The Problems and Issues of Implementing the Federal Water Project Recreation Act in the Pacific Northwest

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TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

ADDENDA

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I. THE RESEARCH: GOALS AND PROBLEMS

Research Goals

The research has sought to identify and assess the problems and issues of implementing a water policy act in the states of Washington and Oregon. Congress intended first and foremost that the Federal Water Project Recreation Act (hereinafter the Act or PL 89-72) devolve upon nonfederal entities increased planning, management, and financial responsibility for recreation and/or fish and wildlife at Corps of Engineers and Bureau of Reclamation projects authorized during and since 1965.

The research attempts to assess a small part of a much larger problem facing the country: that of how to successfully fit, i.e. implement, national legislation to state and local levels. While fitting national legislation of many types to state and local levels may be difficult in a country as large and diverse as the United States, it is suggested that implementing water policy legislation may well be particularly challenging due to the physical complexities of water, to the multiple and often conflicting demands for its services, and to the characteristic disconformity of units of supply, jurisdiction, and demand.

Before focusing on the Pacific Northwest, the research sought first to identify where and to what extent the Act was being implemented across the country. Explanation of the distribution and of the extent of implementation was also a subject of inquiry during this first phase. This background study was done to (1) assist in the formulation of working hypotheses and tenable assumptions for more detailed research in the Pacific Northwest and (2) to place in proper perspective any conclusions about the problems and issues of the Act's implementation in the Pacific Northwest.

The problems and issues of implementing the Act in Washington and Oregon were then probed in greater depth to determine the significant factors influencing a nonfederal entity's decision about participating in the Act. A schematic systems model of the relationships affecting the implementation of the Act was then constructed, depicting flows of information and influence at the political level between principal actors in the system.

Problems Encountered

There were four major categories of problems involved in assessing the problems and issues of implementing the Act. The first was the difficulty of separating recreational aspects of PL 89-72 from those pertaining to fish and wildlife. The Act places the cost-sharing of these two functions under the same rules, treating both as a homogeneous unit because both are leisure time uses of water. As a rule, however, the recreation function is supported by different interest groups than those supporting fish and wildlife. As a result, the administration of the two functions is under the jurisdiction of different federal agencies, and in most cases different state agencies. Hence problems of conflicting priorities and divergent policies arise: e.g. mass recreational use of a reservoir may be in conflict with the plans of fish and game interests. As discussed in Chapters III and IV, interests associated with recreation often react differently towards PL 89-72 than those associated with fish and wildlife.

The second problem resulted from the sensitivity of the topic. As Marshall noted in his study, Federal Cost-Sharing Policies for Water Resources, first, agency personnel are not inclined to point out details about how cost-sharing affects a project; and second, project documents explain neither why nonfederal groups agreed to share the cost for certain techniques of production or scales of project purposes nor whether cost-sharing was a decisive factor.[1] The experience of this researcher corroborates Marshall's observations, although agency personnel were not always as reticent as Marshall would suggest. It should be added however that the nonfederal levels of government also can be reticent or adept at obfuscation re cost-sharing negotiations.

The third category of research problems stems from the relative recency of the Act. Although during the period of research from six to eight years had elapsed since passage of the Act, the protracted gestation period of Corps and Bureau projects precluded anything approaching a definitive assessment of the implementation of PL 89-72. A desirable situation for a retrospective study such as attempted by this research project would have been a large number of completed events: x number of refusals by nonfederal entities to participate in the Act compared to x number of signed contracts for cost-sharing under the Act.

The existing situation does not begin to approach this, however. First, in the entire country there are less than five contracts that have been signed by nonfederal entities to share costs under PL 89-72 at projects authorized during or since 1965.[2] Only one contract approaches that category in the Pacific Northwest. Moreover, there are relatively few outright refusals to sign a letter of intent to cost-share under PL 89-72 at proposed projects. Thus, due to the long gestation period of federal water projects, almost all of the "nonfederal participants" under PL 89-72 are only potential participants, having signed letters of intent which in no way legally bind them to participate in the Act. Although many of these letters of intent were undoubtably signed in good faith, evidence strongly suggests that a significant proportion were submitted by nonfederal entities only to ensure that the proposed water project continue on its way towards Congressional authorization. In short, "the dust is still settling" from passage of PL 89-72 with many of the potential nonfederal participants negotiating with the federal construction agencies while awaiting amendment of the Act which would lighten the financial responsibilities of the nonfederal public bodies.

