

# Chapter 3

## Planning Issues, Opportunities, and Constraints

### Introduction

This chapter describes the key factors—planning issues, opportunities, and constraints—that influenced development of this RMP/EA.

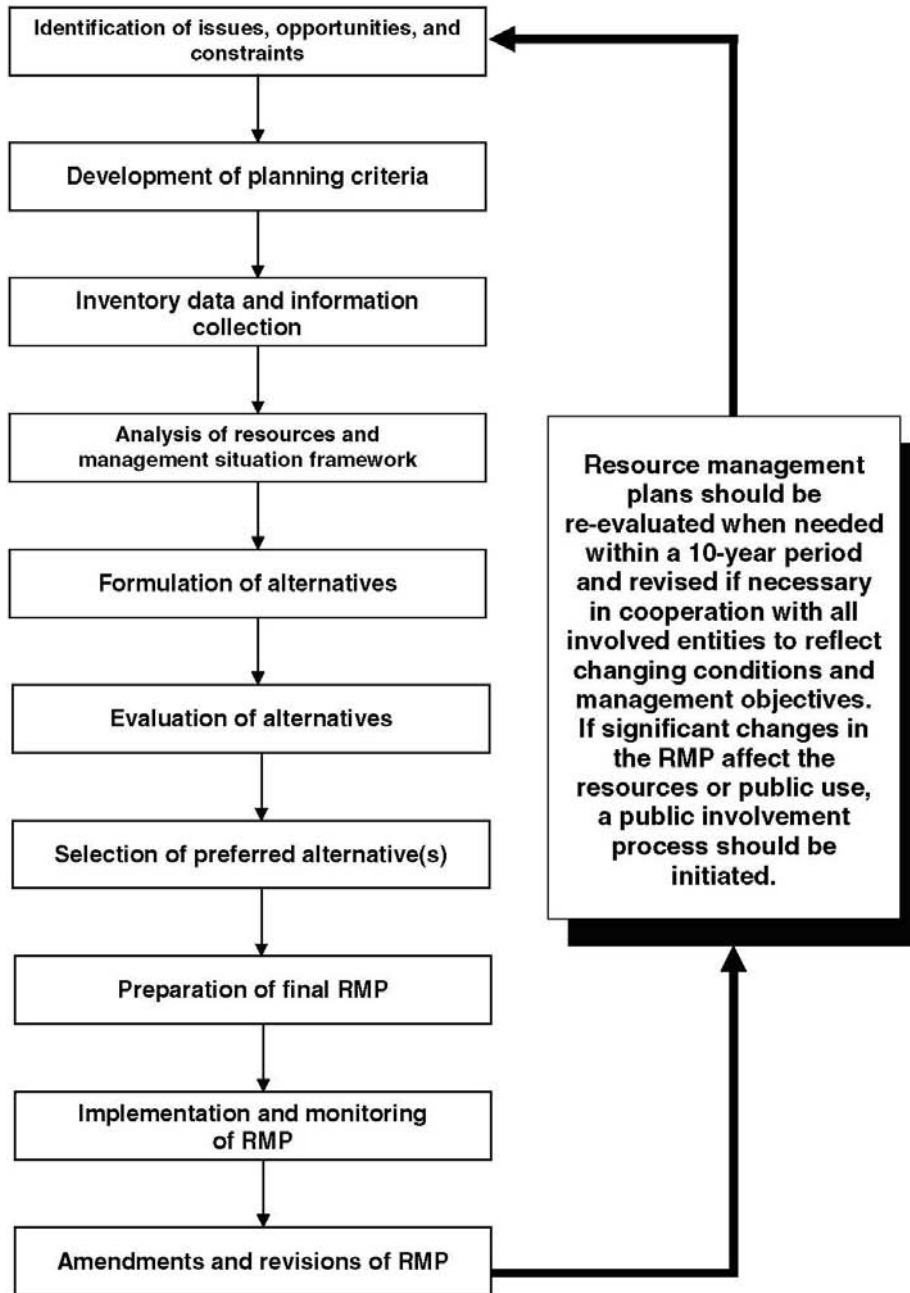
The information provided in this chapter establishes some of the parameters that influence how the study area is managed today and how it will be managed in the future. In an effort to accommodate future demand and to meet public expectations, managers must take advantage of the available opportunities to secure supplemental funding and/or secure a managing partner or cooperator to share in the recreation management responsibilities within the study area. Managers have to formulate a strategy that addresses the identified issues and concerns and takes into consideration existing constraints or limitations.

