



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 18, 2003
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 2754 – ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY

2004

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2004 Energy and Water Development Appropriations Bill, as reported by the Appropriations Committee. The Administration is pleased that the bill provides critical resources needed for the licensing and construction of the nuclear waste repository at Yucca Mountain, Nevada.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with the Congress to ensure that the FY 2004 appropriations bills ultimately fit within the top line funding level agreed to by both the Administration and the Congress. The President supports a discretionary spending total of \$784.7 billion, along with advance appropriations of \$23.2 billion for FY 2005 – in accordance with his Budget and the FY 2004 Congressional Budget Resolution. Only within such a fiscal environment can we encourage increased economic growth and a return to a balanced budget. The Administration looks forward to working with the Congress to ensure that its priorities are met within that overall total.

Additional Administration views regarding the Committee's version of the bill are:

Hydrogen Fuel Initiative

The Administration is concerned that the bill does not provide the full request for the President's Hydrogen Fuel Initiative. This initiative seeks to make our air cleaner and our country less dependent on foreign sources of energy and should be fully funded.

Army Corps of Engineers – Civil Works

We commend the Committee for its focus on completing existing projects, consistent with the President's Budget. Until the Federal Government has substantially reduced the large backlog of ongoing Corps construction work, we believe the Corps should only proceed with those new projects that provide a very high net benefit to society. The Administration appreciates the opening statement of the Corps section of the House Committee report, which includes language that is consistent with our efforts to direct funding based upon an objective assessment of national priorities. We would like to pursue the invitation to discuss with the

Congress future funding levels, priorities, and other issues of concern.

The Budget identified eight water projects as the highest priorities now under construction by the Corps, based on their high net economic or environmental return to society relative to their cost. Unfortunately, the bill does not provide the requested level of funding for five of these key projects. The Administration urges the House to fully fund the request for the Olmsted Locks and Dam navigation project; the West Bank, New Orleans flood damage reduction project; Columbia River fish recovery, which is needed to comply with a biological opinion; and expansion of an effective, multi-State effort to re-vitalize the side channels of the Upper Mississippi River.

Funds for these high priority projects could be redirected from lower-priority projects in the bill that fall outside the main mission of the Corps. The bill allocates nearly \$100 million to combined sewage overflow, drinking water, wastewater treatment, and other local environmental infrastructure projects. In addition, it provides up to \$150 million for other work that raises policy concerns, such as funds added for the Delaware River Main Channel; Dallas Floodway Extension; and the St. Johns Bayou and New Madrid Floodway.

Recent legal action and analysis require a higher funding level for the Missouri River Fish and Wildlife mitigation project to increase habitat creation and perform other work to benefit endangered and threatened species, and maintain all statutorily-authorized purposes of the river. The Administration will work with the Congress to address this important issue.

We urge the House to provide \$7 million requested for an independent audit of Civil Works program financial statements. The funds will enable the Army to ensure appropriate independence in auditing of the financial statements.

The House Committee provided significantly less for operation and maintenance of Corps hydropower facilities – only \$100 million, compared to the \$145 million requested. The Administration recently submitted its legislative proposal to allow three of the Power Marketing Administrations to directly fund such work with the revenues that they collect, and we urge the Congress to adopt this proposal.

Bureau of Reclamation

The Administration is concerned that the Committee does not fund the \$34 million FY 2004 payment for the settlement of *Sumner Peck Ranch et al. v. Bureau of Reclamation*, and caps the authorization for payment of settlement costs at \$5 million per causal incident. We are currently reviewing the potential effect of this provision and if it is determined that the bill would cause payments to be made from the Judgement Fund, the cost will be scored to the bill.

The Administration is also concerned that the Committee did not fund the CALFED program. Certain CALFED activities can proceed under existing authorities in the absence of re-authorization of the entire program, and we urge the House to restore funding for this important project at the requested level of \$15 million.

Department of Energy

The Administration strongly opposes the reduction of \$326 million from the President's request for the Department of Energy's National Nuclear Security Administration program. Of greatest concern is the \$260 million reduction to the Weapons Activities appropriation that supports the stewardship of the Nation's nuclear stockpile. The reduction would impact activities dedicated to some of the Administration's highest national security priorities, and include: eliminating the \$6 million request to research low yield nuclear weapons; reducing the request for the Robust Nuclear Earth Penetrator from \$15 million to \$5 million; eliminating the entire \$25 million request to accelerate the readiness posture to conduct nuclear tests from 36 to 18 months; and reducing the request to manufacture and certify plutonium pits by \$47 million, including a \$12 million reduction to activities supporting a future decision to site and construct a modern plutonium pit production facility.

While the Committee report expressed concern about the fast growth of stockpile stewardship funding, the report also noted that "the country possesses neither a modern stockpile nor a modern nuclear weapons complex" and stated that both are "carryovers from the Cold War era." Given this assessment, the Administration strongly encourages the House to support the President's request. The Administration included these initiatives in its request to lay the foundations for decisions on the arsenal that must be made later. Failure to invest in these initiatives will impede our ability to transform the Nation's nuclear deterrent by denying policy makers the information they need to make decisions in an informed manner.

The Administration appreciates Congress' strong support for the Environmental Management reform initiative that provides additional resources to cleanup sites that share our commitment to accelerate risk reduction. The bill, however, effectively reduces total funding for cleanup activities by over \$80 million. This reduction would restrict the Department's efforts to better protect human health and the environment, and achieve significant cost savings and schedule acceleration. We urge the House to restore the requested funds to advance the transformation of this program.

We object to the bill's lack of funding for the President's National Climate Change Technology Initiative competitive solicitation program. This program is a key component of the President's strategy to fund innovative technologies that can significantly reduce greenhouse gas emission intensity, and we urge the House to fully fund the initiative.

The bill now includes a provision that would require DOE to compete any of its contracts that have not been competitively awarded in the past 50 years. The Administration strongly supports competitive grants and contracts, but would note that the bill's provision would effectively exempt nearly all DOE labs from competition. The House is urged to strike this provision.

Constitutional Concerns

Congress should revise section 303 of the bill to call for notification to Congress rather than committee approval, so that the provision is consistent with the constitutional principles set

forth by the U.S. Supreme Court in 1983 in *INS v. Chadha*. Also, section 310 should be revised in recognition that nothing can be given the force of law, except in accordance with the Bicameralism and Presentment clauses of the Constitution.

* * * * *