A fourth problem associated with the research is the uncertainty in the minds of the key actors about the future of water resource development in general and about the future of laws and policies affecting the implementation of PL 89-72 in particular. This uncertainty, which is found at the three levels of government, has resulted from both real and proposed changes in the decision-making milieu since passage of the Act in 1965. First a change of Administration in 1969 also changed the relationship within the Executive Branch between the Office of Management and Budget (OMB) and water resource development agencies. During the previous administration the role of the OMB was that of a sometime critic that generally acquiesced in water development plans; after 1968 the OMB became an adversary. While appropriation of planning and construction funds after authorization had never been assured, it became even more difficult after 1968. Moreover, OMB also began to impound planning and construction funds after appropriation. The actions of OMB coupled with increasing project discount rates have reduced the number of potential water development projects with viable b/c ratios.

The Water Resource Council's promulgation in December, 1971, of Proposed Principles and Standards for Planning Water and Related Land Resources has further increased uncertainty. On at least several occasions respondents to questionnaires and/or those being interviewed felt that they could not answer the questions until the Water Resource Council's "Proposed Principles" had been adopted. Although the "Proposed Principles" have remained in limbo, the Bureau of Reclamation has used them as a basis for a new approach to the formulation and planning of water development projects. The new method is known as the Multiobjective Planning of Water Resources (MOP) and could well affect the decision making processes regarding PL 89-72 by modifying the percent to be cost-shared for recreation and/or fish and wildlife. At this writing it is not certain that MOP as practiced by the Bureau over the last two years will be adopted.

In addition, the National Water Commission (NWC) was also active during the research. After funding a number of studies, the NWC published a review draft of its final report in November, 1972. This widely circulated report recommended that PL 89-72 be amended to significantly lessen financial obligations of the nonfederal participants.[3] This action would encourage potential nonfederal participants to delay negotiations and wait for an amendment. The final report issued in June, 1973 did not contain this recommendation. Moreover, in 1973 Congress ordered the Government Accounting Office (GAO) to make extensive investigations of recreation and fish and wildlife functions at federal reservoirs. The effect of PL 89-72 was reportedly one of the major points studied by the GAO, which will release its report early in 1974.

Finally, since passage of the Act both legislation and policy of water development agencies reflect a much greater concern for environmental quality and for increased public involvement during the early stages of project formulation. Both movements add to the uncertainty of the key actors by vigorously questioning the validity of traditional water development projects and by involving a broader spectrum of nonfederal interests in questions of cost-sharing under PL 89-72.

In sum, the research of a potentially sensative subject was hampered by a very small number of definite agreements or refusals by nonfederal entities to participate in the Act and by uncertainty of the key actors stemming from a changing environment in which the Act was to have been implemented.

II. THE BACKGROUND AND INTENT OF THE FEDERAL WATER PROJECT RECREATION ACT*

Introduction

The Federal Water Project Recreation Act is a general policy act, affecting most of the projects built by the Corps of Engineers and the Bureau of Reclamation. Signed into law on July 9, 1965, the Act represented another attempt by Congress to meet the changing needs of a dynamic society.

More than a decade prior to the passage of the Act burgeoning numbers of outdoor recreationists at reservoirs across the land made it abundantly clear that the public's view of water had expanded well beyond that of the traditional, utilitarian uses. During the 1950's Congress had also become sensitive to the growing pressure to more successfully mitigate losses of fish and wildlife at federal water projects, although concern for the quality of the environment was still in the incipient stage. But in the early 1960's a growing concern by Congress and the Executive Branch with how to incorporate intangible values into project benefit-cost analyses evidenced the beginning of this new concern for environmental quality.

As a result of changing socio-economic conditions in the years following World War II, the late 1950's and early 1960's was a period of accelerated efforts by the federal government to meet the growing demands for more and higher quality recreation. The 1958 Fish and Wildlife Coordination Act was a positive step towards mitigating some of the ecological havoc frequently wrought by water development projects. In 1962 the Outdoor Recreation Resources Review Commission (ORRRC) recommended many ways to provide greater opportunities for the burgeoning numbers of outdoor recreationists. Many of the recommendations were legislated in the next several years. The Land and Water Conservation Fund Act (LWCFA) was designed to aid the states in land acquisition and to facilitate development of state recreation plans; the Bureau of Outdoor Recreation (BOR) was created to aid coordination and planning; and the Wilderness System Act was finally passed which assured preservation of some areas with intact ecosystems.

