

Reclamation Manual

Directives and Standards

Subject:	Implementing Cost Sharing Authorities for Recreation and Fish and Wildlife Enhancement Facilities
Purpose:	To establish the Bureau of Reclamation's approach to implementing the cost sharing authorities for recreation and fish and wildlife enhancement facilities. This Directive and Standard (D&S) benefits Reclamation by providing consistency in the way Reclamation cost shares with non-Federal partners in planning, developing, operating, maintaining, and replacing recreation and fish and wildlife enhancement facilities on lands and waterbodies under Reclamation jurisdiction.
Authority:	Reclamation Act of 1902 (ch. 1093, 32 Stat. 388; 43 USC 391, et seq.), as amended and supplemented; Federal Water Project Recreation Act of 1965 (Pub. L. 89-72; 79 Stat. 213, 214; 16 USC 460 <i>l</i> , et seq.), as amended by the Water Resources Development Act of 1974 (Pub. L. 93-251; 88 Stat.12), and the Reclamation Recreation Management Act of 1992 (Pub. L. 102-575, Title XXVIII; 106 Stat. 4690; 16 USC 460 <i>l</i> -31-460 <i>l</i> -34), as amended; the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 97-258; 96 Stat. 1003; 31 USC 6305); and all applicable Reclamation project-specific statutes.
Approving Official:	Director, Policy and Administration
Contact:	Land Resources Division, 84-53000

1. **Introduction.** The concept of sharing the cost of recreation and fish and wildlife enhancement is established by a variety of Federal statutes that, in some instances, have been amended to reflect changes in the economic climate of Reclamation's non-Federal public bodies (non-Federal partners). The Federal Water Project Recreation Act of 1965 (Pub. L. 89-72), as amended, and project-specific statutes establish the basic authorities and limitations to cost sharing with non-Federal, as well as Federal, partners. Pub. L. 89-72, as amended by Pub. L. 93-251, and Pub. L. 102-575 (Title 28) is hereafter referred to as Pub. L. 89-72.
 - A. **Public Law 89-72.** When appropriate, Reclamation will use the authority in Pub. L. 89-72 to enter into management agreements with Federal and non-Federal governmental entities. Reclamation will also utilize Pub. L. 89-72 as the primary authority to cost share in planning, development, and operation, maintenance, and replacement (OM&R) of recreation and fish and wildlife enhancement facilities with non-Federal partners. Refer to Paragraph 6 for specific details concerning the cost share requirements and limitations for Reclamation and its non-Federal

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partners. **Note:** Although Pub. L. 89-72 authorizes Reclamation to enter into management agreements with other Federal agencies, it does not authorize Reclamation to cost share with Federal agencies.

- B. Project-Specific Statutes.** When appropriate, Reclamation may use project-specific statutes to cost share the planning, development, and OM&R of recreation and fish and wildlife enhancement facilities within the limitations provided by such authority. In order for Reclamation to cost share with a non-Federal or Federal partner using project-specific statutes, each respective project-specific statute must state that recreation and fish and wildlife is a project purpose, and that cost sharing is authorized with a non-Federal or Federal partner.
2. **Applicability.** This D&S will be applied to cost sharing of recreation and fish and wildlife enhancement facilities at all Reclamation projects pursuant to Pub. L. 89-72. This D&S applies to financial assistance agreements that are entered into with qualified non-Federal partners who are involved in the management of recreation and fish and wildlife resources on Reclamation lands and waterbodies. This D&S does not apply to any type of funding arrangements that Reclamation may have with another Federal agency, Indian tribe, or non-profit organization. Refer to Reclamation Manual (RM) Policy, *Recreation Program Management*, LND P04, and D&S, *Recreation Program Management*, LND 01-03, for further direction on the comprehensive management of the recreation programs and resources on Reclamation lands and waterbodies.
3. **Definitions.** The following definitions apply to this D&S (additional recreation related definitions are included in LND 01-03, Appendix B):
- A. **Cost Share.** Cost share means the value of non-Federal partners' monetary or in-kind contributions and that portion of the costs of a federally-assisted project or program that is not borne by the Federal Government. Cost sharing is further explained in 43 CFR §§ 12.64 and 12.923.
- B. **Financial Assistance Agreement.** A financial assistance agreement is the appropriate legal instrument to reflect the relationship between the United States Government and a non-Federal partner when the principal purpose of the relationship is to provide Federal assistance to accomplish a mutual public benefit and support, as authorized and defined by law.¹
- C. **Fish and Wildlife Enhancement.** Fish and wildlife enhancement are the cost shared actions to develop and/or improve fish and wildlife resources on

