by the Federal Energy Regulatory Commission.

This amendment is a crucial first step, not as good as what last night would have been, the amendment offered by the gentlewoman from California (Ms. ESHOO) last night, but it is a critical first step in bringing justice to consumers who were gouged by Enron and other energy companies; but it is not enough.

Mr. Chairman, the constituents of those of us who represent the western States were victims of an enormous scam. Yes, the electricity deregulation signed by Republican Governor Pete Wilson was fatally flawed; but when the flaws became clear, when the elec-

tricity crisis began to spike, when the blackouts began to roll across California, the Federal Energy Regulatory Commission should have been our safety net. Instead, month after month as electricity prices went sky high, FERC refused to act.

Time and time again, my Western colleagues, the gentleman from Washington (Mr. INSLEE), the gentleman from Oregon (Mr. DEFAZIO), the gentlewoman from Oregon (Ms. HOOLEY), and so many others stood together to call on FERC and President Bush to stop the looting of the western States by rapacious energy companies. We wrote to FERC. We wrote to the FERC. We stood up in the Committee on Appropriations. We stood up on the floor of the House, but time and time again FERC failed to stop the rampant abuse of consumers by Enron and other energy companies.

Finally, as Western consumers had lost billions of dollars and the worst of the damage was done, FERC stepped in and brought the Western electricity markets under control. We knew all along that Enron and the energy companies were gaming the system.

The tapes, the now notorious tapes that every Member of this body has an obligation to observe, the tapes of the Enron traders confirm what we knew all along, that Enron and the other energy companies were laughing all the way to the bank as they stole from families and businesses of California.

Enron and its kind lied, cheated and stole; and it is long past time for Enron to pay consumers and the States back, as the amendment of the gentlewoman from California (Ms. ESHOO) that she offered last night, but was turned down by the Committee on Rules, would have required.

Even after adoption of this amendment that we are considering today, settlements will still be made by FERC behind closed doors without representatives of the States present. We wish we were voting today on the original Eshoo amendment that we wanted so that the House could address the larger problems; but at least with the cooperation of the gentleman from Ohio (Mr. HOBSON), we are taking this first step toward justice for consumers.

I think that the handwriting was on the wall. I think it was a wise move by the gentleman from Ohio (Mr. HOBSON), because I do not think he wanted to subject his Members to voting against this amendment.

Mr. DREIER. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. Mr. Chairman, I will yield in a minute.

We wish that we were voting today on the amendment that we wanted so that the House could address the larger problem, but at least we are taking this first step toward justice for consumers.

Today the House has unanimously agreed that FERC release its evidence of corporate misconduct to the public. That is what the Committee on Rules

should have allowed us to do in a broader way last night, but they rejected it. I call on the Republicans to join us in ensuring that FERC live up to this bipartisan decision and that it release this information.

Mr. Chairman, I will yield a few seconds to the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding, and the only reason I am here is that I understand that my good friend from San Francisco, the distinguished minority leader, mentioned the fact that I am in California and the fact that I chair the House Committee on Rules.

Let me just, in light of what was raised, explain, once again as I did during the debate on the rule, exactly what has taken place here.

Ms. PELOSI. Mr. Chairman, reclaiming my time, I think the gentleman can get time from his distinguished chairman to go to that length.

Mr. DREIER. Mr. Chairman, I just wanted to respond to the points that the minority raised.

Ms. PELOSI. Mr. Chairman, I am sure his distinguished chairman will yield him time. My point is because the gentleman was not in the room and I want to reiterate it while he is in the room, I would have hoped he would have been here, because this is an issue of such major concern to our great State of California.

What I said was that the consumers of California were rejected last night in the Committee on Rules, because the chairman of the Committee on Rules would not allow the Eshoo amendment, which would have been the right way to go in order to get refunds for California.

Mr. DREIER. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I think that you are going to have to get time from your own chairman.

Mr. DREIER. Well, I was happy to yield earlier to the gentlewoman when I controlled time in the Committee on Rules.

Ms. PELOSI. Mr. Chairman, for 10 seconds, and I yielded more time to you at this time.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Ms. PELOSI. Mr. Chairman, no, I did not yield. I said when you yielded to me for 10 seconds.

Mr. Chairman, I yield back to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, crimes were committed, and we are simply asking for restitution. At this point, 10 Enron executives have pled guilty, 19 others have been charged, and we are waiting for the charges against Ken Lay, the President's single greatest lifetime contributor, which have not yet come forward.

During the crisis, Vice President CHENEY said the basic problem in California was caused by Californians. He

basically said the ratepayers in Oregon, Washington, and Northern California were at fault. I was in a meeting where he said this was nothing but market forces at work. Of course it has now been proven that Enron manipulated the markets on 473 of 537 days of crisis. People in Oregon and the Pacific Northwest and California are paying a great amount more for their electricity today, generated by the same plants, by many of the same companies, transmitted over the same lines because of the market manipulation by Enron.

Plain and simple, we want justice. Justice means we should have restitution. That is being denied by the Republican majority. It is being denied by the President's Republican-dominated Federal Energy Regulatory Commission. It is being denied by the Republican-led Congress.

But at least here with this amendment, what we will get is some of the information that our utilities could use that is being closely held by the Federal Energy Regulatory Commission under the pretense that they might someday take some action with this to prove that the rates were not just and reasonable and to pursue civil remedies. If the Bush administration will not act in the public interest, will not protect consumers, if the Federal Energy Regulatory Commission will not act in the public interest and protect consumers, then at least the consumers and their utilities can take action on behalf of themselves. But they need this information.

