

**Implementation of the Federal
Water Project Recreation Act
In Colorado**

**By John A. Spence
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A stylized graphic of a landscape. It features a black silhouette of a mountain range with several peaks. Below the mountains is a thick, horizontal teal band that has a wavy, irregular top edge, suggesting a river or a body of water. The entire graphic is set against a white background.

Colorado Water

Resources Research Institute

**Colorado
State
University**

IMPLEMENTATION OF THE FEDERAL WATER PROJECT
RECREATION ACT IN COLORADO

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by

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ABSTRACT OF THESIS

IMPLEMENTATION OF THE FEDERAL WATER PROJECT RECREATION ACT IN COLORADO

The purpose of this study is to analyze how the cost-sharing provisions of the Federal Water Project Recreation Act (P.L. 89-72) are being implemented in Colorado. It is an attempt to answer the general questions: (1) What was the impetus which culminated in the Act's formulation? (2) What were the policy intentions of the policymakers in the enactment of P.L. 89-72's cost-sharing provisions? (3) What is the extent of the Act's application in Colorado? (4) What actors are involved with the Act's implementation in Colorado? (5) What are the operative attitudes and policies of selected actors and what impact have they had on the Act's application in Colorado? (6) What is happening at the Federal level of government that may affect the Act's implementation in Colorado? (7) What problems have there been in implementing P.L. 89-72's cost-sharing provisions in Colorado? (8) To what extent is the Act fulfilling its congressional mandate?

The implementation of the Federal Water Project Recreation Act in Colorado appears to be fulfilling its congressional mandate. Colorado's experience with the application of P.L. 89-72 is limited, however, because of the time period required for planning, authorizing, and funding water projects and by a general adverse public response to the construction of reservoirs. Only a small number of Federal water projects in Colorado have been authorized and none of these projects have reached the stage where the non-Federal funds need to be appropriated. It does appear, however, that the Act will continue to fulfill the

expectations of its policymakers in Colorado, despite some problems which could impede its application.

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LIST OF MAPS

(in pocket)

Bear Creek Lake

Narrows Unit

Colorado-Big Thompson Project

Bonny Reservoir

CHAPTER I

INTRODUCTION

The Federal Water Project Recreation Act (P.L. 89-72) is a general policy act which affects the two major Federal water project construction agencies - the Corps of Engineers and the Bureau of Reclamation. The U. S. Army Corps of Engineers is responsible for water-resource development under the civil works program, starting with single-purpose navigation in the 19th century. This authority has grown over time with the passage of numerous acts to expand the agency's role to flood control, major drainage, hydroelectric power, water supply, water quality control, recreation, fish and wildlife enhancement, and other purposes. The Bureau of Reclamation, an agency of the U. S. Department of the Interior, administers the Federal Reclamation Program authorized in 1902 to reclaim and settle arid lands in the West. Today operating in 19 western states, the Bureau also provides water supply, irrigation, hydroelectric power, flood control, recreation, fish and wildlife enhancement, and other purposes.

The Federal Water Project Recreation Act had two major objectives. First of all, the Act requires both local administration and cost-sharing by non-Federal public bodies for recreation and fish and wildlife which is considered local in character. The FWRA reaffirmed a major Federal role in the financing of such activities while attaining a feasible and equitable shift of such costs from the Federal Treasury to the local beneficiaries. The Corps of Engineers and the Bureau of Reclamation had been including recreation and fish and wildlife enhancement facilities in their projects, often at great costs and in most

cases with little or no substantial cost-sharing. It has long been accepted that local residents and users, who reap the largest economic benefits from the project and who have immediate access to the project, should assume a feasible and an equitable portion of the costs. Furthermore, widely variant cost allocation schemes for recreation and fish and wildlife enhancement raised some reservations as to the validity of such allocations. Cost-sharing is likely to thwart attempts to "write-off" large project costs to these purposes. The second major objective of the Act is to establish a uniform Federal-local cost-sharing policy for recreation and fish and wildlife enhancement which is applicable to reservoir projects of the Corps of Engineers and the Bureau of Reclamation. Previously, the two construction agencies had operated under rules that differed not only between the agencies, but in some instances for different projects built by the same agency. This has often resulted in local water project sponsors "shopping" among the two major water project construction agencies to see where they can get the best deal and in a duplication in planning efforts by the construction agencies.

P.L. 89-72 also establishes specific statutory authority recognizing recreation and fish and wildlife enhancement as a full-fledged project purpose. This was merely an endorsement of a practice already in use. In addition, the Act granted the Secretary of the Interior limited authority to acquire land and to construct recreation and fish and wildlife enhancement facilities at projects already in existence at the time the bill was passed. Other important provisions concerned cost allocation, feasibility reports and coordination of recreation and fish and wildlife planning.

Cost-sharing Provisions

Applicability

The Federal Water Project Recreation Act applies to reservoir projects of the Corps of Engineers and the Bureau of Reclamation.

The Tennessee Valley Authority was considered a unique situation because it is a unified resource development agency with broad authority and responsibility in a limited geographic area. TVA already had adequate authority for recreation and for fish and wildlife enhancement and followed a policy of transferring land adjacent to reservoirs to public agencies for parks and other recreational development. TVA manages, at total Federal cost, the recreation demonstration area - Land Between the Lakes. Furthermore, "TVA. has a program of providing basic recreation facilities in public use areas at selected sites, both as manager at Federal cost, and in conjunction with non-Federal public bodies. In the latter case, cost-sharing arrangements are determined on a case-by-case basis."¹

Non-reservoir projects are excluded from the provisions of this Act.

This Act does not apply to projects considered to be either purely local or purely national in scope. At projects such as those constructed under the Watershed Protection and Flood Prevention Act and the Small Reclamation Act the local people determine the purposes which these projects serve and the local people construct and administer them. Similarly, the Act does not apply to lands to be included in a National

¹Water Resources Council, "Issue Paper on Reservoir Recreation Cost-Sharing." An undated discussion paper. (Mimeographed)

recreation area or a National forest system. Also exempt are "public lands classified for retention in Federal ownership or in connection with an authorized Federal program for the conservation and development of fish and wildlife."¹

Definitions

Non-Federal Public Body includes such public entities as States, counties, municipalities, recreation districts, or other special purpose districts with sufficient authority to participate under the provisions of P.L. 89-72. The term also includes a combination of two or more of the foregoing entities.

Enhancement means any project modification which augments or increases the desirability of a particular project purpose or purposes.

Separable costs, "as applied to any project purpose, means the difference between the capital costs of the entire multiple-purpose project and the capital cost of the project with the purpose omitted."² This includes such improvements as boat-launching ramps, picnic tables, increasing the height of the dam specifically for recreation or fish and wildlife and the regulation of the use of storage space devoted to recreation.

Joint costs refer to "the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes."³

¹U. S., Statutes at Large, Vol. 79, 89th Congress, 1st Session, (Washington, D. C. Government Printing Office, 1966), p. 218.

²Ibid.

³Ibid.

Policy

Recreation and fish and wildlife enhancement will be included at projects authorized after July 9, 1965 (new projects) if, before authorization of a project, a non-Federal public body indicates an intent in writing to execute their cost-sharing obligation. Execution of an agreement is a prerequisite to commencement of construction.

The cost-sharing formula requires that a non-Federal public body administers the project land and water areas for recreation and fish and wildlife enhancement, pays at least one-half of the separable costs and assumes all operation, maintenance and replacement costs for such enhancement. The Federal government assumes up to one-half of the separable costs and all the joint costs of the project allocated to recreation and fish and wildlife.

If a cost-sharing agreement cannot be obtained for recreation and fish and wildlife enhancement then the Federal government will provide only minimum facilities required for public health and safety. Under this circumstance the joint costs allocated to recreation and fish and wildlife would be reduced and the economic benefits to the project from said purposes would be adjusted accordingly.

In the absence of cost-sharing for the land and facilities of these purposes, land can be acquired to preserve recreation and fish and wildlife enhancement potential. However, if an agreement to cost-share is not obtained within a ten year period then the lands must be disposed of according to the procedure specified in the Act. If an agreement to cost-share is obtained it does not affect the initial allocation of joint costs.

At projects which were constructed before July 9, 1965 (completed projects), P.L. 89-72 does not put the Bureau of Reclamation and the Corps of Engineers on an equal basis in regard to providing recreation and fish and wildlife enhancement at reservoirs under their auspices.

At completed projects, the Secretary of the Interior is authorized to add recreation and fish and wildlife enhancement lands and facilities so long as he reaches a cost-sharing agreement similar to that required at new projects. The difference is threefold. First of all, a letter of intent is not needed prior to reaching an agreement. Secondly, there is a \$100,000 limitation on the amount of Federal funds which may be spent at any single reservoir project. Thirdly, the Federal government has no joint costs to finance since there can be no reallocation of joint costs among the project purposes.

The Act does not apply to completed Corps projects. The Corps legally has the authority to construct, operate and maintain recreation features at these projects under its control. However, an administrative agreement between the Corps and the Bureau of the Budget provides that "The fundamentals of P.L. 89-72 are to be applied to all projects, by categories, by 1976 or 1980 - presumably ending all unilateral Corps recreation development responsibilities, except at those relatively few civil works projects which might qualify as Federally-administered National Recreation areas."¹ This administrative regulation will not subject completed Corps projects to the \$100,000 Federal funding

¹ Edward C. Crafts, How to Meet Public Recreation Needs at Corps of Engineers Reservoirs. (Washington, D. C.: U. S. Government Contract, DACW 73-70-C-0038, Dec. 1, 1970), pp. 85-86.

limitation which restricts Reclamation activities at completed projects.

Reimbursement

The non-Federal participants can pay the Federal treasury by either or both of two methods: 1) payment in cash, or in lands* or facilities required for the project, and 2) repayment with interest within fifty years. The source of repayment may be limited to entrance and user fees collected at the project and calculated to achieve repayment.

The Purpose of this Study

This study is designed to develop an understanding of how the cost-sharing provisions of P.L. 89-72 are being implemented in Colorado. It is an attempt to answer the general questions: (1) What was the impetus which culminated in the Act's formulation? (2) What were the policy intentions of the policy makers in the enactment of the Federal Water Project Recreation Act's cost-sharing provisions? (3) What is the extent of the Act's application in Colorado? (4) What actors are involved with the Act's implementation in Colorado? (5) What are the operative attitudes and policies of selected actors and what impact have they had on the Act's application in Colorado? (6) What is happening at the Federal level of government that may affect the Act's implementation in Colorado? (7) What problems have there been in implementing P.L. 89-72's cost-sharing provisions in Colorado? (8) To what extent is the Act fulfilling its Congressional mandate?

*Unlike the Land and Water Conservation Fund Act the title to such lands must be transferred to the Federal Government.

CHAPTER II

HISTORICAL PERSPECTIVE

A considerable period of policy development for recreation and fish and wildlife development led up to the formulation of the Federal Water Project Recreation Act. Before discussing the Act's implementation it makes good sense to know exactly what significant policy actions preceded the Act's enactment.

The Corps of Engineers

The Flood Control Act of 1944 established the first more generalized Federal recognition of reservoir based recreation. Section four of this Act authorized the Chief of Engineers "to construct, maintain, and operate public park and recreational facilities in reservoir areas under the control of the War Department, and to permit the construction, maintenance and operation of such facilities."¹ The Act, also, specifies that all such reservoirs shall be open to the public use without charge for boating, swimming, bathing, fishing and other recreational purposes. Furthermore, public access and exit is to be maintained along the shores of these reservoirs when the Secretary of War determines that public use is not contrary to the public interest.²

Although the Flood Control Act of 1944 gave the Corps general authority to provide basic recreational facilities at Federal expense

¹Outdoor Recreation Resource Review Commission, Multiple Use of Lands and Water Areas, ORRRC Study Report 10 (Washington, D. C.: Government Printing Office, 1962), p. 43.

²Ibid.

in the reservoirs under its control, wherever possible these developed areas were turned over to non-Federal interests for maintenance and administration. Furthermore, recreation could not be used as a purpose in justifying the feasibility of a project.¹

The Flood Control Acts of 1946 and 1954 reaffirmed the earlier recreational policy. However, it is pertinent to note that the Corps treated recreation largely as a by-product of the land and water resources of civil works projects until about 1959. The ORRRC report attributes this to the following considerations. First of all, the report reveals that "only in the past three years (prior to 1962) has Congress appropriated funds for urgently needed recreation improvements at completed projects. Another consideration in implementing this legislation (Section 4 of the 1944 Flood Control Act) is the position of the Bureau of the Budget that, in the absence of an acceptable method for calculating recreation values, the decision to add recreation features or capacity to a water resources project can be based only on a well informed judgment as to whether the additional cost is justified."²

An enormous expansion of public use at reservoirs under the auspices of the Corps, reaching an attendance of 106 million visitors in 1959, necessitated greater consideration of recreation in multiple

¹U. S. Department of the Army, Corps of Engineers, Background of Policy and Procedure for Implementation of the Federal Water Project Recreation Act (Public Law 89-72) in Previously Authorized Projects, (Washington, D. C.: Office of the Chief of Engineers, Jan. 1969), p. 1.

²Outdoor Recreation Resource Review Commission, Multiple Use of Land and Water Areas, ORRRC Study Report 17 (Washington, D. C.: Government Printing Office, 1962), p. 25.

purpose planning and development. In 1959 the Departments of Army and Interior laid down joint interim instructions recognizing recreation as a project purpose within the multiple purpose planning concept. "This means that while a reservoir project is not recommended solely for recreation or fish and wildlife purposes, once it is determined that a reservoir project is required for other purposes, then recreation and fish and wildlife purposes will receive parallel consideration in the formulation, design, and operation of the project."¹

The Flood Control Act of 1962 broadened the 1944 authority to include all water resources projects. Furthermore, the Corps was granted the authority to make nonreimbursable up to 25 percent of the total project costs which are allocated to recreation and fish and wildlife.²

The Bureau of Reclamation

The Bureau of Reclamation has had no general basic authority to provide land or facilities for recreation and fish and wildlife enhancement*. As early as 1931 Reclamation sought authority from Congress to establish, operate and maintain recreational areas on Reclamation lands. A draft bill for that purpose was presented by

*Prior to the Federal Water Project Recreation Act except for the Fish and Wildlife Coordination Act amendment of 1958.

¹Outdoor Recreation Resource Review Commission, Multiple Use of Land and Water Areas, ORRRC Study Report 17 (Washington, D.C.: Government Printing Office, 1962), pp. 6 and 25.

²U.S. Congress House, Committee on Interior and Insular Affairs, Recreation Allocation Policy, Hearings, before the Subcommittee on Irrigation and Reclamation, House of Representatives on H.R. 9032, 88th Congress, 1st Session, 1963, pp. 20 and 91.

the Secretary to the Congress in that year. However, the Secretary's bill was apparently given little consideration by the Congress.¹

Where the Bureau of Reclamation failed in 1939, the Corps of Engineers succeeded five years later in the Flood Control Act of 1944.

"In the immediate post-war period some scattered developments took place at Bureau reservoirs on the basis of language inserted in appropriate acts for specific projects."² However, this was the exception and not the rule. It was, also, about this time that the Bureau of Reclamation attempted to provide for minimum basic facilities out of construction funds. As early as 1946 the Chief Counsel of the Bureau maintained that authority to provide minimum recreation facilities at all Bureau projects is implicit in the specific power granted the Secretary. However, the Comptroller General quickly prohibited this practice. He insisted that without special authorization Reclamation was powerless to provide any recreation development. Nevertheless, in later efforts Reclamation did manage to construct minimum basic facilities for health and safety at its reservoirs. These facilities generally consisted of "nothing more than pit toilets and guard rails."³

It is interesting that in 1949 the Weber Basin Reclamation Project was authorized with a nonreimbursable allocation of costs to recreation in the amount of \$4,656,000.* However, the bill authorizing

*This was apparently the first authorization act to carry such an item.

¹ Roland G. Robinson, Jr., "Recreation Development at Bureau of Reclamation Projects," Solicitor's Review, V. I, No. 4 (November, 1971), p. 3.

² Ibid.

³ Ibid.

the project was not referred to the Bureau of the Budget. Although President Truman was not in favor of the recreation allocation he signed the bill. However, he directed the Secretary of the Interior "...to defer initiation of construction of any of the recreational facilities pending determination of a national policy on recreation at water resource development projects."¹

Later project authorizations generally permitted the Bureau of Reclamation to construct minimum basic facilities, however, in most cases operation was to be carried out by non-Federal public entities.² Furthermore, some project authorizations contained more general authority for recreation development. For example, Section 8 of the Colorado River Storage Project Act of 1956 enabled the Secretary of the Interior to plan, construct, operate and maintain public recreational facilities on a nonreimbursable basis. The Fryingpan Arkansas Act of 1962 provided authorization similar to that of the Storage Act.³ The 1962 ORRRC report stated that, "Project authorizations in recent years have recognized recreational needs and have provided nonreimbursable funds for construction of recreational facilities."⁴

¹ Roland G. Robinson, Jr., "Recreation Development at Bureau of Reclamation Projects," Solicitor's Review, V. I, No. 4 (November, 1971), p.4.

² Ibid., p. 5.

³ Gilbert G. Stamm, "Reservoir Recreation Policy and Problems," in Outdoor Recreation and Environmental Quality, Proceedings of the Western Resources Conference, Fort Collins, Colorado 1972, ed. by Phillip O. Foss (Fort Collins: Environmental Resources Center, 1973), p. 42.

⁴ ORRRC Study Report 17, op. cit., p. 19.

Lacking the authority and funds to provide much in the way of recreational facilities at most of its reservoirs, Reclamation adopted the policy of transferring recreational administration of its reservoirs to other qualified agencies and organizations. For example, reservoirs located within or adjacent to National Forest lands have been transferred to the U. S. Forest Service for recreation administration. National Recreation Areas have been built around a number of other Reclamation reservoirs and administered by the National Park Service. However, suitable entities to assume the recreational responsibility were not available at many reservoirs. Because Reclamation is primarily a reimbursable program -- all costs allocated to the project purposes are fully repaid by the users, with interest except for irrigation -- any expenditures for recreation facilities not specifically authorized by Congress had to be charged to the remaining functions of the project. In the case of older reservoirs constructed solely for irrigation it would be neither fair nor practical to charge such costs to the farmer.¹

Furthermore, the Bureau did not find that non-Federal sources of capital were a feasible solution. This is because the provision of day use facilities for the masses is allegedly not profitable. To make it pay the concessionaire must have a long term lease and charge special rates which could only be afforded by an affluent minority. If this type of recreation is to be a merit good to serve the masses then a subsidy of some sort is necessary.²

¹Gilbert G. Stamm, op. cit., p. 45.

²Ibid., p. 46.

The Recreation Crunch

In the post-World War II period there was a sharp increase in the interest of the general public in the utilization of water projects for recreation and fish and wildlife purposes. This was due to several related factors; primarily, an expanding population, higher per capita income, more leisure time and greater mobility. By 1963 there were 170 million visitor-days at Federal reservoirs, of which some 25 million visitor-days were at Reclamation reservoirs alone.¹

Congress, however, was unable to answer the question, "To what extent and under what conditions should the Federal Government include recreational development as part of water projects?"² It dealt with this problem in a number of ways the result of which was different recreational policies for the two major construction agencies and inconsistencies and inequities among projects of the same agency.

In 1950 the President's Water Resources Policy Commission recommended that recreation be treated as an integral part of water project development. Other agencies such as the Bureau of Reclamation and the Corps of Engineers favored such a policy change.³ However,

¹U. S. Congress, House Committee on Interior and Insular Affairs, Water Project Planning Policy, Hearings on H.R. 9032, 88th Congress, 1st session, 1965, p. 4.

²U. S., Congressional Record, 89th Congress, 1st Session (1965), Vol. III, Part 8, p. 10876.

³Keith W. Muckelston, "Implementing the Federal Water Project Recreation Act in Oregon" (unpublished Ph.D. dissertation, University of Washington, 1970), p. 18.

the Bureau of the Budget issued Circular A-47 which set forth standards and procedures for water resources projects, and directed that recreation be treated apart from other project purposes.¹ As implied previously the Budget Bureau distrusted numerical values which might be assigned to recreational benefits. Furthermore, the Bureau of the Budget was reportedly instrumental in the defeat of two bills by the Senate Public Works Committee in 1957 which would have included recreational benefits as an integral part of project planning.²

Beginning in 1956 there was increasing dissatisfaction with A-47 in Congress and a plea for its "liberation."³ In 1958 the amendment to the Fish and Wildlife Coordination Act provided for fish and wildlife enhancement as a justifiable purpose in Federal multi-purpose water projects. On May 15, 1962 President John F. Kennedy approved an executive document which replaced Budget Bureau Circular A-47 entitled: "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources." Although this document was never formally approved by the Congress it was published by the Senate and it became known as Senate Document 97. For the first time, it provided the Executive Branch with standards which spelled out recreation as a full partner in multiple-purpose water resource development projects. However, the much more difficult questions of cost allocation and cost-sharing were ignored.⁴

¹H. P. Caulfield, Jr., "Federal Guidelines for Water Resources Project Evaluation" in Environmental Impact on Rivers, H. W. Shen, ed. (Fort Collins: Hsieh Wen Shen, 1973) pp. 20-25.

²Keith Muchelston, op. cit., p. 18.

³H. P. Caulfield, Jr., op. cit., pp. 20-23.

⁴U. S., Congress, House, Hearings on H.R. 9032, op. cit., p. 17.

What proportion of the total project costs should be allocated to recreation? Who is going to pay for recreational enhancement and how? The Federal Water Project Recreation Act was intended to correct this confused situation!

CHAPTER III

THE POLICY FORMULATION PROCESS

The House Committee on Interior and Insular Affairs had been confronted with the recreation policy question since about 1951. Wayne Aspinall acknowledged that Mr. Murdock, a former chairman, had tried unsuccessfully to resolve some of these problems.¹

In 1963, the Senate passed a bill covering this subject placing an absolute maximum limitation of 15 percent as the amount which could be allocated to recreation and fish and wildlife in any one project. The Senate bill was referred to the House of Representatives but no hearings were held.²

The House Committee on Interior and Insular Affairs held hearings to study the problem in March and April of 1963. The Committee concluded that the Administration should initiate legislation since there were several executive agencies and departments involved. On May 22, 1963, the Committee adopted a resolution asking the Administration not to submit any further water projects to Congress involving a non-reimbursable allocation to joint costs for recreation and fish and wildlife benefits until the Administration had submitted recommendations to establish general procedures relating to cost allocation, reimbursement and cost-sharing. The Bureau of the Budget quickly responded with H.R. 9032 in the 88th Congress. At the same time certain provisions were put into effect as administration policy.³

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 40.

²U. S., Congressional Record, op. cit., p. 10876.

³U. S. Congress, House Report No. 1161 to accompany H.R. 9032, Federal Water Project Recreation Act, 88th Congress, 2nd Session, Mar. 1964, pp. 3-4.

H.R. 9032--Formulation and Consideration

The Bureau of the Budget and the Department of the Interior took the "lead" in the drafting of H.R. 9032. Other participants were the Departments of the Army and Agriculture. All the Departments voiced their support for the basic objectives of the bill during the hearings before the House Subcommittee on Irrigation and Reclamation.

Bureau of the Budget

As the administrative clearing house for legislative proposals originating in the executive agencies it is not surprising that the Bureau of the Budget took an active interest in the formulation of this proposal. Elmer Staats, the Deputy Director of the Budget Bureau, testified that the Bureau has had an extremely difficult problem in attempting to apply an orderly consistent approach to the executive agencies for the clearance of project reports submitted to the Congress.¹

The Bureau had four basic motives which influenced the administrative negotiations. First of all, it wanted to apply an orderly consistent approach to the executive agencies for the clearance of project reports submitted to the Congress. The 1962 Rivers and Harbors and Flood Control Act authorized Corps projects on the basis of a maximum allocation for recreation and fish and wildlife of 25 percent of the total project cost, however, this was regarded as an interim policy and cleared on that basis.² Allocations at

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 17.

²U. S. Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, Hearings on S. 1229, 89th Congress, 1st Session, 1965, p. 21.

Reclamation projects have ranged from 2 percent to 45 percent. Secondly, the Bureau was interested in having recreation receive proper consideration in project planning, however, they wanted to prevent unwarranted benefit write-offs to recreation which would justify projects with otherwise unfavorable benefit-cost ratios. Thirdly, the Bureau opposed the idea of having construction agencies manage recreation facilities at water projects. This they felt to be a state or local responsibility. Lastly, as the watch dog of Federal spending the Bureau favored reimbursability.¹

Department of the Interior

Henry P. Caulfield, Jr., the Director of the Resources Program Staff in the Office of the Secretary, handled the negotiations for this Department. Interior under the leadership of Secretary of the Interior Stewart L. Udall, was interested, during the 1960's, in developing recreational policy in general; wherever, it was inadequate. Several concepts were central to Interior's belief and position. First of all, they believed that recreation and fish and wildlife enhancement should be legitimate purposes in multiple-purpose water projects. Furthermore, it is equitable that these purposes share a just amount of the joint project costs rather than being subsidized by other project purposes. Secondly, reimbursability was considered desirable so that the local beneficiaries of a project could share in the financial expense incurred. The practical problem was over how much of the costs they could be expected to share. Thirdly, user fees were deemed to be the most equitable means for the state and

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit. pp. 11-36.

local governmental entities to finance their portion of the costs. Furthermore, it was anticipated that some state constitutions would prohibit certain non-Federal public bodies from pledging tax revenues to guarantee cost-sharing contracts. Therefore, a user fee schedule was expected to resolve this problem and provide the non-Federal public bodies with a feasible method for participation. Above all, the Resources Program Staff wanted a policy that was realistic and workable.¹

Within the Department of the Interior the Bureau of Outdoor Recreation was largely in agreement with the views of the Secretary's Office. Primarily, they were delighted that the legislation would strengthen the role of recreation in water project planning and development. BOR had the additional motivation that they would have the responsibility to coordinate and review the recreational aspects of water project proposals under the standardized policy.²

The Interior's Bureau of Sport Fisheries and Wildlife acknowledged the need for definite ground rules set forth in this bill. However, they doubted whether State Fish and Game agencies could or would be able to assume repayment responsibilities for allocations of joint costs. They were particularly pleased about a section of the Act which set a definite policy on the acquisition of lands for migratory waterfowl in connection with Federal projects.³

¹U.S. Congress, House, Hearings on H.R. 9032, op. cit. U.S. Congress, Senate, Hearings on S. 1229, op. cit. Henry P. Caulfield, Jr., former Director of the Water Resources Council and former Director of the Resources Program Staff in the Office of the Secretary in the Department of Interior, personal interviews, Oct. 1972 and Jan. 1974.

²Ibid.

³U. S. Congress, House, Hearings on H.R. 9032, op. cit., pp. 100-101.

The Bureau of Reclamation was reportedly largely apathetic about this legislation. However, some Reclamation employees wanted to have its recreational authority put on a par with that of the Corps.

The repayment formula that was contained in H.R. 9032 did not please the Resources Program Staff because at some large projects the costs would be so high as to prohibit non-Federal cost-sharing participation. As a result Caulfield advised Secretary Udall not to send the proposal to Congress over his signature. This procedure portrayed Interior's lack of enthusiasm for the proposal.¹

Department of the Army

The Corps of Engineers in the Department of the Army had the least to gain from this standardized policy. First of all, it stood to lose its preferred position over the Bureau of Reclamation in providing recreation enhancement at reservoirs under its control. Secondly, many staff members saw cost-sharing agreements as being difficult to arrange and maintain. They would much rather have had a policy enabling the Corps to construct, operate and maintain projects themselves. In the early stages of the negotiations the Corps tried to sell the formula that it had used in the 1962 Rivers and Harbors Act.²

The Corp's lack of enthusiasm for H.R. 9032 is apparent in their testimony before the House Subcommittee on Irrigation and Reclamation.

"The limits of non-reimbursability specified...differ somewhat from limits heretofore used in the Corps of Engineers program. Nevertheless, the Department of the Army has concurred in the submission of this proposed

¹Henry P. Caulfield, Jr., *op. cit.*, personal interviews.

