

# Reclamation Manual

## Directives and Standards

<b>Subject:</b>	Disposal of Bridges and Crossings on Reclamation Land
<b>Purpose:</b>	To provide procedures relating to the disposal of bridges and crossings not needed for project purposes which are located across Reclamation land or Reclamation facilities. This Directive and Standard (D&S) provides benefits to Reclamation employees by compiling the primary body of requirements pertaining to the disposal of bridges and crossings into one readily available master source document. It also assists employees in the field by providing: (1) structure to the disposal process and (2) clearly identified requirements to be followed that will assist in resolving questions of how to handle situations that currently exist.
<b>Authority:</b>	The Reclamation Act (Act of June 17, 1902; 32 Stat. 388); Sale of Surplus Improved Public Lands (Act of May 20, 1920; 41 Stat. 605); Reclamation Project Act of 1939 (Act of August 4, 1939; 53 Stat. 1187); Federal Property and Administrative Services Act of 1949 (Act of June 30, 1949; 63 Stat. 377); 41 CFR Part 102-75
<b>Approving Official:</b>	Director, Office of Program and Policy Services (OPPS)
<b>Contact:</b>	OPPS; Land Resources Office, 84-53000

1. **Introduction.** Bridges and crossings of Reclamation facilities pose unique circumstances, ownership, maintenance and liability issues for Reclamation. This D&S, consistent with Reclamation Manual D&S, *Bridge Inventory and Inspection Program*, FAC 07-01, provides the minimum requirements to facilitate the disposal of bridges and crossings not needed for project purposes and which are located across Reclamation land or Reclamation facilities thereby eliminating any further maintenance and liability concerns for Reclamation. Disposal actions are very complex and site specific. Please refer to 41 CFR Part 102-75 for detailed requirements for disposal of real property and related personal property.
2. **Definitions.** Where identical terms are used in both this D&S and FAC 07-01, the definition used in FAC 07-01 is also used herein to promote consistency.
  - A. **Bridge.** A structure including supports erected over a depression or an obstruction such as water, highway, or railway, and having a track or passageway for carrying vehicular or pedestrian traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.
  - B. **Crossing.** Any facility or structure that generally meets the above definition of a "bridge" except for it being less than 20 feet in overall span.

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- C. **Grantee.** One who acquires a bridge or crossing from Reclamation by donation, sale, grant, gift, or any other transaction which conveys ownership of a bridge or crossing.
  - D. **Public Authority.** A Federal, state, county, township, Indian tribe, municipality, or other local government or instrumentality thereof (including all water user organizations), with authority to finance, build, operate, or maintain highway facilities.
  - E. **Reclamation Facility.** Any facility or structure owned by the United States (U.S.) which has been constructed or is included as part of an authorized Reclamation project.
  - F. **Reclamation Bridge or Crossing.** Any bridge or crossing that is owned by the U.S. which has been constructed or is included as part of an authorized Reclamation project as opposed to a bridge or crossing owned by the U.S. that may have been constructed by or under the administration of another Federal agency for purposes unrelated to the Reclamation project.
  - G. **Transferred Works.** Reclamation facilities, structures, lands, resources, or other assets for which the operation and maintenance activities have been contractually transferred to, and are generally financed by, the contracting entity (usually a water user organization), but ownership remains with the U.S.
3. **Procedures.**
- A. **Determination that Bridge or Crossing is not Needed for Project Purposes.** Before any bridge or crossing is removed, destroyed, or otherwise disposed, a written determination by the Reclamation official responsible for operation and maintenance of the facilities involved must document that the bridge or crossing is not needed for project purposes. If the bridge or crossing is part of transferred works, the operating entity must concur, in writing, with the determination. Any disposal action will then be turned over to the lands group responsible for processing realty transactions for the project.
  - B. **Determination of Bridge Ownership.** A determination of ownership must be made before proceeding with the disposal of a bridge or crossing. There may be documentation in letters, contracts, agreements, or appraisals related to a land purchase, to assist in determining ownership (e.g., the bridge or crossing may have been built as part of the project works for operation and maintenance of Reclamation facilities; it may have been built, either by Reclamation or by Reclamation providing funds to the landowner, as a condition of acquiring the land and/or an easement interest for Reclamation facilities; or it may have been constructed on Reclamation land by a private party with or without authorization from Reclamation). The Commissioner's Land Policy Memorandum 87-2, issued February 10, 1987, states the following: "When a bridge is built, the title to that bridge will either vest in Reclamation or with some other entity (private party, township, county, state [Public authority] etc.) and unless otherwise provided in some duly executed document, the bridge maintenance

