

Public Law 108–137
108th Congress

An Act

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

Dec. 1, 2003
[H.R. 2754]

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, 2004, for energy and water development, and for other purposes, namely:

Energy and
Water
Development
Appropriations
Act, 2004.

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 river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$116,949,000, 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: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$250,000 for preconstruction engineering and design of Waikiki Beach, Oahu,

Hawaii, the project to be designed and evaluated, as authorized: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$100,000 for the continuation and completion of feasibility studies of Kihei Beach, Maui, Hawaii: *Provided further*, That any recommendations for a National Economic Development Plan shall be accepted notwithstanding the extent of recreation benefits supporting the project features, in view of the fact that recreation is extremely important in sustaining and increasing the economic well-being of the State of Hawaii and the nation.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects authorized by law; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,722,319,000, 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 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 \$9,280,000 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 use \$750,000 of the funds provided herein to continue construction of the Hawaii Water Management Project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$2,500,000 of the funds appropriated herein to continue construction of the navigation project at Kaunapali Harbor, Hawaii: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$6,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program to continue construction of seepage control features and to design and construct repairs to the tainter gates at Waterbury Dam, Vermont: *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 funds appropriated in this Act for the preservation and restoration of the Florida Everglades shall be made available for expenditure unless: (1) the Secretary of the Army, not later than 30 days after the date of enactment of this Act, transmits to the State of Florida and the Committees on Appropriations of the House of Representatives and the Senate a report containing a finding and supporting materials indicating that the waters entering the A.R.M. Loxahatchee National Wildlife Refuge and Everglades National Park do not meet the water quality requirements set forth in the Consent Decree entered in *United States v. South Florida Water Management District*; (2) the State fails to submit a satisfactory plan to bring the waters into compliance with the water quality requirements within 45 days of the date of the report; (3) the Secretary transmits to the State and the Committees a follow-up report containing a finding that the State has not submitted such a plan; and (4) either the Committee on Appropriations of the House of Representatives or the Senate issues a written notice disapproving of further expenditure of the funds: *Provided further*, That the Secretary of the Army shall provide the State of Florida with notice and an opportunity to respond to any determination of the Secretary under the preceding proviso before the determination becomes final: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$17,000,000 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 \$5,400,000 of the funds appropriated herein to proceed with the planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West 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 continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Seward Harbor, Alaska, project, in accordance with the Report of the Chief of Engineers, dated June 8, 1999, and the economic justification contained therein: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to continue the work to replace and upgrade the dam and all

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connections to the existing system at Kake, Alaska: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Wrangell Harbor, Alaska, project in accordance with the Chief of Engineer's report dated December 23, 1999: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$33,400,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: *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 \$200,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may develop an environmental impact statement for introducing non-native oyster species into the Chesapeake Bay: *Provided further*, That during preparation of the environmental impact statement, the Secretary may establish a scientific advisory body consisting of the Virginia Institute of Marine Science, the University of Maryland, and other appropriate research institutions to review the sufficiency of the environmental impact statement: *Provided further*, That in addition, the Secretary shall give consideration to the findings and recommendations of the National Academy of Sciences report on the introduction of non-native oyster species into the Chesapeake Bay in the preparation of the environmental impact statement: *Provided further*, That notwithstanding the cost sharing provisions of section 510(d) of the Water Resources Development Act of 1996 (110 Stat. 3760), the preparation of the environmental impact statement shall be cost shared 50 percent Federal and 50 percent non-Federal, for an estimated cost of \$2,000,000: *Provided further*, That the non-Federal sponsors may meet their 50 percent matching cost share through in-kind services: *Provided further*, That the Secretary determines that work performed by the non-Federal sponsors is reasonable, allowable, allocable, and integral to the development of the environmental impact statement: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Miami Harbor project, as recommended in the Miami Harbor Letter Report dated August 2002, as revised February 2003: *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 is directed to use \$5,000,000 of the funds appropriated herein to undertake the restoration of Tar Creek and Vicinity, Oklahoma, project.

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, \$324,222,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, using \$12,000,000 of the funds provided herein, is directed to continue design and real estate activities and to initiate the pump supply contract for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: *Provided further*, That the pump supply contract shall be performed by awarding continuing contracts in accordance with 33 U.S.C. 621: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed, with funds previously appropriated, to continue construction of water withdrawal features of the Grand Prairie, Arkansas, project.

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, \$1,967,925,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund, and of which such sums as become available from the special account for the United States Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-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 of funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2003, and September 30, 2004: *Provided*

further, 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: *Provided further*, That the Corps of Engineers shall not allocate any funds to deposit dredged material along the Laguna Madre portion of the Gulf Intracoastal Waterway except at the placement areas specified in the Dredged Material Management Plan in section 2.11 of the Final Environmental Impact Statement for Maintenance Dredging of the Gulf Intracoastal Waterway, Laguna Madre, Texas, Nueces, Kleberg, Kenedy, Willacy, and Cameron Counties, Texas, prepared by the Corps of Engineers dated September 2003: *Provided further*, That nothing in the above proviso shall prevent the Corps of Engineers from performing necessary maintenance operations along the Gulf Intracoastal Waterway if the following conditions are met: if the Corps proposes to use any placement areas that are not currently specified in the Dredged Material Management Plan and failure to use such alternative placement areas will result in the closure of any segment of the Gulf Intracoastal Waterway, then such proposal shall be analyzed in an Environmental Impact Statement (EIS) and comply with all other applicable requirements of the National Environmental Policy Act, 42 U.S.C. 4321, et seq., and all other applicable State and Federal laws, including the Clean Water Act, 33 U.S.C. 1251 et seq., the Endangered Species Act, 16 U.S.C. 1531 et seq., and the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.: *Provided further*, That \$15,000,000 is provided to be used by the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean up projects and facilities of the Corps of Engineers and dredge navigation channels, restore and clean out area streams, provide emergency stream bank protection, restore other crucial public infrastructure (including water and sewer facilities), document flood impacts, and undertake other flood recovery efforts considered necessary by the Chief of Engineers: *Provided further*, That the Secretary of the Army is directed to use \$75,000 of the funds appropriated herein to remove the weir feature of the project for flood damage reduction, Mayfield Creek and Tributaries, Kentucky, constructed pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), without any further environmental or economic analysis or study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$250,000 of the funds appropriated herein for sediment removal and dam repair at Junaluska, North Carolina.

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 from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related 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, \$160,000,000, 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.

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, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99-662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303; and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year.

SEC. 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 Act, or any other Act, shall be used to demonstrate or implement any plans divesting or transferring of any Civil Works missions, functions,

or responsibilities for 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 (Public Law 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.

NAMING OF LOCK AND DAM 3, ALLEGHENY RIVER, PENNSYLVANIA

Sec. 106. (a) DESIGNATION.—Lock and dam numbered 3 on the Allegheny River, Pennsylvania, shall be known and designated as the “C.W. Bill Young Lock and Dam”.