Reclamation followed an established land use planning process to prepare this RMP/EA. (See figure 3.1, “Steps in Resource Management Planning Process.”) This process focuses on resolving issues that arise over the use and management of public lands and resources. A planning issue can be defined as an unrealized opportunity, an unresolved conflict or problem, an effort to implement a new management program as a result of new initiatives or laws and regulations, or a resource or public use value being lost. Not all issues are related to resource management; therefore, an RMP/EA cannot resolve all issues—some must be resolved administratively.

For this RMP/EA, Reclamation identified issues concerning the conflicting demands for consumptive and non-consumptive uses of the land. The primary challenge is to protect natural and cultural resources while allowing uses that have a minimum effect on these resources. Reclamation used three areas of investigation to identify planning issues, opportunities, and constraints:

- Public involvement
- Collection and evaluation of existing resource data
- Review of its internal programs and policies

### Steps in Resource Management Planning Process



Note: NEPA compliance activities should occur during the RMP planning process.

Figure 3.1 – Steps in Resource Management Planning Process.

The planning issues, opportunities, and constraints identified in these investigations allowed Reclamation to formulate the necessary management actions and implementation strategies, as outlined in Chapter 6, “Resource Management Plan.” Chapter 5, “Affected Environment and Environmental Consequences,” analyzes the effects of implementing the possible management plans (or “alternatives”) on resources in the study area.

## Planning Issue Identification

To identify issues and concerns regarding management of the study area, this planning effort incorporated a public involvement process, as described in chapter 1. In addition, Reclamation resource specialists collected and evaluated existing resource data and reviewed Reclamation programs and policies. Reclamation identified issues and concerns similar to those the public identified. Generally, the issues and concerns relate to the following:

- The Boulder Canyon Project Act mandated authorized purposes of delivering water for beneficial uses within the Coachella Valley and compatibility with other land uses within the study area.
- Providing recreation opportunities and facilities within the Coachella Canal Area study boundary.
- Conserving and protecting critical habitat and special status species.
- Continued compliance with Federal laws, regulations, and Executive orders dealing with consultation efforts with the Service, BIA, SHPO, and area Indian tribes.
- Protecting and enhancing natural and cultural resources.
- Accommodating the many demands for use of Reclamation lands by the growing communities adjacent to the Coachella Canal Area.
- Compatibility of land uses within the study area and adjacent land uses—in particular, compatibility with the proposed CVMSHCP/NCCP.
- OHV use and rehabilitating degraded lands within the study area.
- Abundance of trash and litter within the study area.

Reclamation then grouped these issues and concerns into eight “issue categories.” The issue categories helped to (1) define the scope of the issues and concerns, (2) develop specific goals and objectives to address the issues and concerns, and (3) formulate management actions to accomplish the goals and objectives. The goals and objectives and associated management actions are further discussed in Chapter 6, “Resource Management Plan.”

This RMP/EA addresses the following issue categories:

- General Management Issue Category
- Land Use Issue Category
- Partnership Issue Category
- Boulder Canyon Project Act Issue Category
- Natural and Cultural Resources Issue Category
- Recreation Management Issue Category
- Public Information and Education Issue Category
- Public Health and Safety Issue Category

Following are descriptions of each issue category.

*General Management Issue Category*

General management issues and concerns focused on developing a 10-year management strategy that takes into consideration mandated Federal laws, rules, regulations, and Executive orders; Reclamation's Policies and Directives and Standards; and State and county laws, regulations, and ordinances.

*Land Use Issue Category*

Land use issues and concerns focused on developing a land use strategy that would attempt to accommodate the increased demands of local communities, private developers, and the public while protecting the natural and cultural resources and the Boulder Canyon Project Act congressionally authorized purposes.

