AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

109TH CONGRESS
2D SESSION

H. R. 5427

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 2007, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007, for energy and water development and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—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 and storm damage reduction, aquatic ecosystem restoration, and related purposes.

INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, 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, $128,000,000, to remain available until expended: *Provided,* That, except as provided in section 101 of this

Act, the amounts made available under this paragraph shall be expended in accordance with the terms and conditions specified in the report accompanying this Act.

CONSTRUCTION

(INCLUDING RESCISSION)

For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); $1,947,171,000, to remain available until expended; of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects; and of which $8,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which $2,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which $29,933,000 shall be exclu-

sively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which $15,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which $25,000,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which $25,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Development Act of 1996; and of which $2,500,000 shall be for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which $5,000,000 shall be for projects and activities authorized under section 204 of the Water Resources Act of 1992: *Provided,* That $35,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410r–8: *Provided further*, That, of the funds provided under the heading ''Construction'' in title I of Public Law 109–103, $56,046,000 is rescinded, to be derived from the unobligated balances of the amounts made available for the following projects in Louisiana: Grand Isle and Vicinity, Lake Pontchartrain and Vicinity, Larose to Golden Meadow, New Orleans to Venice, Southeast Louisiana, and West Bank and Vicinity: *Provided further,* That, except as provided in section 101 of this Act, the amounts

made available under this paragraph shall be expended in accordance with the terms and conditions specified in the report accompanying this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for the program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $290,607,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided,* That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended in accordance with the terms and conditions specified in the report accompanying this Act.

OPERATION AND MAINTENANCE

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 authorized by law, including the construction of facilities, projects, or features (including islands and wetlands) to use materials dredged during Federal navigation maintenance activities; the mitigation of impacts on shorelines resulting from Federal navigation operation and maintenance activities; the benefit of feder-

ally listed species to address the effects of any civil works project under the jurisdiction of the Corps on any such species on project land within the watershed or operational reach of the project; providing security for infrastructure owned and operated by, or on behalf of, the Corps, including administrative buildings and facilities, and laboratories; 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 surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, $2,195,471,000, to remain available until expended, of which $45,078,000 shall be for projects and activities in Region 1 New England; of which $143,250,000 shall be for projects and activities in Region 2 Mid Atlantic; of which $297,043,000 shall be for projects and activities in Region 3 South Atlantic Gulf; of which $101,407,000 shall be for projects and activities in Region 4 Great Lakes; of which $252,886,000 shall be for projects and activities in Region 5 Ohio; of which $21,301,000 shall be for projects and activities in Region 6 Tennessee; of which $233,803,000 shall be for projects and activities in Region 7 Upper Mississippi; of which $147,021,000 shall be for projects and activities in Region

8 Lower Mississippi; of which $2,999,000 shall be for projects and activities in Region 9 Souris-Red-Rainy; of which $151,180,000 shall be for projects and activities in Region 10 Missouri; of which $178,084,000 shall be for projects and activities in Region 11 Arkansas-White-Red; of which $141,113,000 shall be for projects and activities in Region 12 Texas-Gulf; of which $10,209,000 shall be for projects and activities in Region 13 Rio Grande; of which $722,000 shall be for projects and activities in Region 14 Upper Colorado; of which $3,327,000 shall be for projects and activities in Region 15 Lower Colorado; of which $761,000 shall be for projects and activities in Region 16 Great Basin; of which $242,593,000 shall be for projects and activities in Region 17 Pacific Northwest; of which $102,461,000 shall be for projects and activities in Region 18 California; of which $22,204,000 shall be for projects and activities in Region 19 Alaska; of which $1,995,000 shall be for projects and activities in Region 20 Hawaii; of which $4,000,000 shall be for projects and activities in Region 21 Caribbean; of which such sums as are necessary to cover the Federal share of eligible operations and maintenance shall be derived from the Harbor Maintenance Trust Fund of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965,