This amendment will make that information available to the public. Some of it, I am sure, will be obscene and as appalling as the tapes we have had so far from Enron where they talk about putting it to the consumers day in and day out and laugh about it, but the acceptance of this amendment will move us down that path even if they will not take positive action to help people.

Mr. HOBSON. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Chairman, we talked about this a little earlier today. I was listening to the minority leader's comments very carefully in my office, and I ran over here. I apologize for being a little short of breath.

I just want to refresh everybody's memory about what happened in 2000 and 2001 and to point out the empirical fact that there have been no statewide blackouts or brownouts in California since, frankly, the Republican-dominated FERC got put into place.

First of all, the law was very clear. When the previous administration was in control, these same complaints were uttered, the same concerns were brought to the floor, and the same response was given by FERC down to the last period or punctuation mark. You got no more response from the FERC under Clinton-Gore than you are complaining about today. The reason is

that the law is clear. If you are unhappy about that, change the law.

The prohibition of funds that the gentlewoman is asking for here will not do one thing to create another megawatt of power for California. It will not do a single thing to help us replace the carbon-based, high-polluting facilities that exist in California today with much more efficient and less adverse impact to the environment. It does not do a single thing to reduce the pricing that the California PUC board regulates which is dominated by appointees of former Governor Gray Davis. It does not do a single thing to solve the problem on forward contracting for investor-owned utilities.

I repeat my invitation. I said Horatio earlier. I meant Hannibal. Rather than acting as Hannibal at the gates to the valley of solutions, stopping us from entering, come over and join us. Help us put in place the infrastructure and the technology that California is so good at creating. Help us put that in place to create the megawatts of power that our people need and our factories depend upon. Help us bring power to the peninsula of San Francisco which is probably one of the most difficult places to get power to in the entire United States. Help us eliminate the variability in power that Santa Clara depends upon. Help us bring power to our food processors up and down the State where agriculture remains the largest industry. Abandon this Hannibal at the gates concept and come over here and help us. Instead of haranguing us about past history and attempting to rewrite it, come over here and propose your solutions.

This is not a witch-hunt. It should not be a witch-hunt. The response you are getting today is the same response you got under Clinton-Gore. The law is very clear about what FERC's prerogatives are. So come over here and help us find solutions. Help us create the technology and put it in place that allows us to create power at less adverse impact to our environment.

I know you are environmentalists. I know you are, because I watch you very carefully. One of my models on environmental issues is the gentleman from California (Mr. GEORGE MILLER), one of your fine, outstanding Members and one of your leaders. Help us put that technology in place and make California's environment even more suitable for our use. I know that PG&E is based in San Francisco. They have just gone through a horrendous bankruptcy. I know the gentlewoman as the minority leader is very curious about the outcome.

I am trying to find solutions. We need to work together on this.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. OSE. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. I thank the gentleman for his comments, and I thank the gentleman for

his work. But as the gentleman knows, we have been working on some of those solutions. As the gentleman knows, I have been involved in the plants in Yolo County and Solano County and Contra Costa County where we have brought on new generation, clean generation, site-based generation, replacing old, inefficient production of energy. We are working on a cable system now to go under the bay to put power from the East Bay into the South Bay, into San Francisco.

□ 1230

We are working on more efficient pipelines to move fuel around Northern California. So I mean I think clearly those are there.

This amendment is a little different. This is about people who stole money. This is not about people who are building power plants. This is about people who took power out of service. Knowing that if they removed 1 or 2 percent of the power, they would drive up their revenues by hundreds of percent.

Mr. OSE. Madam Chairman, reclaiming my time, I thank the gentleman, who is a neighbor of mine, because all of those are good ideas. And to the extent that we have bad actors that have manipulated the system, we are going to get at it because the chairman is going to probably accept this amendment.

But the point is that we cannot sit here flailing away at the past history. We have to come to a solution, and the solution is along the lines that you would otherwise advocate for and advocated for when President Clinton was here and Vice President Gore was here and advocated for when Governor Davis was in office and now that he is not and those people are gone, you are opposing them. We want to get at the bad actors. There are two or three who manipulated the market. There is no question about it. And they did it to the detriment of every single one of us who lives in California. Every single one of us.

Whether one lives in San Francisco or Modesto or Santa Clara, every single one of us suffered from that. But I ask you to come over here and help us find solutions on a bipartisan manner, on a manner that does not attempt to rewrite history. History is history. It is gone. It is done. It is over. Clinton is gone. Davis is gone. There is no point in pointing the finger. We know what the facts are. Help us put in place the facilities that give us power with the least detriment to our environment, that give us power at the lowest price, that give our investor-owned utilities, who employ thousands of people up and down the State, who give our investor-owned utilities the opportunity to forward contract because if they had the opportunity to do that, to remove the uncertainty on supply, the very same thing that Governor Davis was asked to do, that the PUC was asked to do, that both declined to do, if we gave them that power, we would not have to



build new facilities. We would not have additional constraints on supply. We would not have prices going through the roof.

I want to repeat my compliments to the gentleman from Ohio. I left one thing out earlier. Oftentimes he has been a gentle hand in my tenure here. Sometimes he has been a heavy hand. In every instance I have appreciated it.

I thank the folks on the other side because we are in this together.

Ms. ESHOO. Madam Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Nevada (Ms. BERKLEY).

(Ms. BERKLEY asked and was given permission to revise and extend her remarks.)

Ms. BERKLEY. Madam Chairman, I rise in strong support of Eshoo amendment given the fact that Enron has stolen more than \$1 billion from Nevada's ratepayers by ruthlessly gouging our consumers and our utilities nearly went bankrupt, and that is why the Eshoo amendment is so important.