*Partnership Issue Category*

Partnership issues and concerns focused on the need to create sustainable partnerships with qualified non-Federal government entities and special interest groups to assist Reclamation in the management of the study area lands.

*Boulder Canyon Project Act Issue Category*

Boulder Canyon Project Act issues and concerns focused on developing a land management strategy that would not interfere with CVWD's ability to operate and maintain a Federal water project authorized by the Congress.

*Natural and Cultural Resources Issue Category*

Natural and cultural resource management issues and concerns focused on protecting cultural resources and avoiding or mitigating cultural resource impacts, and protecting and restoring high value desert vegetation and associated wildlife including habitat for special status plants and wildlife. High value habitat includes relatively undisturbed desert shrub and desert wash vegetation, aeolian sand fields, and riparian cottonwood-willow oasis.

*Recreation Management Issue Category*

Recreation management issues and concerns focused on managing unauthorized OHV use; providing non-motorized, multi-use trails; providing recreation access across Reclamation lands to adjacent lands; and providing recreation facilities and opportunities to meet the growing demand in the Coachella Valley.

*Public Information and Education Issue Category*

Public information and education issues and concerns focused on providing a variety of information about the study area; providing appropriate signing detailing the rules and regulations for the use of Reclamation lands; and providing a limited variety of interpretative opportunities for the recreating public.

*Public Health and Safety Issue Category*

Public health and safety issues and concerns focused on providing an appropriate level of enforcement of the rules, regulations, and land restrictions; removing trash from the study area; and preventing this unauthorized use in the future.

## **Management Opportunities**

Opportunities exist within the study area to enhance, protect, and interpret the natural resources of the area. Opportunities exist to provide a range of recreation opportunities and facilities while not negatively affecting existing natural resources. Pursuant to section 106 of the National Historic Preservation Act, opportunities exist to implement management actions that would include systematic site evaluation and protection and interpretation of cultural resources for public education and enjoyment. Cost-sharing opportunities for recreation purposes with other Federal, State, and local agencies could increase the capability of Reclamation to successfully manage the Coachella Canal Area. Public-private partnerships with profit and non-profit organizations should be considered in any future planning activities. Formation of local citizen and advisory groups and local organizations and individuals could directly or indirectly support management of the area. Funding through grants and cooperative agreements is important if Reclamation, as well as other land managing entities, wish to meet future recreation demand.

Following are examples of several funding and management opportunities available to assist in managing lands and resources within the study area whether Reclamation is managing the area or if it has a managing partner.

### **Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)**

Eligible projects under the Public Lands Highway Discretionary Fund include, but are not limited to, planning for Federal programs that benefit recreation

development, parking, interpretive signage, trails, roadside rest areas, sanitary and waste facilities, and acquisition of certain lands. Efforts to identify proposed projects should be coordinated between Federal, State, and local entities. Close coordination with the State and Federal Highway Departments especially should occur at the early stages of project identification and formulation.

### **National Park Foundation Grants Program**

The National Park Foundation provides funding to parks for innovative, concrete projects that provide tangible and lasting benefits. The program encourages fresh approaches to park problems and projects that help build an understanding of, and a constituency for, park values. The program funds any project that has tangible benefits to parks. Grants that are most competitive range from \$3,000 to \$40,000, with no matching funds required. However, projects that leverage a National Park Foundation grant with matching funds, public or private, are preferred.

### **Toolbox for the Great Outdoors**

The *Toolbox for the Great Outdoors* (Toolbox) is a directory of Federal and State programs and other resources that can enhance visitor experiences at Federal recreation areas. The Toolbox was developed by the American Recreation Coalition in cooperation with the Federal cosponsors of Partners Outdoors XI, held in Henderson, Nevada, in January 2002. The Toolbox was designed for use by Federal land managers as well as recreation, tourism, and conservation community leaders eager to expand the quality of visitor experiences. Special messages from the leaders of six key Federal agencies about the Toolbox and about the vital role of partnerships are showcased on an interactive CD. The Toolbox, which can be used by virtually all personal computers and operates in an enhanced mode while connected to the Internet, contains multimedia overviews of 20 creative tools and more than \$1 billion annually in potential resources that can supplement traditional appropriations to Federal recreation-providing agencies. The overviews are followed by detailed explanations, examples of uses of each tool at Federal sites, strategies for securing additional financial resources and staffing, links to Web sites, and other sources of information on the tools, along with contacts for further information and advice. The highlighted tools include the following:

#### ***Transportation-Related Tools***

- Scenic Byways
- Recreational Trails Program
- Transportation Enhancements
- Intelligent Transportation Systems
- Cooperation with Department of Defense and National Guard Units

***Wildlife and Fisheries Programs***

Sportfish Restoration Account (Wallop-Breaux Fund)  
Federal Aid for Wildlife Restoration (Pittman-Robertson)

***Volunteers, Fees, and Partner Receipts***

National Recreation Fee Demonstration Program  
Volunteers  
Funding Through Congressionally Chartered and Federally Aided  
National Foundations  
Friendraising: Use of National and Local Foundations Judicial Sentencing  
of Non-Violent Offenders and Use of Fines and Penalties  
State OHV Programs (Including Winter Parking Permits)  
Challenge Cost-Share Agreements for Recreation and Wildlife  
Private Investments in Recreation Facilities  
Shared-Use Facilities

***Recreation and Conservation Programs***

Land and Water Conservation Fund  
Rivers, Trails, and Conservation Assistance Program  
Land Exchanges and Sales

Copies of the *Toolbox for the Great Outdoors* can be ordered from the American Recreation Coalition at (202) 682-9530 or through its Web site <[www.funoutdoors.com](http://www.funoutdoors.com)>.

**Reclamation Recreation Management Act of 1992, Title 28 and Potential Managing Partners**

The Reclamation Recreation Management Act of 1992 is an amendment to the Federal Project Recreation Act of 1965, P.L. 89-72, which provides up to 50 percent Federal cost sharing for the planning, construction, and O&M of recreation facilities with non-Federal public entities. It also provides 75 percent Federal cost sharing with non-Federal partners for fish and wildlife enhancement and up to 50 percent of the O&M of such facilities. Non-Federal public entities that have agreed to manage developed facilities and lands at Reclamation projects are to work with local Reclamation offices to identify proposed projects for funding. Congressional funds may be appropriated annually and distributed for selected sites.

Section 7(c) of P.L. 89-72 also gives Reclamation clear authority to contract with other Federal agencies to manage Reclamation lands. However, the question is whether or not the other agencies have the inherent authority to do what Reclamation might ask them to do on Reclamation lands. See “Legislative Constraints” for the constraints placed upon another Federal agency managing Reclamation lands.

As stated previously, P.L. 89-72 provides Reclamation with opportunities to transfer management of recreation resources to a non-Federal government entity or another Federal agency. Through P.L. 89-72, as amended, Reclamation is encouraged to seek State and local partners in managing the recreation resources on its lands. Throughout the 17 Western States, Reclamation has numerous successful partnerships with non-Federal entities. In other instances and pursuant to P.L. 89-72, Reclamation has transferred jurisdiction of its lands to other Federal agencies as national recreation areas, national wildlife refuges, or as U.S. Forest Service lands if the Reclamation project is within or adjacent to a National Forest System. If Reclamation lands are transferred to another Federal agency, all resources, including recreation, are managed using the rules, regulations, and funding sources of that agency. When Reclamation can obtain neither a non-Federal nor Federal partner, Reclamation manages its lands and resources pursuant to existing laws and regulations and specific Reclamation authorities and limitations. Approximately 21 reservoir areas in the 17 Western States are managed directly by Reclamation in the absence of a managing partner. At a time when Federal, State, and local funding for recreation development is decreasing, the demand for outdoor recreation is increasing. The leveraging of funds and shared responsibilities are important if land management agencies wish to meet future demand.