¹A financial assistance agreement, as defined by the Federal Grants and Cooperative Agreements Act of 1977 (Pub. L. 95-224) and associated authorities, can either be a grant or cooperative agreement. A cooperative agreement is the appropriate instrument when there is "substantial involvement" by the Federal agency in the performance of the activity supported by the financial assistance agreement. Financial assistance agreements typically do not exceed 5 years in duration.

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Reclamation lands and waterbodies.² The costs are considered separable costs to the Reclamation project with an appropriate portion reimbursable by a cost share partner.

- D. **Fish and Wildlife Enhancement Facilities.** Fish and wildlife enhancement facilities are the cost shared facilities that are planned, constructed, operated, maintained, or replaced in support of the necessary enhancement actions. The costs are considered separable costs to the Reclamation project, with an appropriate portion reimbursable by a non-Federal cost share partner.
- E. **Joint Costs.** Joint costs are the difference between the capital cost of the entire multiple-purpose project and the sum of separable costs for project purposes.
- F. **Joint Use Recreation and Fish and Wildlife Enhancement Facilities.** Joint use recreation and fish and wildlife enhancement facilities are those facilities that are cost shared with a non-Federal partner on a sub-allocated basis between the recreation and fish and wildlife cost share percentages, and that provide fish and wildlife related outdoor recreation opportunities, as well as general recreation opportunities. Sub-allocated facility costs are allocated on an estimated prorated use basis between the 50 percent recreation cost share account (Federal/non-Federal partner), and the 75 percent (Federal share)/25 percent (non-Federal partner share) fish and wildlife cost share account, if the facility will provide both recreation and fish and wildlife related benefits.
- G. **Non-Federal Partner.** A non-Federal partner or public body, as referenced in Pub. L. 89-72, is a recreation management entity that is a subdivision, agency, department, county, parish, municipality/city, or other unit of a county or state.
- H. **Non-Profit Organization.** A non-profit organization means any corporation, trust, association, cooperative, or other organization which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve, and/or expand its operations.
- I. **Recreation Enhancement Facilities.** Recreation enhancement facilities are the cost shared facilities and improvements that are planned, developed, operated, maintained, and/or replaced on lands and waterbodies under the jurisdiction of Reclamation for the sole benefit of the recreating public. The costs are considered separable costs to the Reclamation project with an appropriate portion reimbursable by a cost share partner.

²Fish and wildlife enhancement is not to be considered mitigation. Mitigation is the means or measures needed to prevent loss of or damage to wildlife resources for which the cost is considered to be project costs according to the Fish and Wildlife Coordination Act of 1958 and are to be distributed among all project purposes, the same as other project costs.