The Western United States has suffered an artificial energy crisis created by Enron to rake in enormous profits. The company executives deliberately and maliciously manipulated the energy market. Enron stole more than \$1 billion from Nevada's ratepayers by ruthlessly gouging consumers. This is just the tip of the iceberg. It is likely that Enron made more than \$10 billion in profits by breaking the law.

Not only did Enron's actions cost Nevada's families more than \$1 billion, our utilities nearly went bankrupt. We cannot allow this rampant corporate misconduct to continue. After years of asking for answers, people in my state are still waiting for this administration to take measures to correct this wrongdoing and hold Enron accountable.

I urge you to support the Eshoo amendment and ensure that the Enrons of the world cannot collect another fraudulent dime from Nevadans.

Mr. HOBSON. Madam Chairman, I have no further requests for time, and I am prepared to accept the amendment.

Ms. ESHOO. Madam Chairman, I yield 3 minutes to the gentleman from Washington State (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Madam Chairman, blaming the Enron scandal on Bill Clinton, with all due respect, give us a break. The only malediction in this country you have not laid at the feet of Bill Clinton is DICK CHENEY's vocabulary malfunction on the Senate floor, and I suppose that will be next.

We listen to these tapes, and the Enron traders were scandalous scoundrels who were smart. Do my colleagues know what they said on these tapes? We cannot wait until George Bush is President because maybe then we will have Ken Lay as Secretary of Energy.

They understood whose side their bread was buttered and they got what they wanted. They got an administra-

tion that sat on their hands while Enron got into our pockets to the tune of over \$8 billion, and they did nothing. And now the Republican Party, and we very much appreciate the gentleman from Ohio's (Mr. HOBSON) agreeing to this small little amendment, but you are denying us the ability for this Chamber to do exactly what the gentleman from California (Mr. OSE) says we should do: change the law, if that is necessary, to get refunds from Enron. You will not allow this Chamber to vote on that.

The gentleman from California (Mr. OSE) comes here and says, If you do not like the law, change it, but we will not allow a vote to do it.

Let me tell my colleagues why maybe that is necessary. We need one or two things to happen. The fact of the matter is we have written FERC. I have wrote and many other Members have written FERC saying that they have concluded there was a scandal, they have concluded there was theft, they have concluded there was manipulation, but they refuse to give us refunds. And what did Mr. Pat Wood write back and say to me? "Therefore, FDA Section 206 does not permit retroactive refund relief for rates covering periods prior to the refund effective date established on complaint or the initiation of Commission investigation, even if the Commission determines that such past rates were unjust or unreasonable."

It does not matter how many of these records we get. Your administration under George Bush and DICK CHENEY, friends of Ken Lay, are not going to act. Your administration has said if we get a videotape of Ken Lay using all kinds of expletives to take money out of our pockets, you have decided you are not going to act. And that is wrong.

The gentleman from California (Mr. DREIER) says we cannot allow an amendment because this is an appropriation bill. My question is I would like to know the date the House of Representatives, which has now spurned two efforts to get relief from Enron, I want to know the date the House of Representatives is going to give Americans an opportunity to vote to get refunds on an Enron amendment.

I am going to ask the gentleman a real question. What date is this House going to vote to do that?

Mr. DREIER. Madam Chairman, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from California.

Mr. DREIER. Madam Chairman, obviously I cannot tell the gentleman exactly what date we are going to have a vote. I will tell the gentleman that we voted on H.R. 6.

Mr. INSLEE. Madam Chairman, I reclaim my time. The gentleman from California (Mr. DREIER) is incapable of giving us a date.

I would like to yield to the gentleman from Illinois (Mr. HASTERT), if he would be so kind, if he is com-

fortable with this, in advising us in what situation he may allow to come to the floor of this House an amendment.

Mr. HOBSON. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

Mr. DREIER. Madam Chairman, I thank the gentleman for yielding me this time.

This has been a very interesting debate. I have regularly yielded, and I look forward to yielding to the gentleman from Washington (Mr. INSLEE); gentlewoman from San Francisco, the minority leader; or anyone else who wants to talk about this issue because I think that a healthy exchange is important for us.

I will say in response to the question posed by my friend from Washington that every single Member of this House is passionately committed to the goal of ensuring that consumers are not penalized and that they are successfully compensated for any wrong that has been inflicted on them. We all are very, very concerned about the fact that any individual whom we represent could possibly have been done in, and that is why we are in the midst of several very important things.

Number one, the Ninth Circuit Court of Appeals in California is right now in the midst of a measure which is very important. They are considering exactly how to appropriately deal with this issue. FERC, the Federal Energy Regulatory Commission, itself is closely looking at those horrible, horrible transcripts of the things that were said which were absolutely beyond the pale and absolutely reprehensible. No one of either political party is somehow sympathetic with hurting our constituents.

So that is why to me it is absolutely outrageous for us to constantly be painted as somehow sympathetic with people like those involved in Enron.

I do not want to spend time going into the list of campaign contributions and all of this sort of stuff that has gone on, but I recall that our friends on the other side of the aisle have received just as much, if not more, in campaign contributions from many of those who are in question. This is an issue, as the gentleman from California (Mr. OSE) has said, that we want to address in a bipartisan way.

We last week passed H.R. 6, energy legislation, which also goes a long way towards trying to address this issue by enhancing the ability of the Federal Energy Regulatory Commission to address this. When we yesterday had the gentlewoman from California (Ms. ESHOO) and the gentlewoman from California (Ms. LOFGREN) testify before the Committee on Rules, I know my friend will remember what I said.