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*This chapter is a slightly modified version of pp. 1-32 in a Ph.D. dissertation by Keith W. Muckleston, The Problem of Implementing the Federal Water Project Recreation Act in Oregon, (1970) 175 pp. A modified version of the dissertation was published in a OWRR Completion Report (B-019-Wash.) entitled The Impact of Federal Water Legislation at the State and Local Level, by Kenneth A. Hammond, Daniel P. Beard, and Keith W. Muckleston, in 1970.

These were significant steps towards better management of the country's land and water resources; but in the field of water resource development there remained at least two knotty questions: 1) How to determine how much of the costs of enhancing recreation, fish and wildlife should be borne by the Federal Treasury; and 2) how to devise uniform recreational policies for the nation's two largest construction agencies--the Corps of Engineers and the Bureau of Reclamation. PL 89-72 was designed to answer these and other vexing problems connected with recreation, fish and wildlife at federal water projects.

Legislative History

Both the Executive Office and some committees of Congress had been concerned for several years about the glaring discrepancies under which the Corps of Engineers and Bureau of Reclamation operated. The Budget Bureau, (a predecessor of the OMB), one of whose functions was to review the fiscal aspects of water projects, reported that the lack of uniform policy made this difficult task more onerous. As the Deputy Director of the Budget Bureau testified:

> I think the legislation . . . is urgently needed . . . . We have an extremely difficult problem . . . in terms of attempting to bring an orderly consistent approach . . . in the clearance of project reports submitted to Congress.[1]

The Department of Interior was sensitive about the advantageous position of the Corps of Engineers who were authorized to provide localities with much more nonreimbursable recreation than the Bureau of Reclamation. Because of this situation the Congressional committees responsible for reclamation took the active role in formulating PL 89-72. The House Interior and Insular Affairs Committee initiated the action; but its Senate counterpart was also quite active, particularly in the later stages of legislation.

Although the Act would directly affect the jurisdiction of two other committees responsible for water resource legislation, they remained neutral, or at least did not openly oppose passage of the Act. The Committees responsible for fish and wildlife were not opposed, because the Act would actually strengthen the 1958 Fish and Wildlife Coordination Act. The Public Works Committees remained neutral even though their clientele agency (the Corps of Engineers) would lose some of its advantages over the Bureau of Reclamation, and despite the fact that some of the Corps clientele groups did not support this Bill.[2]

During the Eighty-eighth Congress, both the Senate and House Interior Insular Affairs Committees held hearings on uniform standards and nonfederal responsibilitiy for the enhancement of outdoor recreation, fish and wildlife at federal water projects. In March and April, 1963, hearings were held on water projects planning policy[3] under the vigorous leadership of Representative Aspinall. Subsequently the House Committee on Interior and Insular Affairs adopted a resolution asking the Executive Branch not to submit further water

projects to Congress that included nonreimbursable allocations for the enhancement of recreation, fish and wildlife, until the Executive Branch first submitted recommendations for the establishment of general policies and procedures relating to cost allocation, reimbursement, and cost-sharing.[4] The Bureau of the Budget quickly responded with recommendations which were introduced as H.R. 9032 in the Eighty-eighth Congress. Although the bill died without further consideration, parts of it were subsequently put into effect as administrative policy. Early in the Eighty-ninth Congress, however, the Executive Branch recommended that a different approach be undertaken to cost-sharing and reimbursement because of difficulties encountered in implementing this policy. 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 respective chambers. Several differences between the House and Senate versions resulted in a conference committee,[5] and S. 1229, as amended, was accepted by both houses and signed into law on July 9, 1965, as PL 89-72.

Favorable testimony by witnesses from several executive agencies made up the bulk of the hearings on S. 1229.[6] Cogent arguments were made by representatives from the Bureau of the Budget, who had drafted the original bill, and by Department of the Interior spokesmen who favored the bill because it increased the authority of the Secretary of the Interior. Also supporting the bill were such conservation groups as the Izaak Walton League and the Sports Fishing Institute, primarily because of its fish and wildlife enhancement features.