(b) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in subsection (a) shall be deemed to be a reference to the “C.W. Bill Young Lock and Dam”.

SEC. 107. The Secretary of the Army may utilize continuing contracts in carrying out the studying, planning, or designing of a water resources project prior to the authorization of the project for construction.

SEC. 108. The Secretary is authorized to remove and dispose of oil bollards and associated debris in Burlington Harbor, Vermont.

SEC. 109. KAKE DAM REPLACEMENT, KAKE, ALASKA TECHNICAL CORRECTIONS. Section 105, Public Law 106-377, is amended by striking “\$7,000,000” and inserting “\$11,000,000 at full Federal expense”.

SEC. 110. DEAUTHORIZATION OF PROJECT FOR NAVIGATION, PAWTUXET COVE, RHODE ISLAND. (a) IN GENERAL.—The portions of the project for navigation, Pawtuxet Cove, Rhode Island, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and described in subsection (b) shall no longer be authorized after the date of enactment of this Act.

(b) DESCRIPTIONS.—The portions of the project referred to in subsection (a) are the following:

(1) Beginning at a point along the western edge of the 6-foot channel just south of the 6-foot turning basin: N247,856.00, E530,338.00, thence running north 51 degrees 44 minutes 12.5 seconds west 214.77 feet to a point N247,989.00, E530,169.37, thence running north 13 degrees 14 minutes 48.8 seconds west 149.99 feet to a point N248,135.00, E530,135.00, thence running north 44 degrees 11 minutes 7.4 seconds east 137.77 feet to a point N248,233.79, E530,231.02, thence running north 3 degrees 58 minutes 18.8 seconds west 300.00 feet to a point N248,533.07, E530,210.24 thence running north 86 degrees 1 minute 34.3 seconds east 35.00 feet to a point N248,535.50, E530,245.16, thence running

south 3 degrees 58 minutes 21.0 seconds east 342.49 feet to a point N248,193.83, E530,268.88, thence running south 44 degrees 11 minutes 7.4 seconds west 135.04 feet to a point N248,097.00, E530,174.77, thence running south 13 degrees 14 minutes 48.8 seconds east 85.38 feet to a point N248,013.89, E530,194.33, thence running south 51 degrees 44 minutes 12.5 seconds east 166.56 feet to a point N247,910.74, E530,325.11 thence running south 13 degrees 14 minutes 49.2 seconds east 56.24 feet to the point of origin.

(2) Beginning at a point along the eastern edge of the 6-foot channel opposite the 6-foot turning basin: N248,180.00, E530,335.00, thence running south 32 degrees 12 minutes 35.3 seconds east 88.25 feet to a point N248,105.33, E530,382.04, thence running south 13 degrees 14 minutes 49.2 seconds east 138.48 feet to a point N247,970.53, E530,413.77, thence running north 32 degrees 12 minutes 35.3 seconds west 135.42 feet to a point N248,085.12, E530,341.59, thence running north 3 degrees 58 minutes 21.0 seconds west 95.11 feet to the point of origin.

(3) Beginning at a point along the eastern edge of the channel adjacent to the 6-foot entrance channel: N246,630.77, E530,729.17, thence running south 13 degrees 14 minutes 49.2 seconds east 35.55 feet to a point N246,596.16, E530,737.32, thence running south 51 degrees 31 minutes 38.6 seconds east 283.15 feet to a point N246,420.00, E530,959.00, thence running north 47 degrees 28 minutes 37.2 seconds west 311.84 feet returning to a point N246,630.77, E530,729.17.

SEC. 111. (a) The Secretary of the Army is authorized to provide technical, planning, design and construction assistance to non-Federal interests to remedy adverse environmental and human health impacts in Ottawa County, Oklahoma. In providing assistance, the Secretary shall coordinate with the State, Tribal, and local interests. The Secretary may undertake implementation of such activities as the Secretary determines to be necessary or advisable to demonstrate practicable alternatives, such activities shall include measures to address lead exposure and other environmental problems related to historical mining activities in the area.

(b) In carrying out subsection (a), the Secretary may utilize, through contracts or other means, the services of the University of Oklahoma, the Oklahoma Department of Environmental Quality, or such other entities as the Secretary determines to be appropriate.

(c) Notwithstanding any other provision of law, the Secretary shall not incur liability under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) for activities undertaken pursuant to this section.

(d) Non-Federal interests shall be responsible for providing any necessary lands, easements or rights-of-way required for implementation of activities authorized by this section and shall be responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section. All other costs shall be borne by the Federal Government.

(e) There is authorized to be appropriated \$15,000,000 to carry out the purposes of this section.

SEC. 112. The amount of \$2,000,000 previously provided under the heading "Construction, General" in title I of the Energy and Water Development Appropriations Act, 2003, division D of Public Law 108-7, is to be used to provide technical assistance at full

Federal expense, to Alaskan communities to address the serious impacts of coastal erosion.

SEC. 113. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

23 USC 2201
note.

SEC. 114. Section 214(a) of Public Law 106-541 is amended by striking “2003” and inserting “2005”.

SEC. 115. The Secretary of the Army, acting through the Chief of Engineers, shall direct construction of Alternative 1 (Northeast Corner) for the project authorized in section 353 of Public Law 105-277 notwithstanding any other provision of law.

SEC. 116. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake appropriate planning, design, and construction measures for wildfire prevention and restoration in the Middle Rio Grande bosque in and around the City of Albuquerque. Work shall be directed toward those portions of the bosque which have been damaged by wildfire or are in imminent danger of damage from wildfire due to heavy fuel loads and impediments to emergency vehicle access.

SEC. 117. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 142) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, AND RURAL UTAH.”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(B) by striking (a) and all that follows through “means—” and inserting the following:

“(a) DEFINITIONS.—In this section:

“(1) RURAL NEVADA.—The term ‘rural Nevada’ means”; and
(C) by adding at the end the following:

“(2) RURAL UTAH.—The term ‘rural Utah’ means—

“(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Daggett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

“(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.”;

(3) in subsections (b) and (c), by striking “Nevada, Montana, and Idaho” and inserting “Idaho, Montana, rural Nevada, New Mexico, and rural Utah”; and

(4) in subsection (h), by striking “2001—” and all that follows and inserting “2001 \$25,000,000 for each of Idaho, Montana, New Mexico, and rural Utah, to remain available until expended.”.

33 USC 2336.

SEC. 118. Section 560(f) of Public Law 106-53 is amended by striking “\$5,000,000” and inserting “\$7,500,000”.

SEC. 119. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended

by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public law 106–554; 114 Stat. 2763A–220), is further amended by adding at the end the following:

“(71) CORONADO, CALIFORNIA.—\$10,000,000 is authorized for wastewater infrastructure, Coronado, California.”.