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rests with the title holder to the particular bridge. If there is no prior agreement as to the bridge owner, it will be difficult to vest title with the fee landowner as the bridge rests entirely within the ROW (right-of-way) and is present solely as a result of the canal/ditch (/Reclamation facility) for which ROW is held.”

- (1) **Bridges or Crossings not Constructed by Reclamation.** If no documentation exists regarding bridge or crossing ownership, but it is confirmed that the bridge or crossing was constructed by a party other than Reclamation without authorization and/or without Reclamation funds:
  - (a) On U.S. fee-owned lands (acquired and withdrawn), the bridge or crossing must be either: (i) removed or (ii) authorized by Reclamation to address ownership, maintenance, and liability responsibilities.
  - (b) On U.S. easement, the bridge or crossing must be: (i) removed or (ii) a consent document must be pursued to document non-interference with easement rights and to address ownership, maintenance, and liability responsibilities.
- (2) **Bridges or Crossings Constructed by Reclamation for Others that are not Owned and Maintained by Others.** If the bridge was constructed by Reclamation for use by others as a contractual obligation of the original land/easement acquisition, but the contract states ownership and maintenance are the responsibility of others, and the bridge or crossing has fallen into disrepair and is unsafe, Reclamation is to notify the other party that the bridge or crossing must be repaired or removed within a specified period of time or it will be removed by Reclamation. Any action taken by Reclamation shall be in accordance with existing documents that address the specific bridge or crossing. Note that land ownership status has no bearing on such bridges and crossings. If the landowner wishes to relocate such a bridge or crossing, the authorizing documentation must clearly specify ownership, maintenance, and liability responsibilities.
- (3) **Owned by the United States.** If no documentation exists regarding bridge or crossing ownership, but it is confirmed that the bridge or crossing was constructed either by Reclamation or using Reclamation funds, Reclamation must assume the bridge or crossing is owned by the U.S. The following procedures must then be followed:
  - (a) **Bridges or Crossings Constructed/Owned/Maintained by Reclamation for Others.** If the bridge or crossing was constructed by Reclamation for use by others as a contractual obligation of the original land or easement acquisition to reduce severance damages, the bridge or crossing will still be considered needed for project purposes, with ownership and responsibility for maintenance and liability remaining with Reclamation. Such a bridge or crossing cannot be removed or destroyed unless written agreement with the

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other party is obtained. It is up to the other party to determine whether they are willing to assume ownership, maintenance, and liability responsibilities, since that constitutes a change in the original agreement. However, if the use of the bridge or crossing is proposed to be changed from the original intent or agreement and which might require different construction and/or increased maintenance (such as a farm access bridge becoming an access bridge for a subdivision), Reclamation will no longer be responsible for construction, reconstruction, or maintenance required in order to accommodate the increased use. Prior to allowing such a change in use, either the existing bridge or crossing agreement must be renegotiated, or a new replacement agreement executed, to document the other party's assumption of all such responsibilities, including all liability. In either case, Reclamation shall absolve itself of all future liability associated with such change of use.

- (b) If a bridge or crossing is owned by Reclamation without any known outstanding obligations to others or those responsible for ownership/maintenance are not determinable; and there is no longer a project need for the bridge or crossing; and no other party is willing to accept ownership, maintenance, and liability for the bridge or crossing, then all of these facts will be documented by an authorized Reclamation official and, within the constraints below, the bridge or crossing will be removed after providing appropriate public notice.