²Ibid.

legislation in the interest of achieving consistency in the programs of the several agencies involved."¹

Although the influence of the Bureau of the Budget may have been instrumental in getting the Corp's concurrence, the Corps did feel that some aspects of the legislation were beneficial. Specifically, they believed that their existing mandate for recreation and fish and wildlife could be strengthened and joint project costs could be allocated to these purposes. Furthermore, they felt that a strengthened mandate for these purposes would make the Congressional appropriations less difficult to obtain.²

Department of Agriculture

The effect of this proposal on the programs for this Department were minimal. The Department's watershed protection and flood prevention programs were not covered because such projects are not Federal projects. They are Federally assisted projects of local districts.³

The Rural Electrification Administration in the Department was concerned, however, with a method of reimbursement which provided for payment of recreation and fish and wildlife enhancement costs from charges for power and water. In most cases the provisions of this bill would have the effect of reducing power and water costs because up to 25 percent of the joint costs would be charged to recreation and fish and wildlife. This would have had the effect of reducing water and power charges. REA feared that in some unusual instances

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 90.

²U. S. Congress, House, Hearings on H.R. 9032, op. cit. U. S. Congress, Senate, Hearings on S. 1229, op. cit.

³U.S. Congress, House, Hearings on H.R. 9032, op. cit., p. 56.

that the method of reimbursement could cause an increase in water and power charges. They hoped that such occurrences could be kept in reasonable limits. Edward Cliff, Chief of the Forest Service, further enumerated, "We endorse and support the proposition that in some cases, in order to benefit the entire community, it is desirable to help finance these projects in this way."¹ Lastly, the Department strongly endorsed a provision that permitted the Secretaries of the Interior and Agriculture to reach agreement on which department would administer lands and facilities for recreation when a project is partly or entirely inside a national forest.

Groups Advocating or Opposing the Bill

The Federal Water Project Recreation Act was, as previously mentioned, an Administration proposal and all the executive departments favored the general objectives of the bill. Other supporters included the Sport Fishing Institute, the Izaak Walton League of America, and the Citizens Committee on Natural Resources.

There were no objections to the general need for this legislation by any group. However, there was controversy over the reimbursement feature of the bill. This group included Governor William L. Guy of North Dakota, the National Reclamation Association, the Rural Electrification Administration, the National Rural Electric Cooperative Association and the American Public Power Association.

The Association of American Railroads opposed the bill because they were afraid that heretofore economically unfeasible navigation

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 66.

projects might become feasible and therefore navigation could become a more competitive mode of transportation. They offered an amendment which was apparently not given serious consideration.¹

Interested Congressional Committees

This legislation had a major impact on programs under the jurisdiction of the House Committee on Public Works since there are considerably more reservoirs under the auspices of the Corps of Engineers than under the authority of the Bureau of Reclamation. Chairman Aspinall of the Committee on Interior and Insular Affairs informed Charles A. Buckley, the Chairman of the Committee on Public Works, that the Interior Committee was considering H.R. 9032. Buckley promised to study the matter and to hold hearings if necessary. However, no hearings were held.² In a briefing before the House Public Works Committee opposition was not apparent and the members seemed content to let the Interior Committee handle the matter.

The fisheries and wildlife conservation committees of the Congress did not become involved because some provisions of the bill benefitted their interests.

Cost-Sharing Policy

H.R. 9032 contained a sliding scale of limits on nonreimbursable joint costs so that the limit in dollar terms increases gradually for larger projects rather than in direct proportion to the size of the project. The reasoning being that on smaller projects the community may be able to finance little or none of the costs. It would be unfair

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 125.

²Ibid., p. 9.

to stop a project if local repayment could not be made. At very large projects, where there are heavy allocations to power and municipal and industrial water supply, the formula should be more restrictive.¹

The formula stated that the Federal Government would pay all the separable costs for land or basic facilities for recreation or fish and wildlife enhancement and all the joint costs allocated to these purposes up to a dollar limit determined in accordance with the following table.

TABLE 1. H.R. 9032 COST-SHARING FORMULA

If the cost of joint-use land and facilities* is--	The dollar limit is--
Not over \$10,000,000 -----	25 per centum of the cost of joint-use land and facilities.
Over \$10,000,000 but not over \$40,000,000	\$2,500,000, plus 15 per centum of the amount over \$10,000,000.
Over \$40,000,000 but not over \$100,000,000.	\$7,000,000 plus 10 per centum of the amount over \$10,000,000.
Over \$100,000,000 but not over \$200,000,000.	\$13,000,000, plus 4 per centum of the amount over \$100,000,000.
Over \$200,000,000 -----	\$17,000,000 plus 2 per centum of the amount over \$200,000,000.

*Joint-use land and facilities are defined as land or facilities serving two or more project purposes, one of which is recreation or fish and wildlife enhancement.

Source: U. S. Congress, House Committee on Interior and Insular Affairs, Water Project Planning Policy, Hearings on H.R. 9032, 88th Congress, 1st Session, 1963, p. 2.

Operation and maintenance costs were the sole responsibility of the non-Federal public entity.²

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 21.

²Ibid., p. 2.

"Other Federal costs allocated to recreation or fish and wildlife, such as the cost of increasing the size of the reservoir for recreation or fish and wildlife, shall be nonreimbursable up to a limit of 25 percent of the cost of joint-use land and facilities or \$5 million, whichever is the lesser."¹

In a study of 65 Corps and Reclamation projects, 75 percent of the projects would have been completely nonreimbursable and 25 percent of the projects would have required some amount of reimbursement. On a dollar basis some 21 percent of the costs allocated to recreation and fish and wildlife enhancement would be reimbursable.² Although most projects would have required little or no local participation some projects would have required extremely high local contributions. Surprisingly, there was no discussion of this matter in the committee hearings.

The public electric interests presented two arguments against the sliding scale table for cost-sharing. First of all, they claimed that this procedure assures abundant nonreimbursable cost allocation authority for small local projects where recreational facilities are unlikely to possess national significance. On the other hand, large costly projects which are likely to be of national significance and where the need for nonreimbursable cost allocations is the greatest are penalized by having a lower percentage written off to recreation as nonreimbursable. Secondly, this is a deterrent against large projects which may be the most economical method of supplying needed power, water, flood control, navigation and recreation.³

¹U. S. Congress, House, Report No. 1161, op. cit., pp. 17-18.

²U. S. Congress, House, Hearings on H.R. 9032, op. cit., pp. 19 and 21.

³Ibid, pp. 120-125.

Terms of Repayment

Under H.R. 9032 the non-Federal political subdivisions could pay or repay their share of the costs of development (excluding operation, maintenance and replacement costs which they must bear directly) by using one or a combination of methods: (1) provision of land (or interest therein) or facilities which are required by the project; (2) payment or repayment with interest at a rate comparable to that for other project functions; (3) repayment with interest by use of project revenues that become available during the "payout" of cost allocations to water and power. The interest commences with the date of the first delivery of water or power from the project for beneficial use and is at a rate comparable to that for other project functions. In unusual circumstances the head of the agency having jurisdiction over the project could recommend to Congress that repayment by use of project revenues be postponed until after the payment of the costs allocated to water and power are completed. Such a deferral had to be specifically authorized by a law.¹

The public power interests feared that repayment from the date of the first delivery of water or power would increase power and water rates. They recommended that the language be changed "to permit repayment of reimbursable recreation costs from power revenues only after the costs of the power and irrigation features have been liquidated."²

¹U. S. Congress, House, Report No. 1161, op. cit., p. 18.

²U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 119.

The National Reclamation Association claimed that the repayment of recreation and fish and wildlife costs from project revenues was in violation of a policy in effect in the West since the beginning of the reclamation program. Presumably they feared that any excess revenue taken for recreation and fish and wildlife enhancement might reduce the irrigation subsidy. They protested that the financial feasibility of a number of reclamation projects would be threatened including the Garrison Diversion Unit in North Dakota.¹

The House Committee on Interior and Insular Affairs deleted the third method of repayment and substituted language permitting the reallocation of the amount of excess recreation costs to other project purposes. Obviously, this provision favored the public power coalition since the burden of picking up the check attributable to recreation would be distributed among many project purposes. The Committee's rationale was that the new procedure was more appropriate because of the wide difference in the degree of availability of project funds to repay recreation costs and because in some projects there would be no revenues at all. The appropriate agency should negotiate as far as possible under alternatives (1) and (2) for repayment terms with non-Federal interests. From a practical standpoint, the Committee believed that there would be very few instances where the non-Federal interests could repay a significant portion of the joint costs allocated to recreation. However, if there were reimbursable purposes in a project such as power, municipal water or irrigation the amount reallocated to these purposes would be repaid. Mention was made of the Land and Water Conservation Fund legislation which if passed would create a

¹U. S. Congress, House, Hearings on H.R. 9032, op. cit., p. 82.

system of entrance and user fees to be used at Federal outdoor recreation areas. The Committee indicated that such a fee would be the maximum reimbursable amount which could be expected from specific beneficiaries of outdoor recreation. It did not mention the possibility of a local entity using such a procedure as a repayment alternative.¹

Although the House Committee was in almost unanimous support of H.R. 9032 it was not considered by the House after being reported out of committee and it died with the adjournment of the 88th Congress. Henry P. Caulfield, Jr., submitted the following explanation. Senator Symington of Missouri learned from the Corps of Engineers that when the reimbursement policy of H.R. 9032 was applied to several Missouri projects the State or localities would have had to pay \$27 million. This would have prevented the development of Missouri Basin projects located in areas of economic decline and critical loss of population. Other legislators quickly realized the ramifications of this problem and asked the Administration to review the formula, and this was done.²

Consideration of H.R. 5269 and S. 1229

Early in the 89th Congress, H.R. 52 was introduced by Chairman Wayne Aspinall. This bill was identical to H.R. 9032 as reported.

In the meantime, the Administration had sought a different approach to cost-sharing and reimbursement policy which was designed to correct problems which had been encountered with H.R. 9032. Furthermore, the new approach took into account the enactment of the

¹U. S. Congress, House, Report No. 1161, op. cit., pp. 7 and 8.

²Henry P. Caulfield, Jr., op. cit., personal interviews.

Land and Water Conservation Fund. This had established entrance and user fees as an appropriate reimbursement procedure at Federal recreation areas, generally.

Elmer Staats, the Deputy Director of the Bureau of the Budget, offered a compromise bill to replace H.R. 9032. Essentially, the new formula cost shared the separable costs for recreation and fish and wildlife enhancement on an equal basis. The joint costs for such purposes were completely nonreimbursable and the operation, maintenance and replacement costs were totally reimbursable. In the event that local participation for cost-sharing could not be obtained certain minimum facilities could be provided as a nonreimbursable expense. Furthermore, entrance and user fees were permitted as a means for the non-Federal public bodies to pay for their share of the separable costs and possibly part of the operation, maintenance and replacement costs. Caulfield's reaction was one of both surprise and satisfaction at the Bureau of the Budget's final willingness to make joint costs assigned to recreation and fish and wildlife enhancement nonreimbursable. He felt that these new terms were much more equitable and practical to all concerned. Instead of only a few projects requiring a high degree of reimbursable costs the new approach would demand some non-Federal financial contribution if recreation and fish and wildlife enhancement were to be included.¹

When the Administration received a request for a report on H.R. 52 they sent up a new bill. Both the House and Senate Committees on Interior and Insular Affairs followed the new recommendations, and two separate bills, H.R. 5269 and S. 1229, were introduced in the

¹Henry P. Caulfield, Jr., op. cit., personal interviews.

respective chambers. Although the language of H.R. 9032 was extensively altered the principles and procedures recommended by the Administration were substantially unchanged.

Alignment of Political Activity

Both Congressional Committees on Interior and Insular Affairs held hearings, however, only those of the Senate were published. The testimony of interested groups and organizations was essentially the same. The railroad people and private power people opposed what would in effect be a government subsidy to a competing enterprise. Of course, interests representing the various and sundry purposes of water resource projects benefitted. Also, supporting the bill were such conservation groups as the Sport Fishing Institute and the Izaak Walton League.

The Public Works Committees and the Committees responsible for fish and wildlife appeared to be neutral.

The position of the Senate Committee on Interior and Insular Affairs seemed to be quite similar to its House counterpart.

Highlights of Significant Proceedings

Cost Allocation

In both Houses of Congress the most rigorous questioning came from those concerned about restricting the percentage of costs which could be allocated to recreation and fish and wildlife purposes. It was felt that the Administration might "write-off" to recreation whatever proportion of the costs that were needed in order to make a previously unjustifiable project feasible.

Elmer Staats admitted that some formerly unfeasible projects would become economically feasible with the addition of these new

benefits, but stressed that each individual project purpose would have to have a benefit-cost ratio greater than unity. Furthermore, the local communities would serve as a brake on unreasonable cost allocations to recreation and fish and wildlife because if a community wants full development of these purposes at a project it knows that it must pay 50 percent of the separable costs.¹

However, Congressman Saylor obtained an amendment in the House Interior Committee which stipulated that not more than 50 percent of the total project cost could be allocated to recreation and fish and wildlife benefits. "This amendment was adopted in lieu of a proposal that the bill be amended to limit the amount of joint costs of projects which could be declared nonreimbursable on account of fish and wildlife or recreation."² Although the Senate version did not have a comparable provision, the House-Senate Conference Committee accepted Saylor's amendment with a modification which excluded projects for the enhancement of anadromous fisheries, shrimp, or conservation of migratory birds protected by treaty.³

Feasibility Reports at Reclamation Projects

Section 8 of S. 1229 prohibited the Secretary of the Interior to prepare feasibility studies on any water resource projects unless

¹U. S. Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, Hearings on S. 1229, 89th Congress, 1st Session, 1965, op. cit., p. 21.

²Legislative History - Federal Water Project Recreation Act., mimeographed material from Congressman John P. Saylor, p. 1871.

³U. S. Congress, Conference Report No. 538, Uniform Policies on Multiple-Purpose Water Resource Projects, 89th Congress, 1st Session, June 22, 1965, p. 9.

it was first authorized by an Act of Congress or by a resolution of either Interior Committee. The Corps of Engineers had been operating under a similar requirement with the Public Works Committee.¹

Senator Jackson of Washington, the legislator responsible for this requirement, proclaimed "In the interest of Congressional efficiency and responsibility and in view of the increasing amount of taxpayers funds involved in our water resource program, the Congress must fully participate in the project cycle."² It is well understood but not apparent from the record, however, that Jackson's plan was to make certain that the Bureau of Reclamation did not have the authority to divert water from the Columbia River Basin in the Pacific Northwest to the arid Southwest.³

Congressman Saylor favored closer congressional scrutiny but for an entirely different reason. He said, "Congress will have the opportunity at the time it considers authorization of the specific project studies and on the basis of information from the reconnaissance investigations and reports, to give direction to the construction agencies on cost allocation."⁴ Saylor had indicated on the record that he had reservations as to whether his amendment was a strict enough constraint on administrative discretion.

¹U. S. Congress, Senate Report No. 149 to accompany S. 1229, Federal Water Project Recreation Act, 89th Congress, 1st Session, April 7, 1965, p. 3.

²U. S. Congressional Record, op. cit., p. 14810.

³Henry P. Caulfield, Jr., op. cit., personal interviews.

⁴U. S., Congressional Record, op. cit., p. 14466.

It is no secret that the late John P. Saylor of Pennsylvania was an ardent supporter of the "Wilderness Concept." With the inclusion of an additional purpose in multiple-purpose water projects more projects are likely to become feasible than was previously the case. Increased development of the Nation's water resources could conceivably threaten areas which would otherwise be left in a wild and undeveloped state.

Henry Caulfield, Jr. presented his view of the matter - "If you got John Saylor in this room he would agree that recreation is a legitimate purpose but that the Administration cannot be trusted with honest allocations of costs to recreation."¹

Although the House lacked a provision on Feasibility Reports the Conferees accepted this Senate provision.

Cost-Sharing

The cost-sharing dilemma was essentially resolved. Senator Stuart Symington of Missouri favored the new proposal.

"We believe this new policy, worked out by the Bureau of the Budget, Army Engineers, the Department of the Interior, and other interested agencies, recognizes the principle of Federal responsibility for these basic benefits and facilities. At the same time, we believe S. 1229 will provide a naturally acceptable procedure for local and state government agencies to work with the Federal government in providing needed, additional recreation and fish and wildlife benefits on a reasonable basis."²

Congressman Kee, in a briefing before the House Public Works Committee, was worried about how this bill would affect projects in poverty stricken communities which were adversely affected by H.R. 9032. He was told that instead of communities having to come up

¹Henry P. Caulfield, Jr., op. cit., personal interviews.

²U. S. Congress Senate, Hearings on S. 1229, op. cit., p. 16.

with some \$2½ million their share would only be in the thousands of dollars. Mr. Kee responded, "You have sold me on supporting the bill."¹

Completed Projects

The Administration had requested that the Secretary of the Interior be authorized to add facilities and land for recreation and fish and wildlife enhancement at existing (existing meaning constructed prior to the Act's passage) or future water projects where they were either lacking or inadequate. This would have given Reclamation broad authority for recreation development at completed projects similar to that which the Corps possessed under the Flood Control Act of 1944.

Section 7 of S. 1229 as passed by the Senate limited any such additions to existing projects to \$50,000 per project and struck out the land acquisition authority.²

Section 7 of the House version retained the Administrative provision but added that no appropriations for land acquisition or development could be made until sixty legislative days notice had been given to both Congressional Committees on Interior and Insular Affairs and neither Committee objected.³

¹U. S. Congress, House, Committee on Public Works, The Federal Water Project Recreation Act, Briefing on H.R. 5269, 89th Congress, 1st Session, 1965, pp. 27 and 28.

²U. S. Congress, Conference Report No. 538, op. cit., p. 8.

³ibid, p. 8.

The Conference Committee adopted compromise language which delegated authority for both the construction of recreation facilities and the acquisition of lands at only existing Reclamation projects and only under cost-sharing agreements with local public agencies providing the Federal expenditure does not exceed \$100,000. The notice requirement and veto powers of the Committee were removed. In this action, there appeared to be little concern for putting the Corps of Engineers and the Bureau of Reclamation on an equal basis at completed projects.

Exceptions

The Chairmen of the House and Senate Committees on Interior and Insular Affairs, Aspinall and Jackson respectively, stated that if equity dictates that changes need to be made in the recreation or fish and wildlife features or the costs need to be shifted, then Congress has the authority to do that at the time the project comes before them for approval.¹

Congressman Harris made an interesting statement. "But the gentleman knows that the Congress accepts the reports of the technical people, who are the Corps of Engineers, on the justification for a given project. They submit a report to us and we are not going to be changing that."²

Senator Cooper of Kentucky was skeptical as to whether poverty stricken communities in his state which vitally needed flood control facilities could meet the cost-sharing requirements. Furthermore, he

¹U. S., Congressional Record, Vol. III, Part 8, p. 10879 and Vol. III, Part 11, p. 14813.

²Ibid., Vol. III, Part 8, p. 10885.

felt that the Bureau of the Budget and other executive agencies would apply the guidelines so strictly that in some instances needed flood protection projects would be foregone.¹

Passage

Nearly every legislator conceded the need for this legislation although the language was not exactly what they preferred. Even the House and Senate Conferences found relatively minor differences. These differences were resolved and accepted without significant controversy. Opposition to the bill in the 89th Congress was minor, and unorganized. It had little effect on the contents of the legislation. The President signed the Act into law on July 9, 1965.

¹U.S., Congressional Record, Vol. III, Part 11, pp. 14812-14814.

CHAPTER IV
THE FEDERAL SETTING

In this chapter the significant activities and policies at the Federal level of government which might affect the implementation of P.L. 89-72 will be discussed. Also, the attitudes of various policy makers in regard to P.L. 89-72, and their perception of what the major problems have been in the Act's implementation, will be indicated.

Water Resources Council

The Water Resources Council staff is presently assessing the impact of P.L. 89-72 and considering various alternatives. An internal memorandum on reservoir recreation cost-sharing stated that there has been "a poor response in the willingness of non-Federal interests to enter into cost-sharing agreements on recreation developments at reservoir projects. The period, 1965-1973, however, may not be adequate as a basis for judgment that current policies are not viable because of the time period required for planning, authorizing, and funding water projects and the general public adverse response to construction of reservoirs. Frequently mentioned deterrents are unwillingness or inability to pay operation, maintenance and replacement (OM and R) costs; recreation developments serve a population outside the jurisdiction of the non-Federal interest; concern about cost-sharing on projects planned and owned by the Federal Government; and expending limited recreation funds at reservoirs when the highest priority recreation need is closer to the people."¹

¹Water Resources Council, "Issue: Reservoir Recreation Cost-Sharing," Inter-agency Federal staff thinking in response to the Water Commission Report, p. 36.

A staff member of the WRC who is concerned with P.L. 89-72 explained that the cost-sharing for recreation and fish and wildlife should be in closer conformity to cost-sharing for other purposes. He is in favor of a larger Federal subsidy for recreation and fish and wildlife, however, the Administration generally prefers less Federal subsidy for most water project purposes. In regards to user charges he believes that they are acceptable to the public only for specific recreation enhancement equipment or facilities which are clearly visible as warranting a sizable extra expense. Picnic areas, cement roads and launching ramps are not perceived by most users as warranting a user charge.¹

Department of the Interior

Internally the Department of the Interior has recently been discussing and debating various amendments to P.L. 89-72. However, it is unlikely that any action will be taken because of an inter-agency departmental task force which is being set up to review cost-sharing policy for all project purposes. The Administration wants more local cost-sharing and less Federal subsidy of various project purposes. As one water policy official put it "The interdepartmental task force is getting started to draft a legislative proposal in conformity with what the Administration has already decided it wants to do."²

¹Water Resources Council, personal interview, Aug. 1973.

²Ibid.

Bureau of Reclamation

A former commissioner of the Bureau of Reclamation observed that a primary problem with the implementation of P.L. 89-72 is inadequate Federal funding at existing reservoirs. This is characterized as an Office of Management and Budget problem. He also recommended more non-reimbursable Federal costs so that recreation doesn't get priced out of the reach of the great mass of the people, however, he said that you get into the problem of OMB priorities. He believes that OMB has been very shortsighted in funding recreational capital improvements and that they lack the background for solving the real tough problems in this area.¹

The current nonofficial Reclamation position is that recreation and fish and wildlife enhancement should be nonreimbursable where non-Federal public bodies are either unable or unwilling to participate. In other words, some Reclamation staff would like general authority to construct, operate, maintain and replace recreation and fish and wildlife facilities at Federal expense. They also recommend increasing the Section 7 limit on Federal investment from \$100,000 to \$500,000. They contend that this limitation is inadequate in terms of development needed at most reservoirs.²

It is interesting that a Department of the Interior solicitor's opinion stated that "the \$100,000 limit extends to that part of the Federal expenditure which is to be repaid by the non-Federal public

¹Former Commissioner of the Bureau of Reclamation, telephone interview, Sept. 1973.

²Department of the Interior, confidential material, Sept. 1972 - July 1973.

body as well as to that part which is nonreimbursable."¹ This limits the Federal cost-share to \$50,000 in cases where the non-Federal entity can only provide \$50,000.

Bureau of Sport Fisheries and Wildlife

Several officials in the Bureau commented on problems encountered with State fish and game departments. The most significant comments are as follows:²

1. There is a reluctance to enter into cost-sharing agreements because the State fish and game departments are limited in their financial capability and they lack the revenue to participate under P.L. 89-72.
2. The States don't like to expend money on a project where they don't have title to the land.
3. The fish and wildlife people are not consulted as to where the reservoir should be in the first place. The reservoir is actually built for other purposes and they react to the plan. A corollary of this is that the reservoir may not fit into their state plan.
4. Pittman-Robertson and Dingell-Johnson funds are preferred over P.L. 89-72 funds. Under the former authorities the Federal Government assumes 75 percent of the cost for fish and wildlife enhancement, whereas, only 50 percent are nonreimbursable under P.L. 89-72.
5. Over the life of the project the O, M, and R costs represent the largest financial burden.

¹Richard K. Pelz, ed., Federal Reclamation and Related Laws Annotated, Vol. III 1959-1966 (Washington, D.C.: Government Printing Office, 1972), p. 1825.

²Bureau of Sport Fisheries and Wildlife, personal interviews, Aug. and Sept. 1973.

6. User fees frequently do not meet annual operation and maintenance (O and M) costs or repaying the initial investment costs.
7. The State fish and game agencies are asked to cost-share for the establishment of flat water fishing which, in their opinion, is inferior to the loss of stream fishing.
8. The loss of habitat that is inundated may be of a high quality and not adequately mitigated or compensated for.

The BSWF is said to have recommended specific legislation to amend P.L. 89-72, however, it has not received departmental sanction. Bureau staff unofficially agree with the following proposed amendments to P.L. 89-72:¹

1. Require that separable costs of lands and costs of joint-use features allocated to fish and wildlife purposes be nonreimbursable Federal costs. They would also be in favor of some Federal sharing of O and M costs.
2. Require that separable costs of basic access, sanitary, and other public use facilities and basic safety facilities be a nonreimbursable Federal cost.
3. Require that fish and wildlife losses at water projects are prevented or compensated for (as judged by one or a combination of the following: State fish and wildlife agency, Bureau of Sport Fisheries and Wildlife, Secretary of the Interior). This should be a precondition for cost-sharing enhancement measures.
4. Remove the interest requirement for repayment of cost-shared recreational developments.

¹Bureau of Sport Fisheries and Wildlife, personal interviews, Sept. 1973. Also, Department of the Interior, confidential material, Sept. 1972 - July 1973.

Other recommendations considered but not necessarily espoused by the BSWF staff are as follows:¹

1. Place all cost-sharing for fish and wildlife enhancement on a 75 percent Federal and 25 percent non-Federal basis. This would make P.L. 89-72 the same as Dingell-Johnson and Pittman-Robertson cost-sharing arrangements.
2. Place the cost-sharing requirements on a sliding scale which decreases the non-Federal proportion of the aggregate costs as the aggregate costs of enhancement features increases. This would be more responsive to the State fish and game departments' ability to pay.
3. Require that project beneficiaries other than fish and wildlife share in the separable enhancement and the O and M costs. This is similar to the use of power revenues in assisting in financing reimbursable irrigation costs at Reclamation reservoirs.
4. Apply cost-sharing on reimbursement requirements equally to all project purposes. Why should state fish and game departments have to pay when they didn't ask for the project and navigation and flood control beneficiaries who asked for the project don't have to pay, it is asserted.

Bureau of Outdoor Recreation

The BOR staff consulted differed in their assessment of P.L. 89-72.

One official felt that it was very desirable to cost-share the separable costs on an equal basis. He felt that it was very undesirable

¹Bureau of Sport Fisheries and Wildlife, Action Report: Conservation and Enhancement of Fish and Wildlife in the National Water Resources Program, (Washington, D. C.: Government Printing Office, Sept. 1971) pp. 15-17.

to cost-share the operation and maintenance costs of recreation and fish and wildlife features. Furthermore, he believes that the Act is flexible as far as methods of non-Federal contributions. In his opinion, entrance and user fees should be a good method of recovering O, M and R costs and possibly some of the initial investment costs (if access can be controlled).¹

He does believe, however, that the Act can be improved. His major criticism of the Act is that the \$100,000 Federal funding limitation is not flexible. In his opinion, there should not be a dollar limit on Federal contributions. He also believes that the provision whereby land can be held for ten years in the absence of a cost-sharing agreement is impractical. People resent taking land away from them for possible future use.²

One BOR official exclaimed that "The problem has been that most people won't address cost-sharing at a Federal project because they think that they can get it free and I think that Federal agencies tend to encourage this kind of feeling on the part of the non-Federal agencies. There is a feeling by many non-Federal people that if they buck the policy, sooner or later the Federal government will turn it over to them for free! Most resolutions you see from citizens and professional organizations are self-serving. They don't want cost-sharing. They want the Federal government to pay it all."³ It must also be recognized that eight years of experience with the Act may not be adequate as a basis for judgment.

¹Bureau of Outdoor Recreation, personal interview, Aug. 1973.

²Ibid.

³Bureau of Outdoor Recreation, personal interview, Sept. 1973.

Another BOR official responded that the Act has not worked for several reasons. First of all, the State and local governments are unwilling to expend money to benefit people outside their jurisdiction. Secondly, they are reluctant to participate in something they did not plan. Thirdly, there is a basic feeling that recreation, and fish and wildlife enhancement is a Federal responsibility.¹

This official offered several suggestions. First of all, he would like to see more reservoir recreation development than now exists. For new projects, if recreation enhancement is of national significance then it should be totally a Federal responsibility. A determination of national significance for recreation could be made through an appropriate definition. If recreation enhancement is of local significance then it should be cost-shared under the policy set forth in P.L. 89-72.²

Secondly, he would like to see recreation agencies have general recreation management authority at completed reservoirs. That is, authority to construct, operate, maintain and replace recreation facilities.³

As of September 1973 the Bureau of Outdoor Recreation in conjunction with other agencies in the Interior Department had just begun to study the simplest way to amend P.L. 93-81. Public Law 93-81 amended certain provisions of the Land and Water Conservation Fund Act of 1965. The effect of the amendment was to restrict the collection of fees for the use of Federal areas for outdoor recreation purposes

¹Bureau of Outdoor Recreation, personal interview, Sept. 1973.