The most rigorous questioning of the bill came from Congressmen who feared that the provisions allowing the costs of recreation projects and fish and wildlife enhancement features to reach fifty per cent of the total project costs would allow many otherwise infeasible water resource projects to become feasible. A representative of the Bureau of the Budget admitted that some formerly infeasible 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.[7] Senator Gruening of Alaska had quite a different concern about the bill. He spoke of the "negative benefits" that might occur if "extremist" fish and wildlife values were weighted more heavily at the planning stage.[8] This, he felt, might result in some highly desirable water projects being declared economically infeasible because of greatly inflated costs of protecting and enhancing fish and wildlife resources, a situation which he stated had occurred with respect to the Rampart Dam proposal on the Yukon River in Alaska. Considerable questioning of the Bill also arose because of the confusion about benefit-cost methodology. Many of the committee members were skeptical about the validity of benefits derived from the enhancement of recreation, fish, and wildlife. Their doubts stemmed from the "intangible character" of the benefits as opposed in their opinion to such "tangible" benefits as hydroelectricity, reclamation, flood control, and improved navigation, which are measured in dollars and cents, and, hence ipso facto, are more important and should be given greater weight in the decision-making process.

Opposition to the bill also came from various special interest groups who feared change in the status quo. For example, the Association of American Railroads foresaw that passage of the legislation might result in some heretofore economically infeasible navigation projects becoming feasible, and they opposed the bill because it would result in a direct government subsidy to one of their competitors. The Mississippi Valley Association opposed the bill on the ground that, since people travel considerable distance to enjoy recreation on water bodies, it was unfair to assess the costs of developing recreational sites against the local governments near the reservoirs, implying, instead, that these costs should be more widely shared geographically or subsidized more heavily by the Federal government.[9] Congressional representation from the State of Missouri objected to part of the recreation costs becoming reimbursable. The reason given was that many proposed projects in the Missouri Basin were in areas of declining population, where irrigators were already having difficulty meeting payments and could not therefore be expected to pay part of the costs attributable to recreation.[10] The inability of local governments to meet increased financial obligations was also cited by Senator Cooper of Kentucky, who opposed the bill on the Floor.[11]

Finally, some objections came from state fish and game departments, which generally oppose any measure they judge will erode state jurisdiction over these biota. State agencies responsible for anadromous fish have been particularly vehement in their opposition to water resource development projects involving dams that would impede the spawning and migration of these species of fish. In this particular instance, the California Fish and Game Commission flatly opposed the entire bill as "bad" with no other explanation. It is suggested that the arguments against PL 89-72 by the Pacific Marine Fisheries Commission would also represent the position of the California Fish and Game Commission, and most probably the attitudes of other states' agencies managing anadromous fish:

> In general, each water usage project not only adversely affects present fish populations but also makes the rebuilding of former populations more difficult and even impossible in some instances. Why should a state pay at least 50 per cent toward a restoration project that has been made increasingly difficult by a Federal agency? . . .
>
> . . . Benefits to fish are very infrequent; a maximum of 50 per cent contribution by the Federal Government for enhancement of recreation, fish and wildlife seems a little miserly; and every time recreation is mentioned, specific mention should be made of fish and wildlife instead of being lumped in or omitted from the broad spectrum of recreation.[12]

In conclusion, opposition to PL 89-72 was generally fractured and unorganized, and had only a minor impact on the contents of the Act. This negligible resistance by state and local governments is remarkable in view of the considerable opposition that developed as the federal agencies attempted to implement the Act.

Congressional Intent

From a review of the literature, public documents, and correspondence with individuals in Congress and the Executive Branch, it is submitted that Congress--or at least the Committees of Interior and Insular Affairs--intended to accomplish several goals by passage of the Act. The research is concerned with the following four. First, the Act sought to establish uniform standards of cost-sharing the enhancement of recreation, fish and wildlife at water projects constructed by the Bureau of Reclamation and Corps of Engineers. Second, it sought to elevate outdoor recreation to an equal place among project purposes. Third, it attempted to further creative federalism by encouraging increased participation by nonfederal public bodies in planning, managing, and financing recreation and fish and wildlife developments at federal water projects. And, fourth, it attempted to enhance the quality of selected aspects of the environment. In addition to the aforementioned goals, the Act contained aims tangential to the research. First, through insertion of Section 8, Senator Jackson, the Chairman of the Senate Interior and Insular Affairs Committee, put himself in the position of blocking any study by the Bureau of Reclamation of water diversion from the Pacific Northwest to the Pacific Southwest. Second, the amount that irrigators would have to repay at federal water projects was reduced by assigning some of the joint costs to recreation, fish and wildlife. Little was said about this aspect of the Act but it is suggested that this is one of the reasons that irrigation and related interests backed the bill.