If Reclamation obtains a non-Federal entity as a recreation management partner, both sections 2(a) and 3(b)(1) of P.L. 89-72 provide that features or facilities for recreation, as well as fish and wildlife enhancements, or both, may be provided if the non-Federal entity pays for:

- Not less than one-half of the construction costs for recreation (land acquisition, facilities construction, and project modification)
- Not less than one-fourth of the construction costs for fish and wildlife enhancement (land acquisition, facilities construction, and project modification)
- Not less than one-half of the O&M and replacement costs for recreation or fish and wildlife enhancement facilities or features

Section 2(b) of P.L. 89-72 also provides guidance on how a non-Federal entity could have Reclamation fund and construct most, if not all, the facilities or features, provided that the non-Federal entity agrees to enter into a repayment contract with the United States Government to repay the non-Federal entity's portion of the 50-percent cost-share obligation funded by the United States. The amount of money borrowed from the United States would have to be repaid with interest within 50 years of first use of the facilities and features provided. The source of repayment may be limited to the entrance and user fees or charges collected at the recreation area if the fee schedule is established on a basis to achieve repayment within the 50 years.



## Fee Retention

The ability to retain recreation-related fees to offset operation and maintenance expenses is important to consider when managing recreation activities on Federal lands. On December 8, 2004, the Congress passed the Federal Lands Recreation Enhancement Act (P.L. 108-447), which authorizes a variety of Federal land and water management agencies to retain a portion of the fees collected at a specific recreation area for future use at that area. (See **attachment B** for the complete text of P.L. 108-447.) Reclamation is one of the Federal agencies authorized to collect and retain a portion of user fees. In the past, user fees were returned to the Federal treasury and made available the following year for operation and maintenance through congressional appropriations. Historically, congressional appropriations were usually less than the amount of user fees collected at the recreation area. P.L. 108-447 allows Reclamation to charge fees that are commensurate with the benefits and services that are provided to the visitor (i.e., the amount of fees charged are dependent on the types of amenities provided at the site). Additional criteria for charging fees are discussed in the body of the law. If fees are charged pursuant to the provisions of P.L. 108-447, Federal agencies are not allowed to retain more than 80 percent of the user fees to use the following years.

As stated earlier, P.L. 89-72 authorizes Reclamation to enter into recreation management agreements with non-Federal entities, such as State, county, and local governments. This act also authorizes the transfer of project lands or facilities to these agencies with terms and conditions that best promote development and operation of the lands and facilities for recreation purposes in the public interest. P.L. 89-72 states, “. . .entrance and user fees or charges collected at the project by non-Federal interests. . .” may be “. . .used to assist in repayment of costs.” In addition to P.L. 89-72, the following congressional legislation also supports retention of user fees by a non-Federal managing partner:

- United States Code (U.S.C.) 16, part 4601-6a states, “. . .any such contract may provide that the contractor. . .deduct a commission to be fixed by the agency head from the amount charged the public for providing such services. . .”
- Land and Water Conservation Fund of September 3, 1964, P.L. 88-578, 78 Stat. 897 states that “. . .provision of law that permits States or political subdivisions to share in the revenues from Federal lands. . .”

## Geographic Information System (GIS) Mapping

Although various naturally occurring phenomena and conditions may limit or influence human activity within the study area, adequate mapping can identify areas that have constraints or limitations for future development. GIS mapping can provide a tool to determine if management actions might be compatible with

the existing use of the land. The GIS digital layers created can be stacked and used to generate new layers that answer questions about the suitability of development based on the land capabilities of a geographic area or spatial location.

## **Management Constraints**

When agencies address management changes and other actions, they are constrained by their respective legislative authorities, budgets, personnel, current policies, and environmental limitations. The policies affecting management were discussed in Chapter 2, “Management Framework.” The ability of land management agencies to manage environmental and recreational resources will always depend on maintaining sufficient personnel and on the ability of the agencies to obtain adequate funding to operate and maintain facilities and programs, as well as to protect and enhance existing opportunities and resources. The following discussion addresses the constraints associated with the study area.