I said please work to fashion this amendment so that it will comply within the rules of the House, so that the bipartisan request made by the gentleman from Ohio (Mr. HOBSON) and the gentleman from Indiana (Mr. VIS-CLOSKY) protecting the legislation

itself but allowing for an open amendment process would be the way that we could go, and that is exactly what she has done. That is why the gentleman from Ohio (Mr. HOBSON) has stood here ready to accept the amendment. He is ready to accept the amendment which will help us address this issue.

Ms. ESHOO. Madam Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Ms. ESHOO. Madam Chairman, we made our presentation. The gentleman was complimentary of how the presentation was made and of the substance and the last thing he said was, I cannot support this amendment. That is what he said.

Mr. DREIER. Madam Chairman, reclaiming my time, that is not what I said. I am happy to yield again if the gentlewoman would like to challenge me on this.

What I said was that the amendment as proposed did not comply with the rules of the House.

Ms. ESHOO. Madam Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Ms. ESHOO. I thank the gentleman for yielding to me.

I asked that the Committee on Rules waive in order for the amendment to be accepted.

Mr. DREIER. Madam Chairman, reclaiming my time, that was the request that was made. And I will tell the gentlewoman the request that was made for the structure of the rule by the chairman of the subcommittee and the ranking minority member of the subcommittee was that we have an open amendment process and provide protection for those provisions that were reported out of the Committee on Appropriations, and that is exactly what we did.

The bipartisan request for the structure of the rule is what we put together and what we reported out. It would have been extraordinary if we had, in fact, provided a waiver that would have allowed for this amendment. That was why I made the request of my friend, to fashion a rule so that we can address our shared concern to ensure that our constituents are correctly compensated and are not done in. And that is, I believe, exactly what has happened, along with passage of H.R. 6, our legislation, and the case that is underway before the Ninth Circuit Court of Appeals.

Madam Chairman, would anyone else like for me to yield to them? Would the minority leader like me to yield? Is there anyone else who would like me to answer questions? I am more than happy to.

Mr. INSLEE. Madam Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Washington.

Mr. INSLEE. Madam Chairman, I think I understand the nature of the gentleman's argument. But the problem that we have on this side is that

not only have we offered an amendment in the appropriations process to allow refunds for Americans who have been gouged by Enron, but we also offered essentially the same amendment on the energy bill that was clearly germane to the issue, clearly would have been allowable, and under his leadership in the Committee on Rules, it was refused to be allowed under the energy bill.

Mr. DREIER. Madam Chairman, reclaiming my time, I will say that if one goes back and looks at legislation that we passed in this House, H.R. 6, it, in fact, takes very bold steps towards ensuring that our constituents are correctly compensated. And so we have done just that.

Madam Chairman, I thank my friend for yielding me this time, and I know that I have nearly exhausted the time for this side.

Ms. ESHOO. Madam Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

□ 1245

Mr. DEFAZIO. Madam Chairman, there is a simple fact here: crimes were committed. At this point, 10 Enron executives have gone to jail. They defrauded the ratepaying public, the businesses, the homeowners, the factories of the Western United States, and illegally extorted money from them by manipulating the market.

Now, there is a lot of reconstructive history going on here today. The Clinton administration did impose price caps, actually. It was the Federal Energy Regulatory Commission, led by Pat Wood of Texas, under the leadership of George Bush of Texas and DICK CHENEY of Texas, now Wyoming, who refused to take any action, said that these were merely market forces at work. DICK CHENEY said at a meeting that I was in that unless we built one 500-megawatt plant a week for the next 15 years, this would continue.

Well, of course, he was pretty famously wrong. It was market manipulation. People have now gone to jail. We have crimes.

But what we do not have is restitution. The law must be changed. Even if the Bush appointee leading the Federal Energy Regulatory Commission, from Texas, wants to give refunds to ratepayers in the Western United States, he has said he does not have that authority.

We have asked simply for a vote to give him that authority. We do not have to mandate. If he is going to do his job, just give him the authority and let him go to work and give that money back to the people in the Western United States. It was stolen from them.

Earlier we talked about put this behind us. The gentleman talked about putting it behind us. It is history. Well, you really cannot put a crime behind you when you have not had restitution, and we have not had our restitution. In fact, we are still paying more for our electricity today, day in, day out.

Nothing is more detrimental to the economic recovery of the Pacific Northwest than the fact that we are still paying more than we should for our electricity because it was stolen from us by the Enron Corporation, based in Texas, and no relief has been granted by the Federal Energy Regulatory Commission, led by Pat Wood of Texas, who was recommended for that job by Ken Lay of Enron, who still has not gone to jail and who was factually before this campaign the single largest lifetime contributor to George Bush, the President of the United States.

This stinks.

Ms. ESHOO. Madam Chairman, I yield to the gentlewoman from California (Mrs. DAVIS), for the purpose of a unanimous consent request.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Madam Chairman, I rise in support of this amendment, because I think it is appropriate to address the failure of FERC for adjusting reasonable rates within this energy bill.

I support the Energy and Water Bill that is before us today because on balance there are a number of important programs that are supported.

However, it is an energy bill, and it has failed to address a critical energy issue facing the western states.

I support the amendment of my California colleague Ms. ESHOO.

This bill should address the failure of the Federal Energy Regulatory Commission [FERC] over the past four years to see that energy rates are "fair and just"; to review the evidence in the tapes which they have had in their possession to look for market manipulation; to hold meaningful, public hearings on the energy market gaming that occurred so widely in California and the West Coast beginning in the spring of 2000; and to order the energy companies which committed massive fraud to refund the \$9 billion that should be restored to California ratepayers in addition to refunds for manipulated rates in other states.