as amended (16 U.S.C. 460l–6a(i)), shall be used for resource protection, research, interpretation, and maintenance activities related to resource protection in areas operated by the Corps 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, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended in accordance with the terms and conditions specified in the report accompanying this Act.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $173,000,000, 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, $130,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary to prepare for flood, hurricane, and other natural disasters and support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law, $32,000,000, 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, $142,100,000, 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 civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the offices of the Division Engineers: *Provided further*, That, of the funds provided under this heading, $10,000,000 shall be transferred to ''Operation and Maintenance'' upon the expiration of the 30-day period following the date of enactment of this Act if, during such period, the Secretary of the Army has not

submitted to the Committees on Appropriations of the House of Representatives and the Senate a report summarizing outstanding reprogramming commitments of the Corps of Engineers for fiscal years 2000 through 2006 on a project by project basis.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), $1,500,000: *Provided,* That, of the funds provided under this heading, $1,000,000 shall be transferred to ''Operation and Maintenance'' upon the expiration of the 30-day period following the date of enactment of this Act if, during such period, the Secretary of the Army has not submitted to the Committees on Appropriations of the House of Representatives and the Senate a report summarizing outstanding reprogramming commitments of the Corps of Engineers for fiscal years 2000 through 2006 on a project by project basis.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses not to exceed $5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase

not to exceed 100 for replacement only and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act shall be available for obligation or expenditure through a reprogramming of funds that—

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

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

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act;

(4) reduces funds that are directed to be used for a specific program, project, or activity by this Act;

(5) increases funds for any program, project, or activity by more than $2,000,000 or 25 percent, whichever is less; or

(6) reduces funds for any program, project, or activity by more than $2,000,000 or 25 percent, whichever is less.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948; section 14 of the Flood Control Act of

1946; section 208 of the Flood Control Act of 1954; section 107 of the River and Harbor Act of 1960; section 103 of the River and Harbor Act of 1962; section 111 of the River and Harbor Act of 1968; section 1135 of the Water Resources Development Act of 1986; section 206 of the Water Resources Development Act of 1996; sections 204 and 207 of the Water Resources Development Act of 1992 or section 933 of the Water Resources Development Act of 1986.

SEC. 102. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that commits an amount for a project in excess of the amount appropriated for such project pursuant to this Act: *Provided,* That the amounts appropriated in this Act may be modified pursuant to the authorities provided in section 101 of this Act or through the application of unobligated balances for such project.

SEC. 103. None of the funds provided in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse 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.

SEC. 104. (a) None of the funds provided in this Act shall be available for operation and maritime maintenance of the hopper dredge McFarland.

(b) Subsection (a) shall not apply to funds required for the decommissioning of the vessel.

SEC. 105. None of the funds provided in this Act may be expended to prevent or limit any reprogramming of funds for a project to be carried out by the Corps of Engineers, based on whether the project was included by the President in the budget transmitted under section 1105(a) of title 31, United States Code, or is otherwise proposed by the President or considered part of the budget by the Office of Management and Budget.

SEC. 106. None of the funds provided in this Act may be used to repay the Department of Treasury's Judgment Fund for past judgments against the United States on Civil Works contracts and real estate acquisitions that have been financed by the Judgment Fund.

SEC. 107. None of the funds provided in this Act may be used to implement an A–76 study or similar privatization process for Corps personnel employed to operate or maintain locks and dams.

SEC. 108. None of the funds in this Act may be used to further work on the Corps of Engineers proposal to remove a section of the dam for fish passage or to study other alternatives to the trap and haul facility at Elk Creek Dam, Oregon.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $38,552,000, to remain available until expended, of which $965,000 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, $1,603,000, 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 AND RESCISSION)

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, $849,122,000, to remain available until expended, of which $57,298,000 shall be available for transfer to the Upper Colorado River Basin Fund and $26,952,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which 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 fur-*

ther, 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 from unobligated balances made available under section 2507 of the Farm Security and Rural Investment Act of 2002 for the Bureau of Reclamation's At Risk Terminal Lakes Program, $88,000,000 are rescinded: *Provided further,* That $10,000,000 of the funds provided herein shall be deposited in the San Gabriel Restoration Fund established by section 1110 of division B, title I of Public Law 106–554 as amended: *Provided further*, That of the sums provided herein, $1,000,000 shall be used for assessing the feasibility of relocating the Highway 49 bridge, Auburn-Folsom South Unit of the Central Valley Project.