²Ibid.

³Ibid.

(For text of Act see Appendix). They planned to seek an "across the board proposal" for recreation and will probably not draft anything until early 1974. They will take the proposal to the Congressional Interior Committees and not to the Public Works Committees where action would not be likely.¹

On February 7, 1974 James Watt, the Director of the BOR, testified in support of legislation (S. 2844) which would reinstate charges at most Federal campgrounds. Fees would be allowed for noncampground facilities except for a specific list of facilities exempt from charges. Included on the list are picnic areas, boat ramps (with no specialized facilities or services), drinking water, wayside exhibits, roads, trails, overlook sites, visitor centers, scenic drives and toilets.²

Secretary's Office

The Deputy Assistant Secretary of Programs for the Secretary of Interior exclaimed that nothing about P.L. 89-72 had come to his attention. If it was an important issue he asserted that it would have received intensive analysis at this level.³

His office, however, issued a memorandum in September of 1972 which seems to state Interior's position on the matter. "We believe the first and third amendments (These amendments would have permitted the development of facilities for recreation and fish and wildlife at Federal expense.) described above are inconsistent with the general

¹Bureau of Outdoor Recreation, personal interview, Sept. 1973.

²Bureau of Outdoor Recreation, "BOR Director Watt Testifies Before Senate on Recreation Fee Legislation," News Release, Gillette 202-343-5726, Feb. 12, 1974.

³Department of the Interior, personal interview, Sept. 1973.

philosophy underlying both P.L. 89-72 and the Administration's pending revenue sharing proposals. This philosophy advocates State and local assumption, with Federal financial and technical assistance, of responsibility for providing facilities and services the benefits and impact of which are localized in nature. In discharging such responsibility the State and local governments participate in determining program and project needs and priorities."¹ The memorandum also stated that the Secretary tended to favor the removal of the \$100,000 Federal spending limitations at constructed reservoirs.²

A staff assistant for Land and Water Programs was knowledgeable of some Reclamation complaints and felt that alternative ways of financing recreation facilities needs to be explored.³

Corps of Engineers

At the Washington and Division levels of the Corps recreation planners, the policy making people and the general council seemed to be deeply concerned about the Act. They all alluded to severe operational problems with the Act. The planners believe that the long-range effect of the Act will be to make an already bad recreation situation even worse with respect to quantity and quality of recreation services and facilities provided, overcrowding, and overdemand on sanitation and water supplies.

¹Department of the Interior, confidential material, Sept. 1972 - July 1973.

²Ibid.

³Department of the Interior, personal interview, Sept. 1973.

August 5, 1965 Policy

An administrative agreement between the Corps and the Bureau of the Budget provides that, "The fundamentals of P.L. 89-72 are to be applied to all projects, by categories, by 1976 or 1980 - presumably ending all unilateral Corps recreation development responsibilities, except at those relatively few civil works projects which might qualify as Federally-administered National Recreation areas."¹ These cost-sharing provisions are being made retroactive despite a complete lack of intent in the Act itself or in its legislative history.

The policies and procedures for cost-sharing at previously authorized projects are as follows:

"Projects where recreation was specifically considered as a project purpose in the project document and authorized on the basis that the Federal Government would assume certain costs for recreation development and operation, will be constructed in accordance with the project document rather than under the new policy in P.L. 89-72. However, attempt will be made to turn over to non-Federal interests as many of the developed areas as possible, as has been our policy since 1944.

Projects under construction or in a planning status during FY1966, where our current plans for development depend in whole or in part on application of the general authority of Section 4, will be developed during the project construction period to meet the level of needs at the time the project is placed in operation without cost-sharing by non-Federal interests. Similarly, additional planned construction in those partially developed areas would be continued without cost-sharing for a period of ten years after construction but not beyond 1980. Subsequent development of new areas to meet future needs over the life of the project will be subject to the new cost-sharing policy."

For projects which have been completed, the partially developed recreational areas will be further developed without cost-sharing for a period of ten years. However, development of new areas to meet future needs will be subject to the new cost-sharing policy.

¹Edward Crafts, How to Meet Public Recreation Needs at Corps of Engineer Reservoirs, op. cit., pp. 85-86.

All recreational development of previously authorized projects not yet in the preconstruction planning state will require cost-sharing in accordance with P.L. 89-72.¹

TABLE 2. CLASSIFICATION OF CORPS RESERVOIR PROJECTS AS AFFECTED BY PUBLIC LAW 89-72, THE FEDERAL WATER PROJECT RECREATION ACT OF 9 JULY 1965.*

Classification According to P.L. 89-72	Reservoir Projects
1. Projects completed prior to 9 July 1965 and exempt from P.L. 89-72.	246
2. Projects authorized prior to 9 July 1965, no construction commenced, but not legally subject to cost sharing.	34
3. Projects authorized prior to 9 July 1965 and construction commenced but not completed.	81
4. Projects authorized prior to 9 July 1965 but requiring cost sharing by Congressional Act or legislative history.	99
5. Projects authorized after 9 July 1965 and subject to P.L. 89-72	92

* By administrative agreement between Corps and Bureau of the Budget, the cost-sharing provisions of P.L. 89-72 are to be applied to all projects by categories by 1980 or earlier even though not legally required to do so.

Source: Edward Crafts, How to Meet Public Recreation Needs at Corps of Engineers Reservoirs. (Washington, D. C.: U.S. Government Contract, DACW 73-70-C-0038, Dec. 1, 1970), p. 88.

Federal Funding Problem

Recreation is a low priority item in the Corps of Engineer budget. In the FY1971 Corps budget, recreation accounts for only 5 percent of total reservoir expenditures for all purposes. Of the \$45.5 million

¹U.S. Department of the Army, Corps of Engineers, Background of Policy and Procedure for Implementation of the Federal Water Project Recreation Act (Public Law 89-72) in Previously Authorized Projects, op. cit., pp. 1-2.

dollars which was available for recreation about half was for the construction of recreation facilities at new projects. Only \$7.5 million was for the development of recreation facilities at completed projects.¹

Recreation is, furthermore, one of the first items to be cut in the budgetary process. The major impact of these cuts is on recreation at completed projects. This is because the recreation costs of new projects are not singled out. The project is authorized and funded in a lump sum. To single out recreation would mean a complete alteration of the project benefit-cost computation and almost certainly the project's desirability. Furthermore, large construction items tend to be honored because they usually involve continuing contracts.²

"The large recreation cuts are usually made in the Office of the Chief of Engineers because that Office must stay within ceilings imposed on it by the Office of Management and Budget... The Office of Management and Budget usually cuts still further the recommendations of the Office of Chief of Engineers and tends to relate the amounts approved to either the Administration's request or Congressional action of the preceding year or two... Congress usually tends to accept or slightly upgrade the Administration recommendation."³

Furthermore, OMB's philosophy is that Federal recreation responsibilities are with the Park Service and the Bureau of Outdoor

¹ Edward Crafts, How to Meet Public Recreation Needs at Corps of Engineers Reservoirs, op. cit., p. 67.

² Ibid., p. 67.

³ Ibid., pp. 67-68.

Recreation in the Department of the Interior and the Forest Service in the Department of Agriculture. It doesn't believe that either the Corps, Reclamation or TVA should be in the recreation business.

Therefore, it believes that as much recreation as possible at Federal reservoirs should be handled by non-Federal public bodies, private concessionaires or by the recognized Federal recreation resource management agencies such as the Park Service or the Forest Service.¹

This OMB philosophy is readily apparent when examining comparable budget items for the land management agencies and the Corps. For example, "In FY1969 the Corps received \$8.7 million for recreation facilities expansion whereas the Forest Service and National Park Service received \$21 and \$53.5 million respectively for comparable purposes, even though the alleged recreation visitation of both these agencies was less than that of Corps."²

States' Ability or Willingness to Participate

Many problems were expressed in regard to states' ability or willingness to participate in P.L. 89-72 cost-sharing. The major constraints are as follows:³

1. The contracts under P.L. 89-72 involve a lot of money over present and future years. The states generally have the money but it's a matter of priorities and many times they feel recreation costs are too expensive.

¹National Water Commission, *Water Policies for the Future*, (Washington, D.C.: Government Printing Office, 1973), p. 195.

²Edward Crafts, *How to Meet Public Recreation Needs at Corps of Engineers' Reservoirs*, *op. cit.*, p. 69.

2. A seasonal recreation season at reservoirs in such states as Colorado hinders the economic feasibility of fees as a source of repayment.
3. Many states have legal constraints over obligating future funds. There is no guarantee that future state legislators will appropriate the monies.
4. Some state constitutions don't allow earmarking of user fee funds and they must go into the general fund of the state.
5. States are reluctant to participate when much use comes from across jurisdictional lines. Also, there is a feeling that recreation is becoming a Federal problem due to the greater mobility of the population.

The general Corps attitude is that they dislike P.L. 89-72's cost-sharing provisions and they are trying to do something about it! One Corps employee said, "Its great in theory but lousy pragmatically."¹ Another observed, "I like the principle of joint cost-sharing between the Federal and local governments. Beyond establishing this principle there isn't very much that I like about it."²

The Corps has been articulating its findings and ideas primarily to the Bureau of Outdoor Recreation, the Bureau of Reclamation, the Tennessee Valley Authority and with congressmen and staff members of the Committees on Interior and Insular Affairs. They have been seeking oversight hearings on the Act to see how it has worked and what can be done to improve it.

¹Former Corps employee and high governmental official, personal interview, Sept. 1973.

²Corps of Engineers, personal interview, Sept. 1973.

A knowledgeable former Corps employee who has had considerable experience in the upper echelon of the Federal government portrayed what he perceives to be the political reality concerning the future of P.L. 89-72. The Corps, by the way, had had great hopes that his endeavors would have an impact in altering the Act.¹

The greatest hurdles to overcome in getting something done about P.L. 89-72, he said was the existence of Wayne Aspinall as the chairman of the House Committee on Interior and Insular Affairs and the present philosophy of the Nixon Administration concerning cost-sharing. Wayne Aspinall didn't believe that there had been enough time to test P.L. 89-72, however, he was recently defeated from office. The present Administration is firmly committed to local government sharing a larger portion of the costs of everything. Therefore, the Corps, Reclamation, the Forest Service, and BOR have run into an absolute road block with OMB and cannot get their views acted upon.²

Even if any of these agencies drafted a bill and "boot-legged"* it to get it introduced, the Administration would submit an adverse recommendation written in OMB. Furthermore, "Congress is not about, on something of this nature, to pass it and take a veto and hope to override the veto. It isn't a big enough question and, therefore, if adverse administration reaction exists then the bill will not be reported out of committee."³

*Got a sympathetic Congressman to introduce the proposal as a bill thereby bypassing OMB.

¹ Former Corps employee and high governmental official, personal interview, Sept. 1973.

² Ibid.

³ Ibid.

He further enumerated that there will not be positive action on amendments or changes in P.L. 89-72 cost-sharing provisions until there is either a change in the Administration to one that is more sympathetic to a more active Federal role in reservoir recreation or there is a complete cessation in the construction of Corp's Reservoirs.¹

"Most Congressmen are not concerned with the cost-sharing problems because it has not been brought to their attention. This is a government by crisis. This has not created that kind of fuss yet. And it's not until the time that the Corps quits building reservoirs and puts a fence around completed reservoirs and tells the people you can't go in, we have no facilities... then there will be enough of a stink that they'll do something about it. But that hasn't happened."²

Corps Ideas³

The professional recreation planners believe that the entire concept of the financing relationship should be changed. They argue that P.L. 89-72 is based on the theory that recreation is a holistic economic area. They say that it is not, rather it is a composite of a whole series of markets. They advocate basing the degree of reimbursability with the type of recreation development provided.

Basic facilities should be completely nonreimbursable based on the idea that the basics in life are free. These facilities are defined as facilities necessary to protect the environment and to provide for public health and safety. Such developments include,

¹ Former Corps employee and high governmental official, personal interview, Sept. 1973.

² Ibid.

³ This entire section is from personal interviews and materials in the Department of Army.

access roads to both the land and the water, parking, boat launching ramps, sanitation facilities which meet both Federal and State laws, and a basic water supply necessary to supply the sanitation area and the public.

Provisions in P.L. 89-72 for minimum facilities for public health and safety are not adequate. If roads are not adequate then people will build the roads and disperse around the project. Furthermore, they must have proper sanitation facilities provided wherever they disperse.

The second level of development is convenience facilities. This includes designated campsites, circulation roads and facilities for day use areas. These should be cost shared. The user who desires a higher development of facilities begins to pay a fee to offset some of the costs.

The highest level of development is luxury or ancillary facilities including lodges, restaurants and marinas. These should be entirely financed by someone other than the Federal government. These facilities are not truly necessary for the recreational opportunities.

Furthermore, in implementing the cost-sharing provisions the overall national interest in providing recreation should be recognized. A flexible cost-sharing range should be possible to reflect the unique financial problems of some areas. Particularly hard hit are rural areas which lack the tax base for development, yet they experience a tremendous influx of people, particularly across jurisdictional lines, which drain their lagging financial capability. As a last resort the Federal government should be permitted to proceed with the installation of convenience facilities if an area is subject to intensive need,

no non-Federal participant can be found and O and M costs can be recouped.

Extension of cost-sharing and O and M agreements should be extended to private enterprise if no non-Federal public bodies can be found. A survey sponsored by the Corps found substantial ability and willingness to participate in the private sector of the economy.

The Corps unofficial rationale further asserts, "Large capital investments for recreation development will be required if an economically feasible and practical use fee system for the recovery of O and M costs is to be permanently established at recreation areas on Corps lakes. Larger initial (greater than 50 percent) Federal investment in basic and convenience facilities will encourage greater non-Federal participation in cost sharing and assumption of O and M. Longer range Federal costs will be lower through increased non-Federal assumption of O and M because under most conditions O and M costs throughout the life of the facility or the area will be greater than the initial capital investment. A 50/50 balance between Federal and non-Federal investment would ultimately be achieved."

TABLE 3. SUMMARY OF ALTERNATIVE COST-SHARING AND O AND M ARRANGEMENTS TO IMPLEMENT ADMINISTRATION POLICY FOR RECREATION DEVELOPMENT AT CORPS LAKES.

Major Alternatives for Implementing Administration Policy ²	Basic Facilities		Convenience Facilities		Ancillary Facilities ³			
	Cost Sharing	O & M	Cost Sharing	O & M	Cost Sharing	O & M		
Alternative 1: Current Adm. Policy	Up to 50% Federal	100% Non-Federal ¹	Up to 50% Federal	100% Non-Federal ¹	100% Non-Federal	100% Non-Federal ¹		
Alternative 2: Modified Adm. Policy	100% Federal	100% Non-Federal ¹	Up to 50% Federal	100% Non-Federal ¹	100% Non-Federal	100% Non-Federal		
	100% Federal	100% Federal to meet law ⁴						
Alternative 3:	100% Federal	100% Non-Federal ¹	Up to 80% Federal for Non-Federal Public Agencies	100% Non-Federal ¹	100% Non-Federal	100% Non-Federal		
							Up to 50% Federal for Private Interests	100% Private ¹

¹Required by initial cost sharing contract agreement with non-Federal participant.

²Under each major alternative, an option exists for the Corps to proceed with development and O and M of basic and convenience facilities at 100% Federal cost when (a) area subject to intensive need, (b) cost sharing has been proffered to non-Federal participants without success, and (c) it is economically feasible to recover all O and M costs through use fees.

³Non-Federal costs for ancillary facilities development and O and M will include necessary additional basic facilities and related convenience facilities (if any). O and M will include basic and convenience facilities for entire area as feasible.

⁴Basic facilities under alternatives 2 and 3 are provided on a nonreimbursable basis by the Corps to meet legislative and related administrative requirements for public health and safety, environmental protection, charging of use fees.

Office of Management and Budget

An official in the water branch of the Office of Management and Budget (OMB) said that the construction agencies have not identified P.L. 89-72 as a major problem area. He believes that they have really tried to support the implementation of the Act's cost-sharing provisions because recreation is a legitimate project purpose and because many projects are dependent upon realization of this purpose. However, he is personally concerned as to whether the non-Federal public bodies can perform on their cost-sharing commitments at a lot of large projects.¹

As far as the P.L. 89-72 cost-sharing formula is concerned, OMB doesn't believe that it is the appropriate degree of cost-sharing. One official said that it doesn't make much sense to cost-share on the concept of separable costs because it understates the degree of cost-sharing that ought to be required from the users. He explained further, "Recreation development particularly at reservoirs is really localized and most of the costs should be assumed by identified beneficiaries within the specific area of influence surrounding the reservoir... The Federal role in recreation development should not be any less or any more than other project purposes. What is needed is a consistent policy across the board for water resources."² OMB is presently in the process of analyzing all existing cost-sharing policies. They hope to devise an omnibus type of cost-sharing recommendation for water resources.³

¹Office of Management and Budget, personal interview, Sept. 1973.

²Ibid.

³Ibid.

Retroactive Cost-Sharing

There was apparently no discussion of retroactive cost-sharing in the legislative history or in the administrative negotiations of the Federal Water Project Recreation Act. Retroactive cost-sharing would permit the non-Federal public body's cost-sharing obligations to be decreased for the "fair market value" of land and facilities which they contributed to a project prior to P.L. 89-72 but not in furtherance of Section 7 of P.L. 89-72. This will be discussed in detail shortly. Neither the ranking minority leader of the House Interior Committee nor an Interior official who had been involved with the formulation of this Act recalled any discussion relating to retroactive cost-sharing. They both felt that the ruling prohibiting its use was completely wrong.¹

In 1967 the issue of retroactive cost-sharing for recreation and fish and wildlife enhancement development on existing projects (Section 7 of P.L. 89-72) was reviewed jointly by the Department of the Interior* and the Bureau of the Budget. They concluded that cost could be shared with non-Federal managing agencies only for developments undertaken pursuant to the provisions of P.L. 89-72. In other words, the value of facilities and land which non-Federal agencies may have voluntarily contributed at a project prior to P.L. 89-72 and not in furtherance of Section 7 of this Act cannot be credited to a non-Federal public body in the sharing of costs. The Bureau of the Budget, however,

*In a letter to the Water Resources Council dated May 13, 1968 the Secretary of the Interior suggested that credit for previously constructed facilities at existing reservoirs be allowed.

¹Henry P. Caulfield, Jr. and the late John P. Saylor, personal interviews, Oct. 1972 and Sept. 1973, respectively. John P. Saylor was the ranking minority leader on the U.S. House of Representatives Committee on Interior and Insular Affairs.

advised that, in consideration of previous commitments, the proposed developments on the Colorado-Big Thompson be excluded from this policy.¹

The Bureau of the Budget issued a multitude of reasons for this policy concerning retroactive cost-sharing:

"Consistency between Corps and Interior programs can be achieved without attempting to make up historical differences through retroactivity.

There are other Federal cost-sharing programs, both recreation and nonrecreation, that would be adversely affected by retroactivity.

Cost sharing without retroactivity will not be inequitable for those non-Federal entities that have, in the past, made investments in public recreation facilities. These investments were made voluntarily and without any promise of future Federal assistance in order to provide recreation benefits that have been and will continue to be enjoyed locally. The local entities who have assumed investment and management responsibility should be commended for their past efforts to meet local recreation demands, but we cannot agree that the burden of these past local investments should now be shifted to the general taxpayer.

Further, cost sharing on an equal basis by the Federal Government will provide major assistance to local entities in financing any additional recreation developments at existing recreation projects. These additional investments were heretofore financed entirely by non-Federal interests.

We are concerned about the implication of retroactivity on future Federal spending, both as related to total Federal funds involved, and to the incentives the Federal funds are intended to provide to local interests in assuming their responsibilities in projects where recreation benefits are primarily local in nature."²

¹Letter from Maurice N. Langley, Actg. Asst. Commissioner of the Bureau of Reclamation to Regional Directors, Region 1 through 7, Dec. 7, 1967.

²Ibid.

Congress

In 1972 Senator Jackson informed the writer that he is "not aware of any dissatisfaction with the existing P.L. 89-72 and no complaints as to the operation or compliance of agencies under the jurisdiction of the legislation have been brought to my (his) attention."¹

In September of 1973, the Senate Committee on Interior and Insular Affairs was thinking about conducting oversight hearings on P.L. 89-72 but they were busy on other things of a higher priority at that time.²

Hearings were held on user fees which resulted from a controversy over the Corps fee schedules. The Corps had wanted to include P.L. 89-72, however, a committee staff member advised Senator Bible to separate the issues of fees and recreation. It was decided that oversight hearings on P.L. 89-72 would be held at a later date.³

It was conceded by one staff member that the Act is clearly deficient in its ability to do what needs to be done at completed reservoirs. However, at new reservoirs he stated that the Corps never liked P.L. 89-72 and that they've complained about implementing it. He is not aware of Reclamation expressing any problems. He offered the following explanation. For the Corps P.L. 89-72 increases the amount localities have to repay since other project purposes are mainly nonreimbursable. Furthermore, the Corps doesn't like user fees because the more repaid by recreation and fish and wildlife users, the

¹Letter from Henry M. Jackson, Chairman of the Senate Committee on Interior and Insular Affairs, Oct. 20, 1972.

²Senate Committee on Interior and Insular Affairs, telephone interview, Sept. 1973.

³Ibid.

worse it makes navigation look, therefore, they generally oppose fees for any reason. For the Bureau of Reclamation P.L. 89-72 decreases the amount localities have to pay because of large recreation and fish and wildlife allocations to joint costs.¹

Wayne Aspinall recently said, "It has been my opinion that the Act has been working as it was originally intended to work."² He is not aware of any resistance to the Act's implementation and he does not expect any. In September 1973, the ranking minority member of the House Committee on Interior and Insular Affairs declared that there is no evidence of displeasure with P.L. 89-72 by either the House or Senate Committees on Interior and Insular Affairs. As near as he was able to determine the Act pleased "all agencies of government except members of Congress from areas that have large Corps projects."³ He further pointed out that P.L. 93-81, which was the work of the House and Senate Public Works Committees, in a sense repealed P.L. 89-72. The ramifications of P.L. 93-81 are discussed in the section of this study entitled, "Federal experience with user charges."

A staff member on the House Committee on Interior and Insular Affairs said that no new water projects are being built and so talking about changing the Act, "is like putting the bridle on a dead horse."⁴ OMB has not recommended any water projects in recent years. It has

¹ Senate Committee on Interior and Insular Affairs, telephone interview, Sept. 1973.

² Letter from Wayne N. Aspinall, former Chairman of the House Committee on Interior and Insular Affairs, Dec. 6, 1973.

³ John P. Saylor, op. cit., personal interview.

⁴ House Committee on Interior and Insular Affairs, telephone interview, Sept. 1973.

been alleged that new water projects are meeting hostility from efficiency economists in OMB who charge that this is a wasteful way to produce economic activity. Furthermore, environmentalists have flatly opposed the construction of water projects in general.¹

Groups and Organizations

Much of the concern with the effects of P.L. 89-72 has come from State Park and Game associations. The Act has been given a high priority on the agenda at their conferences. These groups include the National Conference on State Parks (a branch of the National Recreation and Park Association), the American Fisheries Society, the Western Association of Game, Fish and Conservation Commissioners and the International Association of Game, Fish and Conservation Commissioners.

Resolutions recently adopted by the National Conference on State Parks and by both the International and Western Associations of Game, Fish and Conservation Commissioners claim that "fiscal limitations would prevent adequate administration of the areas, and impose inequitable cost-sharing responsibilities on state and local political subdivisions who rarely have adequate funds to meet cost-sharing obligations."²

The National Conference on State Parks recommended that P.L. 89-72 be changed so that recreational features of water projects be totally

¹House Committee on Interior and Insular Affairs, telephone interview, Sept. 1973.

²Resolutions recently adopted by the National Conference on State Parks and by both the Western and International Association of Game, Fish and Conservation Commissioners.

nonreimbursable. They also advocate a Federal subsidy for the annual operation and maintenance costs for "recreation features."¹

The International Association of Game, Fish and Conservation Commissioners declared that the Federal Water Project Recreation Act should be repealed or amended to, among other things, insure that, "(a) separable costs of basic access, sanitary, and safety facilities would be Federal costs; (b) fish and wildlife losses will be satisfactorily compensated before enhancement features are cost-shared; (c) the expansion of fish populations naturally occurring in impounded waters is in no way considered to be enhancement; and (d) interest requirement would be waived on cost-shared repayments."²

A resolution passed by the Western Division of the American Fisheries Society advocated the deletion of cost-sharing requirements for all separable fish and wildlife costs. They also alluded to budgetary limitations.³

At the 1969 North American Wildlife and Natural Resource Conference, Russell W. Stuart summarized the responses to questionnaires sent to the game and fish directors of the 48 conterminous states. The highlights are as follows:⁴

¹Resolutions recently adopted by the National Conference on State Parks and by both the Western and International Association of Game, Fish and Conservation Commissioners.

²International Association of Game, Fish and Conservation Commissioners, "Federal Water Project Recreation Act, Resolution 23," Sept. 11, 1973 (mimeographed).

³American Fisheries Society, "Resolution passed by the Western Division Annual Meeting, July 12-15, 1966," Newsletter, Vol. 10, No. 44, July - August 1966.

⁴Russell W. Stuart, "State Problems in the Multi-Purpose Water Act," Transactions of the 34th North American Wildlife and Natural Resources Conference, March 1969, pp. 352-359.

1. "The average state's share of separable costs is extremely large and represents an additional financial burden that most state agencies are unable or unwilling to assume."¹ Colorado indicated the largest dollar amount among the states for its share of separable costs - \$16,557,600 at twenty projects.
2. Many states felt that it would be better to bypass enhancement features at Federal reservoirs and to acquire land and construct their own reservoirs using Pittman-Robertson and Dingell-Johnson monies which is on a 75 percent Federal and 25 percent state matching basis.
3. Many states were most concerned with operation and maintenance costs. Colorado's O and M costs for the twenty projects was estimated to be 1.9 million dollars annually.
4. Ninety percent of the states responding to the questionnaires indicated that they were not obtaining complete mitigation of losses by the projects (Colorado included). Many states believed that 100 percent mitigation of fish and wildlife losses should be provided before they are asked to cost-share enhancement features. Furthermore, it was felt that they should be credited for losses which were not mitigated at earlier Federal water projects.

Another organization which dislikes P.L. 89-72 is the Citizens Committee on Natural Resources. Their position is that the Act's cost-sharing provisions inhibit urgently needed recreational development.²

¹Russell W. Stuart, "State Problems in the Multi-Purpose Water Act," Transactions of the 34th North American Wildlife and Natural Resources Conference, March 1969, pp. 352-359.

²Citizens Committee on Natural Resources, personal interview, Sept. 1973.

Both the National Water Resource Association and the National Wildlife Federation endorse the P.L. 89-72 cost-sharing provisions as equitable and practical. Their efforts, however, are much less vocal than the groups and organizations mentioned previously.¹

Other groups such as the Izaak Walton League, the Citizens Advisory Committee on Environmental Quality and the League of Women Voters have not taken an interest in P.L. 89-72 since its passage. Public Power Associations also did not express current interest in the Act's provisions. They claim that very few projects have been authorized by Congress within the last six years that have hydro-electricity as a project purpose.² If the energy shortage stimulates the building of hydropower plants then public power may take an interest in recreation and fish and wildlife as a means of reducing joint costs allocated to public power.

Federal Experience with User Charges

The Land and Water Conservation Fund, which first took effect in 1965, was the major mandate for the collection of entrance and user fees at Federal recreation areas. Prior to this, the National Park Service had charged entrance fees for selected units of its system. Also, a number of States, including Wisconsin, Minnesota and Michigan,

¹National Wildlife Federation and National Water Resource Association, personal interviews, Sept. 1973.