SEC. 120. Section 592(g) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 380) is amended by striking “\$25,000,000 for the period beginning with fiscal year 2000” and inserting “\$100,000,000”.

SEC. 121. PARK RIVER, GRAFTON, NORTH DAKOTA. Section 364(5) of the Water Resources Development Act of 1999 (113 Stat. 314) is amended—

(1) by striking “\$18,265,000” and inserting “\$21,075,000”; and

(2) by striking “\$9,835,000” and inserting “\$7,025,000”.

SEC. 122. SCHUYLKILL RIVER PARK, PHILADELPHIA, PENNSYLVANIA. The Secretary of the Army shall provide technical, planning, design, and construction assistance for Schuylkill River Park, Philadelphia, Pennsylvania, in accordance with section 564(c) of the Water Resources Development Act of 1996 (Public Law 104–303; 110 Stat. 3785), as contained in the February 2003 report of the Philadelphia District based on regional economic development benefits, at a Federal share of 50 percent and a non-Federal share of 50 percent.

SEC. 123. GWYNNS FALLS WATERSHED, BALTIMORE, MARYLAND. The Secretary of the Army shall implement the project for ecosystem restoration, Gwynns Falls, Maryland, in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report prepared by the Corps of Engineers and the City of Baltimore, Maryland.

SEC. 124. SNAKE RIVER CONFLUENCE INTERPRETATIVE CENTER, CLARKSTON, WASHINGTON. (a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers (referred to in this section as the “Secretary”) is authorized and shall carry out a project to plan, design, construct, furnish, and landscape a federally owned and operated Collocated Civil Works Administrative Building and Snake River Confluence Interpretative Center, as described in the Snake River Confluence Center Project Management Plan.

(b) LOCATION.—The project—

(1) shall be located on Federal property at the confluence of the Snake River and the Clearwater River, near Clarkston, Washington; and

(2) shall be considered to be a capital improvement of the Clarkston office of the Lower Granite Project.

(c) EXISTING STRUCTURES.—In carrying out the project, the Secretary may demolish or relocate existing structures.

(d) COST SHARING.—

(1) TOTAL COST.—The total cost of the project shall not exceed \$3,500,000 (excluding interpretative displays).

(2) FEDERAL SHARE.—The Federal share of the cost of the project shall be \$3,000,000.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of the project—

(i) shall be \$500,000; and

(ii) may be provided—

(I) in cash; or

(II) in kind, with credit accorded to the non-Federal sponsor for provision of all necessary services, replacement facilities, replacement land (not to exceed 4 acres), easements, and rights-of-way acceptable to the Secretary and the non-Federal sponsor.

(B) INTERPRETIVE EXHIBITS.—In addition to the non-Federal share described in subparagraph (A), the non-Federal sponsor shall fund, operate, and maintain all interpretative exhibits under the project.

Reports.
Deadline.

SEC. 125. 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 within 15 months of enactment of this Act 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 (Public Law 91-611).

SEC. 126. LAKES MARION AND MOULTRIE, SOUTH CAROLINA. Section 219(f)(25) of the Water Resources Development Act of 1992 (113 Stat. 336; 114 Stat. 2763A-220) is amended—

(1) by striking “\$15,000,000” and inserting “\$35,000,000”; and

(2) by inserting “wastewater treatment and” before “water supply”.

SEC. 127. Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335-337; 114 Stat. 2763A-220-221) is amended by adding at the end the following: “CHARLESTON, SOUTH CAROLINA.—\$5,000,000 for wastewater infrastructure, including wastewater collection systems, Charleston, South Carolina.”.

SEC. 128. AMERICAN RIVER WATERSHED, CALIFORNIA. (a) IN GENERAL.—The Secretary of the Army is authorized to carry out the project for flood damage reduction and environmental restoration, American River Watershed, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated November 5, 2002, at a total cost of \$257,300,000, with an estimated Federal cost of \$201,200,000 and an estimated non-Federal cost of \$56,100,000; except that the Secretary is authorized to accept funds from State and local governments and other Federal agencies for the purpose of constructing a permanent bridge instead of the temporary bridge described in the recommended plan and may construct such permanent bridge if all additional costs for such bridge, above the \$36,000,000 provided for in the recommended plan for bridge construction, are provided by such governments or agencies.

(b) EXPEDITING BRIDGE DESIGN AND CONSTRUCTION.—The Secretary, in cooperation with appropriate non-Federal interests, shall immediately commence appropriate studies for, and the design of, a permanent bridge (including an evaluation of potential impacts of bridge construction on traffic patterns and identification of alternatives for mitigating such impacts) and, upon execution of a cost-sharing agreement with such non-Federal interests, shall proceed to construction of the bridge as soon as practicable; except that

such studies, design, and construction shall not adversely affect the schedule of design or construction of authorized projects for flood damage reduction.

SEC. 129. AMERICAN AND SACRAMENTO RIVERS, CALIFORNIA. The project for flood damage reduction, American and Sacramento Rivers, California, authorized by section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662–3663) and modified by section 366 of the Water Resources Development Act of 1999 (113 Stat. 319–320), is further modified to direct the Secretary to carry out the project, at a total cost of \$205,000,000.

SEC. 130. PLACER AND EL DORADO COUNTIES, CALIFORNIA. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in Placer and El Dorado Counties, California.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties through water and wastewater projects, programs, and infrastructure.

(c) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs

associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(g) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000. Such sums shall remain available until expended.

SEC. 131. SACRAMENTO AREA, CALIFORNIA. Section 219(f)(23) of the Water Resources Development Act of 1992 (106 Stat. 4835-4836; 113 Stat. 336) is amended by striking “\$25,000,000” and inserting “\$35,000,000”.

SEC. 132. UPPER KLAMATH BASIN, CALIFORNIA. (a) DEFINITION OF UPPER KLAMATH BASIN.—In this section, the term “Upper Klamath Basin” means the counties of Klamath, Oregon, and Siskiyou and Modoc, California.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in the Upper Klamath Basin.

(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in the Upper Klamath Basin through water and wastewater and ecosystem restoration projects, programs, and infrastructure.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$25,000,000. Such sums shall remain available until expended.

SEC. 133. ADDITIONAL ASSISTANCE FOR CRITICAL PROJECTS. Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335-337; 114 Stat. 2763A-220-221) is amended by adding at the end the following:

“(71) PLACER AND EL DORADO COUNTIES, CALIFORNIA.—\$35,000,000 to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties, California, through water and wastewater projects, programs, and infrastructure.

“(72) LASSEN, PLUMAS, BUTTE, SIERRA, AND NEVADA COUNTIES, CALIFORNIA.—\$25,000,000 to improve the efficiency and use of existing water supplies in the counties of Lassen, Plumas, Butte, Sierra, and Nevada, California, through water and waste water projects, programs, and infrastructure.”.