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- J. **Separable Cost.** Separable cost for each Reclamation project purpose is defined as the difference between the capital cost of the multipurpose project and the capital cost of the same project with a specific purpose omitted. For example, total project cost minus total project cost with the recreation or fish and wildlife purpose eliminated provides an estimate of the separable cost for the recreation or fish and wildlife purpose.³
4. **Roles and Responsibilities.** The roles and responsibilities for proper administration of this D&S will be shared by different levels of Reclamation as follows:
- A. **Policy and Administration.** Policy and Administration is responsible for updating this D&S and for providing assistance, as requested, to regional and area offices in implementing the requirements.
- B. **Regional Office.** Regional directors, or their delegates, are responsible for implementing this D&S and reviewing and awarding cost sharing financial assistance agreements negotiated with managing partners, as well as assisting area or field offices in all matters associated with this D&S, as requested. Refer to RM D&S, *Requirements for Award and Administration of Financial Assistance Agreements*, ACM 01-01, for further direction on awarding and administering financial assistance agreements and the delegation of responsibility to a designated Reclamation employee.
- C. **Area and Field Offices.** In collaboration with a Reclamation Grants Officer, area and field managers, or their delegates, will work with managing partners in preparing, implementing, and managing the financial assistance agreements.
5. **Commissioner's Policy Memorandums.** This D&S supersedes the Commissioner's policy memorandums dated December 22, 1993, and May 31, 1995.
6. **Planning, Development, and OM&R.** Reclamation offices will adhere to the following directions when entering into cost share arrangements with non-Federal partners for planning, developing, and OM&R for recreation and fish and wildlife enhancement facilities. In order to determine the appropriate cost share percentages and prior to entering into any financial assistance agreements, Reclamation and the non-Federal partner will first determine if the facilities are being constructed solely for the benefit of recreation; solely for the benefit of fish and wildlife; or jointly to serve both recreation and fish and wildlife purposes.⁴

³Additional recreation program related definitions are included in LND 01-03, Appendix B.

⁴When facilities are being constructed jointly to serve both recreation and fish and wildlife purposes, the common separable costs are subject to different cost sharing provisions and will be carefully segregated in a suballocation process. Contact the Economics and Resource Planning Team, 86-68212, or the Land Resources Division, 84-53000, in Denver for assistance.

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- A. **Planning.** Federal cost sharing with non-Federal partners may be provided for up to 50 percent of the costs of planning studies for development of recreation and fish and wildlife enhancement facilities. Refer to RM D&S, *Feasibility Studies*, CMP 05-02, for specific direction on pre-authorization planning activities conducted with non-Federal partners pursuant to Pub. L. 89-72.
- (1) Federal cost sharing for planning studies may be provided if the potential non-Federal partner agrees to:
 - (a) enter into a long-term recreation or fish and wildlife management agreement if the non-Federal partner does not already have a management agreement with Reclamation;
 - (b) enter into a financial assistance agreement;
 - (c) cost share the negotiated amount for future development, modification, or expansion of recreation facilities and fish and wildlife enhancement facilities;
 - (d) provide the negotiated cost share amount for OM&R of recreation and/or fish and wildlife enhancement facilities; and
 - (e) provide upfront funding for planning activities.
 - (2) Requests from a non-Federal partner for the cost sharing of recreation and fish and wildlife enhancement planning studies must be accompanied by a study proposal that includes the following:
 - (a) identifies an opportunity or need directly related to recreation or fish and wildlife enhancement at a Reclamation project; and
 - (b) provides reasonable detail of the study process and products.
 - (3) In no particular order or priority, and at the discretion of each Reclamation office, cost share funding will be given to proposals that include the following criteria:
 - (a) provide for the public's health and safety;
 - (b) comply with Federal, state, and local laws and regulations;
 - (c) protect critical resources such as wetlands, critical wildlife habitat, threatened or endangered species, and cultural resources; and

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- (d) upgrade existing facilities to meet current Federal, state, or local accessibility, or public health and safety standards.