²American Public Power Association and the National Rural Electric Cooperative Association, telephone interviews, Aug. 27, 1973 and Aug. 28, 1973, respectively.

administered charges at areas under their auspices. Colorado didn't initiate its Park pass program until 1969.¹

The fee system under the Fund (P.L. 88-578) has been characterized as a dismal failure. "Collections have underrun projections; there has been little consistency between agencies, especially in designating areas and length of charge season; the honor system has failed; there has been no central coordinating authority; collection costs per dollar of receipts have varied greatly between agencies from minimal to equaling or exceeding receipts."² Furthermore, willingness to try to make a fee system work has varied among agencies and local public opposition to Federal fees has varied geographically.³

The fund was expected to collect \$146 million yearly of which \$67 million was to be from entrance and user fees. The remainder of the fund was to come from the sale of surplus land (\$50 million) and a motorboat fuel tax (\$29 million).⁴ Between 1965 and 1970 admission and user fees (including the annual permit) collected only 50.4 million dollars. The year 1965 accounted for only 2 million dollars and 1969 was the high with 11.1 million dollars.⁵

¹U. S. Congress, House Report No. 900 to accompany H.R. 3846, Land and Water Conservation Fund Act, 88th Congress, 1st Session, Nov. 1963, p. 7.

²National Water Commission, op. cit., p. 194.

³Ibid.

⁴U. S. Congress, House, Committee on Interior and Insular Affairs, Land and Water Conservation Fund, Hearings on H.R. 3846, 88th Congress, 1st Session, 1963, p. 9.

⁵Daniel P. Beard, "Meeting the Costs of a Quality Environment: The Land and Water Conservation Fund Act," in Congress and the Environment, eds. R. A. Cooley and G. Wandesforde-Smith (Seattle: Univ. of Washington Press, 1970), pp. 106 and 109.

Congress has responded by amending P.L. 88-578 several times. A more reliable source of revenue was instituted from Outer Continental Shelf oil receipts. Furthermore, a relentless quest ensued by a small number of representatives (i.e. from Oklahoma) who sought to abolish or undermine user charges. These representatives were primarily from states with a large number of Federal water resource projects. They claim that the people were told that they would never have to pay. They also fear that this would be a precedent for having the beneficiaries of the nation's waterways (navigation interests) pay for Federal navigation enhancement features.

Under P.L. 92-347 of July 11, 1972, "admission fees are charged only at designated units of the National park system and national recreation areas administered by the Forest Service, the theory being that admission fees are practical in these instances because of limited access and only a few entrance points."¹ Congress has also limited user fees to specialized recreation sites, facilities or services. Furthermore, the designation of areas, length of charge season and other rules and regulations have been left to the discretion of each agency.²

The subject of user fees was most recently addressed by the Congress in Public Law 93-81 of August 1, 1973, which amends the Land and Water Conservation Fund Act. The Act states that, "No fee may be charged for access to or use of any campground, not having the following - flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available,

¹National Water Commission, *op. cit.*, p. 194.

²*Ibid.*

visitor protection control, designated tent or trailer spaces, refuse containers and potable water... in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors centers, service drives, and toilet facilities."¹ This law specifically applies to fee collection at designated units of the National Park System and national recreation areas administered by the Department of Agriculture.

John P. Saylor, a member of the House Committee on Interior and Insular Affairs commented on the impact of P.L. 93-81. "The actions of the House and Senate Public Works Committees which repeals user fees in most instances has in effect repealed P.L. 89-72. It does not affect non-Federal public bodies directly but as far as the Federal government is concerned we have just said that there are no user fees for anything! This is bound to have an impact on P.L. 89-72 because people will now say: We don't have to pay when the Federal government operates it itself, why should we have to pay when they've leased it to you?"² He further explained that "the Federal agencies are so discouraged in the change of position of Congress that the career people in the various departments are just giving up in disgust as far as the implementation of P.L. 89-72 is concerned."³

¹Public Law 93-81, 93rd Congress, H.R. 6717, Aug. 1, 1973.

²John P. Saylor, op. cit., personal interview.

³Ibid.

A Water Resources Council memorandum indicated that if the amendments of P.L. 93-81 were to be applied to P.L. 89-72 by the Congress then the O and M costs could not be recovered as recommended by the National Water Commission.¹

TABLE 4. ESTIMATED 1972 FEDERAL FEE COLLECTION BY AGENCIES COMPARED TO O AND M.

Agency	User Fee (thousand \$)	Operation & Maintenance (thousand \$)
Corps of Engineers	400	15,000
Forest Service	1,589	7,439
Reclamation	250	5,550
Bureau of Sport-Fisheries & Wildlife	106	1,358
National Park Service	261	7,145
Tennessee Valley Authority	127	1,991
Soil Conservation Service	0	0
TOTAL	2,733	38,483

Source: National Water Commission, Water Policies for the Future, (Washington, D. C.: Government Printing Office, 1973), p. 194.

One reason that the land management agencies have a better record than the construction agencies concerning the collection of user fees is because they have a more receptive philosophy on recreation fees and apply them more successfully.²

On the average, fees are estimated to be approximately 7 percent of O and M costs. There are numerous reasons for this, including relatively few areas designated for fee collection, shortness of the recreation season, and the cost of collecting fees at a large number of

¹Water Resources Council, "Issue: Reservoir Recreation Cost-Sharing," op. cit., p. 36.

²Ibid., p. 196.

access points. However, note that the O and M costs apply to the entire recreation development and not just to the special facilities for which a use fee is charged. It is unfair to expect use fees for special facilities to equal all recreation O and M costs. They relate to a different base.¹ Edward Crafts has contended, "Only where admission fees are applicable can fees expect to equal the O and M and then only where Congress gives the agency flexibility to set the fee at the necessary rate, requires the fee to be collected during the entire period that the area is open, appropriates adequate funds for collection costs, and provides stiff penalties for violation. Congress has done none of these!" In the National Water Commission Report Crafts recommends that, "Recreation admission and user fees should be charged at all Federal reservoirs where revenues can be expected to exceed the costs of collection. In addition to implementing the criteria already enacted into law with respect to admission and recreation use fees, charges should be related to fees charged for nearby comparable private facilities and to that portion of operation and maintenance costs attributable to the specialized facility for which a user fee is assessed with the objective of having the amount collected from fees equal the O and M cost for the particular facility."²

The National Water Commission's position is that there is reason* to believe that it is feasible to collect user fees sufficient to meet

*Based on the visitation statistics for reservoir based recreation and on the financial success of private recreation enterprises.

¹Confidential material, 1973.

²National Water Commission, op. cit., p. 199.

O and M expenses and quite possibly to cover much of the capital construction costs of recreation facilities. "What appears to be needed is careful planning of recreational facilities and access roads so that the collection can be achieved efficiently, and adequate staffing of the recreational facilities so that there is manpower to collect the fees at least during those periods of the year when the use is high enough to warrant the effort... some initial pump priming may be necessary by the Congress in order to get the recreational program off dead center."¹

¹National Water Commission, op. cit., p. 198.

CHAPTER V
THE COLORADO EXPERIENCE

Before assessing the "track record" of the Federal Water Project Recreation Act in Colorado it is relevant to discuss the physical setting in which the actors perform.

Colorado is well known for its large number of sunny days and low humidity. Most of the population is situated east of the continental divide in the semiarid front range area. The dry summers necessitate the capture of water originating in high mountain snow melts and showers. The eastern slope depends upon transmountain diversions and high mountain and foothills storage facilities for such things as municipal and industrial water supplies, irrigation, recreation and flood control.

A rapidly expanding eastern slope population has increased the need to control rapid spring runoffs and flash flood conditions. Furthermore, the greatest need for recreation is in close proximity to the eastern slope population centers.

As Colorado has changed from a predominately agrarian State to a largely urban society there has been increased conflict between irrigation and recreation uses of water. Recreation and irrigation are both in high demand in the dry summer months. However, large draw downs for irrigation decrease the recreational potential of a reservoir. P.L. 89-72 supposedly benefits both purposes, however, creating recreation as a coequal partner in multiple purpose water projects implies an equal influence in reservoir operating schedules.

Conflict, however, is not limited to recreation and other project purposes. Many recreationists enjoy Colorado's free flowing streams

and the grandeur of hiking and backpacking in Colorado's canyons. A proposed impoundment on the Poudre River would inundate a large part of a canyon deeply appreciated in the hearts of many eastern slope residents.

The Colorado water situation is further complicated by other factors such as oil shale developments in the semiarid western slope, the ramifications of which are likely to increase the competition for an increasingly scarce supply of water. Furthermore, salinity standards for the Colorado River affect transbasin diversions of water.

Status of Projects Under the Purview of P.L. 89-72

There is no evidence apparent from the tables on pages 78-80 that the Federal Water Project Recreation Act is not working as it was intended to work. At "new projects" (projects authorized after July 9, 1965) if recreation and fish and wildlife enhancement is to be included in the project then a letter of intent must be obtained prior to project authorization and an agreement must be executed before construction commences. At new projects P.L. 89-72 commitments are proceeding pretty much according to schedule. Both projects which have been authorized have letters of intent for recreation and fish and wildlife enhancement. The project which has reached the construction phase has an agreement. Five projects have not yet been authorized. One non-authorized project has a letter of intent for recreation and fish and wildlife enhancement. One project has a letter of intent for recreation enhancement. Another project has a letter of endorsement for recreation and a letter of intent is expected. The two other projects do not have letters of intent,

however, verbal interest has been expressed for one or more of the purposes in question.

At "completed projects" (projects constructed prior to July 9, 1965) an assessment of P.L. 89-72's performance is more difficult. If additional recreation and fish and wildlife enhancement is desired at any of these projects then an agreement is a prerequisite to construction. Letters of intent are not necessary. Out of a total of thirteen projects two agreements have been negotiated. Both agreements are for recreation enhancement. Verbal interest has been expressed for recreation enhancement at five other reservoirs which the construction agency has considered for the application of P.L. 89-72 cost-sharing. Six reservoirs which lack verbal interest have not been considered by the construction agency for application of P.L. 89-72 cost-sharing. Most of these reservoirs lack either the potential and/or the need for additional recreation and fish and wildlife enhancement.

An analysis of the Colorado experience with P.L. 89-72 is complicated for a variety of reasons. First of all, there has been limited experience with "new projects" in Colorado. Only two of these projects have been authorized and none have progressed to the point where the non-Federal public body actually contributes its funds. This leads to the second problem. The ultimate objective of the Act in getting the non-Federal public bodies to live up to their cost-sharing commitments is difficult to predict. Letters of intent do not legally bind a non-Federal public body to any commitment. However, it serves to get a project authorized with recreation and fish and wildlife enhancement included as a project purpose and keeps the option open for such development. Furthermore, even though a non-Federal

administration honestly plans to participate, a new administration which does not favor participation may exist when contract time comes around. Also, even though an agreement is entered into by the State of Colorado this does not mean that the State will perform when it must contribute its cost-share. The agreement entered into by the State includes the qualification "subject to legislative appropriation" so it appears that the commitment, while acceptable to the Federal government, may not be legally binding on the State. Thirdly, the data at "completed projects" can be misleading. This is because the Colorado-Big Thompson reservoirs are the only completed reservoirs where a non-Federal public body can be credited for recreation and fish and wildlife features, which were not installed under P.L. 89-72. Both projects in Colorado where agreements have been executed required little non-Federal monetary contributions under the P.L. 89-72 contract. Also, the success of P.L. 89-72's implementation at completed projects is difficult to ascertain because of the lack of much information as to the potential or need for additional recreation and fish and wildlife development at these impoundments. The information presented on this subject was obtained from the construction agency.

Corps Projects

At three "new projects" the Corps of Engineers has one agreement for recreation and fish and wildlife enhancement from the State of Colorado. The other two projects are not authorized and have, therefore, not reached the deadline for letters of intent. However, one project has a letter of intent for recreation from the State of Colorado. The other project has a letter of endorsement from the City

of Lamar. A letter of intent will accompany the final report on the project (see tables on pages 78-80).

P.L. 89-72 does not legally apply to completed projects of the Corps of Engineers. Section 7 of this Act is addressed to completed projects of the Secretary of the Interior since Section 4 of the Flood Control Act of 1944 previously provided authority for the Corps to construct recreational facilities at its reservoirs. The Corps of Engineers is not presently considering any of their Colorado projects for application of the administrative agreement between the Corps and the OMB.

Portions of Colorado are under the auspices of three Corps division offices: the Missouri River Division, with headquarters in Omaha, Nebraska, the Southwest Division, with headquarters in Dallas, Texas, and the South Pacific Division, with headquarters in San Francisco, California. The respective district offices which are concerned with Colorado are the Omaha District, the Albuquerque District and the Sacramento District.

The Corps divisions are based primarily on drainage boundaries. Most major river basins are entirely within the boundaries of single divisions and district boundaries usually include one or more principal tributary basins. In Colorado the Missouri River Division has jurisdiction for the area which drains into the Missouri River. The Southwest Division and the South Pacific Division are responsible for the Arkansas and Colorado River basins, respectively. The Southwest

TABLE 5. BUREAU OF RECLAMATION PROJECTS UNDER THE PURVIEW OF P.L. 89-72 IN COLORADO

1	2	3	4	5	6	7	8	9
PROJECTS UNDER THE PURVIEW OF P.L. 89-72 IN COLORADO				STATUS OF NON-FEDERAL PARTICIPATION				
REG.	RECLAMATION PROJECTS	BUREAU NAME OF RESERVOIR	AUTHORIZED	CONSIDERED FOR APPLICATION OF P.L. 89-72 COST-SHARING	VERBAL INTEREST	LETTER OF INTENT	CONTRACT	NAME OF NON-FEDERAL PARTICIPANT
LM	Colorado Big Thompson ¹	Carter Lake	Built	Yes	Rec. only	N.A. ²	No	Larimer County Recreation Board
LM	Colorado Big Thompson ¹	East Portal	Built	No	No	N.A.	No	
LM	Colorado Big Thompson ¹	Flatiron	Built	No	No	N.A.	No	
LM	Colorado Big Thompson ¹	Green Mt.	Built	Yes	Rec. only	N.A.	No	Colorado Division of Parks and Outdoor Recreation
LM	Colorado Big Thompson ¹	Horsetooth	Built	Yes	Rec. only	N.A.	Rec. only	Larimer County Recreation Board
LM	Colorado Big Thompson ¹	Lake Estes	Built	Yes	Rec. only	N.A.	Rec. only	Rocky Mt. Metropolitan Rec. District
LM	Colorado Big Thompson ¹	Mary's Lake	Built	Yes	Rec. only	N.A.	No	Rocky Mt. Metropolitan Rec. District
LM	Colorado Big Thompson ¹	Pinewood Lake	Built	Yes	Rec. only	N.A.	No	Larimer County Rec. Board

¹Retrospective cost-sharing permitted at all Colorado Big Thompson Projects. ²Not Applicable.

TABLE 5 (Continued)

1	2	3	4	5	6	7	8	9
PROJECTS UNDER THE PURVIEW OF P.L. 89-72 IN COLORADO				STATUS OF NON-FEDERAL PARTICIPATION				
REG.	RECLAMATION PROJECTS	BUREAU NAME OF RESERVOIR	AUTHORIZED	CONSIDERED FOR APPLICATION OF P.L. 89-72 COST-SHARING	VERBAL INTEREST	LETTER OF INTENT	CONTRACT	NAME OF NON-FEDERAL PARTICIPANT
LM	Pick-Sloan M.B. Program	Bonny	Built	Yes	Rec. only	N.A.	No	Colorado Division of Parks and Outdoor Rec.
LM	Pick-Sloan	Narrows	Yes	Yes	Rec. & Fish & Wildlife	Rec. & Fish & Wildlife	No	Colorado Department of Natural Resources
UC	Collbran	Vega	Built	No	No	N.A.	No	
UC	Fruitgrowers	Fruitgrowers	Built	No	No	N.A.	No	
UC	Mancos	Jackson Gulch	Built	No	No	N.A.	No	
UC	Pine River	Valecito	Built	No	No	N.A.	No	
UC	Yellow Jacket	Thornburgh	No	Yes	Rec. & Fish & Wildlife	Rec. & Fish & Wildlife	No	Colorado Department of Natural Resources
UC	Battlement Mesa	Buzzard Creek	No	Yes	Rec. & Fish & Wildlife	No	No	Colorado Department of Natural Resources
UC	Grand Mesa	Waterfowl Management Area	No	Yes	Wildlife	No	No	Colorado Department of Natural Resources

Source: Data in Table 5 is from the Bureau of Reclamation's Lower Missouri and Upper Colorado Regional Offices.

TABLE 6. CORPS OF ENGINEERS PROJECTS UNDER THE PURVIEW OF P.L. 89-72 IN COLORADO

1	2	3	4	5	6	7	8
PROJECTS UNDER THE PURVIEW OF P.L. 89-72 IN COLORADO			STATUS OF NON-FEDERAL PARTICIPATION				
DIV. DIST.	CORPS PROJECTS	AUTHORIZED	CONSIDERED FOR APPLICATION OF P.L. 89-72 COST-SHARING	VERBAL INTEREST	LETTER OF INTENT	CONTRACT	NAME OF NON-FEDERAL PARTICIPANT
MRO	Bear Creek Lake	Yes	Yes	Rec. & Fish & Wildlife	Rec. & Fish & Wildlife	Rec. & Fish & Wildlife	Colorado Division of Parks and Outdoor Recreation
SWA	Willow Creek Dam and Lake	No	Yes	Rec.	Letter of endorsement received. Letter of intent will accompany final report	No	City of Lamar
SWA	Fountain Reservoir	No	Yes	Rec.	Rec.	No	Colorado Division of Parks and Outdoor Recreation

Source: Data in Table 6 is from the Corps of Engineer's Missouri River and Southwest Division Offices

Division is, also, responsible for the Rio Grande River Basin in Colorado.¹

The only project under the auspices of the Missouri River Division in Colorado to which P.L. 89-72 is applicable is Bear Creek Lake. An agreement has been obtained for recreation and fish and wildlife enhancement with the State of Colorado. Recreation and fish and wildlife development has been scaled down, however, over what was originally intended. Land acquisition and construction are just getting under way.² This project is discussed in greater detail later in the study.

The Corps had been considering future recreation development at Chatfield Lake under the P.L. 89-72 cost-sharing procedure. A letter of intent was received for recreation development from the Colorado Division of Parks and Outdoor Recreation. The State share of the separable costs was estimated at \$446,900 and the annual O and M costs were about \$629,300.³ However, the Omaha District now believes that the development and O and M may be handled as a nonreimbursable item. The rationale is that the Corps may have an obligation to account for future recreation development costs on a nonreimbursable basis since credit was given to future recreation benefits in the document that reaffirms the feasibility of the project. The District has not

¹U. S. Department of the Army, Corps of Engineers, Colorado Water Resources Development (Omaha, Nebr.: Missouri River Division, 1973), p. 6.

²Corps of Engineers, personal interview, Feb. 1974.

³Letter from C. F. Thomas, Chief of the Omaha District Planning Division, Feb. 19, 1974.

requested a legal determination and will not pursue the matter until the development of the future recreation is needed.¹

The Southwest Division has two "new" projects which are under the purview of P.L. 89-72. Neither project is authorized.

At Fountain Reservoir the Colorado Division of Parks and Outdoor Recreation has submitted a letter of intent for recreation enhancement. The feasibility report which is being considered for authorization by the Congress contains a letter from the Governor dated May 10, 1968 which endorses the project fully. Another letter dated June 2, 1969 from the Governor provides further specific State endorsement.² However, in 1973 the Colorado Department of Natural Resources reappraised the State's capability to finance recreation and fish and wildlife at Federal reservoirs and included Fountain Reservoir in a list of projects that "are not now considered to be active water development projects, or if active, no state participation is contemplated."³ The Corps has not yet been informed of this reappraisal since it has not yet been referred to all of the concerned State officials for their review.⁴

At Willow Creek Dam and Lake a letter of endorsement has been received from the City of Lamar for recreation enhancement. A letter

¹Corps of Engineers, personal interview, Feb. 27, 1974.

²Letter from Gordon A. Walhood, Chief of the Albuquerque District Engineering Division, Feb. 13, 1974.

³Letter from T. W. Ten Eyck, Executive Director of the Department of Natural Resources, to Sanders G. Arnold, Chairman of the Joint Budget Committee, (Dec. 1973).

⁴Telephone conversation between Henry P. Caulfield, Jr. and T. W. Ten Eyck, May 9, 1974.

of intent will accompany the final report. The State of Colorado has said that this project does not fit its recreation plans.¹

The South Pacific Division of the Corps has explained that they don't have any reservoir projects in Colorado; nothing is completed, nothing is authorized and nothing is planned.²

Reclamation Projects

At "new projects," Reclamation has only one Reservoir which is authorized and it has a letter of intent for recreation and fish and wildlife enhancement from the State of Colorado. Three other new projects are not authorized, however, one project does have a letter of intent from the State of Colorado for recreation and fish and wildlife enhancement.

At "completed projects" the Bureau of Reclamation has obtained agreements at two reservoirs out of a total of thirteen reservoirs. Both agreements are for recreation enhancement only. Letters of intent are not applicable to completed reservoirs, however, verbal interest in recreation enhancement has been expressed at five additional reservoirs.

Portions of Colorado are under the auspices of three Bureau regional offices: the Lower Missouri Region, with headquarters in Denver, Colorado, the Southwest Region, with headquarters in Amarillo, Texas, and the Upper Colorado Region with headquarters in Salt Lake City, Utah. The Bureau of Reclamation bases its boundaries primarily on drainage areas. The Denver Regional Office is responsible for the

¹Letter from Gordon A. Walhood, op. cit., Feb. 13, 1974.

²Letter from Kermit V. Speeg, Chief of the South Pacific Division's Planning Division, Mar. 1, 1974.

Lower Missouri River Basin and the Upper Arkansas River Basin. Project offices are in Loveland and Pueblo for the Colorado-Big Thompson and the Fryingpan-Arkansas projects respectively. The Southwest Region has jurisdiction over the Upper Rio Grande River Basin. A field office is in Albuquerque, New Mexico which handles Colorado projects. The Salt Lake Regional Office has jurisdiction over the Upper Colorado River Basin above Lee's Ferry. The Grand Junction and Durango project offices are responsible for the Colorado River Basin in Colorado.¹

The Lower Missouri Region has the largest number of Reclamation Projects which are under the purview of P.L. 89-72 in Colorado.

The Narrows Unit is the only "new project" which is authorized in the region and a letter of intent has been obtained for recreation and fish and wildlife enhancement from the State of Colorado. This reservoir will be discussed in greater detail later.

The Region is also examining a reservoir on each of the major tributaries east of the continental divide. This study consists of the following front range project units: Idylwilde Reservoir, Gray Mountain Reservoir, Coffintop Reservoir and Geer Canyon Reservoir. Idylwilde Reservoir has been dropped from consideration.²

Larry Nelson, the project leader of the Denver planning division, Bureau of Reclamation, explained that the investigation of the Front Range Project units has been preliminary in nature and that the projects haven't reached the point where the Bureau would seek letters of intent. Presently, all alternatives are being considered for each project

¹Bureau of Reclamation, telephone interview, Feb. 1974.

²Ibid.

purpose. The State of Colorado generally takes the lead in deciding what recreation and fish and wildlife enhancement should be included in Reclamation reservoirs. However, they apparently haven't had the time or the funds to devote to this endeavor at the Front Range Project. Furthermore, it is difficult for the non-Federal public entities to react until the facts are known about the proposed development.¹

At "completed projects" the region has had an advantage over other regions in obtaining non-Federal cost-sharing participation. This is because only reservoirs in the Colorado-Big Thompson Project are eligible for retroactive cost-sharing. Retroactive cost-sharing was explained on pages 59 and 60.

Many reservoirs under this project have improvements for recreation enhancement by State and local agencies which were executed prior to P.L. 89-72's enactment. These contributions can be appraised at their fair market value and credited towards the non-Federal cost-share.

There is an agreement for recreation enhancement at both Horsetooth Reservoir and at Lake Estes. The participating non-Federal public bodies are the Larimer County Recreation Board and the Rocky Mountain Metropolitan Recreation District, respectively. These reservoirs will be analyzed in detail later. Letters of intent are not utilized as an expression of non-Federal intentions; however, verbal interest has been expressed at the following reservoirs: Carter Lake (Larimer County Recreation Board), Pinewood Lake (Larimer County Recreation Board), Mary's Lake (Rocky Mountain Metropolitan Recreation District), Green Mountain (Colorado Division of Parks and Outdoor Recreation) and

¹Bureau of Reclamation, telephone interview, Feb. 1974.

Bonny* (Colorado Division of Parks and Outdoor Recreation). Only two reservoirs lack verbal interest - East Portal and Flatiron. Both of these reservoirs are small and have little need for further development at the present time.¹

The Southwest region doesn't have any reservoirs under the purview of P.L. 89-72 in Colorado. Closed Basin Reservoir of the San Luis Valley project had been considered for application of P.L. 89-72's cost-sharing provisions. Furthermore, a letter of intent had been received from the State of Colorado for recreation and fish and wildlife enhancement. However, no state participation is now contemplated since the Bureau of Sport Fisheries and Wildlife proposes to administer the area for a national wildlife refuge.²

The Upper Colorado Region doesn't have any "new projects" under the purview of P.L. 89-72 which are authorized. Three projects which are not authorized have been considered by the Western Colorado project offices for application of P.L. 89-72 cost-sharing. The Yellow Jacket project's Thornburgh Reservoir is the only project where a letter of intent has been received. The Colorado Department of Natural Resources has submitted a letter of intent for recreation and fish and wildlife enhancement. The Department has also expressed verbal interest for recreation and fish and wildlife enhancement at Battlement Mesa project's Buzzard Creek Reservoir and for wildlife enhancement at Grand Mesa project's waterfowl management area. At the Grand Mesa

*Bonny is part of the Pick-Sloan M.B. Program and is, therefore, not eligible for retroactive credits.

¹Bureau of Reclamation, personal interview, July 27, 1973 and Nov. 9, 1973.

²Letter from J. A. Bradley, Regional Director of the Southwest Region, Feb. 7, 1974.

project most of the recreation development will be within National Forest Service boundaries. Two other unauthorized projects - the Lower Yampa project and the West Paradox project - are inactive.¹

On February 21, 1966, Governor John A. Love submitted a letter of intent to cost-share under Section 2 of P.L. 89-72 at the following Upper Colorado Region projects: Dallas Creek, Dolores, Animas-La Plata (Colorado portion) and San Miguel. The State contribution was estimated at \$1,992,600. The West Divide Project was not included in the State's letter of intent because all potential recreational developments would be on U. S. Forest Service lands and the cost would be nonreimbursable since facilities would be administered as part of the National Forest System.² The Governor also stated, "While it is not within my power to commit the General Assembly of the State of Colorado to future appropriations for any purpose, it will be my policy, as long as I am Governor of the State of Colorado, to encourage the maximum participation by this state in the development of the recreation and fish and wildlife features of Federal reclamation projects."³

When P.L. 89-72 went into effect in 1965 the Western Colorado Projects Office thought that P.L. 89-72 applied to all projects on which they were preparing a feasibility report. Therefore, they went to the State to get P.L. 89-72 cost-sharing commitments. However, the

¹Letter from Wayne E. Cook, Senior Staff Officer of the Western Colorado Projects Office, Durango, Feb. 22, 1974 and letter from C. E. Stone, Acting Senior Staff Officer of the Western Colorado Projects Office, Grand Junction, Feb. 26, 1974.

²Letter from Fred E. Daubert, staff member of the Colorado Water Conservation Board, Feb. 26, 1974.

³Letter from John A. Love, Governor of Colorado, to David L. Crandall, Regional Director, Region 4, Bureau of Reclamation, Feb. 21, 1966.