SEC. 134. BRIDGE AUTHORIZATION. There is authorized to be appropriated \$30,000,000 for the construction of the permanent bridge described in section 128(a).

SEC. 135. Section 504(a)(2) of the Water Resources Development Act of 1999 (113 Stat. 338) is amended by striking “Kehly Run Dam” and inserting “Kehly Run Dams”.

SEC. 136. The McClellan-Kerr Arkansas River navigation project, authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved June 28, 1938 (52 Stat. 1218) and section 10 of the Flood Control Act of 1946 (60 Stat. 647) and where applicable the provisions of the River and Harbor Act of 1946 (60 Stat. 634) and modified by section 108 of the Energy and Water Development Appropriations Act, 1988 (101 Stat. 1329–112), is further modified to authorize a project depth of 12 feet.

SEC. 137. 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. 138. GATEWAY POINT, NORTH TONAWANDA, NEW YORK. The Secretary shall review the shoreline stabilization, recreation, and public access components of the feasibility report for waterfront development at Gateway Point, North Tonawanda, New York, entitled “City of North Tonawanda, Gateway Point Feasibility”, dated February 6, 2003, and prepared by the non-Federal interest and, if the Secretary determines that those components meet the evaluation and design standards of the Corps of Engineers and that the components are feasible, may carry out the components at a Federal cost not to exceed \$3,300,000.

SEC. 139. CHICAGO RIVER AND HARBOR ILLINOIS. Those portions of the projects for navigation, Chicago River and Chicago Harbor, authorized by the River and Harbor Act of March 3, 1899, (30 Stat. 1129) extending 50 feet riverward of the existing dock wall on the south side of the channel from Lake Street to Franklin Street and 25 feet riverward of the existing dock wall on the south side of the channel from Franklin Street to Wabash Avenue, and those areas within 20 feet of the bridge abutments on the south side of the channel for the length of the protection bridge piers from the Franklin Street Bridge to the Michigan Avenue Bridge shall no longer be authorized after the date of enactment of this Act.

SEC. 140. SAN FRANCISCO, CALIFORNIA. CAPITAL IMPROVEMENT PROJECT.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish a centralized office at the office of the district engineer, San Francisco, California, for the use of all Federal and State agencies that are or will be involved in issuing permits and conducting environmental reviews for the capital improvement

project to repair and upgrade the water supply and delivery system for the city of San Francisco.

(2) CONTRIBUTIONS.—The Secretary may use the authority under section 214 of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note) for the project described in paragraph (1).

(3) PROTECTION OF IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary and the heads of Federal agencies receiving funds under such section 214 for the project described in paragraph (1) shall ensure that the use of the funds accepted under such section for such project will not impact impartial decision making with respect to the issuance of permits, either substantively or procedurally, or diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

SEC. 141. WOLF LAKE, INDIANA. The project for aquatic ecosystem restoration, Wolf Lake, Indiana, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the project cooperation agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 142. COOK COUNTY, ILLINOIS. The Secretary of the Army is directed to credit up to \$80,000 for design work completed by non-Federal interests, prior to and after the signing of the project cooperation agreement, toward the non-Federal share of the project for Calumet and Burr Oaks Schools Sewer Improvements, Cook County, Illinois, authorized by section 219(f)(54) of the Water Resources Development Act of 1992 (Public Law 102-580, as amended), if the Secretary determines that the work is integral to the project.

SEC. 143. LOS ANGELES HARBOR, LOS ANGELES, CALIFORNIA. The project for navigation, Los Angeles Harbor, Los Angeles, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of the planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines the work is integral to the project.

SEC. 144. SAN LORENZO RIVER, CALIFORNIA. The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996 (110 Stat. 3663), is modified to direct the Secretary to credit not more than \$2,000,000 toward the non-Federal share of the cost of the project for the cost of the work carried out by the non-Federal interest before the date of the project cooperation agreement for the project if the Secretary determines the work is integral to the project.

SEC. 145. CALUMET REGION, INDIANA. Section 219(f)(12) of the Water Resources Development Act of 1992 (113 Stat. 335) is amended—

(1) by striking “\$10,000,000” and inserting “\$30,000,000”; and

(2) by striking “Lake and Porter” and inserting “Benton, Jasper, Lake, Newton, and Porter”.

SEC. 146. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood control, Meramec River Basin, Valley Park Levee, Missouri, originally authorized by Public Law 97-128 (95 Stat. 1682) and modified by section 1128 of WRDA 1986 and section 333 of WRDA 1999, at a maximum Federal expenditure of \$50,000,000.

SEC. 147. The project for flood control, Saw Mill Run, Pennsylvania, authorized by section 401(a) of Public Law 99-662 (100 Stat. 4124) and modified by section 301(a) of Public Law 104-303 (110 Stat. 3708), is further modified to authorize the Secretary to carry out the project at a total cost of \$22,000,000, with an estimated Federal cost of \$16,500,000 and an estimated non-Federal cost of \$5,500,000.

SEC. 148. The project for flood control, Roanoke River Upper Basin, Virginia, authorized by section 401(a) of Public Law 99-662 (100 Stat. 4126), is further modified to authorize the Secretary to construct the project at a total cost of \$61,700,000, with an estimated Federal cost of \$43,000,000 and an estimated non-Federal cost of \$18,700,000.

SEC. 149. The project for harbor deepening, Brunswick Harbor, Georgia, authorized by section 101(a)(19), Public Law 106-53, and amended by the fiscal year 2003 Consolidated Appropriations Act, Public Law 108-7, is further modified to authorize the Secretary to construct the project at a total cost of \$96,276,000 with an estimated Federal cost of \$61,709,000 and an estimated non-Federal cost of \$34,567,000.

SEC. 150. The project for flood control, Lackawanna River at Olyphant, Pennsylvania, authorized by section 101(16) of Public Law 102-580 (106 Stat. 4797), is modified to authorize the Secretary to carry out the project at a total cost of \$23,000,000, with an estimated Federal cost of \$17,250,000 and an estimated non-Federal cost of \$5,750,000.

SEC. 151. PERRY CREEK, IOWA. The project for flood protection, Perry Creek Flood Control Project, Sioux City, Iowa, authorized under section 401(a) of the Water Resources Development Act of 1986, is modified to increase the project authorization to \$96,870,000 (Federal cost of \$58,677,000 and non-Federal cost of \$38,193,000).

113 Stat. 312. SEC. 152. ELIZABETH RIVER, CHESAPEAKE, VIRGINIA. Section 358 of Public Law 106-53 is modified by striking “September 30, 1999,” and inserting “May 1, 1997.”

114 Stat. 2763A-221. SEC. 153. Section 219(f) of the Water Resources Development Act of 1992 is amended by adding at the end the following:

“(71) \$6,430,000 for environmental infrastructure for Indianapolis, Indiana;”.