Provision of Uniform Standards

This is one of the most widely recognized objectives of the Act. Since the Flood Control Act of 1944, the Corps had had the authority to provide recreational developments while the Bureau of Reclamation had no general authority in this field, depending on Congress to occasionally authorize recreation at reclamation projects. This difference was one of the major reasons that when nonfederal entities were given a choice between the Corps or Bureau, they usually chose the Corps. Nonreimbursable recreation was an attractive bonus to the other advantages the Corps offered. In 1962, the Omnibus Rivers and Harbors Act gave the Army Engineers a still greater advantage relative to the Bureau of Reclamation by allowing up to a 25 per cent write off on project costs for the enhancement of recreation, fish and wildlife. This 1962 act galvanized into action the Congressional Committees that work through the Bureau of Reclamation. PL 89-72 was designed to put the Bureau of Reclamation on equal grounds with the Corps re the provision of outdoor recreation, fish and wildlife.

Passage of the Act also strengthened other bureaus in the Department of the Interior. The then emergent Bureau of Outdoor Recreation (BOR) was directed to conduct all recreational planning for the Bureau of Reclamation at the preauthorization stage, and to participate in preauthorization planning at selected Corps' projects. The BOR preauthorization reports deal with expected visitation, the most suitable types of recreational development, estimated cost of development, and what level of nonfederal government should manage the recreational program. In addition, the BOR assists the

the Bureau of Reclamation in coordinating recreational planning with the participating nonfederal entities. The BOR is also given the authority to review the user fee schedules of nonfederal entities every five years to determine if the fees will satisfactorily meet the financial obligations incurred under the Act. Finally, section 6(a) of the Act instructs the BOR to review for the Secretary of the Interior all project reports prepared by the Corps of Engineers and Bureau of Reclamation to determine if the project conforms with the state comprehensive plans developed pursuant to the Land and Water Conservation Fund Act of 1965.

PL 89-72 also expanded the operations of the National Park Service (NPS). Prior to passage of the Act, operations of the NPS at Bureau of Reclamation projects were limited to several reservoirs considered to be of national significance for recreation. Since passage of PL 89-72, the NPS has been responsible for the federal government's part in the planning and implementation of outdoor recreation at newly authorized and constructed reclamation projects. Thus as soon as a reclamation project is authorized, the NPS becomes responsible for the implementation of enhancing recreation there. This requires close cooperation between the NPS and the nonfederal public body that has agreed to share costs for recreational development. Before construction starts the NPS with the approval of the nonfederal body produces a rather detailed "Recreation Development Plan," including a narrative to serve as a management guide for the nonfederal entity. In addition, if a cost-sharing agreement between the Secretary of Interior and a nonfederal entity has been consummated at an existing reservoir under section 7(a) of the Act, the NPS then assumes the Federal responsibility for planning as well as implementing recreational development. This in itself may well expand NPS operations substantially, because there are numerous reclamation projects built prior to 1965 that did not have recreation authorized as one of the project purposes. The Reclamation Bureau's dependence on the BOR and NPS for recreation planning makes it less flexible than the Corps that handles all of these aspects at the District level.

Passage of the Act was also favored by the Fish and Wildlife Service (FWS), and particularly its subsidiary bureau, the Bureau of Sport Fisheries and Wildlife (BSFW). While the basic role of the FWS at water development projects remained as a consultant to the Federal construction agencies, and although the Act only reaffirmed the equality of fish and wildlife with other project purposes, PL 89-72 did aid the BSFW in carrying out the 1958 Fish and Wildlife Coordination Act.[13] Section 6(c) of the Act authorized that $28 million be used to acquire lands for mitigation purposes. The BSFW considered this section of the Act a "substantial achievement" because the philosophy of using water project funds to acquire lands for the enhancement of waterfowl had been under attack.[14] Section 6(b) of the Act also improves methods of enhancing fish and wildlife at federal water projects because it provides that the construction agencies may provide facilities as well as land for this purpose. Prior to the Act enhancement of fish and wildlife by the construction agencies could only be accomplished by provision of lands, project modifications, and/or modifications of project operations; PL 89-72 provides that fencing, housing for personnel, plantings etc., may also be included towards enhancement.[15]

Granting Outdoor Recreation Equality

This is another widely recognized objective of PL 89-72. Indeed, the opening sentence of the Act addresses itself to this goal. The Act gives statutory authority to something which had in some respects become administrative policy since the promulgation of Senate Document 97 in 1962. The Act also gave legislative recognition to the view that the federal government has a responsibility to meet at least part of the burgeoning demand for outdoor recreation. The growth of water oriented recreation had been particularly rapid in the fifteen years following World War II. By the early 1960's over one-half of all people visiting federally financed and managed recreation areas did so at multipurpose water projects.[16] Enactment of PL 89-72 was the culmination of the general evolution in federal policies which recognized the growing significance of recreation at federal water projects.