C. **Determination of Land Status.** A determination must be made as to whether the bridge or crossing is constructed on project withdrawn land, acquired land, or an easement.

- (1) Absent contractual obligation or existing authorization to another party, bridges or crossings located on U.S. fee-owned lands (acquired and withdrawn) can be removed or destroyed if no longer needed for project or public purposes. Ownership of such bridges or crossings can be transferred in conjunction with a sale of surplus improved withdrawn lands under the authority of the Act of May 20, 1920, or other appropriate project-specific legislation (e.g., Columbia Basin Project Act). Ownership of the bridge or crossing alone can be transferred by donation to a public authority (see Disposal by Donation to Public Authorities Paragraph 3.I. below), under the Federal Property and Administrative Services Act of 1949 as personal property, along with issuance of a grant of easement for access under the Reclamation Project Act of 1939.
- (2) Additionally, absent contractual obligation or existing authorization to another party, bridges or crossings located on U.S.-owned easements or rights-of-way can also be removed or destroyed if no longer needed for project or public purposes. Note that, pursuant to the provisions of the Commissioner's Land Policy Memorandum 87-2, issued February 10, 1987, even if located on an easement or right-of-way “\* \* \* If there is no prior agreement as to the bridge owner, it will be

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difficult to vest title with the fee landowner as the bridge rests entirely within the [right-of-way] ROW and is present solely as a result of the canal/ditch [Reclamation facility] for which ROW is held.”

- D. Determination of Current Replacement Cost and/or Estimated Fair Market Value of a Bridge or Crossing Structure.** Prior to any bridge or crossing disposal, a determination of current cost and/or value must be made by a qualified person, and documented with approval by a duly-authorized official other than the official directly accountable for the property. Considerations will include original cost, useful life, depreciation, etc.
- E. U.S. General Service Administration (GSA) Delegation of Authority to the Department of the Interior/Reclamation.** Reclamation has the delegated authority to dispose of acquired real and personal property currently valued under \$50,000 by means most advantageous to the U.S. (41 CFR 102-75.1095). Otherwise, it must be reported as excess property to GSA for disposal, or a specific delegation may be requested from GSA to authorize Reclamation to conduct the disposal. Disposal could include sale for continued use, off-site removal, destruction, or donation.
- F. Abandonment of Reclamation-owned Bridges and Crossings.** No Reclamation-owned bridge or crossing shall be abandoned. Rather, they shall be disposed of pursuant to the provisions of Paragraphs 3.G., 3.H., and 3.I. below.
- G. Disposition of Reclamation-owned Bridges and Crossings.** A bridge or crossing is to be sold, removed, destroyed, or donated in accordance with proper procedures (see 41 CFR Part 102-75 *Real Property Disposal*) in order to remove concerns for liability and safety hazards.
- (1) No Reclamation-owned bridge or crossing will be removed or destroyed:
- (a) Without the concurrence of GSA, if the bridge or crossing is valued at or greater than \$50,000;
  - (b) If it is feasible to donate it to a public authority. The public authority must pay for the disposal costs associated with the donation, such as dismantling, removal, and cleaning up the premises if the bridge or crossing is removed;
  - (c) In a manner which is detrimental or dangerous to public health or safety;
  - (d) Unless removal is in accordance with the provisions of all legal documents, if any, that address the rights of others to use the bridge or crossing proposed for removal; and
  - (e) Except as hereinafter provided, without first providing public notice in the area in which the bridge or crossing is located. The notice must contain both

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a general description of the bridge or crossing to be removed or destroyed and provisions for the sale of the bridge or crossing for off-site removal. A copy of the notice must be provided to the GSA regional property disposal office for the appropriate region in which the bridge or crossing is located.

**Note:** Exceptions to the requirement for public notice may be allowed as provided in 41 CFR 102-75.1045.

- (2) No bridge or crossing which is dangerous to public health or safety will be donated to a public authority without first rendering such property innocuous or providing adequate safeguards therefor. This issue can be addressed by contractual provisions wherein the Grantee agrees to remediate those conditions and to prevent use of the bridge or crossing until such is completed.