### **Legislative Constraints**

Project planning or development on Federal land may trigger implementation of and adherence to certain rules, laws, and Executive orders. These include, but are not limited to, those mentioned in chapter 2 as well as the Clean Water Act, Clean Air Act, Americans with Disabilities Act, and the National Environmental Policy Act. These legislative mandates require Federal land management agencies to consider the effects of their management decisions on endangered or threatened species, water quality, Indian trust assets, recreation, fish and wildlife, and cultural resources. For example, if management recommendations involve a Federal action that would cause a site disturbance, a cultural resource inventory would have to be conducted before the action could be implemented.

### **Federal Agency Constraints**

In general, the Property, Commerce, and Tax and Spend for the General Welfare Clauses of the Constitution provide the authority for Reclamation and other Federal agencies to function. This authority, however, is granted to the Congress, not to the Executive branch. Thus, the various agencies function on the basis of delegation of authority from the Congress in the form of statutes. The Reclamation Act of 1902, BLM’s Federal Land Policy Management Act of 1976, and the U.S. Forest Service National Forest Management Act of 1976 are examples of acts that delegate congressional authority to the Executive branch. As discussed previously, section 7(c) of P.L. 89-72 clearly delegates Reclamation authority to contract with other Federal agencies to manage Reclamation land; however, the other agency must have congressional authority and the expertise

necessary to perform the responsibilities Reclamation may wish to convey. In addition, the disposition of the fees collected on Reclamation land by another Federal agency would have to be addressed. Certain fees may have to be deposited in Reclamation's treasury account, instead of another Federal agency's account, or deposited in the Reclamation fund as a credit to the project. In either case, the fees collected by another Federal agency would not be available for on-site use or to defer the costs of operation and maintenance.

### **Environmental Constraints**

Limiting factors, such as slopes, soils, wetlands, critical habitat, and the lack of an adequate land base, can constrain future development. Facilities cannot be located on unstable soils, extreme slopes, on or near wetlands and critical habitat areas, or within land areas that do not have a sufficient land base to accommodate such development (e.g., the physical carrying capacity of the land may be exceeded). The existence of any one of the following factors would make an area less suitable for recreation or commercial development:

- Presence of a wetland or riparian vegetation or wildlife habitat
- Presence of certain wildlife species (endangered species/special status species)
- Presence of sensitive habitat for certain wildlife species
- Poor soils for constructing foundations and installing septic systems
- Hazardous geologic conditions, such as a fault zone
- Cultural resources properties

Adequate GIS mapping can identify areas that may constrain or limit future development, as discussed previously. Various naturally occurring phenomena and manmade conditions could limit or influence human activity within the study area. For the purposes of this report, several GIS map layers have been produced. GIS mapping can help identify areas that have constraints or limitations for development.

### **Carrying Capacity Constraints**

Carrying capacity can be described as the ability of a resource to accommodate a user population at a reasonable threshold without the user population adversely affecting the resource. Carrying capacity levels for the study area have not been determined. Carrying capacity can be subdivided into four categories: (1) social, (2) physical, (3) environmental (or ecological), and (4) facility.

***Social Carrying Capacity***

Social carrying capacity can be described as the effects that resource users have on one another. The number, type, and location of recreation users encountered sometimes affect the recreation experience. The social carrying capacity differs among users and depends on the type of experience sought and the tolerance of the individuals or groups using the resource. For example, a recreationist seeking a wilderness experience will not tolerate the sights and sounds of other recreationists, while a user of an urban environment not only tolerates but expects to encounter other users. Social carrying capacity also depends on the availability, size, use, and management of the resource.

***Physical Carrying Capacity***

Physical carrying capacity can be described as the area that is available to a recreationist for a specific recreation activity. The challenge is to provide adequate access to the public, while optimizing the number and variety of recreational opportunities within the available land base.

***Environmental Carrying Capacity***

Environmental (or ecological) carrying capacity can be described as the effects that a level of recreation use will have on resources, such as vegetation, fish, wildlife, soils, water, and air. Activities with high impact, such as OHV use, can adversely affect natural resources. The challenge is to provide an adequate number of facilities and opportunities to meet existing and future demand without adversely affecting the environmental resources.

***Facility Carrying Capacity***

Facility carrying capacity can be described as the ability of an existing facility to accommodate the current level of recreation use. User conflicts can result if an existing facility has reached its carrying capacity limits.