In the early part of this century, recreational activities at reservoirs were insignificant. Reservoirs were few, relatively small, and inaccessible to most Americans at that period. Recreation was not considered in project planning and in some instances was even actively discouraged by erecting barriers to access. By the late 1920's and 1930's, as dam construction was facilitated by improved techniques in earthmoving and concrete construction, and as the federal construction agencies markedly increased their involvement in the nation's water development program, the increasingly mobile and more affluent recreationists were tolerated at most Federal reservoirs, even being provided with some facilities at a few projects. But recreation, and for the most part fish and wildlife, remained strictly ancillary to the traditional project purposes. The open conflicts between recreation and authorized uses which are presently common did not develop during this period, even though the reservoirs were usually operated with little or no regard for non-utilitarian uses. Under this type of reservoir operation, it was not uncommon for large numbers of fish and wildlife to perish and for recreational opportunities to be nullified as unsightly mudflats replaced beaches during the recreation season. This mode of reservoir operation went largely unchallenged because recreation was not recognized as a legitimate project purpose.

After the close of World War II socio-economic conditions changed rapidly. Within a decade markedly increasing mobility, leisure time, and discretionary income combined to make outdoor recreation a way of life for a significant part of the American public. Nowhere in the area of outdoor recreation was this burgeoning growth more apparent than in water oriented recreation. The ORRRC reports characterized water as a key factor in assessing both the potential of and demand for outdoor recreation in a given area.[17]

During these two decades efforts in behalf of recreationists by both Congress and the Executive Branch gradually increased, indicating the growing recognition of outdoor recreation as a legitimate project purpose. The 1944 Flood Control Act authorized the Corps of Engineers to construct, maintain and operate public parks and recreational facilities in their reservoir areas. This was reaffirmed in the Flood Control Acts of 1946 and 1959.[18] But the

Corps was by no means given a free hand in the development of recreation, as appropriations for these development were frequently not forthcoming.[19] As noted earlier the Bureau of Reclamation had no general authority to provide recreation, depending on Congress to authorize development on a project by project basis. In 1950, the Presidents' Water Resources Policy Commission recommended that recreation be treated as an integral part of water project development. In 1951 the House Interior and Insular Affairs Committee unsuccessfully attempted to make outdoor recreation an equal project purpose. In the meantime, Budget Bureau Circular A-47 directed that recreation be treated apart from other project purposes. In 1957 two bills by the Senate Public Works Committee to make evaluation of recreational benefits an integral part of project planning were defeated. The Budget Bureau reportedly was instrumental in the defeat.[20]

Towards the end of the 1950's the rapidly increasing numbers of recreationists galvanized Congress into enactment of a massive three year study of the problem. The findings of the study were published as the ORRRC Reports. As a result of these reports federal efforts in the field of outdoor recreation were accelerated. One of the major steps towards recognizing recreation as an equal partner among project purposes came from the Executive Branch. President Kennedy directed the four Departments most concerned with water to consider new standards for the evaluation and formulation of water resource projects.[21] In 1962, he approved their report, which was published as Senate Document 97. This document directed the executive agencies to consider recreation as a full and equal partner in water project planning; it was subsequently adopted as policy by the Federal agencies.

This was an important milestone in the evolutionary progression of recognizing recreation as a legitimate project purpose, but it also complicated the task of legislating water projects: even though it stipulated an improved method of calculating benefits from project-induced enhancement of recreation, fish and wildlife, it ignored the far knottier questions of who was going to pay for the enhancement and what percent of the entire project costs could be allocated to the enhancement. In short, after promulgation of Senate Document 97, the Executive Branch was treating recreation as an equal but there were no standards on reimbursability or cost allocation. PL 89-72 was designed to correct this confused situation.

