Public Law 101-514
101st Congress

An Act

Nov. 5, 1990
[H.R. 5019]

Making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

Energy and Water Development Appropriations Act, 1991.

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, 1991, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

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

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $146,435,000, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1991 in the amounts specified:

Casino Beach, Chicago, Illinois, $220,000;

McCook and Thornton Reservoirs (CUP), Illinois, $2,000,000;

Lake George, Hobart, Indiana, $125,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $220,000;

Ste. Genevieve, Missouri, $600,000;

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,900,000;

Miami River Sediments, Florida, $200,000;

Monroe County Beach Erosion (Smathers Beach), Florida, $193,000;

Wyoming Valley Levee Raising, Pennsylvania, $1,000,000:

Provided further, That not to exceed $27,200,000 shall be available for obligation for research and development activities: *Provided*

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete preconstruction engineering and design of the LaConner, Washington, project using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101: *Provided further,* That the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to conduct research and development associated with an advanced high speed magnetic levitation transportation system: *Provided further,* That notwithstanding any other provision of law, the funds appropriated to the Corps of Engineers in Public Law 101-101 for Magnetic Levitation Research and Development activities are hereby authorized for expenditure only in accordance with the directions contained in Senate Report 101-83 and House Report 101-235: *Provided further,* That with $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to resume preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *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 to complete the Los Angeles-Long Beach Harbors project feasibility study and is further directed to use $2,000,000 of the funds appropriated herein to initiate preconstruction engineering and design of that project upon release of the South Pacific Division Engineer's notice of completion of the feasibility report: *Provided further,* That with $200,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101, together with $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Red River Waterway, Index, Arkansas, to Denison Dam, Texas, project: *Provided further,* That with $800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to accelerate preconstruction engineering and design for the Folly Beach, South Carolina, project and complete the General Design Memorandum by May 1991 so that project construction could begin in the fourth quarter of fiscal year 1992: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $300,000 of the funds appropriated herein to initiate and expedite a reconnaissance study to develop a recommended plan for flood damage prevention and other water resources problems along the Ohio River and its tributaries in Belmont and Jefferson Counties, Ohio: *Provided further,* That using $270,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete engineering and design of the Bethel, Alaska, bank stabilization project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, alteration and removal of obstructive bridges, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for

selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,050,450,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1991 in the amounts specified:

O'Hare Reservoir, Illinois, $4,300,000;

Red River Emergency Bank Protection, Arkansas and Louisiana, $4,100,000, which is to be utilized to construct emergency bank stabilization measures including repairs to revetments and realignments upstream of Shreveport, Louisiana, to Index, Arkansas, that were significantly damaged in the May 1990 flood in the Red River Basin;

Hansen Dam, California, $272,000;

Kissimmee River, Florida, $6,000,000;

Wallisville Lake, Texas, $9,200,000;

Red River Basin Chloride Control, Texas and Oklahoma, $5,000,000;

Shinnecock Inlet, New York, $3,000,000;

Platte River Flood and Streambank Erosion Control Demonstration Project, Nebraska, $1,500,000;

San Diego River and Mission Bay, California, $975,000;

Tampa Bay (Port Sutton), Florida, $500,000:

Provided further, That with $7,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further,* That with $20,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further,* That $6,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the lower Mingo County, West Virginia element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367, in accordance with the costsharing principles of Public Law 99-662 using continuing contracts: *Provided further,* That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, and lower Mingo County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further,* That the project for flood protection for the town of Matewan, West Virginia, shall include all incorporated units within the town of Matewan: *Provided further,* That with funds herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is com-