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,

$41,478,000, 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.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, Public Law 108–361, consistent with plans to be approved by the Secretary of the Interior, $40,110,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to

the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program: *Provided further,* That $6,000,000 shall be transferred to the Army Corps of Engineers to carry out further study and analysis of the stability of the levee projects authorized under section 103(f)(3) of Public Law 108–361.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $58,069,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

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

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

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

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

reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this 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.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY AND CONSERVATION

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation 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, $2,025,527,000 (increased by $5,000,000) (reduced by $5,000,000) (increased by $25,000,000), to remain available until September 30, 2009.

CLEAN COAL TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading for obligation in prior years, $257,000,000 are rescinded.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $558,204,000, to remain available until expended, of which $54,000,000 is available to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and conditions applicable to clean coal technology projects: *Provided*, That the initial planning and research stages of the FutureGen project

shall include a matching requirement from non-Federal sources of at least 20 percent of the costs: *Provided further*, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: *Provided further*, That of the amounts provided, $36,400,000 is available, after coordination with the private sector, for a request for proposals for the Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: *Provided further*, That no project may be selected for which sufficient funding is not available to provide for the total project: *Provided further*, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading ''Clean Coal Technology'' in 42 U.S.C. 5903d as well as those contained under the heading ''Clean Coal Technology'' in prior appropriations: *Provided further*, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further*, That such repay-

ments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further*, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further,* That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: *Provided further,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, $18,810,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, $155,430,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, $4,950,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $89,769,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup 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 six passenger motor vehicles, of which five shall be for replacement only, $309,946,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, $579,368,000, to be derived from the Fund, to remain available until expended, of which $20,000,000 shall be available in accord-

ance 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 twenty-five passenger motor vehicles for replacement only, $4,131,710,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended (the ''Act''), including the acquisition of real property or facility construction or expansion, $186,420,000, to remain available until expended, of which $156,420,000 shall be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for Nuclear Waste Disposal, $2,000,000 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 Act: *Provided further,* That $4,000,000 shall be provided to affected units of local government, as defined in the Act, to conduct appropriate activities and participate in licensing activities: *Provided further,* That 7.5 percent of the funds provided shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada units of local government: *Provided further,* That notwithstanding the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government under this heading: *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 shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: *Provided further*, That 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, except for normal and recognized executive-legislative communications, 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 Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further,* That no funds provided in this Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in car-

rying 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, $278,382,000 (reduced by $25,000,000) (reduced by $27,800,000), 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 2007 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 2007, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2007 appropriation from the general fund estimated at not more than $155,382,000.

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, $45,507,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 14 passenger motor vehicles, for replacement only, including not to exceed two buses; $6,412,001,000, to remain available until expended: *Provided,* That $40,000,000 of that amount is for the Material Consolidation and Upgrade Construction Project, Buildings 651 and 691, at the Idaho National Laboratory.

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, $1,593,101,000 (increased by $27,800,000), 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, $795,133,000, 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, $399,576,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup 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, $4,951,812,000, to remain available until expended, and $600,000,000 for the Waste Treatment and Immobilization Plant at Hanford, Washington, to remain available until September 30, 2007.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed

ten passenger motor vehicles for replacement only, $720,788,000, 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, $388,080,000, 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 2007, 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 electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $5,723,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to $48,003,000 collected by the Southeastern Power

Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, $31,539,000, to remain available until expended: *Provided,* That, notwithstanding 31 U.S.C. 3302, up to $13,600,000 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.

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; $212,213,000, to remain available until expended, of which $208,776,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided,* That of the amount herein appropriated, $6,893,000 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 of the amount herein appropriated, $6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: *Provided further,* That of the amount herein appropriated, $500,000 shall be available until expended on a nonreimbursable basis to the Dynamic Engineering Studies on the TOT–3 and Wyoming West Transmission projects: *Provided further,* That notwithstanding the provision of 31 U.S.C. 3302, up to

$472,593,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,500,000, 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, $230,800,000, to remain available until expended: *Pro-*

vided, That notwithstanding any other provision of law, not to exceed $230,800,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2007 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 2007 so as to result in a final fiscal year 2007 appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. CONTRACT COMPETITION.—(a)(1) None of the funds in this or any other appropriations Act for fiscal year 2007 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and oper-

ating 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, and Lawrence Livermore National Laboratory.