Dallas Creek, Dolores, Animas-La Plata, San Miguel, and West Divide projects were authorized as "participating" projects of the Colorado River Storage Act, under Title V of Public Law 90-537, September 30, 1968. Therefore, these projects are under the authority of Section 8 of the Colorado River Storage Project Act (P.L. 485) and all costs incurred for recreation and fish and wildlife enhancement are non-reimbursable and do not entail cost-sharing as provided for in P.L. 89-72. A solicitor's ruling confirmed this interpretation.¹

The Upper Colorado Region has four "completed projects" which are under the purview of P.L. 89-72's Section 7. However, they have not considered any of these projects for application of these cost-sharing provisions. At the Jackson Gulch Reservoir (Mancos Project) the Mancos Water Conservancy District is the principal administering agency. It has indicated that it has neither the money nor the desire to get into the recreation business. The State of Colorado has been disinterested because of too much fluctuation in the water surface. A Reclamation official stated that he believed that there was some potential for recreation development at Jackson Gulch Reservoir. At the Vallecito Reservoir (Pine River Project) the State has said that there is too much private land around the reservoir. Reclamation is presently negotiating with the U. S. Forest Service to install needed recreation facilities. Vallecito Reservoir is administered by both the U. S. Forest Service and the Pine River Water Conservancy District. The State has built recreation facilities at Vega Reservoir (Collbran

¹Letter from Wayne E. Cook, Senior Staff Officer of the Western Colorado Projects Office, Durango, Mar. 7, 1974 and Don Clay, telephone interview, Feb. 27, 1974.

project). The Colorado Division of Parks and Outdoor Recreation is the principal administering agency. There is not much potential for additional development. At Fruitgrowers Reservoir (Fruitgrowers Dam Project) there are no recreation facilities installed. The State has not been interested probably because the Reservoir is very small and the water surface has severe fluctuations. The Orchard City Irrigation District administers the Reservoir.¹

Public Law 88-568 which authorized the Fruitland Mesa, Savery-Pot Hook, and Bostwick Park Projects applied the principles of H.R. 9032 (which was never passed into law), to the recreation and fish and wild-life developments of these three projects. Neither Fruitland Mesa nor Savery-Pot Hook had any reimbursable costs. However, Bostwick Park exceeded the nonreimbursable limit by \$284,000 but no non-Federal participant could be found. Therefore, the reimbursable costs were reallocated to irrigation and the repayment will be made from power revenues.²

Analysis of Federal and Non-Federal Costs Under P.L. 89-72³

Non-Federal Costs

The total non-Federal commitments* at P.L. 89-72 projects in Colorado amounts to \$6,536,200 for the separable costs and \$546,670 for the annual operation and maintenance costs. While the annual O and M costs are only \$546,670 this constitutes a considerable burden

*Commitments in this section refer to both agreements and letters of intent.

¹ Bureau of Reclamation, telephone interview, Feb. 27, 1974.

² Ibid.

³ Data in this section is from Tables 7 and 8 on pp. 90 and 91.

TABLE 7. FEDERAL COSTS UNDER P.L. 89-72

PROJECT OR RESERVOIR	RECREATION (SEPARABLE)	FISH & WILDLIFE (SEPARABLE)	TOTAL (SEPARABLE)	RECREATION ¹ (JOINT)	FISH & WILDLIFE ¹ (JOINT)	TOTAL ¹ (JOINT)
Narrows	\$1,452,500	\$940,500	\$2,393,000	\$12,924,000	\$3,835,400	\$16,759,400 17,500 - O,M&R
Thornburgh	\$ 166,500	\$375,000	\$ 541,500	\$ 524,700	\$ 61,100	\$ 585,800 \$800 - O,M&R
Buzzard Creek	\$ 50,000	\$ 50,000	\$ 100,000	\$ 148,200	\$1,128,700	\$ 1,276,900 \$1900 - O,M&R
Grand Mesa Waterfowl Mgt. Area	N.A.	\$ 26,000	\$ 26,000	N.A.	\$ 60,000	\$ 60,000 0 - O,M&R
Horsetooth	\$ 100,000	0	\$ 100,000	-- ²	-- ²	-- ²
Lake Estes	\$ 100,000	0	\$ 100,000	-- ²	-- ²	-- ²
Bear Creek	\$ 515,700	Included with Recreation	\$ 515,700	0	0	0 0 - O,M&R
Willow Creek	\$ 520,300	\$160,200	\$ 680,500	\$ 41,200	\$ 12,700	\$ 53,900 \$400 - O,M&R
Fountain	\$2,125,700	\$ 79,800	\$2,205,500	\$ 5,702,940	\$ 212,970	\$ 5,915,910 \$37,440 - O,M&R

¹Joint cost data includes annual O, M & R.

²No reallocation of joint costs.

Source: Corps of Engineers - Omaha and Albuquerque District Offices.
Bureau of Reclamation - Loveland, Grand Junction and Durango Project Offices.

TABLE 8. NON-FEDERAL COSTS UNDER P.L. 89-72.

PROJECT OR RESERVOIR	RECREATION (SEPARABLE)	FISH & WILDLIFE (SEPARABLE)	TOTAL (SEPARABLE)	ANNUAL O&M RECREATION	ANNUAL O&M FISH & WILDLIFE	TOTAL (ANNUAL O&M)
Narrows	\$1,452,500 IDC ¹ \$47,300	\$940,500 IDC \$65,100	\$2,393,000 IDC \$112,400	\$171,700	\$92,700	\$264,400
Thornburgh	\$ 166,500 IDC - 0	\$375,000 IDC \$21,500	\$ 541,500 IDC \$21,500	\$ 17,800	0	\$ 17,800
Buzzard Creek	\$ 50,000 IDC \$1,250	\$ 50,000 IDC \$1,250	\$ 100,000 IDC \$2,500	\$ 12,500	0	\$ 12,500
Grand Mesa Waterfowl Wgt. Area	N.A.	\$ 26,000 IDC - 0	\$ 26,000 IDC - 0	0	0	0
Horsetooth	\$ 100,000	0	\$ 100,000	-- ²	-- ²	-- ²
Lake Estes	\$ 100,000	0	\$ 100,000	-- ²	-- ²	-- ²
Bear Creek	\$ 515,700 IDC - 0	Included with Recreation	\$ 515,700 IDC - 0	\$ 95,000	Included with Recreation	\$ 95,000
Willow Creek	\$ 520,300 IDC - 0	\$160,200 IDC - 0	\$ 680,500 IDC - 0	\$ 19,600	\$ 6,600	\$ 25,600
Fountain	\$2,125,700 IDC \$36,150	\$ 79,800 IDC \$1,350	\$2,205,500 IDC \$37,500	\$138,690	\$ 5,180	\$143,870

¹IDC means interest during construction. No IDC if the construction period is 2 years or less.

²No estimate available.

Source: Corps of Engineers - Omaha and Albuquerque District Offices.
Bureau of Reclamation - Loveland, Grand Junction and Durango Project Offices.

to the non-Federal participants. As a matter of fact, the cumulative annual O and M costs at the end of 50 years is over four times greater than the non-Federal share of the separable construction costs. This estimate is conservative because the annual O and M costs for the \$400,000 worth of development at Horsetooth and Lake Estes Reservoirs is unknown and because an adjustment has not been made for inflation.

Non-Federal Initial Separable Costs	Non-Federal O and M Costs (cumulative)
\$6,536,200	546,670 (1st year)
	5,466,700 (10 years)
	10,933,400 (20 years)
	16,400,100 (30 years)
	21,866,800 (40 years)
	27,333,500 (50 years)

Relationship of Non-Federal Costs to Federal Costs

The total Federal separable costs at the P.L. 89-72 projects where a non-Federal commitment has been made is \$6,536,200. If the joint capital costs are included then this figure increases to \$29,795,070. Annual O, M and R joint costs allocated to recreation and fish and wildlife is an extra \$56,140 annually

Comparable non-Federal costs for recreation and fish and wildlife are \$6,536,200 for initial separable costs, \$546,670 for annual O and M costs and \$171,400 for interest during construction.

Table 9 shows the Federal and non-Federal burden as a percentage of the total project recreation, and fish and wildlife costs. The data includes only projects where a non-Federal commitment has been made for recreation and fish and wildlife enhancement. Although the Federal costs for recreation and fish and wildlife exceed the non-Federal costs in year one, the situation reverses itself over a 50 year period. This

TABLE 9. RECREATION AND FISH AND WILDLIFE ENHANCEMENT: RELATIONSHIP OF FEDERAL AND NON-FEDERAL COSTS TO TOTAL PROJECT COSTS

Year 1	
Federal	80%
Non-Federal	20%
Year 10	
Federal	71%
Non-Federal	29%
Year 20	
Federal	64%
Non-Federal	36%
Year 30	
Federal	58%
Non-Federal	42%
Year 40	
Federal	53%
Non-Federal	47%
Year 50	
Federal	49%
Non-Federal	51%

Note: No estimate made to take into account inflation. Also, the O & M costs associated with the P.L. 89-72 investments at Horsetooth and Lake Estes reservoirs are omitted since they are unknown.

Source: Tables 7 and 8

is the result of accumulative non-Federal O and M costs. The Federal government must also bear annual O and M and R joint costs; however, they are rather insignificant when compared to the non-Federal O and M and R costs. The data in the table is conservative since it does not include non-Federal replacement costs and O and M costs associated with P.L. 89-72 investments at Horsetooth and Lake Estes Reservoirs.

In year one the Federal costs dwarf the non-Federal costs. By year 50 the non-Federal costs have exceeded the Federal costs. When the total physical life of the reservoirs is considered the non-Federal participants will be bearing well over half of the total project costs attributable to recreation and fish and wildlife. This can be a very expensive endeavor to say the least! Furthermore, the non-Federal O and M costs are the most affected by rising inflation. The only consolation is that the non-Federal public entities don't have to budget all their funds at once.

State Perception of its Commitments

Table 10 portrays the current Colorado State commitments under P.L. 89-72. The commitments of the State of Colorado are \$5,655,700 for their share of the initial separable costs and \$424,380 for the annual O and M cost. Interest during construction amounts to an additional \$171,400. The difference between these figures and those appearing on page 89 constitutes the local governmental commitments.

The material in Table 11 which was furnished to the Colorado General Assembly's Joint Budget Committee by the Department of Natural Resources in December 1973 would appear to be inaccurate in designating the State's current commitments under P.L. 89-72. This material showed a State commitment of \$4,869,200 for separable costs

TABLE 10. STATE COMMITMENTS UNDER PUBLIC LAW 89-72.

Reservoir	Separable Costs (initial)	Annual O & M
Bear Creek	\$ 515,700	None (Foothills Rec. Dist.)
Fountain Reservoir	2,205,500	\$142,180
Narrows Unit	2,393,000	264,400
Thornburgh Reservoir	<u>541,500</u>	<u>17,800</u>
	\$5,655,700	\$424,380

Source: Table 8

TABLE 11: STATE PERCEPTION OF THEIR COMMITMENTS UNDER P.L. 89-72.

Project	Development Costs to the State	Annual Operating Costs (O, M & R)
Narrows	\$2,148,600	\$234,300
Dallas Creek	820,300	83,900
San Miguel	502,000	31,000
Dolores	616,300	39,200
Animas-LaPlata	214,000	33,300
Bear Creek	<u>518,000</u>	<u>none</u>
	\$4,869,200	\$421,700

Source: Letter from T. W. Ten Eyck, Executive Director of the Department of Natural Resources, to Sanders G. Arnold, Chairman of the Joint Budget Committee (December 1973).

(initial) and \$421,700 for annual operating costs (O, M and R). The State's commitment for capital construction costs would appear to be understated by nearly a million dollars. Annual operating costs are understated by about \$2500.¹

The greatest apparent error is in the designation of projects having a State commitment. State commitments are indicated at the Dallas Creek, San Miguel, Dolores and Animas-La Plata projects although these projects have been clearly not under the purview of P.L. 89-72 since 1968 (further explained on pp. 87-88). Thornburgh Reservoir (Yellow Jacket Project) is listed as a proposed project on which no commitments have been made.² However, T. W. Ten Eyck, the Executive Director of the Department of Natural Resources submitted a letter of intent on March 20, 1972!³ The State's cost share was estimated to be \$458,500 for initial development costs and \$20,200 for O, M and R costs. Fountain Creek Reservoir is listed as a project which is not now considered to be an active water development project, or if active, no state participation is contemplated.⁴ However, the construction agency indicated that the project is being considered for authorization by Congress and that it is not aware of a change in the State's intentions which are expressed in the letter of intent.⁵

¹Letter from T. W. Ten Eyck to S. G. Arnold, op. cit., (Dec. 1973).

²Ibid.

³Letter from T. W. Ten Eyck, Executive Director of the Department of Natural Resources to David L. Crandall, Regional Director, Region 4, Bureau of Reclamation, Mar. 20. 1972.

⁴Letter from T. W. Ten Eyck to S. G. Arnold, op. cit., Dec. 1973.

⁵Letter from G. A. Walhood, op. cit., Feb. 13, 1974.

The State also estimated what its costs would be at eight projects which they list as "proposed projects on which no commitment has been made." "Possible State expenditures are estimated to be \$6,738,500 for initial development costs and \$544,700 for O, M and R costs. However, at one project - the Yellow Jacket Project - a commitment has been made. Two projects - Fruitland Mesa and Gunnison - don't involve any reimbursable costs for recreation and fish and wildlife. Two other projects - Juniper (Lower Yampa) and West Paradox - are inactive. An adjusted State estimate for the remaining three projects is \$1,230,000 for initial development and \$145,000 for O, M and R. However, for two of these remaining projects - Battlement Mesa and Grand Mesa - the Reclamation estimates of non-Federal costs are much lower than the State estimate. On the other remaining project - the Poudre project - Reclamation has not released an estimate of the non-Federal cost.¹

Summary

Despite some apparent correctable problems of coordination between Federal and State agencies (as noted above) the Federal Water Project Recreation Act appears to be working as it was intended to work in Colorado. At seven "new projects" commitments are proceeding pretty much according to schedule. Both the Narrows Unit and the Bear Creek Lake Project have been authorized and they have letters of intent for recreation and fish and wildlife enhancement. The Bear Creek Project, which has reached the construction phase, has an agreement for the same. The Fountain Reservoir Project whose authorization is pending before Congress has a letter of intent for recreation enhancement.

¹Letter from G. A. Walhood, op. cit., Feb. 13, 1974, and Bureau of Reclamation, personal interview, Feb. 1974.

The State, however, is reviewing its commitment at Fountain Reservoir. The other four nonauthorized projects have not achieved the deadline for having letters of intent. However, the Yellow Jacket Project has a letter of intent for recreation and fish and wildlife enhancement. The Willow Creek Project has a letter of endorsement for recreation. At two other projects - Battlement Mesa and Grand Mesa - verbal interest has been expressed for recreation and fish and wildlife, and wildlife, respectively.

Out of a total of thirteen completed Reclamation projects only two agreements have been negotiated for improvements under Section 7 of P.L. 89-72. Agreements for recreation enhancement have been obtained at Horsetooth Reservoir and Lake Estes Reservoir. Letters of intent are not applicable to completed reservoirs, however, non-Federal interest in cost-sharing has been verbally expressed at five additional reservoirs. The remaining six reservoirs have not been considered by the construction agencies for application of P.L. 89-72 cost-sharing. This is generally due to a lack of reservoir potential or need for recreation and fish and wildlife enhancement at the present time.

There are several conclusions inherent in the analysis of Federal and non-Federal costs under P.L. 89-72. First of all, cumulative O and M costs represent a large burden on the financial resources of the non-Federal public bodies. Secondly, over the physical life of the project (assuming this is well over 50 years), the non-Federal public body's contributions for recreation and fish and wildlife dwarf those of its Federal counterpart, although initially the opposite appears to be true. This is the result of cumulative non-Federal O and M costs. The non-Federal public entities, however, can budget their

expenses over a number of years. Thirdly, it would appear that some State policymakers may be unaware or confused as to what the State's commitments currently are in regards to P.L. 89-72.

CHAPTER VI

PROJECTS FOR INTENSIVE STUDY

Projects were chosen for intensive study from a total universe of seven "new projects" and thirteen "completed projects." Both "new and completed projects" were selected from the Bureau of Reclamation. Only "new projects" from the Corps of Engineers were considered for intensive study because "completed projects" are not legally under the purview of P.L. 89-72. Furthermore, the OMB-Interior administrative regulation is not applicable to Corps projects until 1976 at the earliest (this OMB-Interior administrative regulation is explained on p. 6).

The following methodology was utilized in selecting "new projects." Projects were chosen from both construction agencies which had the most extensive and unique cost-sharing history. Only two of the seven "new projects" have been authorized. Nonauthorized projects are not far enough along to have an elaborate cost-sharing history. Therefore, since both the Corps and Reclamation was represented by the two authorized projects these projects were chosen for intensive study. The projects selected are the Bear Creek project under the auspices of the Missouri River Division of the Corps of Engineers and the Narrows Unit under the jurisdiction of the Lower Missouri Region of the Bureau of Reclamation.

In selecting "completed projects" three criteria were taken into consideration. First of all, projects were desired which had a difficult history or unique problems in regards to P.L. 89-72 cost-sharing. Secondly, it was deemed appropriate to select projects with a variety of administering agencies. Thirdly, projects were chosen

to which retroactive cost-sharing applied and to which it did not apply. The projects chosen for intensive study are all under the auspices of the Bureau of Reclamation's Lower Missouri Region. The projects selected for intensive study are as follows: Horsetooth Reservoir, Lake Estes Reservoir, Green Mountain Reservoir, and Bonny Reservoir. The administering agencies are the Larimer County Recreation Board, the Rocky Mountain Metropolitan Recreation District and the Colorado Division of Parks and Outdoor Recreation,* respectively. Horsetooth and Lake Estes Reservoirs both have cost-sharing agreements for recreation enhancement and, therefore, the most elaborate cost-sharing history. Green Mountain has a unique history. Retroactive cost-sharing applies to all of these reservoirs except Bonny Reservoir. The State of Colorado has expressed verbal interest in participating under P.L. 89-72 at both Green Mountain and Bonny Reservoirs.

Monetary and time constraints precluded an intensive analysis of all of the "new and completed projects" under the purview of P.L. 89-72 in Colorado.

Bear Creek Lake

General

The Bear Creek Lake project will be located about eight miles upstream from the confluence of Bear Creek and the South Platte River at Denver, Colorado. The major purpose of the project is to provide flood protection for metropolitan Denver. Other purposes are recreation and fish and wildlife. The reservoir will have a storage capacity

*The State of Colorado administers both Green Mountain and Bonny Reservoirs.

of 74,750 acre-feet of which 2,400 acre-feet will be for sediment reserve and recreation.¹

Previous Investigations

Since 1876, 22 floods have been recorded in the Bear Creek Basin. The worst flood occurred in 1938. It claimed six lives and caused \$648,000 of property damage. These floods are caused by rapid runoff of high-intensity rainfall within the drainage area.²

House Document No. 669, 80th Congress, 2nd Session (1948), contained an evaluation of flood and related water problems in the South Platte River Basin. A number of improvements were recommended for authorization, however, the Bear Creek Lake site was not included because of insufficient economic justification at the time.³

In 1967, when the Corps of Engineers was again studying the Bear Creek project, the Bureau of Outdoor Recreation and the Colorado Game, Fish and Parks Department recommended a plan for optimum recreation development. This plan advised for the acquisition of the Soda Lakes-Mount Glennon area adjacent to the Bear Creek Reservoir site. This BOR plan for optimum recreation enhancement of the area involved the acquisition of 758 acres of land for recreation purposes; 633 acres more than contemplated in the recommended plan. It is also necessary that the local sponsors acquire an interest in the storage and the use

¹U. S. Congress, Senate, Committee on Public Works, Bear Creek Basin, South Platte River and Tributaries, Colorado, Wyoming and Nebraska, S. Doc. 87, 90th Congress, 2nd Session, July 1, 1968 (Washington, D. C.: Government Printing Office, 1968), p. 7.

²U. S. Army Corps of Engineers, Colorado Water Resource Development, op. cit., p. 27.

³U. S. Congress, Senate, Bear Creek Basin, S. Doc. 87, op. cit., pp. 32-33.

of the water in the Soda Lakes. "The Bureau of Outdoor Recreation asserts that, unless these additional lands are acquired and developed, the true recreation potential of the area will be irrevocably lost."¹

The Bear Creek Lake project was authorized in the Flood Control Act of 1968. A. C. Griesel, the Assistant Chief of Planning for the Missouri River Division, explained that the project was first authorized without the Soda Lakes-Mount Glennon area. However, both BOR and the State of Colorado enthusiastically pleaded for its inclusion so when the project was under review in Washington, D. C. this area was added.²

Funds for preconstruction planning and for land acquisition were appropriated in 1970. Subsequently, Congress provided appropriations for the remainder of the Federal costs expected in the construction and development of the Bear Creek project. This includes the Federal cost-share for the inclusion of the Soda Lakes-Mount Glennon area.³

The State of Colorado

The State's attitude towards participating in recreation and fish and wildlife enhancement at Bear Creek Lake has changed dramatically. In 1967 when Harry Woodward was the director of the Department of Game, Fish and Parks he concurred with the recreation and fish and wildlife plan based upon the inclusion of Soda Lakes and acquisition of adjacent lands as part of the project. "I feel the deletion of Soda Lakes would seriously impair the recreational potential of the area and conceivably jeopardize its proper development and management.

¹U. S. Congress, Senate, Bear Creek Basin, S. Doc. 87, op. cit., pp. 9 and 33.

²Corps of Engineers, personal interview, Nov. 1973.

³Ibid.

A too limited area available for development could cause our Commission to reevaluate their decision to administer the area thus requiring administration by an entity other than our Department."¹

The agreement between the Federal government and the State of Colorado provides for recreation and fish and wildlife enhancement in two stages. The initial development provides for the construction of facilities at the reservoir site. Each party's share of the estimated separable costs is \$515,700. The State will be credited \$240,000 - the cost to the State for the initial filling of the recreation pool.²

The future or subsequent development of the Soda Lakes-Mount Glennon area is expected to be \$5,221,500.

TABLE 12. FUTURE DEVELOPMENT.

Total Lands	\$2,268,000
Water for Side Lakes	180,000
Recreation Development	<u>2,773,500</u>
Total	\$5,221,500
Non-Federal Share	\$2,610,750

Source: U. S. Department of the Interior, Contract Between the United States of America and the State of Colorado for Recreation and Fish and Wildlife Development of Bear Creek, Colorado, Sept. 28, 1972, exhibit A-1.

Furthermore, future recreational development is contingent upon and subject to the availability of funds on the part of both parties. Construction of any facilities for future development will not commence until both parties have available 50 percent of the facility or

¹U. S. Congress, Senate, Bear Creek Basin, S. Doc. 87, op. cit., p. xv.

²U. S. Department of the Interior, Contract Between the United States of America and the State of Colorado for Recreation and Fish and Wildlife Development at Bear Creek, Colorado, Sept. 28, 1972, exhibit A.

facilities to be constructed. If Federal funds are not available the State can provide the needed development and the Federal Government will match the State expenditure when funds are available. If the State provides the Federal share of the development it will be reimbursed for the Federal portion of the development expense.¹

The present position of the State of Colorado has changed dramatically since Woodward's demise. The Colorado Division of Parks and Outdoor Recreation now feels that Bear Creek is not a desirable project for State participation in recreation enhancement. The benefits are considered to be too small and localized to warrant State involvement. Colorado is working toward a minimum size reservoir policy regarding their participation for recreation enhancement and the Bear Creek impoundment does not fit into this new recreation policy. Furthermore, it has become apparent that water pollution will prevent swimming in the reservoir.² In regard to the Soda Lakes-Mount Glennon addition Felix Sparks said that the State is not interested in cost-sharing here because it is not an intergral part of the reservoir project, Denver owns the water rights for its municipal water supply and Soda Lakes are small and relatively unimportant.³

Because of prior commitments the State's policy is that it will purchase the recreation pool and install recreation facilities as

¹U. S. Department of the Interior, Contract Between the United States of America and the State of Colorado for Recreation and Fish and Wildlife Development at Bear Creek, Colorado, Sept. 28, 1972, exhibit A, p. 4.

²Colorado Division of Parks and Outdoor Recreation, personal interview, Jan. 1974.

³Colorado Water Conservation Board, personal interview, Nov. 1973.

provided for in the initial stage of recreation development. It plans to sublease the area to the Foothills Recreation District which has expressed an interest in operating and maintaining it. The State presently has no intention of acquiring any land or water rights in regard to Soda Lakes or Mount Glennon.¹

Prior to the 1974-1975 Fiscal Year the Colorado Division of Parks and Outdoor Recreation has neither requested nor received funds from the legislature for their cost-share at Bear Creek. The current budget requests \$300,000 for the purchase of water for the recreation pool. The State has not yet made a request for the development of recreation facilities.²

The Corps has told the Parks Division that they will construct all the recreation facilities and the State could pay their 50 percent within ten years. It is estimated that urbanization around the Mount Carbon area will justify a State expenditure within a ten year period.³

Mr. O'Malley has said that he signed the cost-sharing agreement with the understanding that no interest would be involved. He is now aware that the Act calls for interest to be paid beginning with the first public use of the recreation facilities. However, this does provide a considerable amount of time for the Division to obtain legislative general funds without needing to pay interest.⁴

¹Colorado Division of Parks and Outdoor Recreation, personal interview, Oct. and Nov. 1973.

²Ibid.

³Ibid.

⁴Ibid.

Foothills Recreation District

Ben Greene, the Executive Director of the Foothills Recreation District, described the State's attitude toward the provision of recreational opportunities in Colorado. "The philosophy of the State is that in certain areas local control is appropriate. At Bear Creek if feels that State funds should be involved in the creation of these (recreation facilities). After this has been done a local entity should operate and maintain it."¹

Foothills has openly expressed an active interest in the administration, operation and maintenance of the recreation area if the land is purchased and developed by some other entity. The District claims that it does not have sufficient funds to help purchase or develop this property.²

The District plans on using an entrance fee which it believes will cover the operation and maintenance costs. It has agreed to charge the same fee that the State charges under its fee system.³

The Recreation District's lack of confidence in the ability of user and entrance fee revenues to cover operation, maintenance and separable costs has discouraged it from assuming a more active financial role in recreation at the project. There is a possibility that such fees could not pay the separable costs. Moreover, a district tax assessment to cover the separable cost-share is believed to be very unpopular.⁴

¹Foothills Recreation District, personal interview, Nov. 1973.

²Ibid.

³Corps of Engineers, personal interview, Nov. 1973.

⁴Foothills Recreation District, personal interview, Nov. 1973.

Mr. Greene said that the District may cost-share at the project after it is completed. "Once a project is constructed people start using it and demand things if they are inadequate."¹ Under such circumstances a mill levy might be acceptable to the public. Furthermore, the District might form a coalition with other governmental entities such as Denver. Melvon Stevenson, the President of the Foothills Recreation Board, was optimistic about the possibility of eventually getting a coalition of communities together which would include local metropolitan communities and Jefferson County.² This is a very good possibility, especially after the project is constructed.

Jefferson County

Jefferson County has increased taxes to provide the revenue which is to be used for the purchase of open space lands. This revenue generates about \$4 million a year.

The County Commissioners have established an Open Space Advisory Committee whose responsibility is to recommend lands to the Commissioners which are available for open space use. If land is purchased by the County, the Committee can maintain the lands in a naturalistic state and build health and sanitation facilities and other developments which would accommodate public use at the area.³

A representative of the Committee indicated that it is recommending that the county send a letter of intent to cost-share under P.L. 89-72 at the Soda Lakes area.⁴

¹Foothills Recreation District, personal interview, Nov. 1973.

²Foothills Recreation Board, telephone interview, Nov. 1973.

³Jefferson County Open Space Advisory Committee, telephone interview, Nov. 1973.

⁴Ibid.

Jack Tresize, the ranking County Commissioner explained that the county is definitely interested in cost-sharing the land acquisition at the Soda Lakes area. The county would probably look to the Foothills Recreation District to operate and maintain the area since the county doesn't have a parks department. The problem here is that the County Commissioners are afraid that Denver may annex the area and the county wants a clear statement from Denver as to how far they will go with annexation.¹

Denver

Denver has a moratorium on annexation until April 1, 1974. One city planning official has indicated that Denver is not interested in annexing the Soda Lakes area. He says that it had the opportunity to annex the area but it didn't want it. Denver annexed the Fehringer Ranch-Harriman Lake area which is adjacent to the Bear Creek project property. Denver did this because the area was already city owned land and because it is planning recreational activities at Harriman Lake.²

A recreational planner with the Corps of Engineers, says that the Denver Parks people have indicated that they might cost-share at the Bear Creek project but that it would be "quite a while down the road."³ Furthermore, there is not likely to be a duplication in recreational development at Bear Creek and Harriman Lake.⁴

¹Jefferson County Commissioners, telephone interview, Nov. 1973.

²City of Denver, Planning Department, telephone interview, Nov. 1973 and City of Denver, Parks Department, telephone interview, Nov. 1973.

³Corps of Engineers, personal interview, Nov. 1973.

⁴Ibid.

Corps Policy

The Corps of Engineers had told the Bureau of Outdoor Recreation that they intend to go ahead with the dam as first proposed and deal with the Soda Lakes area later. The BOR believes that the entire area should be acquired at once and that the Corps could negotiate a cost-sharing agreement for the Soda Lakes-Mount Glennon area later. This would give the locals ten years to work out a cost-sharing agreement and the recreation and fish and wildlife potential of the area could be at least temporarily preserved. The Corps' response was that the acquisition of the land would be difficult without acquiring the water rights in Soda Lakes and that the Corps is prohibited by law from acquiring water rights.¹

Narrows Unit

General

The proposed Narrows Unit is on the South Platte River about seven miles upstream from Fort Morgan in northeast Colorado. The landscape at the site is typical of eastern Colorado and has no outstanding scenic attractions. The reservoir, if constructed, would be about 13.5 miles long and 2.3 miles wide when at full capacity. The total reservoir capacity would be about 975,185 acre-feet.²

The unit will consist of the Narrows Dam and Reservoir, adjacent Jackson Lake Reservoir which will be converted from irrigation to

¹Corps of Engineers, personal interview, Nov. 1973 and Bureau of Outdoor Recreation, personal interview, Nov. 1973.