SEC. 154. MISSISSIPPI RIVER AND BIG MUDDY RIVER, ILLINOIS. (a) IN GENERAL.—The project for flood control, Mississippi River and Big Muddy River, Illinois, authorized by the Flood Control Act of 1938, is modified to authorize the Secretary to carry out repair and rehabilitation of the project at a total cost of \$22,600,000, with an estimated Federal cost of \$16,950,000 and an estimated non-Federal cost of \$5,650,000, and to perform operation and maintenance of the project thereafter.

(b) **OTHER ASSISTANCE.**—Federal assistance made available through the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the repair and rehabilitation under this section.

(c) **UNITED STATES LANDS.**—Costs under this section for the repair and rehabilitation allocable to the protection of lands owned by the United States shall be a Federal responsibility. The Secretary shall seek reimbursement from the Secretary of Agriculture for the costs allocated to protecting lands owned by the Department of Agriculture.

(d) **OPERATION AND MAINTENANCE OF NON-FEDERAL LANDS.**—The cost of operation and maintenance under this section allocated to protecting non-Federal lands shall be a non-Federal responsibility.

SEC. 155. MOSS LAKE, LOUISIANA. The Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a project to restore lake depths at Moss Lake, Louisiana, adjacent to the Calcasieu River and Pass channel at a total project cost of \$2,500,000.

SEC. 156. The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), and modified by section 102(j) of the Water Resources Development Act of 1990 (104 Stat. 4612), is further modified—

(1) to include the construction of an extension of the south channel a distance of approximately 1584 feet consistent with the general reevaluation report, dated April 2002, prepared by the Jacksonville District Corps of Engineers, at a total cost of \$11,300,000, with an estimated Federal cost of \$8,475,000 and an estimated non-Federal cost of \$2,825,000;

(2) to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of in-kind services and materials provided for the project by the non-Federal interest;

(3) to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project; and

(4) to authorize the Secretary to carry out the project as modified at a total cost of \$61,500,000.

SEC. 157. HARRIS GULLY, HARRIS COUNTY, TEXAS.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction in the Harris Gully watershed, Harris County, Texas, to provide flood protection for the Texas Medical Center, Houston, Texas.

(2) **USE OF LOCAL STUDIES AND PLANS.**—In conducting the study, the Secretary shall use, to the extent practicable, studies and plans developed by the non-Federal interest if the Secretary determines that such studies and plans meet the evaluation and design standards of the Corps of Engineers.

(3) **COMPLETION DATE.**—The Secretary shall complete the study by July 1, 2004.

(b) CRITICAL FLOOD DAMAGE REDUCTION MEASURES.—The Secretary may carry out critical flood damage reduction measures that the Secretary determines are feasible and that will provide immediate and substantial flood damage reduction benefits in the Harris Gully watershed, at a Federal cost of \$7,000,000.

(c) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that such work is integral to the project.

(d) NONPROFIT ENTITY.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), a nonprofit entity may, with the consent of the local government, serve as a non-Federal interest for the project undertaken under this section.

SEC. 158. The Secretary may carry out the Reach J, Segment 1, element of the project for hurricane and storm damage reduction, Morganza to the Gulf of Mexico, Louisiana, in accordance with the report of the Chief of Engineers, dated August 23, 2002, and supplemental report dated July 22, 2003, at a total cost of \$4,000,000.

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, \$36,463,000, to remain available until expended, of which \$9,423,000 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, \$1,728,000, 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, \$857,498,000, to remain available until expended, of which \$51,330,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$33,570,000 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 that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–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 \$1,000,000 is to be used for completion of the Santa Fe wells project in New Mexico through a cooperative agreement with the City of Santa Fe: *Provided further*, That \$10,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106–554, as amended: *Provided further*, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting “2003, and 2004” in lieu of “and 2003”. 43 USC 2241.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

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

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$39,600,000, 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, \$55,525,000, 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.

WORKING CAPITAL FUND

(RESCISSION)

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

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 12 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.

104 Stat. 2087.

SEC. 203. Subsection 206(b) of Public Law 101-514 is amended as follows: In paragraph (1), strike ", with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County; (ii) implement water conservation and metering programs within the areas served by the contract; and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater".

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

SEC. 205. LOWER COLORADO RIVER BASIN DEVELOPMENT. (a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met. 43 USC 1543 note.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) AUTHORIZATION.—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

SEC. 206. The second paragraph under the heading “Administrative Provisions” in Public Law 102-377 (43 U.S.C. 377b) is amended by inserting “, not to exceed \$5,000,000 for each causal event giving rise to a claim or claims” after “activities of the Bureau of Reclamation”.

SEC. 207. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 208. (a) Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds appropriated for the current fiscal year or any prior Energy and Water Development Appropriations Act, or funds otherwise made available to the Commissioner of the Bureau of Reclamation, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion

released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (*Hybognathus amarus*) and the Southwestern Willow Flycatcher (*Empidonax trailii extimus*) on the Middle Rio Grande in New Mexico.

Applicability.

(c) This section applies only to those Federal agency and non-Federal actions addressed in the March 17, 2003 Biological Opinion.

Termination date.

(d) Subsection (b) will remain in effect for 2 years following the implementation of this Act.

Establishment.

SEC. 209. ENDANGERED SPECIES COLLABORATIVE PROGRAM. (a) Using funds previously appropriated, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, for purposes of improving the efficiency and expediting the efforts of the Endangered Species Act Collaborative Program Workgroup, is directed to establish an executive committee of seven members consisting of—

- (1) one member from the Bureau of Reclamation;
- (2) one member from the Fish and Wildlife Service; and
- (3) one member at large representing each of the following seven entities (selected at the discretion of the entity in consultation with the Bureau of Reclamation and the Fish and Wildlife Service) currently participating as signatories to the existing Memorandum of Understanding:
 - (A) other Federal agencies;
 - (B) State agencies;
 - (C) municipalities;
 - (D) universities and environmental groups;
 - (E) agricultural communities;
 - (F) Middle Rio Grande Pueblos (Sandia, Isleta, San Felipe, Cochiti, Santa Ana, and Santo Domingo); and
 - (G) Middle Rio Grande Conservancy District.

Deadline.

(b) Formation of this Committee shall not occur later than 45 days after enactment of this Act.

(c) Fiscal year 2004 appropriations shall not be obligated or expended prior to approval of a detailed spending plan by the House and Senate Committees on Appropriations.

Effective date.

(d) The above section shall come into effect within 180 days of enactment of this Act, unless the Bureau of Reclamation, in consultation with the above listed parties, has provided an alternative workgroup structure which has been approved by the House and Senate Committees on Appropriations.

SEC. 210. TULAROSA BASIN NATIONAL DESALINATION RESEARCH FACILITY. (a) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Pursuant to section 4(a) of Public Law 104-298; 110 Stat. 3622 (October 11, 1996), the Secretary may hereafter conduct or contract for the design, construction, testing and operation of the Tularosa Basin National Desalination Research Facility.