During the next three years, Congress wrestled with the questions of reimbursability and cost allocations for the enhancement of recreation, fish and wildlife at federal water projects. Reimbursability is discussed in the next section. The question of cost allocation is now considered. The 1962 Omnibus Rivers and Harbors Act allowed the Corps to allocate up to a total of 25 percent to recreation, fish and wildlife, although the average allocation was considerably less.[22] In 1963 a Bill was introduced (S. 2733) that would have limited these allocations to 15 percent. In 1964 a bill by the House Interior and Insular Affairs Committee (H.R. 9032) had a sliding scale of cost allocations. In 1965 PL 89-72 was finally enacted, legitimizing a far greater proportion of costs to the enhancement of recreation, fish and wildlife. Section 9 of the Act raised the allowable allocation to fifty percent. Moreover, fifty percent could be exceeded when a project would enhance anadromous fish, or migratory waterfowl protected by international treaty, or shrimp.

Thus, within a few decades it would appear as if the role of outdoor recreation rose from one of residual legatee to an equal and possible paramount project purpose. Indeed, critics charged that because of PL 89-72 the tail would be wagging the dog.

Furthering Creative Federalism

During the Johnson Administration several acts were aimed at increasing nonfederal participation at federal water projects. This attempt to devolve upon nonfederal levels of government increased planning, managerial, and financial responsibilities was termed "creative federalism" by the Administration. Advocates of creative federalism recognized the necessity of asking state and local governments "how to do it," but they also expected that a greater nonfederal voice at the planning stage must be accompanied by increased financial responsibility.

The Land and Water Conservation Fund Act passed by the Eighty-eighth Congress was a milestone of creative federalism: the Act recognized a division of responsibility between levels of government by authorizing grants to states for the acquisition and development of recreational areas. Among the extensive water resource legislation passed by the Eighty-ninth Congress, the spirit of creative federalism was also evident in the Water Quality Act of 1965 (PL 89-234), the Rural Area Water Facilities Act (PL 89-240), the Public Works and Economic Development Act of 1965 (PL 89-136), and particularly in the Water Resources Planning Act (PL 89-80), which set up River Basin Commissions. To varying degrees all of these acts intended to increase nonfederal authority in the planning and management of water projects at the price of greater financial responsibility. PL 89-72 is one of the best examples of creative federalism passed during the middle 1960's.

If a nonfederal public body elects to participate under terms of the Act, it must submit a letter of intent before authorization of the project. Then, in theory, it may actively participate in the preauthorization planning of land acquisition, design of structures and other necessary details connected with the enhancement of recreation and/or fish and wildlife at the proposed project. After completion of postauthorization planning, the nonfederal public body must generally enter into a contract with the U.S. Government before construction of recreation and/or fish facilities can begin. Depending on whether the project is to be built by the Corps or Bureau of Reclamation, the nonfederal public body may be involved in planning with several Federal agencies. At reclamation projects it will work closely with the BOR at the preauthorization stages and with the NPS in postauthorization planning and implementation of the recreational plan. At flood control and navigation projects Corps recreational planners work with the participating nonfederal levels. Corps' planners also may occasionally consult with the BOR or NPS. When resident fisheries or wildlife will be enhanced by either a Corps or Reclamation Bureau's project, the BSFW directs and coordinates federal planning with the nonfederal entities, most usually with the fish and/or game departments of the respective states. Since the early 1970's if anadromous fisheries are to be enhanced, the National Marine Fisheries Service (NMFS) has jurisdiction over the resource, although this is contested by the Department of Interior.

By enactment of PL 89-72, Congress attempted to at least partially correct the take-it-or-leave-it situation that was often present when the federal construction agencies presented the nonfederal levels with complex and voluminous plans which had to be either accepted or rejected in toto. Congress obviously intended that the nonfederal levels be given the opportunity to determine how much of what kind of recreation and/or fish and wildlife developments they desired at federal reservoirs within or near their areas of jurisdiction. Proponents of the Act argued that even if the nonfederal entity chooses not to participate under PL 89-72 prior to authorization, adequate lands for recreation development are to be acquired and held for a ten year period in the event that it later decides to participate. Thus, a quick decision on the part of the nonfederal public body is not necessary.