²U. S. Congress, House, Committee on Interior and Insular Affairs, Narrows Unit, Colorado, H. Doc. 520, 90th Congress, 2nd Session, May 27, 1968 (Washington, D. C.: Government Printing Office, 1968), pp. 21, 123 and 124.

recreation and fish and wildlife use, and lands around both reservoirs for recreation and fish and wildlife enhancement. The primary purpose of the unit is to provide supplemental irrigation water for the Lower South Platte Water Conservancy District. The Narrows Reservoir would also serve the purposes of flood control, recreation, fish and wildlife and incidental water quality improvement.¹

Recreation and Fish and Wildlife Potential

The Narrows Reservoir will offer water-oriented recreational opportunities that are of limited supply and quality in other areas in the vicinity. Other reservoirs in the Fort Morgan area contained little or no public land for recreation development and drawdowns are not compatible with recreation purposes. Both Horsetooth Reservoir and Carter Lake, which are located about 90 miles west of the Narrows site, presently offer the same type of activities which can be expected at the Narrows Unit. However, drawdowns on Horsetooth and Carter Lake are extremely severe and detrimental to recreation. The Narrows Reservoir would be a more stable body of water. Furthermore, the unit is within easy access of Denver (75 miles), Sterling (50 miles) and Greeley (45 miles). The Bureau of Sport Fisheries and Wildlife anticipates heavy fishing and hunting. The National Park Service recommends a full range of day-use and overnight facilities.²

¹U. S. Congress, House, Committee on Interior and Insular Affairs, Narrows Unit, Colorado, H. Doc. 320, 90th Congress, 2nd Session, May 27, 1968 (Washington, D. C.: Government Printing Office, 1968), pp. 17 and 21.

²Ibid., pp. 109-129.

Previous Investigations

As a result of severe water shortages and numerous disasterous floods the need for a reservoir has been recognized locally for more than fifty years. Early investigations were made by private interests, the Corps of Engineers and the Bureau of Reclamation. The Narrows Dam and Reservoir eventually became authorized as a part of the comprehensive Missouri River Basin project by the Flood control Acts of 1946 and 1950. Preconstruction activities were begun and public hearings were held. However, all preliminary activities concerning the dam and reservoir were terminated because of considerable local opposition to the plan primarily by residents located in the reservoir area and because of a lack of official support by the State of Colorado.¹

Subsequently many discussions and meetings were held with interested groups. In 1958, the Colorado Water Conservation Board requested that the Bureau of Reclamation reevaluate the Narrows project and resume the necessary studies. The Board expended a considerable amount of money to commence the study. The Bureau was specifically requested to make hydrologic and cost comparison studies of an alternate upstream site. This study proved less desirable than anticipated and the Colorado Water Conservation Board gave its official approval of the original reservoir site at a meeting in Fort Morgan on September 11-12, 1964. However, Public Law 88-442, approved August 14, 1964, deauthorized all units of the Missouri River Basin project on which construction had not been initiated.²

¹U. S. Congress, House, Committee on Interior and Insular Affairs, Narrows Unit, Colorado, H. Doc. 320, 90th Congress, 2nd Session, May 27, 1968 (Washington D. C.: Government Printing Office, 1968), pp. 27-29.

²Ibid., pp. 27 and 144.

It became necessary, therefore, to prepare a new feasibility report and in 1970 the Narrows was reauthorized. Felix Sparks, acting as the Governor's designated representative, was in complete accord with the authorizing document (H.D. 320) and urged its approval. He also indicated the concurrence of the Colorado Department of Game, Fish and Parks and the Lower South Platte Water Conservancy District. Sparks further enumerated, "We consider the recreation and fish and wildlife features of the project to be a necessary and integral part of the project. It is therefore the intent of the State of Colorado in connection with these features of the project to administer the project lands and water areas for recreation and fish and wildlife purposes, to bear the entire costs of such operation, maintenance, and replacement, and to pay not less than one-half of the separable construction and acquisition costs of the project allocated to recreation, fish, and wildlife purposes, as contemplated by the Federal Water Project Recreation Act."¹ By letter of February 2, 1968 Sparks reemphasized Colorado's intent to meet its repayment obligations in accordance with the Federal Water Project Recreation Act. The Colorado Division of Game, Fish and Parks expressed its concurrence in a letter dated October 6, 1969.²

On November 25, 1968, Colorado Governor John A. Love testified for the addition of a fish hatchery at the Hearings of the House

¹U. S. Congress, House Committee on Interior and Insular Affairs, Narrows Unit. Colorado, H. Doc. 320, 90th Congress, 2nd Session, May 27, 1968 (Washington D. C.: Government Printing Office, 1968), pp. 145 and 146.

²U. S. Department of the Interior, Bureau of Reclamation - Region 7, Denver, Colorado, "Reevaluation Statement," Definite Plan Report Narrows Unit. May 1973, appended.

Subcommittee on Irrigation and Reclamation at Fort Morgan, Colorado.

"I therefore feel that the addition of a fish hatchery and rearing unit to the project would provide a most necessary and desirable addition. The proposed addition would not detract from the benefit-cost ratio, and should add to it... Unfortunately, our earlier report on the project did not include this hatchery since our final plan had not then been formulated."¹

In 1969 the Bureau of Reclamation prepared a "reevaluation statement" which supplements and modifies the Regional Director's Report on the Narrows Unit as contained in the House Document No. 320, 90th Congress, 2nd Session. The plan for the Unit was the same except for the addition of a fish hatchery to be constructed downstream from the dam. The modifications are as follows:

- (1) The total project costs of the Narrows unit, including O, M and R costs were revised to reflect January 1969 price levels.
- (2) The interest rate for economic analysis was raised from 3 1/8 percent to 3 1/4 percent. For financial analysis the allocation of reimbursable and nonreimbursable costs were also revised.
- (3) A feasible solution was found for alleviating a significant portion of flood damage in the Bijou and lower South Platte valleys. Therefore, Flood Control benefits were increased.
- (4) A fish hatchery was added and fish and wildlife benefits and costs were updated.

¹U. S. Department of the Interior, Bureau of Reclamation - Region 7 Denver, Colorado, "Reevaluation Statement," Definite Plan Report Narrows Unit, May 1973, appended, p. 12.

(5) Benefits for recreation were increased due to increased population within the reservoir's zone of recreation influence and the increase in vehicular traffic as a result of completion of Interstate Highway 80 which parallels the reservoir. Construction and O and M costs were also reevaluated.¹

Increased benefits allocated to flood control, recreation and fish and wildlife reduced the costs allocated to irrigation. This should enhance the operational control of the reservoir water level for the latter two purposes.

Furthermore a more desirable benefit-cost ratio was attained:

B:C	H.D. 320 ²	Revised ²
Direct benefits only	1.52	1.81
Total benefits	1.62	1.89

State Interest in Recreation and Fish and Wildlife Enhancement

The primary reason that the recreation and wildlife agencies are in favor of the Narrows unit is because it is a good addition to the State recreation and fish and wildlife effort. First of all, the State needs recreational resources in this area and the Narrows Unit enhances the State recreational system. Secondly, the total package makes a very desirable area (Narrows Reservoir-Jackson Lake-Fish Hatchery). The fishing offered will be unique in that both warm and cold water fishing will be available in the unit. Thirdly, Federal funds are

¹U. S. Department of the Interior, Bureau of Reclamation - Region 7 Denver, Colorado, "Reevaluation Statement," Definite Plan Report Narrows Unit, May 1973, appended, p. 1.

²Ibid., p. 6.

available to help develop the recreational and fish and wildlife potential of the area.¹

From the overall position of the Colorado Conservation Board, as the promoter of State water projects, the inclusion of recreation and fish and wildlife has certainly enhanced the desirability of the project's benefit-cost ratio.

Horsetooth Reservoir

Horsetooth Reservoir is located four miles west of Fort Collins, Colorado in Larimer County. Along with Carter Lake Reservoir and Pinewood Reservoir (formerly Rattlesnake Reservoir), Horsetooth Reservoir comprises the major part of the foothills storage system of the Colorado-Big Thompson Project. The principal objective of these reservoirs is to furnish supplemental irrigation water to the lands of the Northern Colorado Water Conservancy District in northeastern Colorado.

Horsetooth Reservoir, which was completed in 1950, is not ideal for water recreation uses. Although it has a capacity of 112,400 acre-feet and covers an area of 1158 acres the fluctuation of the water surface is continuous and at times severe. The annual drawdown normally starts around the beginning of July and the maximum drawdown is in August and September of each year. The greatest drop in the water level is about 80 vertical feet which is an average of more than 2.6 feet per day. Normally the pool reaches its low in October and fills continually until the latter part of June or early July. The

¹Colorado Division of Wildlife, personal interview, Oct. 1973.

rugged terrain and steep topography of the land surrounding the reservoir also limits the reservoir's recreational uses.¹

On August 24, 1951, Governor Thornton of Colorado met with a delegation of citizens (including E. Collins*) from Fort Collins who requested that steps be taken to develop recreation facilities at Horsetooth Reservoir. The Governor, through the Colorado Department of Game and Fish, requested a recreation plan for the Reservoir area. A recreation report and plan was then prepared by the National Park Service. The administering agency, in developing the recreational areas, was expected to follow the broad plan of development outlined in the Park Service plans and report. The objective of the plan was to "provide safe public access to the waters of the reservoir for fishing and boating, and limited picnicking and sanitary facilities, commensurate with the adaptability of the reservoir for the anticipated amount of recreation use."²

The Colorado Department of Game and Fish expressed the opinion that fishing values could be created and maintained through a stocking program. However, natural propagation is not feasible due to the fluctuating nature of the water surface of the reservoir. Also, at this time there was no State Agency which could construct, operate or maintain any State parks or recreational areas.³

*Mr. Collins was later appointed as the Chairman of the Larimer County Recreation Board by the Larimer County Commissioners.

¹U. S. Department of the Interior, National Park Service, Recreation Planning Report for Horsetooth Reservoir Colorado-Big Thompson Project Colorado, River Basin Code No. xxvii 172, Mar. 1952.

²Ibid., pp. 1 and 5.

³Larimer County Recreation Board, personal interview, Nov. 1973.

After several years of correspondence with the Bureau of Reclamation and the National Park Service the Federal agencies came up with a solution to the recreation problem. They offered to turn Horsetooth over to the city or the county on a 25 year lease basis if either would assume the responsibility for administration. Carter Lake, Pinewood Lake (formerly Rattlesnake) and Flatiron had to be administered also as part of the deal.¹

Mr. Collins approached the City of Fort Collins and it was not interested because Horsetooth is outside the city limits. Finally, in 1954 he talked the County Commissioners into taking it over. The County Commissioners stipulated, however, that a recreation board would be appointed to administer the areas. There is always one Commissioner on the Board so that the Commissioners are aware of what is going on. E. Collins was appointed to the Board along with other supporters who desired the development of recreation facilities at Horsetooth.²

Horsetooth has always been administered from revenue generated by the collection of user fees, primarily for boating and picnicking. In years when a nominal surplus occurred, enhancement facilities such as toilets, a boat launching ramp and picnic areas were installed.³

After P.L. 89-72 was enacted Reclamation appraised Larimer County's improvements invested in the area. They estimated that Larimer County had \$130,000 worth of improvements prior to 1965. Reclamation foresaw no intent in the law to prohibit crediting the

¹Larimer County Recreation Board, personal interview, Nov. 1973.

²Ibid.

³Ibid.

locals for their improvements and it believed that it was equitable and fair to reward them for the amount of progress which had occurred at Horsetooth. Mr. Collins added, "This retroactive cost-sharing took a lot of cooperation between the local people and the Bureau of Reclamation offices in Loveland and Denver... We've had a real good relationship and cooperation with these people."¹

When the Bureau of the Budget learned of this interpretation of the Act they advised that "retroactivity is not a sound policy for the Federal Government."² The Department of the Interior reviewed the problem jointly with the Bureau of the Budget and concurred with its position. Therefore, retroactive cost-sharing was prohibited for recreation and fish and wildlife enhancement development at existing reservoirs under the purview of Section 7 of P.L. 89-72. However, "The Bureau of the Budget has advised that in consideration of previous commitments, an exception to the foregoing policy will be permitted for proposed developments on the Colorado-Big Thompson Project."³

In 1973 Larimer County spent over half of the \$100,000 Federally contributed funds. It expects to spend the rest in Fiscal Year 1974. So far it has installed ten precast outhouses, a 5-acre black-topped parking area with water, electricity and lighting available - and a campground. It has thought about buying additional lands but the land values are now extremely high.⁴

¹Larimer County Recreation Board, personal interview, Nov. 1973.

²Letter from Acting Assistant Commissioner, Bureau of Reclamation, Washington, D. C. to the Regional Directors, Regions 1-7, Dec. 7, 1967.

³Ibid.

⁴Larimer County Recreation Board, personal interview, Nov. 1973.

The State of Colorado has long been interested in acquiring Larimer County's administrative authority at Horsetooth Reservoir. The Colorado Division of Wildlife, of course, already stocks the reservoir. A former Fish, Game and Parks Director for the State of Colorado remarked that he is sure that the State would like to administer Horsetooth. It's a good area and would fit in nicely with the State Park System. Recreation could be developed further; however, there is no possibility for enhancing wildlife values. He further adds, "It's a matter of the county being there first... before the State got involved in administering areas."¹ George O'Malley, the present director of the Colorado Division of Parks and Outdoor Recreation, said that he had proposed a joint lease at Horsetooth. He would not participate in P.L. 89-72 cost-sharing unless the State was involved in the lease to administer the area. However, "the Bureau of Reclamation and all Federal agencies are reluctant to have more than one agency involved on a lease."² It is believed that Larimer County didn't like this idea of joint leasing either.

Mr. Collins revealed that the Colorado Division of Game, Fish and Parks was after the Horsetooth area ever since it got a State Park law. The Recreation Board has resisted takeover by the State on account of the cost-sharing deal with the Federal Government. It didn't want to interrupt the agreement for fear that the Federal funds for recreation enhancement would be delayed. Also, there appears to be displeasure with State policies. Within the Recreation Board there appears to be

¹Former Director of the Colorado Division of Game, Fish and Parks, personal interview, Oct. 1973.

²Colorado Division of Parks and Outdoor Recreation, personal interview, Oct. 1973.

a belief that the State doesn't take care of many of its areas properly. It lets them deteriorate or doesn't improve them like it should. Green Mountain Reservoir was cited as an example of poor State management.

Lake Estes Reservoir

Lake Estes is formed by Olympus Dam adjacent to the east boundary of the Town of Estes Park. The principal objectives of the reservoir are to regulate the Big Thompson River and the water diverted from the Western Slope after it is discharged from the Estes Power Plant and to provide a uniform rate of flow to the Foothills Power System.¹

Lake Estes, which was completed in November 1948, has a storage capacity of 3,100 acre-feet and covers an area of 185 acres. Although this is a rather small recreational area it offers opportunities which supplement visitor activities in Rocky Mountain National Park and relieves some of the picnicking and fishing pressure in the Park. The lake is suitable for picnicking, boating, waterskiing, fishing and some swimming. Reservoir drawdowns are slight with the maximum being only four feet. Surrounding the reservoir are three day-use areas and a nine hole golf course which supports most of the recreation activity. Reservoir recreation is severely limited by the short summer season, normally from mid-June to mid-August.²

The Lake surface and most of the surrounding land is administered by the Rocky Mountain Metropolitan Recreation District for recreation

¹U. S. Department of the Interior, Bureau of Reclamation Region 7, Management Plan Lake Estes, Colorado, Sept. 1963, p. 1.

²Ibid., pp. 1 and 23.

purposes. The reservoir is intensively used for fishing and the Colorado Division of Wildlife maintains a continuous stocking program.¹

Recreation enhancement provided under P.L. 89-72 for this completed project was nearly exclusively used for a nine hole golf course; however, some picnic tables and sanitary facilities were also included. The general manager of the recreation district said that the golf course was difficult to install for \$200,000.² Since Lake Estes is a part of the Colorado-Big Thompson Project the Recreation District was allowed credit for existing facilities such as a toilet, and picnic tables. Reclamation explained that the District did not have enough credits to cover its cost-share and that the district invested more money in the recreation area than the Federal Water Project Recreation Act contract required.³ Part of the District's expenditures were financed by the sale of revenue bonds. Golf course revenues were pledged against the bond indebtedness. The only user fees charged at the recreation area are green fees at the golf course and boat permits at Lake Estes.⁴

Green Mountain Reservoir

Green Mountain Reservoir is in the northeast corner of Summit County adjacent to State Route 9. With the completion of the Eisenhower Tunnel on Route 70 Green Mountain Reservoir is within easy access distance of the Front Range population centers.

¹Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

²Ibid.

³Bureau of Reclamation, personal interview, Nov. 1973.

⁴Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

Green Mountain Reservoir was completed in 1942 and was constructed as a part of the Colorado-Big Thompson Project. The project was designed to divert water from the headwaters of the Colorado River Basin on the western slope of the Rocky Mountains to the plains east of Fort Collins and Loveland on the eastern slope. The reservoir was constructed to avoid interference with irrigation and power generation under prior rights on the Colorado River and to insure water for future expansion. Flood waters are collected in the spring, and released when needed in the fall, thus allowing diversion of more water by the project throughout the year. Green Mountain power plant produces revenue used to aid in repaying the project costs.¹

This reservoir is in a unique scenic setting from which the mountain ranges and parks, commonly associated with Rocky Mountain scenery, can be enjoyed. Unobstructed views of Mt. Powell (13,500 feet) and other jagged peaks of the Gore Range provided an awe-inspiring background for recreational activities at the reservoir. Furthermore, during the prime recreational months of July, August and September the reservoir water level is at or near the high water line. The water area extends for six and one-half miles along the Blue River and has a capacity of 154,645 acre-feet.²

Green Mountain Reservoir has a unique history of State participation in recreation activities.

¹U. S. Department of the Interior, Bureau of Reclamation - Region 7, Colorado-Big Thompson Project, Map No. 245-704-3636 (enclosed in pocket).

²Arthur T. Wilcox and Richard A. Wilcox, General Recreation Development Plan Green Mountain Reservoir Colorado (Fort Collins, Colorado: Dept. of Recreation and Watershed Resources, June 1968) pp. 3, 5 and 17.

In the Game, Fish and Parks Commission's September 1971 meeting the Commissioners voted unanimously to discontinue leasing Willow Creek and Green Mountain Reservoirs. Budgetary restrictions was the excuse,¹ however, probably not the underlying reason.

One government official has suggested that this State action was retaliatory in nature. The Game, Fish and Parks Department had been accused by the Bureau of Sports Fisheries and Wildlife of spending Pittman-Robertson matching funds (which are earmarked for wildlife development) for recreation purposes. The Federal government withheld a large amount of money while it was investigating this accusation. In the meantime the State terminated its leases at several reservoirs.²

Harry Woodward, director of the Colorado Department of Game, Fish and Parks at this time, said that the State had cancelled out of the administration of some areas such as Willow Creek* because the Federal government had been insisting that the State take over all the undesirable areas. When the State really wanted an area like Blue Mesa Reservoir they couldn't get it.³

Harry Woodward had the following comment about Green Mountain, "I wanted to quit administering Green Mountain Reservoir because this was a situation where a Federal agency could and would carry the ball

*Willow Creek was transferred to the National Park Service as an outstanding addition to their Shadow Mountain National Recreation Area.

¹Letter from Harry R. Woodward, Director of the Division of Game, Fish and Parks to James M. Ingles, Regional Director, Bureau of Reclamation - Region 7, Nov. 3, 1971.

²Bureau of Reclamation, personal interview, 1973.

³Harry Woodward, former Director of the Colorado Division of Game, Fish and Parks, personal interview, Oct. 1973.

and save the Department of Game, Fish and Parks the cost of maintenance and operation. The U. S. Forest Service wanted this and it came to the State and asked us to relinquish it because it was working out a land exchange with the Bureau of Land Management to solidify the land ownership around the reservoir... Here we had a chance to have a Federal agency take over a costly operation, however, the parks people objected to this so I gave in to them in order to keep peace in the family."¹ In the end the State never relinquished its park function at the reservoir.

In 1972 a State reorganization occurred which separated the responsibilities of the Department of Fish, Game and Parks. A Division of Parks and Outdoor Recreation and a Division of Wildlife was created in the Department of Natural Resources. George O'Malley, who had been the head of parks under Woodward, became the director of the Division of Parks and Outdoor Recreation. He had been against termination of the State's agreement to manage Green Mountain Reservoir probably because of the existence of a large recreation potential. Furthermore, the enabling legislation which created the Division of Parks and Outdoor Recreation designated Green Mountain Reservoir as a State recreation area.

O'Malley said that the State will cost-share for recreation enhancement under P.L. 89-72 in the near future - as soon as the plans are finalized and a complete estimate of the costs are made. The Division of Parks plans to finance its cost-share from the State

¹Harry Woodward, former Director of the Colorado Division of Game, Fish and Parks, personal interview, Oct. 1973.

general fund and from any park cash income that is available.¹ This, of course, requires the approval of the Joint Budget Committee and the General Assembly. An employee of the Bureau of Reclamation revealed that the State probably has enough retroactive credits to cover its cost-share.²

Bonny Reservoir

Bonny Reservoir is in the southeastern portion of Yuma County near the Colorado - Kansas State line. It is located about two miles west of Hale, Colorado and 29 miles southwest of St. Francis, Kansas. The reservoir is in an area of semiarid high plains and lands in the area vary from rough, rolling grazing land with outcroppings of rock, to level, fertile river bottom lands.³

Bonny Dam which is a part of the Pick-Sloan Missouri Basin program was completed in 1951. It was constructed for irrigation, flood control and silt storage. Other values to be realized are recreation and fish and wildlife conservation. The lands acquired by the United States are managed as a complete unit using a coordinated plan for wildlife conservation, recreation and agricultural use. A fairly level recreation pool has been maintained and so, for recreational and fish propagation purposes, the reservoir has been enhanced.⁴ From the

¹Colorado Division of Parks and Outdoor Recreation, personal interview, Oct. 1973.

²Bureau of Reclamation, personal interview, 1973.

³U. S. Department of the Interior, Bureau of Reclamation, A Report on the Development of a Land Management Plan for the Bonny Reservoir Land Under Bureau Jurisdiction, Region 7, Sept. 1, 1952, p. 4.

⁴Ibid., pp. 7 and 8.

wildlife standpoint the reservoir and the surrounding area is at its best. Further recreation development would be detrimental.¹

Bonny is not badly equipped now so far as recreation enhancement is concerned. Such facilities as picnic areas, rest rooms, boat ramps, and campgrounds have already been installed in the area.² Much development was done through the Land and Water Conservation Fund. This is why George O'Malley wants Green Mountain ahead of Bonny on Reclamations P.L. 89-72 priority list, says Dean Schacterle.³ O'Malley has said that Parks will cost-share here under P.L. 89-72 if the Federal funds are available.⁴ Since Bonny is already a state recreation area statutory legislation is not required and the State cost-share would be included in the Division's Budget request.* No retroactive credits are available for recreation improvements installed at State expense because of the joint OMB - Department of Interior fiat prohibiting recognition of such credits.

*The policies and constraints governing State participation under P.L. 89-72 will be explained in the chapter entitled, "Operative Attitudes and Policies."

¹Former Director of the Colorado Division of Game, Fish and Parks, personal interview, Oct. 1973.

²Bureau of Reclamation, personal interview, July 1973.

³Bureau of Reclamation, personal interview, Nov. 1973.

⁴Colorado Division of Parks and Outdoor Recreation, personal interview, Nov. 1973.

CHAPTER VII

OPERATIVE ATTITUDES, POLICIES AND PROBLEMS

Much has already been discovered concerning the operative attitudes and policies of the Federal and State and local major actors involved in the implementation of the Federal Water Project Recreation Act in Colorado. The discussion in Chapters V and VI indicates that projects under the purview of P.L. 89-72 seems to be obtaining the appropriate non-Federal responses. Letters of intent and agreements have been obtained pretty much on schedule. However, experience with the Act's application in Colorado has been rather limited due to the small number of new projects which have advanced to the construction stage.

This chapter probes deeper into the operative attitudes and policies of selected actors involved in the grass roots implementation of the FWPCA in Colorado. Furthermore, the actors' perception of the problems encountered in the Act's implementation is discussed.

The governmental entities selected in the analysis of operative attitudes, policies and problems are those entities which were involved in the projects for intensive study in Chapters V and VI. These governmental bodies are the Corps of Engineer's Missouri River Division and District, the Bureau of Reclamation's Lower Missouri Region, the State of Colorado's appropriate agencies, the Bureau of Outdoor Recreation's Mid-Continent Region, the Bureau of Sport Fisheries and Wildlife's Region 6, the Larimer County Recreation Board and the Rocky Mountain Metropolitan Recreation District. Interest groups in Colorado are omitted from this analysis because, upon inquiry, none had a policy position or interest in the Act's application in Colorado. All groups

and organizations were contacted which could have an interest in recreation and fish and wildlife enhancement.

Within the Federal agencies actors were interviewed in the office which is most concerned with the application of P.L. 89-72's cost-sharing provisions in Colorado. These actors were determined after consultation with the agency.

Within the state and local agencies high policymaking officials were interviewed in each agency affected or concerned with P.L. 89-72's cost-sharing provisions. All of these actors had a primary role with the Act's application in Colorado.

Summary of Views of Federal and Non-Federal Agencies

In the analysis of the Federal and non-Federal actor's operational attitudes their responses to the questions in Fig. 1 are documented in Table 13. Following Table 13 is a discussion of the responses which are recorded in this table.

FIGURE 1. QUESTIONS ASKED GOVERNMENTAL ENTITIES INVOLVED IN PROJECTS
CHOSEN FOR INTENSIVE STUDY.

1. Do you think that the cost-sharing formula in P.L. 89-72 is
(A) a very good policy, (B) a fairly good policy, (C) not too
good a policy, (D) not a good policy at all?
2. Do you think that user and entrance fees for financing the non-
Federal cost-share (one-half the separable costs plus all the O,
M & R costs) is (A) a very good method, (B) a fairly good method,
(C) not too good a method, (D) not a good method at all?
3. The provision that land can be acquired to hold for up to ten years
so that an agreement can be obtained for recreation and/or fish
and wildlife cost-sharing is (A) a very good policy, (B) a fairly
good policy, (C) not too good a policy, (D) not a good policy at
all?
4. The Office of Management and Budget has ruled that non-Federal
contributions and facilities made before the enactment of P.L.
89-72 cannot be appraised and credited towards the non-Federal
cost-share. In your opinion is this (A) a very good policy, (B) a
fairly good policy, (C) not too good a policy, (D) not a good
policy at all?
5. The \$100,000 Federal funding limitation at completed Bureau of
Reclamation projects is (A) a very good policy, (B) a fairly good
policy, (C) not too good a policy, (D) not a good policy at all?
6. To what extent is your agency involved or interested in coping with
the cost-sharing provisions of P.L. 89-72; (A) a great deal,
(B) some, (C) very little, or (D) none.
7. How strongly do you agree or disagree with the statement that
certain cost-sharing provisions of P.L. 89-72 should be changed?
(A) strongly agree
(B) agree
(C) cannot really say but lean towards agree
(D) cannot really say but lean towards disagree
(E) disagree
(F) strongly disagree

TABLE 13. RESPONSES TO QUESTIONNAIRE BY GOVERNMENTAL ENTITIES INVOLVED IN PROJECTS CHOSEN FOR INTENSIVE STUDY.