**H. Disposition of Bridges or Crossings Used by Multiple Property Owners.** When a determination is made to dispose of a bridge or crossing used by multiple property owners, it must be disposed either to a public authority or an entity representing all of the affected property owners. This is intended to:

- (1) Reduce the number of parties Reclamation must deal with;
- (2) Assign ownership, maintenance, and liability responsibilities to the entity; and
- (3) Prevent one individual party from limiting or restricting use by other affected property owners.

**I. Disposal by Donation to Public Authorities.** If a bridge or crossing is not needed for project purposes, and Reclamation determines, in writing, that: (1) any land/easement and bridge or crossing involved in the donation has no commercial value; or (2) the estimated cost of continued care and handling exceeds the estimated proceeds from a sale, the bridge or crossing and land/easement can be conveyed by donation to a public authority that is willing to accept ownership, future maintenance, and all liability. If the bridge or crossing has a current estimated fair market value in excess of \$250,000, the disposal must be processed by GSA or Reclamation must obtain a specific delegation from GSA to conduct the disposal by donation.

**J. Conveyance Documentation.** In both instances described below, the Bill of Sale, or other appropriate document and any contract must specify that the bridge or crossing is sold "as is" and the new owner is responsible for all liability, maintenance, and necessary repairs and upgrades. Reclamation will, however, disclose any known deficiencies of the bridge or crossing at the time of the sale and will also provide the most recent bridge inspection report, if available, to the Grantee.

- (1) When Reclamation owns the bridge or crossing and fee title to the land upon which the bridge or crossing is located, Reclamation will provide the Grantee with a Bill of Sale or other appropriate document if the bridge or crossing is to be

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removed. When the bridge or crossing is to remain on U.S. land, the Grantee will be provided a Bill of Sale or other appropriate document and must also sign a use authorization contract, generally a Contract of Grant of Easement to cover the Reclamation lands upon which the bridge or crossing is located. The contract conditions will identify the Grantee as the owner of the bridge or crossing, release the U.S. of any and all liability associated with the bridge or crossing, and bind the Grantee to be solely responsible for bridge maintenance that shall meet all health, safety, and any other applicable Federal, state, county, or local bridge standards.

- (2) When Reclamation owns a bridge and holds only an easement interest on the property the bridge or crossing crosses, the Grantee is to be provided a Bill of Sale or other appropriate document if the bridge or crossing is to be removed. When the bridge or crossing is to remain in place, the Grantee will be provided a Bill of Sale or other appropriate document and must also obtain a consent document that includes the contract conditions identified in Paragraph 3.J.(1) above, in order to cross Reclamation's easement. Consistent with Paragraph 5.B. of Reclamation Manual D&S, *Real Property Management Records*, LND 09-01, permission from the underlying fee title landowner is also required in order for the bridge or crossing owner to cross or use Reclamation's easement.

- K. **Compliance Issues.** All actions involving bridge or crossing disposals or use authorization will include National Environmental Policy Act compliance, as appropriate, including hazardous material surveys and National Historic Preservation Act clearances. To comply with the latter, prior to the removal, destruction, transfer, donation, or sale of a Reclamation-owned bridge or crossing, Reclamation must determine whether the structure is eligible for listing in the National Register of Historic Places. If the bridge or crossing is eligible, Reclamation must perform additional steps to assess the impact of the proposed action on the bridge or crossing. A determination of adverse effect will require Reclamation to consider alternatives to avoid, minimize, or mitigate the effect. Reclamation may, for example, move a historic bridge rather than destroy it, document a bridge prior to demolition, or decide to leave it in place.
- L. **Records Management Requirements.** Upon completion of a bridge or crossing disposal by sale, donation, removal, or destruction, copies of all documentation must be provided to area office and regional office program managers for Operation and Maintenance, Lands, and Property and Services. The bridge or crossing disposal must be documented on a Bureau of Reclamation Property Voucher (Form No. 7-763) and on the regional bridge inventory and property inventory databases for land and structures. This will ensure that future inspections and reviews will not be scheduled and that the disposal has been appropriately documented and entered into the financial records.