plete in accordance with the terms and conditions of Public Law 101-101 for the O'Hare Reservoir, Illinois, and Wallisville Lake, Texas, projects: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the Kanawha River, Charleston, West Virginia, and Kanawha River, Saint Albans, West Virginia, projects using funds appropriated in the Energy and Water Development Appropriations Act, 1988, Public Law 100-202: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to permit the non-Federal sponsors for the Fort Toulouse, Elmore County, Alabama, and Mound State Park, Moundville, Alabama, projects to contribute, in lieu of cash, all or any portion of their share of the projects with work in-kind: *Provided further,* That using $400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1) in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further,* That using $500,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to complete engineering and design and proceed with construction in fiscal year 1991 of riverbed gradient restoration facilities in the vicinity of mile 206 of the Sacramento River, California, pursuant to the authority provided in section 102 of Public Law 101-101, the Energy and Water Development Appropriations Act, 1990: *Provided further,* That with $550,000 of the funds herein appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, engineering, design, and construction of the Des Moines Recreational River and Greenbelt, Iowa, project in accordance with the terms and conditions for construction in Public Law 100-202: *Provided further,* That with $3,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to approve the remaining design memoranda and to continue land acquisition at Red Rock Lake and Dam, Iowa, in accordance with Public Law 99-190: *Provided further,* That using $975,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to repair and restore to a safe condition the existing Tulsa and West Tulsa Local Protection Project, Oklahoma, authorized by the Flood Control Act approved August 18, 1941, Public Law 73-228, at an estimated cost of $1,300,000. The non-Federal share of the project will be in accordance with the provisions of title I, section 103, of Public Law 99-662, for flood control purposes: *Provided further,* That using $550,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is hereby directed to study, design and construct streambank protection measures along the east shoreline of McGregor Park in the city of Clarksville, Tennessee, on Lake Barkley, under the authority of section 14 of Public Law 79-526: *Provided further,* That using $970,000 of funds appropriated herein, the Secretary of the Army is directed to relocate the Southeast Light on Block Island, Rhode Island to a more suitable location, subject to enactment into law of authorizing legislation: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary

is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $1,000,000 of the funds appropriated herein to initiate the design; and, in addition, $92,636,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary is directed to continue the first phase of construction of Locks and Dams 4 and 5 that were initiated in 1990 and continue at an accelerated rate the design of the second phase contracts for Locks and Dams 4 and 5 in order to be prepared to initiate them in the second quarter of fiscal year 1992, to repair damages caused by the 1990 flood to project features that are complete or currently under construction, and to award continuing contracts in fiscal year 1991 for construction of the following features of the Red River Waterway which are not to be considered fully funded: Grappe Capout, Fausse Capout, Socot Capout, Grappe Realignment, McDade Revetment, Moss Revetment, Elm Grove Revetment, Cecile Revetment: *Provided further,* That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make available $150,000 for engineering, design, acquisition and construction of a support structure to serve as the foundation for the Seafarers Memorial in the Columbia River, in cooperation with the City of Hammond, Oregon.

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

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $344,606,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further,* That using $236,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Horn Lake Creek and Tributaries (including Cow Pen Creek), Tennessee and Mississippi, project: *Provided further,* That the Secretary of the Army is hereby directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88, 99-662, and 100-202. The Secretary is authorized to include in any transfer of real property, in fee simple, excluding minerals, for public access pursuant to Public Laws 99-88, 99-662, and 100-202, language requiring the United States, in the event that the property is no longer required for public access and prior to any subsequent sale, exchange, or other transfer of the property

acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value. This authority is effective July 1, 1989, and the Secretary is further authorized to correct and amend deeds executed and delivered prior to said date to incorporate this provision: *Provided further,* That with $2,000,000 herein appropriated or with funds hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to award continuing contracts until construction is complete for the West Memphis and Vicinity, Arkansas, project authorized by section 401(a) of the Water Resources Development Act of 1986 as modified by the General Design Memorandum 101, dated May 1990: *Provided further,* That using $400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the authorized Ouachita River Levees project in Louisiana and that rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical urban protection is to be accomplished at Federal expenses; and, in addition, the Bayou Rapides Drainage Structure and Pumping Plant is to be included as a feature of the Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee project, Lower Red River, South Bank Levee.

Operation and Maintenance, General

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,450,669,000, 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 $20,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided,* That $3,630,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for the Long-Term Management Strategy for dredged material disposal in the San Francisco Bay, California, region: *Provided further,* That $2,500,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein for the Federal share of construction of access facilities in the McAlpine Lock and Dam navigation pool. The non-Federal interests shall be credited for previous work related to access, including $3,000,000 for 1,060 feet of the new downtown wharf. Non-Federal interests shall provide necessary easements to the Federal Government for construction of improvements at no