B. Development. Federal cost sharing with non-Federal partners may be provided for up to 50 percent of the cost of development of recreation facilities and exactly 75 percent of the development of fish and wildlife enhancement facilities. The authority to “expand or modify” facilities will include rehabilitation of facilities or replacement thereof. The following criteria must be met for Reclamation to provide cost share to a non-Federal managing partner for facility development:

- (1) Any facilities resulting from the proposed construction will meet applicable Federal, state, and local building codes and ordinances. In addition, these facilities must comply with appropriate laws, regulations, and Reclamation policy and directives and standards such as RM D&S, *Nondiscrimination on the Basis of Disability in Federally Conducted Programs, Activities, and Services*, CRM 03-01.
- (2) Cost shared funds will be used to develop publicly owned and operated recreation and/or fish and wildlife enhancement facilities that are open to public use, with title vested in the United States. The transfer of title to the United States is not required for movable property of the managing partner; title is only required for real property (e.g., buildings) constructed on Federal lands. Refer to LND 01-03, Paragraph 12, for further direction on the disposition and depreciation of real property (fixed assets) and personal property.
- (3) Reclamation will work with its partners to develop and approve designs and specifications prior to construction to ensure that such developments will be compatible with authorized project purposes, operations, safety, and security; will protect lands and resources; will ensure environmental compliance; will not conflict with Reclamation regulations or other Federal laws; will ensure public health and safety and disability access; and comply with any existing resource management plans.
- (4) Cost sharing will be based upon a site development plan that is commensurate with the size, complexity, and cost of the proposed construction and the resources affected. The development plan will identify all development, including cost shared and non-cost shared facilities.

C. Cost Sharing of OM&R. To maintain recreation and fish and wildlife enhancement facilities in usable condition and to protect any Federal investments, Federal cost sharing with non-Federal partners may be provided for up to 50 percent of the OM&R expenses for recreation and fish and wildlife enhancement facilities. Generally, this covers all Reclamation recreation and fish and wildlife enhancement facilities for which a management and financial

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assistance agreement exists or is developed with a non-Federal partner. Each Reclamation office will negotiate the level of cost sharing, if any, that will be provided by Reclamation as follows:

- (1) Reclamation offices may provide no more than 50 percent of the actual reoccurring OM&R expenses.
- (2) Reclamation offices may provide no more than 50 percent of the OM&R deficit that can be defined as the OM&R expenses incurred at the recreation area by the non-Federal partner, minus the revenues received by the partner at the same area.
- (3) Reclamation offices may cost share no more than 50 percent of OM&R for periodic, short-term situations when cost sharing is determined by Reclamation to be in the best interest of the United States and the recreating public. Situations where Reclamation may consider OM&R cost sharing include, but are not limited to, public health and safety; unanticipated extraordinary maintenance expenses that exceed the budget capability of a non-Federal partner; or to prevent the partner from returning management of a recreation area to Reclamation.

7. **Payment of Partners' Share of Planning, Development, and OM&R Costs.** Cost share funding of recreation and fish and wildlife enhancement facilities planning, and OM&R will be done on a concurrent basis by Reclamation and the cost sharing partner. All development activities will be cost shared on a concurrent basis or through a repayment contract established with a non-Federal partner.

A. **Cost Sharing.** Schedules will be adjusted to allow for concurrent financing. When there are differences in fiscal years between Reclamation and a non-Federal partner, appropriate schedules will be established to account for differences in fiscal calendars. Reclamation will only initiate or continue its investment in projects where concurrent spending can be achieved within the time frame established in the financial assistance agreement. **Note:** Concurrent spending does not apply for the development costs associated with a non-Federal partner's repayment obligation as detailed in Paragraph 8 below.

B. **In-Kind Contributions.** Non-Federal partners may receive reasonable and customary credit for qualifying, in-kind contributions of services, materials, and lands, as defined in Pub. L. 89-72.

8. **Repayment Obligation of Non-Federal Partners.** Any reimbursable share of project costs allocated to recreation and/or fish and wildlife enhancement that is owed to the United States by a non-Federal partner, will be repaid with interest within a specified period, not to exceed 50 years, beginning with the date of first use of the facilities with

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a term limitation not to extend beyond the expiration date of the existing management agreement. The interest rate will be equal to that of other interest-bearing functions of Federal water projects as provided pursuant to Pub. L. 89-72.