You have heard how the recently revealed tapes of employees of the energy companies show that they intentionally, cynically, and repeatedly manipulated energy supplies in order to create exorbitant, unjustified profits for those companies.

My district San Diego bore the brunt of the first tripling of energy bills. Not only the mythical Grandma Millie but many real people suffered: the elderly and frail on fixed incomes; small business owners whose product requires high levels of energy; museums, churches and temples, schools and universities, government offices; and every family struggling to meet its budget.

Congress has an obligation to address this failure by FERC to take action. Potential court action is no excuse for Congressional inaction.

Ms. ESHOO. Madam Chairman, I yield myself the balance of my time to make a closing statement.

Madam Chairman, I thank all of my colleagues that have fought so hard and so courageously for 4 years.

Madam Chairman, this is an issue about greed, greed gone absolutely



wild; and the victims of the greed, this insatiable greed for money, money, money, money, are the people of my State of California, the people of the State of Washington, the people of the State of Oregon, the people of the State of Nevada.

I have heard some really outrageous things here today. You, my friends, have been given the power by the people of the United States of America to hold the majority here. For 4 years we have fought. Not one hearing was even granted in the Committee on Energy and Commerce.

We have presented solutions for restitution to our people, for refunds, and have been denied over and over and over again. So there has not only been an abuse of power by the power companies, but by the majority party in this House.

Now we have come forward and requested last evening at the Committee on Rules that all points be waived in order to present an amendment for refunds. That was denied. Now the gentleman from Ohio (Mr. HOBSON) has allowed this limited amendment that we now have on the floor.

Make no mistake, not one Republican from the State of California supported in 4 years a refund to our people. This legislation has been there. We have sent Dear Colleague letters. I will not yield, because I waited 4 years for this moment, and this is for our constituents. They have not used their power to bring about restitution to them.

How much more evidence do you need? You have heard the tapes. It is not just about being upset about the evidence. It is up to us, those who have been vested with the power, to do something on behalf of the consumer. It is not enough to say our constituents have been hurt. Use the power. Use the power to override the power of the power companies that manipulated, that extracted, and then bragged about it.

Shame on anyone that would not stand next to the grandmother that these people referred to and were so gleeful about picking her pockets. Shame on them. Shame on anyone that does not fight every day to make good for these people.

These are the extraordinary, ordinary people of our country. That is who we stand next to. We invite you to finally do something, to take one tiny step, if you have it in you, to do that.

The White House turned us down, the Federal Energy Regulatory Commission turned us down, the chairman of the Committee on Energy and Commerce turned us down over and over and over again.

So I say to those that stand next to the consumer, no matter how frustrating, no matter how dark it has been, let us do something about it. We have had the solution. We come forward now with a very small one.

I thank everyone that has been part of the effort. You have been absolutely

magnificent. And I am proud to serve with those that, even in the worst of times, sought to do something about it. It is what people sent us here for. Do not forget that. That is what our power is for. Not for Enron, not for Reliant, not for people that commit criminal activities against those that send us here to stand up for them.

Madam Chairman, I thank the gentleman from Ohio (Mr. HOBSON) for allowing this to be brought to the floor and debated.

Madam Chairman, I yield back the balance of my time.

Mr. HOBSON. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The question is on the amendment offered by the gentleman from California (Ms. ESHOO).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HEFLEY:

Page 38, line 11, after the dollar amount, insert the following: "(reduced by \$28,500,000)".

Mr. HEFLEY. Madam Chairman, I rise today to offer an amendment, which I am going to ask unanimous consent to withdraw, but I do want to make this point: this amendment would cut the line item for the Appalachian Regional Commission by \$28.5 million. The amendment would leave \$10 million for termination of the program.

Three weeks ago, we buried Ronald Reagan. Some of us were moved to reminisce about those days and the ideas that brought many of us here. Looking back, a lot of those ideas that made sense then still make sense today. And one of those ideas was getting rid of the Appalachian Regional Commission, and it still makes sense today.

Now, first of all, I want to applaud the efforts of our chairman, the gentleman from Ohio (Mr. HOBSON), in looking at this program critically and cutting a good deal out of this program. He is going in the right direction. Last year, he stated that if he had his way he would do away with the ARC; and, true to his word, he is doing what he can to eliminate it.

This year, the bill recommends a \$38.5 million appropriation for the commission, \$27.5 million, or about 45 percent, less than the President's request. This is much less than just 5 to 10 years ago, when we spent upwards of \$200 million on this program.

So I am saying, let us go the rest of the way and eliminate this redundant program altogether.

The ARC purports to provide guidance and financial assistance to 13 Appalachian States to promote economic growth in the region. Let me read you those States and you see if by any rea-

sonable definition this is Appalachia. Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

West Virginia was the cornerstone of the Appalachian Commission, and since the Appalachian Commission has been in existence, West Virginia has gone from 43rd in economic development to 49th. So it tells you the effectiveness of the Appalachian Commission.

Until the past few years, the ARC was among our most expensive economic development programs, \$282 million in 1995, just 10 years ago. Yet despite such spending, after 30 years of existence, there is no convincing evidence that the ARC has created new jobs or capital investment. Indeed, there is some evidence that this region is getting poorer relative to the rest of the country.

It is time to try something different. There are other programs that do better what the ARC does less well: the Department of Transportation's highway program, a host of programs under the Department of Housing and Urban Development.