(b) The Tularosa Basin National Desalination Research Facility is hereafter exempt from all provisions of section 7 of Public Law 104-298; 110 Stat. 3622 (October 11, 1996). The Federal share of the cost of the Tularosa Basin National Desalination Research Facility may be up to 100 percent, including the cost of design, construction, operation, maintenance, repair and rehabilitation.

SEC. 211. The Secretary of the Interior, in carrying out CALFED-related activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Reservoir Enlargement, and Upper San Joaquin Storage projects, hereafter. These storage studies should be pursued along with ongoing environmental and other projects in a balanced manner.

SEC. 212. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented: *Provided*, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: *Provided further*, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: *Provided further*, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: *Provided further*, That this section shall not supercede any existing project-specific funding authority. The Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 213. HAWAII WATER RESOURCES STUDY. The Hawaii Water Resources Act of 2000 (Public Law 106–566; 114 Stat. 2818) is amended—

(1) in section 103—

114 Stat. 2818.

(A) in subsection (b)(1), by striking “Not” and all that follows through “the Secretary” and inserting “The Secretary” and

(B) in subsection (e), by striking “\$300,000” and all that follows and inserting “\$2,000,000 for the Federal share of the activities authorized under this section”; and

(2) in section 104(b), by striking “cost-effective,” and all that follows and inserting “cost-effective.”

114 Stat. 2819.

SEC. 214. Notwithstanding the provisions of title IV of Public Law 102–575 (106 Stat. 4648), the contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account shall expire 10 fiscal years from the date of enactment of this Act. Such contributions shall be from an account established by the Western Area Power Administration for this purpose and such contributions shall be made available to the Utah Reclamation Mitigation and Conservation Account subject to appropriations. After 10 fiscal years from the date of enactment of this Act, the Utah Reclamation Mitigation and Conservation Commission is hereby authorized to utilize interest earned and accrued to the Utah Reclamation Mitigation and Conservation Account.

Expiration date.

SEC. 215. TUALATIN RIVER BASIN, OREGON. (a) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY.—The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study—

(1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;

(2) to identify water conservation and water storage measures;

(3) to identify measures that would—

(A) improve water quality; and

(B) enable environmental and species protection; and

(4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) **FEDERAL SHARE.**—The Federal share of the cost of the study conducted under subsection (a)—

(1) shall not exceed 50 percent; and

(2) shall be nonreimbursable and nonreturnable.

(c) **ACTIVITIES.**—No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,900,000, to remain available until expended.

SEC. 216. FACILITATION OF INDIAN WATER RIGHTS IN ARIZONA. In order to facilitate Indian water rights settlements in the State of Arizona, the Secretary may:

(1) Extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C. 485h(d)) by irrigation districts who have contracts for water delivery from the Central Arizona Project.

(2) If requested by either the Gila River Indian Community or the San Carlos Apache Tribe, utilize appropriated funds transferred into the Lower Colorado River Basin Development Fund for construction of Indian Distribution systems to assist in the partial funding of costs associated with the on-reservation delivery of CAP water to these Indian tribes as set forth in the Bureau of Reclamation's FY 2004 Budget Justifications, PF-2B Schedules for construction of the Central Arizona Project. These funds shall be non-reimbursable Operation and Maintenance funds and shall not exceed amounts projected for construction by these Indian tribes as set forth in the Bureau of Reclamation's PF-2B Schedules that support the FY 2004 Budget Justifications for the Central Arizona Project.

Nevada.

SEC. 217. RESTORATION OF FISH AND WILDLIFE HABITAT, PROVISION OF BOTTLED WATER FOR FALLON SCHOOLCHILDREN, AND ASSOCIATED PROVISIONS. (a) **IN GENERAL.**—In carrying out section 2507 of Public Law 107-171, title II, subtitle F, the Secretary of Interior, acting through the Commissioner of Reclamation, shall—

(1) Notwithstanding section 2507 (b) of Public Law 107-171, title II, subtitle F, and in accordance with Public Law 101-618, provide \$2,500,000 to the State of Nevada to purchase water rights from willing sellers and make necessary improvements to benefit Carson Lake and Pasture: *Provided*, That such funds shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada.

(2) As soon as practicable after enactment, provide \$133,000 to Families in Search of the Truth, Fallon, Nevada, for the

purchase of bottled water and costs associated with providing such water to schoolchildren in Fallon-area schools.

(3) In consultation with the Pershing County Water Conservation District, the Commissioner shall expend \$270,000 for the State of Nevada's costs associated with the National Environmental Policy Act review of the Humboldt Title Transfer: *Provided*, That notwithstanding Public Law 107-282, section 804(d)-(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107-282, section 804(b)-(e) or due to any reconveyance under Public Law 107-282, section 804(f), including any such National Environmental Policy Act costs that exceed the \$270,000 expended by the Commissioner under this subparagraph.

(4) Provide \$1,000,000 to the University of Nevada, Reno's Biodiversity initiative for public education and associated technical assistance and outreach concerning the issues affecting the restoration of Walker Lake.

(b) ADMINISTRATION.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107-171.

SEC. 218. The Secretary of the Interior shall extend the term of the Sacramento River Settlement Contracts, long- and short-form, entered into by the United States with various districts and individuals, section 14 of the Reclamation Project Act of 1939 (53 Stat. 1197), for a period of 2 additional years after the date on which each of the contracts, respectively, would expire but for this section, or until renewal contracts are executed, whichever occurs earlier.

Contracts.

SEC. 219. (a) Section 1(b) of Public Law 105-295 (112 Stat. 2820) is amended by striking the second sentence and inserting the following: "The Federal share of the costs of constructing the temperature control device and associated temperature monitoring facilities shall be 50 percent and shall be nonreimbursable. The temperature control device and associated temperature monitoring facilities shall be operated by the non-Federal facility owner at its expense in coordination with the Central Valley Project for the benefit and propagation of Chinook salmon and steelhead trout in the American River, California."

(b) Section 1(c) of Public Law 105-295 (112 Stat. 2820) is amended by striking "\$1,000,000" and inserting "\$3,500,000".

SEC. 220. Not subject to fiscal year limitation, the Secretary of the Interior is hereafter authorized to implement, and enter into financial assistance or other agreements as may be necessary to undertake such activities identified for implementation (including construction) generally in accordance with section III of, and the Pumping/Dam Removal Plan as defined in, United States District Court Consent Decree "United States, et al., v. Grants Pass Irrigation District, Civil No. 98-3034-HO" (August 27, 2001). There are authorized to be appropriated such sums as may be necessary to carry out this provision, and activities conducted under this provision shall be nonreimbursable and nonreturnable.