Agency	Que. #1	Que. #2	Que. #3	Que. #4	Que. #5	Que. #6	Que. #7
<u>Federal Agencies:</u>							
Omaha Division)	D	A	A	N.A. ¹	N.A.	A	A
Omaha District) CE	B	C	A	N.A.	N.A.	A	C
Denver Regional Office - BR	B	C	A	D	D	B	B
Denver Office - BOR	B	D	A	C	B	A	A
Denver Office - BSW	B	B	A	D	B	A	A
<u>Non-Federal Entities:</u>							
<u>State</u>							
Joint Budget Committee	D	D	B	D	D	B	A
Colorado Water Conservation Board	A	A	B	D	D	A	D
Department of Natural Resources	A	B	A	D	E ²	A	D
Division of Parks and Outdoor Recreation	C	D	C	B	D	A	A
Division of Wildlife	D	D	D	D	D	A	A
<u>Local</u>							
Rocky Mountain Metropolitan Recreation District	A ³	B ⁴	B	D	B or C	C	A
Larimer County Recreation Board	A ³	A ⁴	A	D	A	A	D

¹N.A. means not applicable

²Do not know

³With Retroactive Cost-Sharing

⁴Only O, M & R involved

Source: Based on personal interviews with officials in these governmental agencies.

Federal Agencies

Questions No. 1 and No. 7

Most of the Federal agencies felt that the cost-sharing formula was "a fairly good policy," however, they generally felt that the formula needed to be changed to make it more workable. These changes will be discussed shortly. The Omaha District was the most satisfied with the cost-sharing provisions. The recreation official interviewed could not think of anything specific to be changed, however, he said that there is always room for improvement. The Omaha division believed that the cost-sharing provision is "not a good policy at all." It said it was desirable in concept but in practice it retarded the supply of recreational development which was increasingly deficient in meeting the nation's needs.

Question No. 2

Although there is a variety of answers to this question no one felt that entrance and user fees could recoup O & M costs in most instances much less the non-Federal share of the capital construction and land acquisition costs.

Question No. 3

All of the Federal Agencies contended that it is "a very good policy" for them to be able to acquire land for up to ten years so that an agreement can be obtained for recreation and fish and wildlife cost-sharing. The only criticism of this provision was that the land should be allowed to remain in Federal ownership even if a cost-sharing agreement could not be obtained within the ten year period.

Question No. 4

This question is not applicable to the Corps of Engineers. All of the Federal agencies who had an interest in completed Reclamation reservoirs felt that it was desirable and equitable to allow for retroactive cost-sharing. They replied that the non-Federal entities needed all the financial help that they could get and that developments performed before P.L. 89-72 contractual agreements were similar to "money in the bank."

Question No. 5

This question is also not applicable to the Corps. Both the BOR and the BSWF indicated that the \$100,000 Federal funding limitation at completed Reclamation reservoirs is "a fairly good policy." The BSWF said that it had had no experience with the application of this provision and that \$100,000 of Federal funds might be pretty small in some cases. Although the BOR responded the same as the BSWF, it explained that a fixed limit is undesirable. The Bureau of Reclamation responded that the limitation is "not a good policy at all" because it is not adequate in regards to what needs to be done at many reservoirs. Inflation alone has considerably decreased the purchasing power of these funds since the Act's enactment. Also, at some completed reservoirs non-Federal public bodies would have matched more than \$100,000.

Question No. 6

All of the Federal agencies indicated a high degree of involvement or interest in coping with P.L. 89-72's cost-sharing provisions.

Non-Federal Public Bodies

Questions No. 1 and No. 7

Colorado was divided in its attitude toward the P.L. 89-72 cost-sharing formula. Both the Colorado Water Conservation Board and the Department of Natural Resources stated that the cost-sharing formula in P.L. 89-72 is "a very good policy." Both agencies viewed the provisions as equitable and as a good Federal gesture of encouragement. They also acknowledge a problem in getting the legislature to fund P.L. 89-72 projects. Although the legislature has been "discriminatory" in appropriating funds they were optimistic since the legislature has been appropriating funds recognizing that recreation is a valuable asset in Colorado. When asked whether certain cost-sharing provisions should be changed they responded "cannot really say but lean towards disagree." They offered no amendments.

The Joint Budget Committee of the Colorado General Assembly and the Division of Wildlife stated that the cost-sharing formula is "not a good policy at all." The Division of Parks and Outdoor Recreation said that it is "not too good a policy." The Joint Budget Committee believes that the Federal government should fund its own projects. A ranking member of the committee said that he is not going to "chase Federal funds" but he would appropriate State money to fund any project that is beneficial and competes successfully with the other priorities that exist in the State. Both the Division of Parks and Outdoor Recreation and the Division of Wildlife said that State participation in all the projects under the purview of P.L. 89-72 could bankrupt the State. The parks and wildlife people obviously desired the old policy where the capital construction and land acquisition costs were generally nonreimbursable.

There is no doubt that they feel that getting funds from the legislature will be more difficult and that the number of projects which they pursue may be reduced. They are also concerned about accumulating O & M costs.

The local non-Federal public entities both felt that the cost-sharing formula is "a very good policy" if retroactive cost-sharing is permitted. These entities had to contribute little or no money to match the Federal funds since they had generous amounts of retroactive credits. They believed that the Act should be amended to allow retroactive cost-sharing at all reservoirs.

Question No. 2

All of the non-Federal public bodies stated that user and entrance fees cannot cover the separable costs after O, M & R costs are deducted. Three state agencies responded that user and entrance fees are "not a good method at all" for financing the entire non-Federal costs under P.L. 89-72. Two other state agencies felt that it was either "a very good method" or "a fairly good method." This is probably because they believe that the beneficiaries of water projects should pay but that it is unrealistic to believe that fees can finance all the State costs associated with water projects under P.L. 89-72. There are also legal constraints which, in effect, limit the use of repayment schedules. Furthermore, there is a desire to avoid paying interest which, over fifty years, would generally double the State's cost-sharing obligation.¹

¹P. T. Barrows, What the Federal Water Project Recreation Act (P.L. 89-72) Means to State Government in Colorado, Statement before the Special Legislative Study Committee on June 28, 1967.

The Larimer County Recreation Board and the Rocky Mountain Metropolitan Recreation District indicated that the entrance and user fees are a "very good method" and a "fairly good method," respectively. The only costs which the Board was considering were O, M & R costs and the District considered some capital construction costs in addition to the O, M & R costs.

Question No. 3

Both the Colorado Water Conservation Board and the Department of Natural Resources felt that this is a good provision because it gives the State a ten year period in which to resolve its funding problems. The JBC said that the Federal government should pay all the costs but if they will not then it is a good policy. Both the parks and wildlife people disliked this provision probably because they disliked the cost-sharing formula which would still have to be utilized.

Both of the local public bodies felt that this provision was desirable. They felt that a ten year period would be enough time to generate sufficient public support to obtain a non-Federal participant.

Question No. 4

There was nearly unanimous support for permitting retroactive cost-sharing. Nearly everyone felt that it was fair and equitable and that the non-Federal entities needed all the financial assistance which they could get. One official exclaimed that the ruling prohibiting retroactive cost-sharing was an attempt by OMB to defeat the overall purpose of the Act. "Generally when this happens it means that OMB doesn't approve of what Congress has done in the first place and they are trying to veto the intent of Congress." The lone response on this question was a high official in the Division of Parks and Outdoor

Recreation. He declared that the justification for a project is after the passage of the law and to be retroactive merely to take advantage of the situation does not sound right to him.

Question No. 5

The consensus of the State policymakers is that it is totally undesirable to have a \$100,000 limitation on the availability of Federal funds at completed projects. The general belief is that an arbitrary limitation which does not relate to the program creates a poor program. If recreation or fish and wildlife is justified then it should be funded. One person said that this provision has never been brought to his attention and he could not answer the question.

The Rocky Mountain Metropolitan Recreation District felt that some limit was needed but a flexible policy was needed which took into account both the size of the reservoir and the potential for recreation enhancement. The Larimer County Recreation Board responded very favorably to the limitation. These responses are surprising because both entities could have matched more Federal funds.

Question No. 6

All of the non-Federal public bodies indicated a strong involvement or interest in coping with the cost-sharing provisions of P.L. 89-72. All but two respondents answered "a great deal." The chairman of the JBC responded "some" and the manager of the Rocky Mountain Metropolitan District said, "very little." The reason for the latter response is probably because the manager is not actively considering other reservoirs under his jurisdiction for cost-sharing because of a relative lack of need or potential for development. Furthermore, he is greatly interested in nonreservoir types of recreation.

Views of Federal Construction AgenciesCorps of Engineers¹Problems

The biggest problem that the Omaha District Office has encountered in the implementation of P.L. 89-72 is the unavailability of local funds. For example, at the Bear Creek project State participation has been scaled down to the extent that State funds will match only about one-third of the Federal dollars approved in the Congressional authorizations of Bear Creek. Furthermore, the Assistant Chief of the Missouri River Division stated that the primary objections of the State officials is not the initial cost-share but the operation and maintenance costs which would severely strain annual budgets. Generally, the size of the recreation and fish and wildlife developments preclude smaller cities and rural counties from participation.

A second problem is that once a project is constructed it is difficult to get Federal funds to go back and include more recreation and fish and wildlife enhancement. It is much easier to obtain the funds when the project is under construction. Therefore, the Corps apparently attempts to include as much recreation and fish and wildlife development as possible at new projects for fear that future funds to correct inadequacies will not be forthcoming.

A third problem is that the non-Federal public bodies lack assurance that a system of entrance and user fees would sustain developments in a suitable manner. The Corps has discovered that unless areas

¹Based on personal interviews with officials in the Missouri River Division and the Omaha District, Corps of Engineers.

are quite heavily used then the operation and maintenance costs cannot be covered by these fees.

Operational Attitudes and Policies

The Corps officials who were active in the implementation of P.L. 89-72 seemed to be making a sincere and energetic effort to make the Act's cost-sharing provisions work. They claimed that they are dependent on recreation cost-sharing in almost every case in order to be able to justify their projects.

The Corps claims that the Act's cost-sharing provisions are desirable in concept because most of the projects under the purview of the Act are fairly well defined as State or local in nature. At the district level an official said that the cost-sharing formula was "a fairly good policy" and no need was expressed for changing it. He said, however, that both the Corps and the State of Colorado would like to go back to the old policy where the Corps could provide the separable enhancement features on a nonreimbursable basis. The Corps would like it because it would be sure of providing all the needs of the public at its projects. "However, this isn't the way things are. The present law requires cost-sharing and so this is the context in which the Corps and the State of Colorado work."

At the division level the formula was considered as being "not a good policy at all." It felt that it was fair to have cost-sharing, however, it disliked P.L. 89-72's cost-sharing provisions because it inhibits the development of water resource projects. One official exclaimed, "If you are going to give up water resource projects in the process which are needed and well justified then you are killing projects that are badly needed just because you have this cost-sharing

provision for recreation development...If we are going to construct water resource development projects they should meet not only today's needs but the needs of the future. From the overall public good standpoint, if we do not start in this direction then we are merely putting off the evil day and the need for recreation is going to meet crisis proportions. There is no question that P.L. 89-72 is inhibiting the goal concerning the overall public good."

The Corps was in favor of the provision of the Act which allows them to acquire land for up to ten years in order to provide ample opportunity for non-Federal public bodies to participate in development. This provides the opportunity to acquire the land before land prices escalate. However, they do not intend to use this authority at Bear Creek.

As mentioned before, the Corps doubts whether user and entrance fees can recoup operation and maintenance costs in many instances.

Recommendations

The only recommendation for changing the FWPCA was suggested by an official in the Division office. He suggested that the separable costs be nonreimbursable while requiring non-Federal participants to assume the O, M & R costs attributable to the land and facilities. "If you get away from the initial cost-sharing I have a feeling that there would be more participation. You always get this because if people don't have to put the dollars out necessarily today or agree to repay a certain amount every year then they can meet the contingencies of the O & M required of them over time."

Bureau of Reclamation¹Problems

The principal deterrent to the program at existing projects is a lack of Federal funding. Past experience indicates that it has not been given a high priority in the budgetary process. "Unless the funding problem is solved, the outlook for this program is dismal." Furthermore, the \$100,000 Federal funding limitation at existing projects is inadequate.

There are several problems which are applicable to both new and completed reservoirs. First of all, the State agencies claim that they are getting more facilities constructed than they can operate and maintain. Secondly, entrance and user fees are generally considered as being unable to cover all the non-Federal costs. They seldom produce enough revenue to pay for O & M costs. Thirdly, the fact that the title to the land must be in Federal ownership has been a source of friction with non-Federal entities. It is likely that the Land and Water Conservation Fund Act which permits the non-Federal entity to retain title is considered more desirable than P.L. 89-72 by State and local governments. Furthermore, these funds can be utilized where the State's priorities are the greatest and they are considered as being a more reliable source of funds. Fourthly, the State has expressed a preference for Dingle-Johnson (tax on fishing gear) and Pittman-Robertson (tax on guns and ammunition) funds as a means of financing fish and wildlife developments. The State prefers these funds because

¹Based on personal interviews with officials in the Lower Missouri Region, Bureau of Reclamation.

they provide a larger Federal subsidy in the cost-sharing arrangement and because their availability is reliable. An upsurge in the sale of fishing gear, guns and ammunition has enhanced the supply of these funds. The supply of Land and Water Conservation Funds, Dingle-Johnson funds, and Pittman-Robertson funds is, of course, limited. However, State or local preference for these funds reduces the amount of money which they have available to spend on P.L. 89-72 projects.

Operational Attitudes and Policies

The Denver Regional Office of the Bureau of Reclamation is faithfully attempting to facilitate the implementation of P.L. 89-72 in Colorado. However, reservations were expressed as to the Act's workability.

The Narrows Unit is the only new project in Region 7 which has been authorized. A letter of intent has been received for recreation and fish and wildlife enhancement from the State of Colorado. However, if the State should renege on its letter of intent then Section 3.b of the Act would be utilized to acquire land which has recreation and fish and wildlife potential. This would, of course, be dependent upon the OMB and the Congress leaving the item in the budget request.

Region 7's priority list for the P.L. 89-72 program at existing reservoirs is as follows: Lake Estes (1st priority), Horsetooth (2nd priority), Carter Lake (3rd priority), Green Mountain (4th priority), and Bonny (5th priority). Agreements for recreation enhancement have been consummated at Lake Estes and Horsetooth Reservoirs. Region 7 has made no attempt to get agreements for fish and wildlife enhancement because the pressure on recreation is greater and there are not enough funds for both purposes. Dean Schacterle,

the Chief of the Recreation Branch, doubts if cost-sharing can be obtained on any other Colorado-Big Thompson projects because of either the lack of reservoir potential for further development or the lack of non-Federal matching funds. The governmental entities would not have many cost-sharing credits at the other reservoirs.

Recommendations¹

The officials in Region 7 which are involved in the Act's implementation believe that the law must be changed before "meaningful State participation will be tendered." First of all, they are in favor of revising the cost-sharing formula. One official has stated that it is "conceivable that the 50 percent cost-sharing provision would be much more palatable to non-Federal public entities if a minimum pool suitable for water-oriented recreation and for fish and wildlife were included as a project purpose without charge to non-Federal agencies." Other alternatives which the region would favor would be to cost-share the O & M costs or have the initial construction costs entirely nonreimbursable and have a non-Federal entity responsible for all O & M cost plus all costs of additional development. Another suggestion which might enable the non-Federal public bodies to achieve repayment would be to eliminate the interest requirement by permitting the non-Federal agencies to match within a 50 year period the initial Federal investment for development. Secondly, at completed projects it is suggested that the Federal funding ceiling be raised from \$100,000 to \$500,000. A

¹Based on personal interviews with officials in the Lower Missouri Region, Bureau of Reclamation and on the Proceedings of the Thirteenth Conference of Water and Land Supervisors, Bureau of Reclamation, Santa Fe, New Mexico, September 27, 1961.

plea was also expressed for appropriation of Federal funds programmed at completed projects. Thirdly, it is believed that a more liberal interpretation should be placed on crediting of existing facilities constructed by an administering agency prior to the execution of a cost-sharing agreement under P.L. 89-72. Fourthly, the cost-sharing provisions should be expanded to include non-reservoir areas.

Separate legislation was advocated to meet Reclamation's need for recreation O & M funds and development funds necessary to meet unusual circumstances. Funds are needed for the administration of areas where only minimum facilities for public health and safety exist. There is, also, a problem of providing facilities for minimum health and safety at some completed projects where they have never been included.

Views of Coordinating Agencies¹

Neither the Bureau of Outdoor Recreation nor the Bureau of Sport Fisheries and Wildlife identified any problems that the construction agencies had not revealed. The main complaint of both agencies was a combination of the cost-sharing overburdening the State or of the State having a higher priority for using its funds elsewhere.

The BOR claimed that all of the Federal agencies concerned with Colorado were enthusiastically trying to implement P.L. 89-72. They advocated increasing assistance to the States for O & M and increasing the Federal subsidy for separable costs for projects which are regional or national in significance.

¹Based on personal interviews with officials in the Denver Regional offices of the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife.

The BSFW was in favor of limiting non-Federal repayment to the net entrance and user fees which can be collected at a reservoir or project. If the fees cannot cover the State's separable costs over and above the O & M costs then the State should not be obligated to repay the capital construction costs which the fees cannot recoup.

Views of Interest Groups

There has been a complete lack of concern by groups and organizations in Colorado with the implementation of the Federal Water Project Recreation Act in Colorado. The following groups and organizations indicated that they do not have a policy position on P.L. 89-72: Colorado-Open Space Council, Colorado Park and Recreation Society, Wildlife Federation (Boulder), Colorado Wildlife Federation, Inc., Colorado Water Congress, Trout Unlimited, the American Campers and Hikers Association, the League of Women Voters (Denver) and the U.S. Chamber of Commerce (Denver). The Platte River Power Authority, the Missouri Basin Systems Group and Fort Collins Light and Power also lacked interest in the Act's application in Colorado. Furthermore, none of the Federal, State or local administrators or representatives who were interviewed knew of any groups or organizations in Colorado that have voiced a concern with P.L. 89-72.

Although the director of the Colorado Council of Trout Unlimited was not familiar with P.L. 89-72 he expressed disdain for the construction of reservoirs which eliminate good stream fishing. He exclaimed that the majority of the organization's membership prefer stream fishing to reservoir fishing.¹

¹Trout Unlimited, personal interview, November 1973.

Views of the State of Colorado

The most extensive analysis of non-Federal entities will be focused on Colorado State Government because it is the most complex situation and because the State has the greatest financial capability. Due to the latter reason the Act's policymakers expected state governments to be the primary non-Federal participants.

Problems

The major problem that the State may be having with P.L. 89-72 is one of funding and priorities. As one State official put it "the problem is one of the legislature choosing to fund projects where the executive branch intends to participate."¹ With the Joint Budget Committee (JBC) of the legislature the problem is one of priorities for many programs. However, at the end of Fiscal Year 1972-1973 there was a general fund surplus of 142.6 million dollars.² It is difficult to assess the impact that this will have on the JBC's willingness to appropriate money for P.L. 89-72 projects. One member of the JBC has said that the most need for recreation in Colorado is on the eastern slope close to the metropolitan centers of population.³ Some surplus is considered desirable for various reasons and no one seems to know the amount of the surplus which will be needed to fund increases in on-going programs in future years.⁴

¹Colorado Department of Natural Resources, personal interview, November 1973.

²Executive Budget Office, telephone interview, February 1973.

³Colorado Joint Budget Committee, personal interview, November 1973.

⁴Colorado Joint Budget Committee, telephone interviews, November 1973 and February 1973, and Executive Budget Office, telephone interview, February 1974.

A second problem which was expressed by everyone in the executive branch was concern for the magnitude of State investment required at projects under the purview of P.L. 89-72. The Director of the Water Conservation Board exclaimed, "The problem is one of money. Trying to come up with the State share on these large projects imposes a very severe financial burden upon the State. Considerably in excess of \$10 million is the State's share of features to be incorporated into Federal water projects."¹ There was widespread concern about accumulating operation and maintenance costs and the ramifications that these costs will have on budgeting in future years.

A third problem is that the executive agencies must acquire statutory authority which designates P.L. 89-72 projects as a State recreation area or a State park before the Joint Budget Committee will consider appropriating any money for them. The Act which created the Division of Parks and Outdoor Recreation identified specific units for recreational areas and State parks. Most P.L. 89-72 projects are not included in this statute, yet the Division of Parks has been asking for funds to participate under P.L. 89-72. The Chairman of the JBC claims that the executive agencies lack the statutory authority to request funds and that they have not asked for the statutory authority yet.² Both Chairmen of the Fish, Game and Parks Committees said that, in general, their Committees would accept the executive agencies' statutory requests for P.L. 89-72 projects. They said that after the

¹Colorado Water Conservation Board, personal interview, November 1973.

²Colorado Joint Budget Committee, personal interview, November 1973.

Federal monies are appropriated the major problem is to get the JBC to fund the project.¹

A fourth problem is the inability or unwillingness of the State to utilize a user fee repayment schedule. The Division of Parks and Outdoor Recreation utilizes an annual parks pass of \$5.00 per vehicle or a daily charge of \$1.00 per visit. A State law stipulates that if a State park or a State recreation area has certain basic facilities then a fee must be charged. The intent of this fee is not considered to be a means of financing their half of any cost-sharing.²

The financial or revenue producing capability of these fees discourages their use in a repayment schedule. The revenue that the fees generate is about one-third of a million dollars and has not been a major portion of support for the Parks and Outdoor Recreation budget.³ Furthermore, fees at individual reservoirs have not been able to recover O & M costs much less any capital investment costs. Cherry Creek Reservoir has the best record due to exceptionally heavy use. Here the State recouped 97 percent of the total O & M costs from entrance, campground and concessionaire fees.⁴ Furthermore, there seems to be a widespread desire to keep the fees charged at recreational sites low enough so that no one will be excluded from recreational opportunities.

¹Colorado House and Senate Fish, Game and Parks Committees, personal interviews, February 1974.

²Colorado Division of Parks and Outdoor Recreation, personal interview, October 1973.

³Colorado Department of Natural Resources, personal interview, November 1973.

⁴Colorado Division of Parks and Outdoor Recreation, person interview, November 1973.

This along with unpopular public reaction to raising fee rates inhibits the financial capability of fees.

There are other factors which discourage the use of a repayment schedule. First of all, the spending level of the executive agencies is set by the General Assembly and any user fee revenue which the agencies receive decreases their appropriation of general funds by a like amount.¹ Secondly, the executive agencies want to avoid interest which would be required under a repayment schedule. Interest could increase their debt significantly.² Thirdly, the General Assembly cannot commit a future General Assembly to an appropriation.³

In addition to the above mentioned problems and subproblems there are several other factors which could impede the executive agencies' willingness to participate in P.L. 89-72. First of all, the reservoirs may not fit into the state recreation plan. Reservoirs which are being built primarily for purposes other than recreation and fish and wildlife may not be in a desirable location for needed recreation and fish and wildlife. Secondly, a former Director of the Colorado Division of Fish, Game and Parks said that there is a feeling among the state people that the Federal Government is great for giving a lot of undesirable projects to the State and keeping the real fine ones for themselves. For example, when Harry Woodward was the Director of the Colorado Division of Fish, Game and Parks he wanted the Blue Mesa Reservoir of the Curecanti

¹Colorado Joint Budget Committee, personal interview, November 1973.

²Colorado Department of Natural Resources, personal interview, November 1973.

³Colorado Joint Budget Committee, personal interview, November 1973.

Project as a State park. In his words, "the State couldn't get it because it was too good! Instead the Federal Government wanted to give the State a mud hole like Paonia where we could spend all kinds of State money trying to maintain an undesirable area."¹ This Federal policy prompted Woodward to cancel the State's agreement to administer such areas as Willow Creek and Paonia. Thirdly, the Division of Wildlife is not particularly interested in large multiple purpose reservoirs because the water levels generally fluctuate and the reservoirs are consequently poor fishery producers.² Fourthly, the Division of Wildlife is said to be opposed to many water impoundments because of a strong philosophy that instream fishing is more desirable than reservoir fishing. This, of course, depends on the character of the particular area or the stream involved. However, in many cases it feels that an inferior area is being substituted for a superior area and it is insulting when it is asked to share the costs of enhancing the inferior area.³

Operational Attitudes and Policies

Governor's Declaration of Policy

On June 22, 1966, Governor John Love of Colorado issued a broad policy statement in which he pledged to encourage the maximum participation by Colorado in the development of recreation and fish and wildlife features of Federal projects. More specifically he announced,

¹ Former Director of the Division of Game, Fish and Parks, personal interview, October 1973.

² Colorado Division of Wildlife, personal interview, October 1973.

³ Ibid.

"It is, therefore, the intent of the State of Colorado in connection with future federal projects in this state to administer project land and water areas for recreation, for fish and wildlife enhancement, or for both purposes, and to bear not less than one-half the separable costs of the project allocated to either or both of said purposes, and the entire cost of operation maintenance and replacement. We anticipate that our share of the costs will be made as provided in the Federal Water Project Recreation Act, Public Law 89-72!"¹ The letter also included a qualification indicating the inability of the Governor to commit the General Assembly to future appropriations for any purpose.

This policy has been reemphasized in letters of intent for specific projects. Furthermore, all recent letters of intent have included the qualification "subject to legislative appropriation." Therefore, while the commitment is acceptable to the Federal government it is not really binding on the state until it can be "approved by the legislature."²

Colorado Water Conservation Board

Primary State responsibility for getting Federal water projects authorized and built lies with the Water Conservation Board. A Board Official said that the Board does not approve a project unless such things as a permanent pool for recreation is established. Therefore, the cost-sharing provisions of the FWPCA must be utilized to some degree. In almost every case Felix Sparks, the Director of the Board,

¹U. S. Department of the Interior, Bureau of Reclamation, Definite Plan Report Narrows Unit, op. cit., p. 12.

²Letter from T. W. Ten Eyck to Sanders Arnold, op. cit., Dec. 1973.

has sent the initial letter of intent which indicates the State's willingness to participate under the Act. This is done after consultation with the affected State agencies and no attempt is made to commit any State agency without its agreement. The Board's letter of intent is often followed up with a specific letter from the State agency which is going to assume jurisdiction.¹

The Colorado Water Conservation Board Construction Fund can be used for entire or supplemental financing of conservation projects. The Conservation Board selects the projects and establishes their priority. This is subject to ratification by the legislature. The fund consists of monies appropriated to it by the General Assembly and charges made to water users. It is a revolving fund and year-end balances do not revert to the State general fund, except for amounts in excess of \$10 million.²

The implied purpose of the authorizing legislation "is to provide State assistance in making adequate and timely water supplies available to the residents of the State at a reasonable cost."³ It is contemplated that projects constructed or acquired through these funds will be sold to the project sponsors or water rights users under contractual arrangements which will provide for the full recovery of the State's investment. When the expenditures from the fund are repaid, the title will be conveyed to the sponsor. State agencies are not eligible for

¹Colorado Water Conservation Board, personal interview, Nov. 1973.

²Colorado Water Conservation Board, Proposed Policy for the Use of Colorado Water Conservation Board Construction Fund (Revised), Unpublished material, Oct. 24, 1973, p. 1.

³Ibid., p. 2.

money under this fund.¹ Furthermore, they have no incentive to want the funds because the legislature establishes their spending ceiling. Any money which they receive from any source reduces their appropriations from the legislature by a like amount.

A staff member of the Board who was consulted did not believe that the fund could be used to finance recreation and fish and wildlife enhancement at water projects. Even if the fund could be used he said that there are many more worthy projects competing for the limited funds.² Felix Sparks, the Director of the Board, clarified the fact that the fund could be used by water rights users such as cities and recreation districts to develop recreation and fish and wildlife enhancement at water projects. The only stipulation is that the water rights users sign a repayment schedule promising to repay money borrowed from the fund. The fact that the Board can be flexible in the interest rate charged the users is the major asset of the program.³ It may be more beneficial for a local recreation entity to pay interest on a repayment schedule to the State under the purview of this fund than to pay interest on a repayment schedule to the Federal Government under the purview of P.L. 89-72!

P.L. 89-72 Cost-Sharing⁴

A high official in the Colorado Water Conservation Board believes that the cost-sharing formula is a reasonable and a very good policy.

¹Colorado Water Conservation Board, Proposed Policy for the Use of Colorado Water Conservation Board Construction Fund (Revised), Unpublished material, Oct. 24, 1973, pp. 2 and 4.

²Colorado Water Conservation Board, personal interview, Feb. 1973.

³Ibid.

⁴Based on personal interviews with high officials in Colorado State Government.

"The cost-sharing arrangement is a matter of encouragement and I think it's a very good policy... In every case the State wants to control it (recreation and fish and wildlife) but they don't want to pay any of the expense. This, to me, is ridiculous! If the State wants to control it then the State should pay the expense and I think that the decisions should be made at the State level."

A high official in the Department of Natural Resources shared the above views. "I'm a States righter and I think that we should assume more responsibility at the State level... I don't know why we at the State level should dislike P.L. 89-72. There are some inconveniences in having to fund our share of the problem but I think we in Colorado are the major beneficiaries... We're going to try to continue our participation but the people who make the decisions on the competition of funds are not us but the legislature."