Further, each of the 13 States and within them many of the counties and municipalities within those States have economic development agencies that are better suited and better qualified to judge the needs of these areas than the ARC.

As I said, it is time to phase out this program. But in deference to the excellent job that I think the chairman is doing, the gentleman from Ohio (Mr. HOBSON) is headed in the right direction on this, I will ask unanimous consent that my amendment be withdrawn.

Madam Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from the Colorado?

Mr. HOBSON. Madam Chairman, reserving the right to object, and I will not object, I would just like to state that I appreciate the amendment offered by my colleague from Colorado. I happen to agree with the gentleman about this agency. I think it is one of the biggest pork-barrel projects we have here. When I was on the Committee on the Budget with John Kasich, we tried to do away with this.

However, there are a lot of people that like to give their Governors the ability to do these pork-barrel projects; and, therefore, I do not think this amendment will pass, even though I would probably vote for it. So I appreciate the gentleman withdrawing his amendment.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there further objection to the request of the gentleman from Colorado?

Mr. RAHALL. Madam Chairman, reserving the right to object, I appreciate the gentleman from Colorado agreeing

to withdraw his amendment. Of course, I would have spoken very vehemently in opposition to it.

The gentleman has mentioned that my home State of West Virginia is not necessarily being improved by the ARC. I would submit those conditions from whatever report the gentleman is quoting are based on other conditions, other than what ARC has done for our region, because the Appalachian Regional Commission has dramatically improved life in Appalachia, and it has helped us get back on our feet in many depressed areas of this country.

It is a program that works, it works from the grassroots up, not from the top down. So I would submit to the gentleman that the ARC is still vitally needed in many Appalachian poor rural parts of this Nation.

My home State of West Virginia happens to be the only State that is totally within the 13-state ARC region, and we strongly support the program.

Madam Chairman, I rise to protest the amendment to gut the Appalachian Regional Commission ARC, just as we prepare to cut the ribbon on a new wastewater treatment system for Baghdad paid for by the American people. The ARC provides vital infrastructure investments throughout Appalachia, a historically distressed area of the country that spans 13 states including all of West Virginia, my home state.

In the 1960s, President Johnson carried out a promise to help raise the Appalachian region out of its crushing poverty when he formed the ARC. His efforts created a federal-state partnership that works with the people of Appalachia to create opportunities for self-sustaining economic development and improved quality of life.

Today, the ARC plays an integral role in providing for development and jobs throughout 410 counties across a 200,000 square mile region. And, the Appalachian region is dramatically improved because of this effort.

Madam Chairman, some have questioned the value of the ARC. In response, I would like to note a few examples of the good work the ARC has done most recently in Southern West Virginia:

\$1 million grant to the Wyoming County Commission and the eastern Wyoming Public Service District (PSD) for construction of a new water treatment plant that will allow the consolidation of seven local providers into a regional water system serving 1549 customers. Six area communities are currently served by small private water systems (originally built to serve coal camps) that chronically violate water quality standards.

A \$250,000 grant to West Virginia Citizens Conservation Corps, Inc. to the Twin Branch Recreation and Environmental Education Center near Davy, located on reclaimed mine lands, and with the purpose of developing a sustainable outdoor recreation center that would attract visitors to McDowell County. The complex will ultimately include trailheads on the Hatfield-McCoy trail system, campsites and cabins, a retreat center, and an environmental education center.

Other recent ARC projects about which I have proudly spoken in the recent past include:

A \$100,000 grant to the Prichard, WV Public Service District to construct a wastewater col-

lection and treatment system that will provide water to 225 customers and create 148 jobs in Wayne County, WV.

A \$1 million grant to the Glen White/Trap Hill Public Service District in Raleigh County, WV, will fund construction of a three water storage tanks and replace some existing water lines while extending service to surrounding communities that had to rely on underground wells.

In Boone County, WV, a \$680,000 grant from the ARC is being used to extend waterlines to Julian, WV.

A \$75,000 grant to the West Virginia Access Center for Higher Education in Bluefield, WV, to help increase the number of high school students who go on to attend college.

Now, I don't think the people who live in Wyoming County, Twin Branch, Prichard, Glen White, Julian, or Bluefield will claim that the ARC is somehow not worthwhile.

However, Madam Chairman, Mr. Speaker, there remains more work to be done to fulfill the promise made. We're still struggling to get on our feet.

But the amendment will undo all of those efforts. At a time when the Appalachian people need the sustained help to achieve their potential, this amendment would pull the rug out from underneath them.

Madam Chairman, that's just wrong. It's crass, and it's craven.

Madam Chairman, that great West Virginian, Senator ROBERT BYRD, is the sponsor of a Senate bill to complete construction of the Appalachian Development Highway System. I proudly note that I am the sponsor of the House version of the same bill, H.R. 2381, which is cosponsored by my fellow West Virginian and close friend, ALAN MOLLOHAN, and that stalwart ARC supporter from Ohio, my friend TED STRICKLAND. Each of us recognizes the value of the Appalachian Regional Commission.

I urge my colleagues recognize that value too.

I urge my colleagues to remember the ARC is a worthwhile program that has benefited so many lives, and continues to do so.

Vote against this amendment.

Mr. BOUCHER. Madam Chairman, I rise in strong opposition to the amendment offered by the gentleman from Colorado.

The ARC is a tremendous force for progress in the region I represent. Almost every water and wastewater project has an element of ARC funding at its core.

The ARC has helped us build industrial parks, shell buildings and industrial access roads that have enabled broad economic growth.

Community libraries, health care clinics and vital broadband deployment projects have been boosted in my region by the ARC.