SEC. 221. EXTENSION OF CERTAIN IRRIGATION PROJECT CONTRACTS. Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 114 Stat. 1441, 1441A-70) is amended—

(1) in subsection (a), by striking “December 31, 2003” and inserting “December 31, 2005”; and

(2) in subsection (b)—

(A) in the first sentence, by striking “beyond December 31, 2003” and inserting “beyond December 31, 2005”; and

(B) in the second sentence, by striking “prior to December 31, 2003” and inserting “before December 31, 2005”.

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 12 passenger motor vehicles for replacement only, including two buses; \$737,537,000, to remain available until expended.

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 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, \$163,375,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities conducted as a result of nuclear energy research and development activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, as well as new work scope transferred to the Environmental Management program, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, \$339,468,000, 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 and title X, subtitle A, of the Energy Policy Act of 1992, \$416,484,000, to be derived from the Fund, to remain available

until expended, of which \$51,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 15 passenger motor vehicles for replacement only, including not to exceed one ambulance, \$3,451,700,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, \$190,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That none of the funds provided herein may be used for international travel.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

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), \$216,533,000, 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 \$123,000,000 in fiscal year 2004 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 2004, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2004 appropriation from the general fund estimated at not more than \$93,533,000.

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, \$39,462,000, 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; one fixed wing aircraft for replacement only; and the purchase of not to exceed six passenger motor vehicles, of which four shall be for replacement only, including not to exceed two buses; \$6,272,511,000, to remain available until expended: *Provided*, That \$87,000,000 is authorized to be appropriated for Project 01-D-108, Microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: *Provided further*, That \$3,564,000 is authorized to be appropriated for Project 04-D-103, Project engineering and design (PED), various locations: *Provided further*, That a plant or construction project for which amounts are made available under this heading in this fiscal year with a current estimated cost of less than \$10,000,000 is considered for purposes of section 3622 of Public Law 107-314 as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 3623 of Public Law 107-314 as a construction project with a current estimated cost of less than the minor construction threshold.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,327,612,000, 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, and the purchase of not to exceed one bus; \$766,400,000, 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), \$339,980,000, 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; \$5,651,062,000, to remain available until expended: *Provided*, That the Secretary of Energy is directed to use \$1,000,000 of the funds provided for regulatory and technical assistance to the State of New Mexico, to amend the existing WIPP Hazardous Waste Permit to comply with the provisions of section 310 of this Act.

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 one ambulance for replacement only, \$991,144,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$674,491,000, 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, \$390,000,000, 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 2004, 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, \$5,100,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, up to \$19,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

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, \$28,600,000, to remain available until expended: *Provided*, That, notwithstanding the provisions of 31 U.S.C. 3302, up to \$1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures; in addition, notwithstanding 31 U.S.C. 3302, beginning in fiscal year 2004 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 5 of the Flood Control Act, shall be credited to this account and be available until expended.

16 USC 825s-4.

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, \$177,950,000, to remain available until expended, of which \$167,236,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$6,200,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That notwithstanding the provision of 31 U.S.C. 3302,

up to \$162,108,000 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: *Provided further*, That the \$750,000 that is made available under this heading for a transmission study on the placement of 500 megawatt wind energy in North Dakota and South Dakota may be nonreimbursable: *Provided further*, That, in accordance with section 203 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1593), electrical power supply and delivery assistance may be provided to the local distribution utility as required to maintain proper voltage levels at the Big Sandy River Diffuse Source Control Unit.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,640,000, 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), \$204,400,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$204,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2004 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 2004 so as to result in a final fiscal year 2004 appropriation from the general fund estimated at not more than \$0.

42 USC 7171
note.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

(RESCISSION)

Of the funds appropriated in prior Energy and Water Development Appropriation Acts, \$15,329,000 of unexpended balances of prior appropriations are rescinded: *Provided*, That \$13,329,000 shall be derived from the Paducah Disposal Facility Privatization (OR–574) and \$2,000,000 shall be derived from the Portsmouth Disposal Facility Privatization (OR–674).

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

Contracts.
Deadline.
Notification.

SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2004 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy, not later than 60 days after the date of the enactment of this Act, publishes in the Federal Register and submits 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) Notwithstanding paragraph (1), the Secretary of Energy may use appropriated funds to maintain operations of noncompetitive management and operating contracts as necessary during the 60-day period beginning on the date of the enactment of this Act.

(3) Paragraph (1) does not apply to an extension for up to 2 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.

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

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

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

SEC. 303. None of the funds appropriated by this Act may be used to augment the \$13,400,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 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 and other potential users, or seeks input from universities and 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 2004 until the enactment of the Intelligence Authorization Act for fiscal year 2004.

50 USC 2812
note.

SEC. 310. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purposes of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residues; (3) wet residues; (4) direct repackaging residues; and (5) scrub alloy as referenced in the “Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site”.

SEC. 311. (a) The Secretary of Energy is directed to file a permit modification to the Waste Analysis Plan (WAP) and associated provisions contained in the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). For purposes of determining compliance of the modifications to the WAP with the hazardous waste analysis requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or other applicable laws waste confirmation for all waste received for storage and disposal shall be limited to: (1) confirmation that the waste contains no ignitable, corrosive, or reactive waste through the use of either radiography or visual examination of a statistically representative subpopulation of the waste; and (2) review of the Waste Stream Profile Form to verify that the waste contains no ignitable, corrosive, or reactive waste and that assigned Environmental Protection Agency hazardous waste numbers are allowed for storage and disposal by the WIPP Hazardous Waste Facility Permit.

(b) Compliance with the disposal room performance standards of the WAP shall be demonstrated exclusively by monitoring airborne volatile organic compounds in underground disposal rooms in which waste has been emplaced until panel closure.

SEC. 312. Notwithstanding any other provision of law, the material in the concrete silos at the Fernald uranium processing facility currently managed by the Department of Energy and the ore processing residual materials in the Niagara Falls Storage Site subsurface waste containment structure managed by the United States Army Corps of Engineers under the Formerly Utilized Sites Remedial Action Program shall be considered “byproduct material” as defined by section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2)). The Nuclear Regulatory Commission or an Agreement State, as appropriate, shall regulate the material as “11e.(2) by-product material” for the purpose of disposition of the material in an NRC-regulated or Agreement State-regulated facility.

Deadline.
Reports.

SEC. 313. No funds appropriated or otherwise made available under this title under the heading “ATOMIC ENERGY DEFENSE ACTIVITIES” may be obligated or expended for additional and exploratory studies under the Advanced Concepts Initiative until 30 days after the date on which the Administrator for Nuclear Security submits to Congress a detailed report on the planned activities for additional and exploratory studies under the initiative for fiscal year 2004. The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 314. MARTIN’S COVE LEASE. (a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT.—The term “Bureau of Land Management”, hereafter referred to as the “BLM”, means an agency of the Department of the Interior.

(2) CORPORATION.—The term “Corporation” means the Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, located at 50 East North Temple Street, Salt Lake City, Utah.