cost to the Federal Government. Title for lands shall remain with non-Federal interests: *Provided further,* That $100,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project: *Provided further,* That with $350,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to design and construct a riverfront park at Charleston, West Virginia, in accordance with the cost sharing principles of Public Law 99-662 and as generally described in the September 1989 Reconnaissance Report of the Huntington District entitled, Charleston Riverfront Park, Winfield Navigation Pool, Kanawha River: *Provided further,* That no fully allocated funding policy shall apply to construction of Charleston Riverfront Park, West Virginia: *Provided further,* That $200,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, using $900,000 of the funds appropriated herein, is directed to undertake a major rehabilitation of the Johnstown, Pennsylvania, project to insure that the project will continue to provide the authorized level of protection in the future. The Secretary is further directed to investigate those non-federally owned buildings, embankments and walls which were included in the line of protection for the convenience of the Government and to perform needed repair, rehabilitation or replacement at Federal expense subject to the following terms: (1) The City of Johnstown secures needed rights of access to such structures; (2) the City of Johnstown agrees to hold and save the United States free from damages due to construction or operation and maintenance of the work on the non-Federal structures, except for damages due to the fault or negligence of the United States or its contractors: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake improvements to roads, utilities, and other facilities at the Crowder Point East Recreation Area at Eufaula Lake, Oklahoma, using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That of the funds appropriated herein, $7,000,000 is for a new bridge over the Chesapeake and Delaware Canal at Saint Georges, Delaware, as proposed by the State of Delaware, and as authorized by laws.

Regulatory Program

For expenses necessary for administration of laws pertaining to regulation of navigable waters, including bridges, and wetlands, $71,100,000, to remain available until expended.

Flood Control and Coastal Emergencies

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the

Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $136,100,000, of which $9,500,000 shall be derived from funds appropriated to "General expenses" by Public Law 101-302; to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the conceptual study of potential field organization structures in accordance with Senate Report 101-83 and Conference Report 101-235 accompanying Public Law 101-101.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $5,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 170 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Section 4(t)(3)(F) of the Water Resources Development Act of 1988, Public Law 100-676, is amended by striking "September 30, 1989: *Provided*, That the total amount forgiven shall not exceed $600,000." and inserting in lieu thereof "June 30, 1990.". 103 Stat. 650.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct the Pennington Creek project with funds previously appropriated for dredging of Pennington Creek, Denison Dam-Lake Texoma, Texas, under Operations and Maintenance, General, and as outlined in the Tulsa District Engineer's report as submitted to the Chief of Engineers on February 22, 1989, at full Federal expense. Construction of this project is contingent upon a local sponsor signing an agreement to operate and maintain the project at non-Federal expense.

SEC. 103. The project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary of the Army to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1989, as revised on January 1990, at a total cost

of $26,200,000 with an estimated Federal first cost of $16,090,000, and an estimated first non-Federal cost of $10,110,000.

SEC. 104. Notwithstanding the provisions of section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a) the Secretary of the Army is directed to credit and/or reimburse the local sponsor of the Maumee Bay State Park project in Ohio for work completed by the local sponsor on the eastern segment of the authorized project before November 17, 1988, in an amount equal to the Federal share of the costs of such work. Such credit and/or reimbursement shall be applied to the local sponsor's share of the construction costs of the western segment of the authorized project.

Government contracts.

SEC. 105. Section 228 of the Flood Control Act of 1970 (Public Law 91-611, 84 Stat. 1818, 1832), is modified to direct the Secretary of the Army to conclude a Local Cooperative Agreement for the facilities across the Missouri River in the vicinity of Ft. Yates, North Dakota, at an estimated total cost of $22,800,000. For fiscal year 1991 there is authorized and appropriated for planning, engineering, and design on this project, $250,000. The non-Federal share of the cost of work directed by this section shall be 10 percent. Upon completion, non-Federal interests shall own, operate, and maintain such bridge and approach facilities.

SEC. 106. SAN LUIS REY RIVER, CALIFORNIA.—The project for flood control, San Luis Rey River, California, approved by resolutions of the Committee on Public Works, United States Senate, and the Committee on Public Works and Transportation, House of Representatives, on December 17, 1970, and December 15, 1970, respectively, in accordance with the provisions of section 201 of the Flood Control Act of 1965 (Public Law 84-298) is modified substantially in accordance with the Supplemental Phase II General Design Memorandum dated December 1987, at an estimated total cost of $60,400,000, with a Federal first cost of $45,000,000, and a non-Federal first cost of $15,300,000.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $13,221,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for

construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $642,897,000, of which $145,063,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $185,768,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with 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: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further,* That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of

flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $221,516,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601-6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

43 USC 618d note.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $5,708,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $4,946,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions

as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $51,431,000, of which $600,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund. 43 USC 502 note.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Business System Acquisition project, and other capital equipment and facilities, $4,831,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l-6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance

Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467), and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Bureau of Reclamation, Department of the Interior, shall not exceed $400 annually.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. (a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Authority, Oklahoma City, Oklahoma, accepting a payment in an amount to be determined by the Secretary after appropriate investigation.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979, shall be terminated.