Studies have shown that every dollar expended by the ARC on an industry attracting infrastructure project stimulates \$12 in private investment, creating jobs, improving the economy, and expanding revenues for local governments.

The ARC has helped us tremendously, and we need its help in the future as much as in past years.

I urge defeat of the amendment and full funding for the Appalachian Regional Commission.

Mr. OBERSTAR. Madam Chairman, I rise in strong opposition to the amendment offered by the gentleman from Colorado.

Madam Chairman, the Appalachian Regional Commission (ARC) is a true American success story. Throughout its existence, it has consistently risen to the challenge of leveraging federal dollars in a prudent manner, providing a fair return, both socially and economically, for the Federal Government's investment.

The Appalachian Regional Commission was created in 1965 to provide social and economic support to severely distressed counties in the Appalachian states stretching from New York to Mississippi. Its goal is to bring over 23 million citizens in 410 counties into America's economic mainstream.

There is no doubt the public works and infrastructure projects supported by the ARC are having a very positive effect in meeting the challenges of the Appalachian region. Building on their successful strategy of a regional approach, the ARC encourages affected states to work cooperatively to address issues of economic distress particular to the Appalachian region.

Very importantly, Madam Chairman, ARC programs do not duplicate other federal programs. ARC programs respond to locally identified needs and are extremely flexible in their ability to quickly respond to the unique problems of the Appalachian region.

The ARC's record is truly impressive. Under its tenure, the number of distressed counties has been cut by more than half, from 223 in 1965 to 91 in 2004. Furthermore, the poverty rate has been cut by more than half, from 31 percent to 13 percent. Infant mortality has dropped significantly, high school graduation rates now mirror those of the nation as a whole, and more than 800,000 Appalachian residents have access to clean water and sanitation facilities through ARC projects.

In 2003, the ARC's "smart business" approach leveraged \$185,905,000 in other public funds, and over \$464,107,000 in private funds.

Much work still needs to be done. This region has been disproportionately hard hit by loss of jobs in the manufacturing sector. One out of every five jobs lost in manufacturing has been in Appalachia. In northern Appalachia, the steel industry has likewise suffered major job losses, while in central Appalachia the number of workers in the mining industry continues to fall. Unemployment rates stubbornly continue to exceed the national average, and the Appalachian region continues to suffer from disproportionately high rates of chronic disease such as cardiovascular disease, cancer and diabetes.

Now is certainly not the time to short-change this Commission, which has a proven track record of effectiveness, and efficiency.

Madam Chairman, as I recall the last attempt to dismantle the ARC through a reduction in funding was overwhelmingly rejected by this body by a vote of 328 to 97. I urge my colleagues to join me once again to reject, resoundly and overwhelmingly, this amendment.

Mr. RAHALL. Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there further objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the Energy and Water Development Appropriations Act, H.R. 4614. I would, however, like to ask the distinguished chairman about language in the bill report that would require the Army Corps of Engineers to seek congressional approval whenever the Corps reprograms funds for major water development programs.

□ 1300

My district in Orange County, California, would be particularly affected by any changes to the reprogramming policy. In recent years, the Army Corps of Engineers reprogrammed between \$10 million to \$12 million that Congress had originally appropriated to shore up flood protection along the Santa Ana River in my area.

We are now in dire need of that money to continue building up our flood protection for the growing urban communities in Orange, Riverside, and San Bernardino counties.

Without the successful completion of the project, the corps estimates that over 3.35 million people would be endangered and that it could probably destroy up to \$15 billion in property value if we do not get that project completed.

So I am asking the distinguished chairman, will the Army Corps continue to have the authority to ship money back to those ongoing projects from which it had previously borrowed? I understand there is report language directing the court to return funds to appropriated programs. I would like to know, would this apply to the Santa Ana River Mainstem project?

Mr. HOBSON. Madam Chairman, will the gentlewoman yield?

Ms. LORETTA SANCHEZ of California. I yield to the gentleman from Ohio.

Mr. HOBSON. Madam Chairman, I thank the gentlewoman for her support and her inquiry.

I would assure her that nothing in the bill or the report would prevent the Army Corps of Engineers from returning funds to donor projects. In fact, as the gentlewoman has observed, the bill report includes language that specifically instructs the corps to be as diligent in returning funds as it has been in reprogramming them. Again, I thank the gentlewoman from California for her inquiry and hope this clarification has worked to address her concerns.

The ranking member and I have undertaken a very strong look at the reprogrammings in the Corps of Engineers, much more so than in past years, and we are making them report to us, and we are signing off on them, and we are watching these much more diligently than we had been in the past, and we think it will work out much better in the future.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I know that the gentleman from Ohio (Mr. HOBSON) as the other subcommittee had been able to tighten things up also, and I ap-

preciate the new policy that the gentleman is trying to move forward. Again, I am just concerned, as this is a major project for almost 4 million people in that area, and we are at that point where we are really going to get a lot of it done, and we need those funds to be brought back in.

Mr. HOBSON. Madam Chairman, I agree.

AMENDMENT OFFERED BY MRS. WILSON OF NEW MEXICO

Mrs. WILSON of New Mexico. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. WILSON of New Mexico:

Page 21, line 16, after the dollar amount, insert "(reduced by \$5,000,000)".

Page 23, line 16, after the dollar amount, insert "(increased by \$5,000,000)".

Mrs. WILSON of New Mexico (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Mr. HOBSON. Madam Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 10 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mrs. WILSON of New Mexico. Madam Chairman, I yield myself such time as I may consume.

(Mrs. WILSON of New Mexico asked and was given permission to revise and extend her remarks.)