Neither the Division of Parks and Outdoor Recreation nor the Division of Wildlife like the cost-sharing formula. They would prefer that the Federal Government build all the facilities and then turn the facilities over to them for administration. Officials in both agencies have been adamant in their belief that P.L. 89-72's cost-sharing policy should be changed. Furthermore, the professional agencies which represent the recreation and wildlife administrators have passed resolutions recommending that P.L. 89-72 be amended or abolished.* However, a Water Conservation Board official's reply to this is "It's not going to be that way. It's not that way so we may as well quit worrying about it."

*See pp. 63-66.

The Legislature's Joint Budget Committee rebuked the executive agencies for not involving it in the plans for P.L. 89-72 cost-sharing. It believed that it should have been consulted before letters of intent were sent out. Sandy Arnold, the Committee Chairman, didn't even know that these letters existed and he has reacted strongly to the commitment involved in these letters. In an attempt to reassert its authority the JBC has recently requested an itemized list of what commitments have been made with the Federal Government concerning P.L. 89-72.

In regard to the cost-sharing provisions one ranking member of the committee exclaimed, "If the Federal Government is going to have a project they damn well ought to fund it. I'm sick and tired of chasing Federal funds." He did, however, say that he would be willing to fund projects that are beneficial and compete successfully with other State priorities. However, "Each project must be looked at separately and each project justified on its own merit. To make a blanket appropriation for a blanket Federal program would be totally unacceptable to me." He believes that the most need for recreation is on the eastern slope close to the metropolitan centers of population. Lastly, he does not believe that it would be desirable to "earmark" user and entrance fees. "I think they ought to be able to justify a plan or a program and stand up to the same appropriation process that every other agency in the State has to go through."

Views of Local Non-Federal Public Bodies

The two local entities which were analyzed in regard to P.L. 89-72 are the Larimer County Recreation Board (LCRB) and the Rocky Mountain Metropolitan Recreation District (RMMRD). Projects in

which they are involved come under the purview of cost-sharing at completed Bureau of Reclamation Reservoirs.

Problems

The only problem that the Larimer County Recreation Board has experienced with P.L. 89-72 is in getting the Federal funds to cost-share. In about 1966 it agreed to participate in P.L. 89-72 at Horsetooth Reservoir, however, it was not able to obtain the Federal share of the funds until 1972.¹

The only problem that the Rocky Mountain Metropolitan Recreation District encountered was the Federal ceiling of \$100,000 on funding. It said that they had to scrape to get the nine hole golf course installed for \$200,000.²

Operational Attitudes and Policies

Both the recreation board and the recreation district felt that the cost-sharing provisions of P.L. 89-72 are a very good policy if retroactive cost-sharing is permitted.³ It must be understood that the reservoirs under their administration are part of the Colorado-Big Thompson project. Therefore, land or facilities which they have contributed at these reservoirs can be appraised at its fair market value and credited toward their cost-share. Larimer County, for instance, had more than \$100,000 worth of credits.⁴ The RMMRD had a

¹Larimer County Recreation Board, personal interview, Nov. 1973.

²Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

³Larimer County Recreation Board, personal interview, Nov. 1973, and Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

⁴Bureau of Reclamation, personal interview, Nov. 1973.

substantial amount of credits (\$47,200) but not enough to cover its entire cost-share.¹ Furthermore, both agencies would have matched more than \$100,000 worth of Federal funds.²

The reservoirs under the administration of the LCRB are Horsetooth Reservoir, Carter Lake, Pinewood Lake and Flatiron Reservoir. Horsetooth Reservoir was discussed in detail under the projects chosen for intensive study. At Carter Lake Larimer County has verbally agreed to cost-share. It intends to draw up recreation plans in 1974 and then to apply for P.L. 89-72 money. It will probably have enough credits to cover its reimbursable obligations.³ At Pinewood Lake Reclamation has a verbal understanding that Larimer County will cost-share.⁴ Pinewood Lake is small, rather remote and doesn't have much potential for further development; furthermore, Larimer County does not have \$100,000 worth of credits.⁵ Flatiron Reservoir is a rather small area and has not been considered by any one as a possible reservoir for application of P.L. 89-72.⁶ Larimer County is most interested in spending its money at Horsetooth Reservoir or at Carter Lake.

¹U. S. Department of the Interior, Bureau of Reclamation, Appraisal Report Recreation Facilities, Lake Estes, Region 7, June 21, 1967, p. 3. (Mimeographed)

²Based on personal interviews with the Larimer County Recreation Board and the Rocky Mountain Metropolitan Recreation District.

³Bureau of Reclamation, personal interview, July 1973.

⁴Bureau of Reclamation, personal interview, Nov. 1973.

⁵Larimer County Recreation Board, personal interview, Nov. 1973.

⁶Larimer County Recreation Board, personal interview, Nov. 1973 and Bureau of Reclamation, personal interview, Nov. 1973.

The RMMRD administers Lake Estes, Mary's Lake and East Portal Reservoir. Lake Estes, of course, has been discussed under the projects selected for intensive study. Reclamation claims that the District has expressed verbal interest in participating in P.L. 89-72 at Mary's Lake.¹ Bob Diers, the manager of the district explained that the only possibility might be to install a nicer day use area (i.e., picnic tables and sanitary facilities). The lake is small and use is primarily for boating and fishing. Presently, the district does not have the funds to cost-share here. Retroactive credits are not available and entrance and user fees are not considered viable because of too many access points and high collection costs.² East Portal Reservoir is a very small reservoir which lacks potential. It's not even large enough for stocking fish, boating or swimming.

Neither local entity has had difficulty in funding its costs at the projects where it is participating under P.L. 89-72. Larimer County charges a fee for using the picnic areas and the water surface at its reservoirs. Over the years little surpluses were incurred and the money was spent on enhancement features such as toilets, boat launching ramps and picnic tables. Most of the money was spent at Horsetooth Reservoir which was credited for \$130,000 worth of improvements when it was appraised for P.L. 89-72 cost-sharing. There has been no problem with user fees covering operation and maintenance costs. For example, in 1972 and 1973, surpluses were incurred of approximately

¹Bureau of Reclamation, personal interview, Nov. 1973.

²Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

\$22,000 and \$15,000, respectively. The 1973 surplus will be spent at Carter Lake for improvements.¹

The recreation district has a well diversified source of funds. The first source of revenue is the capital improvement fund. The capital improvement fund consists of six categories. First of all, the fund consists of tax monies. The district has the power to levy and collect ad valorem taxes on all taxable property within the district. The levy cannot exceed four mills in any one year. Secondly, the fund consists of entrance and user fees collected at the golf courses and at the swimming pool. Thirdly, the fund receives a percentage of the gross revenue collected by concessionaires at two campgrounds and at a boat dock. Fourthly, there is miscellaneous income from such things as vending machines. If the capital improvement fund is insufficient to finance the district's endeavors then a general revenue bond can be utilized.²

¹Larimer County Recreation Board, personal interview, Nov. 1973.

²Rocky Mountain Metropolitan Recreation District, personal interview, Oct. 1973.

CHAPTER VIII

SUMMARY AND CONCLUSIONS

The implementation of the Federal Water Project Recreation Act (P.L. 89-72) in Colorado appears to be fulfilling its Congressional mandate. Colorado's experience with the application of P.L. 89-72 is limited, however, because of the time period required for planning, authorizing, and funding water projects and by a general adverse public response to the construction of reservoirs. Furthermore, although there are several factors which could impede the Act's implementation, none of them seem to be insurmountable.

Policy Intentions

The major objectives of the Act's policymakers were twofold. First of all, they wanted to put the Corps of Engineers and the Bureau of Reclamation on an equal basis as far as cost-sharing and reimbursement are concerned. Secondly, they desired a cost-sharing procedure which was equitable and workable.

The former objective is desirable for several reasons. First of all, an orderly consistent approach was needed for providing recreation and fish and wildlife enhancement at Corps and Reclamation impoundments. Secondly, the competition and the duplication of effort which had arisen on occasion between the two major Federal construction agencies was inefficient.

Although the Act instituted uniformity at projects which were authorized after July 9, 1965 (new projects) it ignored this approach at projects which were constructed prior to July 9, 1965 (completed projects). At the latter projects Reclamation was given authority to

provide recreation and fish and wildlife enhancement but only under cost-sharing arrangements and with a \$100,000 ceiling on Federal funds which could be spent at any one reservoir. The Corps of Engineers, on the other hand, is free to operate under their old authority of constructing, operating, and maintaining such facilities at a Federal expense. However, an administration directive will eventually place the completed Corps projects under the P.L. 89-72 cost-sharing procedure without the financial constraints on Federal spending. This, by the way, is in spite of a complete lack of intent on the part of Congress to achieve consistency at completed projects. Another possible deficiency in P.L. 89-72's cost-sharing provisions is that they do not apply to projects constructed after July 9, 1965, but authorized prior to July 9, 1965.

In regard to the second objective, with few exceptions it is equitable that the state or local citizens who receive the major benefits of recreation and fish and wildlife enhancement at Corps and Reclamation reservoirs share a portion of the costs attributable to such enhancement. The "track record" of P.L. 89-72's application in Colorado reveals that the Act's cost-sharing provisions are working as expected at "new projects." The Act also appears to be working at completed projects although its track record is more difficult to assess. This will be discussed in more detail shortly.

The use of a repayment schedule supported by user and entrance fees as a means of making the Act's cost-sharing provisions more workable appears to be inadequate. This is a result of a lack of assurance that fees can adequately cover the non-Federal financial obligations and at the State level by other limitations which are discussed in

detail in Chapter 7. Furthermore, it appears that entrance and user fees are feasible only at reservoirs which are subject to intensive use. It is unlikely that Congress intended to encourage quantity recreation over quality recreation.

The Colorado Experience

The application of P.L. 89-72's cost-sharing provisions has been proceeding pretty much according to schedule. Of the seven "new projects" only two are authorized. One of these projects, the Bear Creek reservoir, has an agreement for recreation and fish and wildlife enhancement. The State has scaled down its commitment at the Bear Creek project, however, probably because of the small size of the reservoir and the limited recreational potential of the area due to water pollution. Local cost-sharing for the aspects of the project which the State has scaled down have not been obtained, although local interest has been expressed. The Foothills Recreation District plans to assume the State's O & M responsibility. Furthermore, several local entities are interested in adding enhancement features at the reservoir area at a later date.

At the Narrows unit the State of Colorado has issued a letter of intent for recreation and fish and wildlife enhancement. The execution of an agreement is not yet appropriate. The State believes that the Narrows reservoir and adjacent area would be an advantageous addition to their statewide recreational effort.

The remaining five "new projects" are not authorized, however, either letters of intent or verbal interest has been solicited from a non-Federal public body.

Out of a total of thirteen completed projects only two agreements have been negotiated. Agreements for recreation enhancement have been obtained at Horsetooth Reservoir and at Lake Estes. Letters of intent are not applicable to completed reservoirs, however, non-Federal interest in cost-sharing has been verbally expressed at five additional reservoirs. The remaining six reservoirs have not been considered by the construction agencies for application of P.L. 89-72 cost-sharing. This is generally due to a lack of reservoir potential or need for recreation and fish and wildlife enhancement at the present time.

Several conclusions may be deduced from the analysis of Federal and non-Federal costs under P.L. 89-72. First of all, cumulative O & M costs represent a large burden on the financial resources of the non-Federal public bodies. Secondly, over the physical life of the project the non-Federal public bodies' contributions for recreation and fish and wildlife would usually exceed those of its Federal counterpart. However, initially the opposite appears to be true. This is the result of cumulative non-Federal O & M costs. The non-Federal public entities, however, can budget their expenses over a number of years. Thirdly, it appears that some state policymakers are unaware as to what the state's commitments currently are in regards to P.L. 89-72.

Projects for Intensive Study

The projects for intensive study revealed a willingness of non-Federal public bodies to participate under P.L. 89-72. No significant problems were encountered with the application of the Act at "new projects." At "completed projects" three problems are apparent. First of all, the Federal portion of the cost-sharing has been a low priority

item in the budgetary process and appropriations have been difficult to obtain. Secondly, the inability of non-Federal entities to utilize retroactive cost-sharing may limit their participation. There is no Congressional intent, by the way, which indicates that such activities should be prohibited. Thirdly, the \$100,000 Federal funding limitation arbitrarily restricts recreational enhancement.

Operative Attitudes and Policies

The Federal agencies involved in the application of P.L. 89-72 in Colorado appear to be making a sincere effort to implement the Act's cost-sharing provisions. Also, there was a general attitude that the cost-sharing provisions need to be changed in order to make them more workable. Many suggestions were offered and these are documented in Chapter 7. They also indicated that the non-Federal public bodies lack assurance that a system of entrance and user fees will sustain developments in a suitable manner.

Officials in Colorado State Government indicated that the problem with the application of the cost-sharing provisions in Colorado is one of funding and legislative priorities. The official position of the executive branch is to encourage the maximum participation by Colorado in the development of recreation and fish and wildlife features of Federal projects. However, once the executive branch decides to participate state funds must be appropriated from the legislative branch of government. The higher echelon officials in the executive branch of government are in accord with the Act's cost-sharing policy. However, important personnel in the parks and wildlife divisions expressed considerable disdain for P.L. 89-72's cost-sharing provisions and

advocated their amendment or repeal. The primary objection was to the magnitude of the State's financial obligations should it participate in all the P.L. 89-72 projects. A ranking member of the General Assembly's Joint Budget Committee disliked the FWPR's attempt to solicit State financial participation, however, he revealed that Colorado would participate in projects which are beneficial and can successfully compete for State funds in the budgetary process. This seems to be what the Federal policymakers intended to be the case.

There are other constraints and problems which could impede or retard the Act's application in Colorado. First of all, specific statutory legislation is needed to designate P.L. 89-72 projects as a State park or recreation area before State funds are requested from the General Assembly. This seems to be mainly a problem of procedure since important officials from both Fish, Game and Parks Committees said that the committees would generally accept the executive agencies' statutory requests for P.L. 89-72 projects. They explained that the major problem is to get the Joint Budget Committee to fund the projects.

A second problem is that the State of Colorado is either unable or unwilling to utilize a user fee repayment schedule. First of all, the revenue producing capability of user charges has not been a major portion of the Parks and Outdoor Recreation Budget. Furthermore, fees at individual reservoirs have not recovered O & M costs much less any capital investment costs. Also, some officials believe that an increase in rates would be unpopular to the general public and that user charges should be kept low because of the social benefits of recreation. Secondly, the spending level of the executive agencies is set by the General Assembly and any user fee revenue which is collected by the

executive agencies reduces their appropriation of general funds by a like amount. Thirdly, there is a desire to avoid paying interest on a repayment schedule because of the substantial additional expense which would be incurred. Fourthly, some legislators say that the General Assembly cannot commit a future General Assembly to an appropriation.

A third problem is that P.L. 89-72 projects may not fit into the executive branch's priorities. Federal multiple-purpose reservoirs which are under the purview of P.L. 89-72 are built primarily for reasons other than for recreation and fish and wildlife purposes. These reservoirs may not be in the best location for the State to expend its funds for recreation and fish and wildlife activities. Nor may the reservoirs support the type of activity which is most urgently needed. Therefore, the State may decide to spend its funds elsewhere. This could be unfortunate because the reservoir if built is a natural public attraction and minimum facilities for public health and safety may not be adequate to either prevent environmental degradation or to provide the public with basic facilities which they expect at a reservoir area.

A fourth problem is that there may be a feeling among the State people that the Federal government gives the States the undesirable projects and keeps the best projects for themselves. Projects that are of national significance may be viewed as a desirable and reputable addition to a State park system.

A fifth problem is that some personnel in the Division of Wildlife believe that the construction of large multiple-purpose reservoirs often results in the substitution of an inferior fishing area for a superior area. These wildlife officials say that the large multiple-purpose reservoirs are generally poor fishing producers. Furthermore, it has

been alleged by some people that State wildlife personnel have traditionally preferred instream fishing to reservoir fishing, because of the higher intrinsic value of instream fishing.

The non-Federal local bodies which were consulted liked the FWPCA's cost-sharing provisions if retroactive cost-sharing is permitted. The only problems which were revealed was the difficulty in getting Federal funds at completed projects and the speciousness of the \$100,000 Federal funding limitation. Neither entity had difficulty in financing its obligations.

It is also significant that interest groups and organizations in Colorado have taken little or no interest in P.L. 89-72's policy for providing recreation and fish and wildlife enhancement at Federal water projects. No group or organization was found which had a policy position or an interest in the Act's cost-sharing policy.

Federal Setting

The most significant discovery about the Federal setting is that although getting P.L. 89-72's cost-sharing provisions changed is important to many officials in the construction and coordinating agencies it is a very low priority item within the Administration. As a matter of fact, the official Administration policy is for more local sharing of costs and less Federal subsidy at Federal water projects. Furthermore, the Committees on Interior and Insular Affairs have not given serious consideration to changing P.L. 89-72. It is unlikely that any action will be taken concerning P.L. 89-72 until the inter-departmental task force has completed its review of cost-sharing policy for all project purposes.

Factors which could impede or effect the implementation of the FWPCA's cost-sharing policy are the administrative ruling prohibiting retroactive cost-sharing, the dismal results of utilizing user and entrance fees at Federally administered water projects and the low priority for funding recreation and fish and wildlife at "completed projects."

Most of the concern with the effects of P.L. 89-72 on the part of interest groups has come from the Federal level from state park and game associations. They strongly believe that the Act's cost-sharing provisions should be amended or repealed. These groups include the National Conference on State Parks, the American Fisheries Society, the Western Association of Game, Fish and Conservation Commissioners, and the International Association of Game, Fish and Conservation Commissioners.

In conclusion, it appears that the implementation of the Federal Water Project Recreation Act in Colorado is fulfilling its congressional mandate. The major limitation of the study is the small number of new Federal water projects which have been authorized. Furthermore, none of these projects have reached the stage where the non-Federal funds need to be appropriated. It does appear, however, that the Act will continue to fulfill the expectations of its policymakers in Colorado, despite some problems which could impede its application. It is hoped that this in-depth analysis of the application of the cost-sharing provisions of the Federal Water Project Recreation Act in Colorado will contribute to a better appraisal of current cost-sharing policy.

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APPENDIX

Public Law 89-72

AN ACT

July 9, 1965
[S. 1229]

To provide uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Congress and the intent of this Act that (a) in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, wherever any such project can reasonably serve either or both of these purposes consistently with the provisions of this Act, it shall be constructed, operated, and maintained accordingly; (b) planning with respect to the development of the recreation potential of any such project shall be based on the coordination of the recreational use of the project area with the use of existing and planned Federal, State, or local public recreation developments; and (c) project construction agencies shall encourage non-Federal public bodies to administer project land and water areas for recreation and fish and wildlife enhancement purposes and operate, maintain, and replace facilities provided for those purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a

Federal Water
Project Recrea-
tion Act.

part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

Non-Federal
public bodies,
Project admin-
istration.

SEC. 2. (a) If, before authorization of a project, non-Federal public bodies indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of the project allocated to either or both of said purposes, as the case may be, and all the costs of operation, maintenance, and replacement incurred therefor—

(1) the benefits of the project to said purpose or purposes shall be taken into account in determining the economic benefits of the project;

(2) costs shall be allocated to said purpose or purposes and to other purposes in a manner which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: *Provided*, That the costs allocated to recreation or fish and wildlife enhancement shall not exceed the lesser of the benefits from those functions or the costs of providing recreation or fish and wildlife enhancement benefits of reasonably equivalent use and location by the least costly alternative means; and

(3) not more than one-half the separable costs and all the joint costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be non-reimbursable.

Projects for
1965, exception.

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without the required indication of intent. Execution of an agreement as aforesaid shall be a prerequisite to commencement of construction of any project to which this subsection is applicable.

Non-Federal
share of costs.

(b) The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the project; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resource projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the project by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment, as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

Non-reimburse-
able costs.

SEC. 3. (a) No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in subsection 2(a) of this Act unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits

in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife enhancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.

(b) Notwithstanding the absence of an indication of intent as specified in subsection 2(a), lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

Provisions for acquisition of lands.

(1) If non-Federal public bodies execute an agreement within ten years after initial operation of the project (which agreement shall provide that the non-Federal public bodies will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for either or both of those purposes, as the case may be, and all costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be nonreimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the project, there is not an executed agreement as specified in paragraph (1) of this subsection, the head of the agency having jurisdiction over the project may utilize the lands for any lawful purpose within the jurisdiction of his agency, or may offer the land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value as approved by the head of the agency at the time of offer or, if a firm agreement by said owner or his immediate heirs is not executed within ninety days of the date of the offer, may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided, by the prior owner or his heirs preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

SEC. 4. At projects, the construction of which has commenced or been completed as of the effective date of this Act, where non-Federal public bodies agree to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to bear the costs of operation, maintenance, and replacement of existing facilities serving those purposes, such facilities and appropriate project lands may be leased to non-Federal public bodies.

Lease of facilities and lands to non-Federal public bodies.

SEC. 5. Nothing herein shall be construed as preventing or discouraging postauthorization development of any project for recreation or fish and wildlife enhancement or both by non-Federal public bodies pursuant to agreement with the head of the Federal agency having jurisdiction over the project. Such development shall not be the basis

for any allocation or reallocation of project costs to recreation or fish and wildlife enhancement.

Outdoor recreation provisions.
16 USC 4601-2.

SEC. 6. (a) The views of the Secretary of the Interior developed in accordance with section 3 of the Act of May 28, 1963 (77 Stat. 49), with respect to the outdoor recreation aspects shall be set forth in any report of any project or appropriate unit thereof within the purview of this Act. Such views shall include a report on the extent to which the proposed recreation and fish and wildlife development conforms to and is in accord with the State comprehensive plan developed pursuant to subsection 5(d) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897).

16 USC 4601-8.
Wildlife project costs.

(b) The first proviso of subsection 2(d) of the Act of August 12, 1958 (72 Stat. 563; 16 U.S.C. 662(d)), is amended to read as follows: "Provided, That such cost attributable to the development and improvement of wildlife shall not extend beyond that necessary for (1) land acquisition, (2) facilities as specifically recommended in water resource project reports, (3) modification of the project, and (4) modification of project operations, but shall not include the operation of wildlife facilities." The second proviso of subsection 2(d) of said Act is hereby repealed.

Repeal.
Migratory waterfowl refuges, establishment.

(c) Expenditures for lands or interests in lands hereafter acquired by project construction agencies for the establishment of migratory waterfowl refuges recommended by the Secretary of the Interior at Federal water resource projects, when such lands or interests in lands would not have been acquired but for the establishment of a migratory waterfowl refuge at the project, shall not exceed \$28,000,000: *Provided*, That the aforementioned expenditure limitation in this subsection shall not apply to the costs of mitigating damages to migratory waterfowl caused by such water resource project.

Nonapplicability provisions.
70 Stat. 1044.
43 USC 422k.
68 Stat. 666.
16 USC 1001 note.

(d) This Act shall not apply to the Tennessee Valley Authority, nor to projects constructed under authority of the Small Reclamation Projects Act, as amended, or under authority of the Watershed Protection and Flood Prevention Act, as amended.

(e) Sections 2, 3, 4, and 5 of this Act shall not apply to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, hurricane protection projects, or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

"Nonreimbursable."

(f) As used in this Act, the term "nonreimbursable" shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges.

16 USC 4601-9.

(g) Subsection 6(a) (2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) shall not apply to costs allocated to recreation and fish and wildlife enhancement which are borne by the United States as a nonreimbursable project cost pursuant to subsection 2(a) or subsection 3(b) (1) of this Act.

Disposition of payments and repayments.

(h) All payments and repayment by non-Federal public bodies under the provisions of this Act shall be deposited in the Treasury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under subsection 3(b) (2) of this Act shall be deposited in the Land and Water Conservation Fund.

Reservoir projects.
32 Stat. 388.
43 USC 371 note.

SEC. 7. (a) The Secretary is authorized, in conjunction with any reservoir heretofore constructed by him pursuant to the Federal reclamation laws or any reservoir which is otherwise under his control, except reservoirs within national wildlife refuges, to investigate, plan,

construct, operate and maintain, or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public outdoor recreation or fish and wildlife use, and to provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes: *Provided*, That not more than \$100,000 shall be available to carry out the provisions of this subsection at any one reservoir. Lands, facilities and project modifications for the purposes of this subsection may be provided only after an agreement in accordance with subsection 3(b) of this Act has been executed.

Limitation.

(b) The Secretary of the Interior is authorized to enter into agreements with Federal agencies or State or local public bodies for the administration of project land and water areas and the operation, maintenance, and replacement of facilities and to transfer project lands or facilities to Federal agencies or State or local public bodies by lease agreement or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

Agreements with Federal agencies, etc.

(c) No lands under the jurisdiction of any other Federal agency may be included for or devoted to recreation or fish and wildlife purposes under the authority of this section without the consent of the head of such agency; and the head of any such agency is authorized to transfer any such lands to the jurisdiction of the Secretary of the Interior for purposes of this section. The Secretary of the Interior is authorized to transfer jurisdiction over project lands within or adjacent to the exterior boundaries of national forests and facilities thereon to the Secretary of Agriculture for recreation and other national forest system purposes; and such transfer shall be made in each case in which the project reservoir area is located wholly within the exterior boundaries of a national forest unless the Secretaries of Agriculture and Interior jointly determine otherwise. Where any project lands are transferred hereunder to the jurisdiction of the Secretary of Agriculture, the lands involved shall become national forest lands: *Provided*, That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the project for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation. Nothing herein shall limit the authority of the Secretary of the Interior granted by existing provisions of law relating to recreation or fish and wildlife development in connection with water resource projects or to disposition of public lands for such purposes.

Transfer of lands.

SEC. 8. Effective on and after July 1, 1966, neither the Secretary of the Interior nor any bureau nor any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provision of law to the contrary notwithstanding.

Feasibility reports.

SEC. 9. Nothing contained in this Act shall be taken to authorize or to sanction the construction under the Federal reclamation laws or under any Rivers and Harbors or Flood Control Act of any project in which the sum of the allocations to recreation and fish and wildlife enhancement exceeds the sum of the allocations to irrigation, hydroelectric power, municipal, domestic and industrial water supply, navigation, and flood control, except that this section shall not apply to

Project allocations.
32 Stat. 388.
43 USC 371
note.

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any such project for the enhancement of anadromous fisheries, shrimp, or for the conservation of migratory birds protected by treaty, when each of the other functions of such a project has, of itself, a favorable benefit-cost ratio.

Definitions.

SEC. 10. As used in this Act:

(a) The term "project" shall mean a project or any appropriate unit thereof.

(b) The term "separable costs," as applied to any project purpose, means the difference between the capital cost of the entire multiple-purpose project and the capital cost of the project with the purpose omitted.

(c) The term "joint costs" means the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes.

(d) The term "feasibility report" shall mean any report of the scope required by the Congress when formally considering authorization of the project of which the report treats.

(e) The term "capital cost" includes interest during construction, wherever appropriate.

Entrance and
user fees.
16 USC 4601-5.

SEC. 11. Section 2, subsection (a) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) is hereby amended by striking out the words "notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury:" and inserting in lieu thereof the words "notwithstanding any other provision of law:" and by striking out the words "or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law" and inserting in lieu thereof "or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes".

Short title.

SEC. 12. This Act may be cited as the "Federal Water Project Recreation Act".

Approved July 9, 1965.



Public Law 93-81
93rd Congress, H. R. 6717
August 1, 1973

An Act

To amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 4 (b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4601-5), is amended to read as follows:

"(b) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: *Provided*, That in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities. No fee may be charged for access to or use of any campground not having the following—flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available, visitor protection control, designated tent or trailer spaces, refuse containers and potable water."

Federal
recreation
areas.
Fees.
86 Stat. 459.
16 USC 4601-6a.

SEC. 2. Section 4 (a) (2) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 879; 16 U.S.C. 4601-5), is amended to read as follows:

"Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit or who enter such an area by means other than by private, noncommercial vehicle. A 'single visit' means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and reenter without the payment of an additional admission fee to the same area."

87 STAT. 178
87 STAT. 179

"Single visit".

Approved August 1, 1973.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-212 (Comm. on Public Works).
SENATE REPORTS: No. 93-250 (Comm. on Public Works) and No. 93-312
(Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 119 (1973):
MAY 22, considered and passed House.
July 17, considered and passed Senate, amended.
July 19, House concurred in Senate amendments.