(3) MARTIN’S COVE.—The term “Martin’s Cove” means the area, consisting of approximately 940 acres of public lands in Natrona County, Wyoming as depicted on the Martin’s Cove map numbered MC-001.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) LEASE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the Corporation to lease, for a term of 25 years, approximately 940 acres of Federal land depicted on the Martin’s Cove map MC-001. The Corporation shall retain the right of ingress and egress in, from and to any part of the leasehold for its use and management as an important historical site. Deadline.

(2) TERMS AND CONDITIONS.—

(A) SURVEY.—As a condition of the agreement under paragraph (1), the Corporation shall provide a boundary survey to the Secretary, acceptable to the Corporation and the Secretary, of the parcels of land to be leased under paragraph (1).

(B) ACCESS.—

(i) IN GENERAL.—The Secretary and the Corporation shall enter into a lease covenant, binding on any successor or assignee that ensures that, consistent with the historic purposes of the site, public access will be provided across private land owned by the Corporation to Martin’s Cove and Devil’s Gate. Access shall—

(I) ensure public visitation for historic, educational and scenic purposes through private lands owned by the Corporation to Martin’s Cove and Devil’s Gate;

(II) provide for public education, ecologic and preservation at the Martin’s Cove site;

(III) be provided to the public without charge; and

(IV) permit the Corporation, in consultation with the BLM, to regulate entry as may be required to protect the environmental and historic values of the resource at Martin’s Cove or at such times as necessitated by weather conditions, matters of public safety and nighttime hours.

(C) IMPROVEMENTS.—The Corporation may, upon approval of the BLM, improve the leasehold as may become necessary from time to time in order to accommodate visitors to the leasehold.

(D) ARCHAEOLOGICAL PRESERVATION.—The Corporation shall have the obligation to protect and maintain any historical or archaeological artifacts discovered or otherwise identified at Martin’s Cove.

(E) VISITATION GUIDELINES.—The Corporation may establish, in consultation with the BLM, visitation guidelines with respect to such issues as firearms, alcoholic beverages, and controlled substances and conduct consistent with the historic nature of the resource, and to protect public health and safety.

(F) NO ABRIDGEMENT.—The lease shall not be subject to abridgement, modification, termination, or other taking in the event any surrounding area is subsequently designated as a wilderness or other protected areas. The lease shall contain a provision limiting the ability of the Secretary from administratively placing Martin's Cove in a restricted land management status such as a Wilderness Study Area.

(G) RIGHT OF FIRST REFUSAL.—The Corporation shall be granted a right of first refusal to lease or otherwise manage Martin's Cove in the event the Secretary proposes to lease or transfer control or title of the land to another party.

(H) FAIR MARKET VALUE LEASE PAYMENTS.—The Corporation shall make lease payments which reflect the fair market rental value of the public lands to be leased, provided however, such lease payments shall be offset by value of the public easements granted by the Corporation to the Secretary across private lands owned by the Corporation for access to Martin's Cove and Devil's Gate.

(I) RENEWAL.—The Secretary may offer to renew such lease on terms which are mutually acceptable to the parties.

(c) MINERAL WITHDRAWAL.—The Secretary shall retain the subsurface mineral estate under the 940 acres under the leasehold. The 940 acres described in subsection (a)(3) are hereby withdrawn from mining location and from all forms of entry, appropriation, and disposal under the public land laws.

(d) NO PRECEDENT SET.—This Act does not set a precedent for the terms and conditions of leases between or among private entities and the United States.

(e) VALID AND EXISTING RIGHTS.—The Lease provided for under this section shall be subject to valid existing rights with respect to any lease, right-of-way, permit, or other valid existing rights to which the property is subject.

(f) AVAILABILITY OF MAP.—The Secretary shall keep the map identified in this section on file and available for public inspection in the Casper District Office of the BLM in Wyoming and the State Office of the BLM, Cheyenne, Wyoming.

(g) NEPA COMPLIANCE.—The Secretary shall comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in carrying out this section.

SEC. 315. REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696. (a) DEFINITIONS.—

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) TOWN.—The term "town" means the town of Stuyvesant, New York, the holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787.

(b) REINSTATEMENT AND TRANSFER.—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision

Deadline.

of that Act, the Commission shall, not later than 30 days after the date of enactment of this Act—

(1) reinstate the license for Project No. 2696; and

(2) transfer the license to the town.

(c) HYDROELECTRIC INCENTIVES.—Project No. 2696 shall be entitled to the full benefit of any Federal law that—

(1) promotes hydroelectric development; and

(2) that is enacted within 2 years before or after the date of enactment of this Act.

(d) CO-LICENSEE.—Notwithstanding the issuance of a preliminary permit to the town and any consideration of municipal preference, the town may at any time add as a co-licensee to the reinstated license a private or public entity.

(e) PROJECT FINANCING.—The town may receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702, 2703) or similar programs for the reimbursement of the costs of any feasibility studies and project costs incurred during the period beginning on January 1, 2001 and ending on December 31, 2006.

(f) ENERGY CREDITS.—Any power produced by the project shall be deemed to be incremental hydropower for purposes of qualifying for energy credits or similar benefits.

SEC. 316. Of the funds made available in this Act for Defense Environmental Services, \$1,000,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided*, That \$4,000,000 shall be provided to affected units of local governments, as defined in Public Law 97-425, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

Deadline.
Nevada.
Certification.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$66,000,000, 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, \$19,559,000, 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, \$5,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$55,000,000, to remain available until expended: *Provided*, That \$5,500,000 shall not be available until the Denali Commission submits to the House and Senate Committees on Appropriations a detailed budget justification for fiscal year 2005.

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, \$618,800,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$33,100,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$538,844,000 in fiscal year 2004 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 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than \$79,956,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$7,300,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$6,716,000 in fiscal year 2004 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 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than \$584,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

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

SEC. 503. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

50 USC 2811.

SEC. 504. CLARIFICATION OF INDEMNIFICATION TO PROMOTE ECONOMIC DEVELOPMENT. (a) Subsection (b)(2) of section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274q(b)(2)) is amended by adding the following after subparagraph (C):

“(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).”.

Effective date.
50 USC 2811
note.

(b) The amendment made by section 506, as amended by this section, is effective as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1998.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2004”.

Approved December 1, 2003.

LEGISLATIVE HISTORY—H.R. 2754 (S. 1424):

HOUSE REPORTS: Nos. 108–212 (Comm. on Appropriations) and 108–357 (Comm. of Conference).

SENATE REPORTS: No. 108–105 accompanying S. 1424 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 149 (2003):

July 18, considered and passed House.

Sept. 11, 15, 16, considered and passed Senate, amended, in lieu of S. 1424.

Sept. 17, further amended in Senate.

Nov. 18, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 39 (2003):

Dec. 1, Presidential statement.