(c) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 205 (a) and (b) of this language or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma, shall remain with the United States.

California. Government contracts.

SEC. 206. (a) Except as provided in subsection (b) of this section, none of the funds appropriated in this or any other Act shall be used to execute new long-term contracts for water supply from the Central Valley Project, California.

(b)(1) The Secretary of the Interior is authorized and directed to enter into the following contracts: (A) a municipal and industrial water supply contract with the Sacramento County Water Agency, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County and a municipal and industrial water supply contract with the San Juan Suburban Water District, not to exceed 13,000 acre-feet annually, for diversion from Folsom Lake, 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; and (B) a municipal and industrial water supply contract with the El Dorado County Water

Agency, not to exceed 15,000 acre-feet annually, for diversion from Folsom Lake or for exchange upstream on the American River or its tributaries, considering reasonable efforts to implement water conservation programs within areas to be served by the contracts. The contracts required by this subsection are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties. The Secretary shall promptly initiate the necessary analysis for the long-term water supply contracts. The Secretary shall include in these contracts terms and conditions to ensure that the contracts may be amended in any respect required to meet the Secretary's obligations under applicable State law and the Federal environmental laws.

(2) Prior to entering into the contracts specified in subsection (b)(1) of this section, the Secretary is directed to comply with the provision of the National Environmental Policy Act by preparing joint Environmental Impact Statements and California Environmental Quality Act Environmental Impact Reports. The Sacramento County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(A) of this section and the El Dorado County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(B), with the Bureau of Reclamation cooperating in all aspects of the environmental review process, but not controlling that process.

(3) Diversions from the American River under the contract for the Sacramento County Water Agency shall, to the maximum extent reasonable and feasible, take place at or near the mouth of the American River.

SEC. 207. The Secretary of the Interior is authorized and directed to pay, without reimbursement, $1,000,000 to the Fall River Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $2,527,082,000, to remain available until expended, of which $89,842,500 shall be available only for the following facilities: Advanced Technology Center, Indiana State University; Center for Energy Resources Management, University of New Orleans; Biomedical Research

Facility, University of Alabama at Birmingham; Biomedical Research Facility, Case Western Reserve University; Energy Science Research Facility at Boston College; Center for Nuclear Medicine Research in Alzheimer's Disease and Related Disorders, Health Sciences Center, West Virginia University; Gazes Cardiac Research Institute, Medical University of South Carolina; Biomedical Research Institute, Louisiana State University Medical Center, Shreveport, Louisiana; the Neurosensory Research Center, Oregon Health Sciences University; and the Physical Sciences Center, Fort Hays State University, Fort Hays, Kansas: *Provided further,* That of the amount appropriated herein, $5,500,000 shall be available only for the Boron Neutron Capture Therapy research program at the Idaho National Engineering Laboratory and $7,500,000 shall be available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, and the Secretary of Energy is directed to obligate and expend funds for these activities prior to the end of fiscal year 1991.

Uranium Supply and Enrichment Activities

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 60, of which 46 are for replacement only), $1,340,018,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,450,400,000, in fiscal year 1991 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than $0.

General Science and Research Activities

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only including one police-type vehicle), $1,148,732,000, to remain available until expended.

39-194 O - 91 - 24 : QL 3 Part 3

NUCLEAR WASTE DISPOSAL FUND

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, $242,833,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided,* That of the amount herein appropriated, within available funds, not to exceed $4,146,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, $622,000 is to be available for the University of Nevada, Reno for infrastructure studies related to nuclear waste, and $207,000 is to be available to the University of Nevada, Las Vegas, to carry out transportation studies related to nuclear waste: *Provided further,* That not more than $4,892,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further,* That none of the funds herein appropriated may be used for litigation expenses: *Provided further,* That of the amount appropriated herein, up to $4,146,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy, 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