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

(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy

grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 302. WORKFORCE RESTRUCTURING.—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. SECTION 3161 ASSISTANCE.—None of the funds appropriated by this Act may be used to augment the funds 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 to the appropriate congressional committees.

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

SEC. 305. UNEXPENDED BALANCES.—The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances 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. BONNEVILLE POWER ADMINISTRATION SERVICE TERRITORY.—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

1 certifies in advance that such services are not available
2 from private sector businesses.

3 SEC. 307. USER FACILITIES.—When the Department
4 of Energy makes a user facility available to universities
5 or other potential users, or seeks input from universities
6 or other potential users regarding significant characteris-
7 tics or equipment in a user facility or a proposed user fa-
8 cility, the Department shall ensure broad public notice of
9 such availability or such need for input to universities and
10 other potential users. When the Department of Energy
11 considers the participation of a university or other poten-
12 tial user as a formal partner in the establishment or oper-
13 ation of a user facility, the Department shall employ full
14 and open competition in selecting such a partner. For pur-
15 poses of this section, the term ''user facility'' includes, but
16 is not limited to: (1) a user facility as described in section
17 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
18 13503(a)(2)); (2) a National Nuclear Security Adminis-
19 tration Defense Programs Technology Deployment Cen-
20 ter/User Facility; and (3) any other Departmental facility
21 designated by the Department as a user facility.

22 SEC. 308. INTELLIGENCE ACTIVITIES.—Funds ap-
23 propriated by this or any other Act, or made available by
24 the transfer of funds in this Act, for intelligence activities
25 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 2007 until the enactment of the Intelligence Authorization Act for fiscal year 2007.

SEC. 309. LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Of the funds made available by the Department of Energy for activities at government-owned, contractor-operator operated laboratories funded in this Act, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory-directed research and development: *Provided,* That the Secretary may also authorize a specific amount not to exceed 3 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site-directed research and development.

SEC. 310. TECHNOLOGY COMMERCIALIZATION FUND.—None of the funds made available by this Act may be used for technology commercialization activities funded via a tax on applied energy research, development, demonstration, and commercial application activities by the Department of Energy as authorized by section 1001(e) of title X of the Energy Policy Act of 2005.

SEC. 311. CONTRACTOR PENSION BENEFITS.—None of the funds made available in title III of this Act shall be used for implementation of the Department of Energy Order N 351.1 modifying contractor employee pension and medical benefits policy.

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, not withstanding 40 U.S.C. 14704, and, 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, $35,472,000, 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, $22,260,000, 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, $5,940,000, 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, $7,536,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

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 $19,000, $808,410,000, to remain available until expended: *Provided,* That of the amount appropriated herein, $40,981,840 shall be derived from the Nuclear Waste Fund: *Provided further,* That revenues from

licensing fees, inspection services, and other services and collections estimated at $656,328,000 in fiscal year 2007 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 2007 so as to result in a final fiscal year 2007 appropriation estimated at not more than $152,082,000.

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, $8,144,000, to remain available until expended: *Provided,* That revenues from licensing fees, inspection services, and other services and collections estimated at $7,330,000 in fiscal year 2007 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 2007 so as to result in a final fiscal year 2007 appropriation estimated at not more than $814,000.

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, $3,670,000, 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. 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.

SEC. 503. None of the funds made available by this Act from the Nuclear Waste Fund may be used to carry out the Global Nuclear Energy Partnership program.

SEC. 504. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting requirements of Executive

Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).

SEC. 505. None of the funds made available in this Act may be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

SEC. 506. None of the funds made available by this Act shall be used by the Federal Energy Regulatory Commission to enforce any claim for a termination payment (as defined in any jurisdictional contract) asserted by any regulated entity the Commission has found to have violated the terms of its market-based rate authority by engaging in manipulation of market rules or exercise of market power in the Western Interconnection during the period January 1, 2000, to June 20, 2001.

This Act may be cited as the ''Energy and Water Development Appropriations Act, 2007''.

Passed the House of Representatives May 24, 2006.

Attest:

Clerk.

109TH CONGRESS
2D SESSION

H. R. 5427

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 2007, and for other purposes.