Mrs. WILSON of New Mexico. Madam Chairman, this amendment transfers \$5 million from administrative accounts in the Department of Energy to two different programs in the Defense Nuclear Nonproliferation account. Those two programs do two things: first, accelerate the return of highly enriched uranium from Russian-built reactors abroad and transition those reactors to low-enriched uranium; and, secondly, convert other reactors to low-enriched uranium.

All of us here understand the difficulty and the importance of nonproliferation efforts. One of the most successful efforts has been working with the Russians and with others to consolidate highly enriched uranium, because the material is the most difficult thing to get in order to build a nuclear weapon.

In the House Committee on Armed Services we had discussions about whether these programs could be accelerated and how fast they could be accelerated. Unfortunately, we did not get answers to those questions before the Defense authorization bill passed this House, and we will have to address it in conference.

Since this time, the administration has come forward with numbers and with a global threat initiative focusing, in particular, on consolidation of nuclear material. And the answer is, to accelerate this program significantly, they can do so with a very small amount of money, and that is the \$5 million we are proposing to move.

It takes that money from the administrative line in the Department. I would note that the Department administration has been increased by \$28 million over the previous year, and I think that a priority must be for this House to make very clear that we wish to accelerate the consolidation of highly enriched uranium around the world.

I would also, Madam Chairman, like to express my concerns about other problems in the report language to this, that accompanies this bill. I intend to vote in favor of this bill. We cannot amend report language, because report language does not have the status of law. But when I vote "yes," I am not voting "yes" on the report language. There are serious problems with the report language: inconsistencies in the report language with actually other elements of law. But the overall numbers in the bill will allow the Department of Energy to carry out its important work for the Nation, and the weapons program in particular is funded at \$6.5 billion.

I would particularly like to applaud the chairman on his increase in research in the Office of Science, and I would urge support of my amendment and the acceptance of the amendment so that we can accelerate the consolidation of this material elsewhere and accelerate the transitioning of reactors around the world from using highly enriched uranium which can be used in nuclear weapons to low-enriched uranium, which cannot.

Madam Chairman, I reserve the balance of my time.

Mr. HOBSON. Madam Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

We have been very generous to a lot of the accounts in here. Some of the accounts we have taken money away from that are being stripped out here. I would oppose this amendment. Nonproliferation is very important. Over the years we have continued to fund nonproliferation, even sometimes when the accounts were carried very high. I think this amendment is not meritorious at this time; and, therefore, I oppose the amendment.

Madam Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKEY).

Mr. VISCLOSKEY. Madam Chairman, I simply want to rise to associate myself with the gentleman's remarks and the gentleman's objection. I do appreciate the intent, and I do want to work with the gentlewoman as we proceed at conference, but I am opposed to the amendment.

Mrs. WILSON of New Mexico. Madam Chairman, I yield myself such time as I may consume.

It seems to me that this is a small price to pay to accelerate one of the most important programs for the country in order to fight the problem of proliferation of weapons of mass destruction. It is a very, very small amount of money. And if we weigh the importance of administration and the importance of rapidly accelerating one of the most important programs and consolidating weapons-grade uranium that was formerly in the former Soviet Union, I think there is no question about what our priorities as a Nation should be. It is a small amount of money; and, frankly, I am a little surprised that it was not just accepted by the committee.

Madam Chairman, I yield back the balance of my time.

Mr. HOBSON. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New Mexico (Mrs. WILSON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. WILSON of New Mexico. Madam Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New Mexico (Mrs. WILSON) will be postponed.

Mr. HOBSON. Madam Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mrs. BIGGERT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4614) making appropriations for energy and water development for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

#### LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 4614, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2005

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4614 in the Committee of the Whole, pursuant to House Resolution 694, that the bill shall be considered as read and open for amendment at any point from page 19, line 16 through the end of the bill; points of order against provisions in the bill shall be permitted to be raised at any time; no further amendment to the bill may be offered, except: pro forma amendments offered by the chairman or ranking member of the Committee on Appropriations or their designees for the purpose of debate; amendment

No. 1, which shall be debatable for 10 minutes; an amendment by Mr. INSLEE regarding the reclassification of nuclear waste, which shall be debatable for 10 minutes; and an amendment by Mr. MEEHAN regarding a transfer of funds between NNSA and the non-proliferation account, which shall be debatable for 20 minutes.

Each such amendment may be offered only by the Member designated in this request, or the designee, or the Member who caused it to be printed, or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Each amendment shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 694 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4614.

□ 1311

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4614) making appropriations for energy and water development for the fiscal year ending September 30, 2005, and for other purposes, with Mrs. BIGGERT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a recorded vote demanded on the amendment offered by the gentlewoman from New Mexico (Mrs. WILSON) had been postponed.

Pursuant to the order of the House of today, the bill shall be considered as read and open for amendment at any point from page 19, line 16 through the end of the bill.

The text of the bill from page 19, line 16 through the end of the bill is as follows:

#### NON-DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$151,850,000, to remain available until expended.

#### URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$500,200,000, to be derived from the Fund, to remain available until expended, of which \$100,614,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

#### NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, \$291,296,000, to remain available until expended.

#### SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed four passenger motor vehicles for replacement only, including one ambulance, \$3,599,964,000, to remain available until expended.

#### DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$243,876,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$122,000,000 in fiscal year 2005 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2005, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2005 appropriation from the general fund estimated at not more than \$121,876,000.

#### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$41,508,000, to remain available until expended.

#### ATOMIC ENERGY DEFENSE ACTIVITIES

##### NATIONAL NUCLEAR SECURITY

##### ADMINISTRATION

##### WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and