42 USC 2061 note.

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided,* that such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $10,914,014,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase

of passenger motor vehicles (not to exceed 308 for replacement only including 20 police-type vehicles, and purchase of one fixed-wing and one rotary-wing aircraft, for replacement only): *Provided,* That no funds in this Act shall be available for the Plutonium Recovery Modification project until 30 days after the Secretary of Energy has provided to the Congress his review of the Department of Energy's modernization report, except for $15,000,000 in operating expenses for nonsite specific design activities and activities in support of ongoing preparation of the Environmental Impact Statement, subject to authorization: *Provided further,* That no funds in this Act shall be available for Project 89-D-125, Plutonium Recovery Modification Project (PRMP), until authorizing legislation therefore is enacted into law.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $365,095,000, 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 $150,000,000 in fiscal year 1991 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 section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than $215,095,000: *Provided further,* That $1,300,000 of the funds appropriated under this heading shall be used to carry out the Reduced Enrichment in Research and Test Reactors Program.

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, $28,421,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,233,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for expenses of the Yakima Basin Screen Facilities Phase II; and for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1991, 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 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, $9,285,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, 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, $20,107,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $8,899,000 in reimbursements, to remain available until expended.

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

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), 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, the purchase, maintenance, and operation of one helicopter for replacement only, $293,762,000, to remain available until expended, of which $266,101,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $4,702,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided,* That in the operation of Shasta Dam, Central Valley Project, California, any increase in power purchase costs incurred by the Western Area Power Administration after January 1, 1986, resulting from bypass releases for temperature control purposes to preserve anadromous fisheries in the Sacramento River shall be nonreimbursable.

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 (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $122,750,000, to remain available until expended: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $122,750,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1991, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1991, so as to result in a final fiscal year 1991 appropriation estimated at not more than $0: *Provided further,* That the Commission shall, upon the expiration of the one-year contract entered into as a result of solicitation No. DE-FB89-RC-00001, exercise its right under such contract not to renew the contract. The Commission shall solicit new bids, allowing for the submission of bids offering to pay the Government to perform stenographic services; that is, bonus bids, and shall accept, in accordance with Federal acquisition laws and regulations, the bid of a qualified contractor that is financially most advantageous to the Government.

42 USC 7171 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $80,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

Government property.

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. 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.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

Colleges and universities. Small businesses. Women.

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6))) and economically disadvantaged women.

Science and technology. Education.

SEC. 305. Funds appropriated to the Department of Energy may be available to carry out programs, including the granting of equipment, to improve mathematics, science, and engineering education and skill levels in the United States in order to ensure that a continuing supply of technical and scientific workers is available to accomplish national and energy security missions.

SEC. 306. The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall

Reports.

report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991.

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, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $170,000,000.

40 USC app. 401 note.

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, $11,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $224,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $457,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $538,000: *Provided*, That funds herein or hereafter appropriated may be used for the local sponsor's share of the study cost for the U.S. Army Corps of Engineers' Anacostia River and Tributaries study in Maryland and the District of Columbia.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $461,320,000, to remain available until expended, of which $19,650,000 shall be derived from the Nuclear Waste Fund: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $153,450,000 in fiscal year 1991 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, 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 1991 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1991 appropriation estimated at not more than $307,870,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $3,680,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfers of sums may be made to other agencies of the Government

for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $211,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

16 USC 831b note.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Government contracts. Public information.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this

Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 CFR sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 509. None of the funds appropriated by this Act may be used for the purposes of land acquisition on the Monks Hollow Dam and Reservoir, Upper Diamond Fork Pipeline, or Last Chance Powerplant of the Bonneville Unit of the Central Utah Project.

42 USC 7133 note.

SEC. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act now or hereafter shall be used by the executive branch to change the employment levels determined by the Administrators of the Federal Power Marketing Administrations to be necessary to carry out their responsibilities under the Department of Energy Organization Act and related laws, or to change the employment levels of other Department of Energy programs to compensate for employment levels of the Federal Power Marketing Administrations.

41 USC 10b note.

SEC. 511. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any

supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

President. Federal Register, publication.

(b)(1) Not later than May 1, 1991, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

Reports.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Fedreal Register any modifications to such list that are made after publication of the original list.

Federal Register, publication.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5019:

HOUSE REPORTS: No. 101-536 (Comm. on Appropriations) and No. 101-889 (Comm. of Conference).
SENATE REPORTS: No. 101-378 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 19, considered and passed House.
Aug. 1, 2, considered and passed Senate, amended.
Oct. 19, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.