A less popular aspect of creative federalism at nonfederal levels is the greater financial responsibility it entails. They must now pay for something that was for the most part free. Section 2 (a) of the Act required that the nonfederal public bodies must assume financial responsibility for all of the operational and maintenance costs (O & M) and one-half of the separable costs associated with the enhancement of recreation and/or fish and wildlife. The federal government assumes responsibility for all the joint costs.[23]

The philosophy underlying greater financial responsibility of nonfederal entities for the costs of enhancing recreation and/or fish and wildlife was based on the conviction that local residents receive the greatest proportion of these benefits. That this philosophy still affirms federal responsibility for providing part of the enhancement is evident in that all of the joint costs and one-half of the separable costs are federal, which is generally equal to between eighty and ninety percent of the total construction costs. Advocates of PL 89-72 hold that this method of cost-sharing will generate the greatest amount of money for enhancement of these values.[24] Thus, although the nonfederal levels are required to carry a greater share than before, the federal level still pays the lion's share of the capital costs of recreation, fish and wildlife increases over the length of the project. Responsibility for all of the O & M costs is opposed by many nonfederal public bodies, who correctly point out that the sum of these costs becomes very large over several decades, probably equaling the reimbursable construction costs under PL 89-72 between twenty and thirty years after the project goes into operation.

The Act allows the nonfederal public bodies to repay the Federal treasury by either or both of two ways: 1) by payment in cash and/or by provision of land and facilities required for the projects; and 2) by repayment with interest within 50 years provided that the source is limited to entrance fees and user charges. But Congressional intent is not clear on several points in regards to the repayment of nonfederal financial obligations. For example, how much credit will be given for land and facilities, how will the Treasury be reimbursed if user and entrance fees are insufficient, and how can long range O & M costs be accurately determined?[25]

Another point where Congressional intent is not clear pertains to the nonfederal responsibility to enhance anadromous fisheries.[26] This question is of particular interest in the Pacific Northwest. The Act does not differentiate anadromous fish from resident species. Hence the nonfederal level might be responsible for one-half of the separable costs and all of the O & M costs of enhancing these migratory fish. These costs are generally quite high and well beyond the financial capacity of most nonfederal agencies. While it is generally accepted that the benefits from anadromous fish are not confined to the reservoir or spawning stream, being widely diffused over hundreds of miles of rivers and into ocean where the fish spend most of their lives, fish oriented agencies feared that the Act might make enhancement reimbursable. In its initial analysis of the Act, the BSFW took major exception to this part of the Federal Water Project Recreation Act.[27] But many nonfederal public bodies are proceeding on the assumption that the enhancement costs of anadromous fish will be nonreimbursable. Those who believe that anadromous fish enhancement will be nonreimbursable base it on two factors: 1) on an exchange on the House Floor between Representatives Duncan of Oregon and Rodgers of Texas, the latter being the chairman of the subcommittee of Irrigation and Reclamation that handled the Bill;[28] and 2) on references in the Senate and House reports about the possibility of a departure from general policy in certain instances.[29] The research indicates that confusion over cost-sharing anadromous fisheries presists.

As a manifestation of creative federalism Congress intended that the Act grant greater planning and managerial authority to nonfederal public bodies in exchange for greater financial responsibility. It would also require more give and take at and between all levels of government. Hence, successful implementation of the Act would require open lines of communication between the many actors involved in the multifaceted field of water resource development. The research indicates that this has not been fully accomplished.

Enhancing Environmental Quality

Although the Act cannot be classified as a milestone in legislation designed to enhance the quality of the environment, it contains several provisions that may be attributed to the then incipient concern by Congress about the declining quality of the environment.

During the twenty years prior to passage of PL 89-72, a marked shift of attitude towards the environment had begun to take place. It was no longer perceived only as a workshop from which to extract raw materials; stimulated by an articulate minority, it was viewed by an increasingly large proportion of society as a temple--something to appreciate on esthetic grounds and to protect against side effects of industrial productivity. Preoccupation with the quantitative aspects of resources in the environment began to give way to a growing concern for the livability or qualitative aspects of the environment. By the early 1960's a growing number of academicians and some politicians noted with increasing frequency that the very indices of economic growth also recorded a decrease in environmental quality: they warned that the ever-climbing GNP was accompanied by smoggier atmosphere, increasingly polluted waterways, ever more crowded and inadequate recreational areas, accelerating loss of open space, etc.

The transition of attitude was rapid. Only fourteen years had elapsed between the President's Materials Policy Commission (in 1951) when the fear of natural resource scarcity was paramount, and President Johnson's remarkable message to Congress in 1965, which called for a new conservation that would consider beauty and quality as well as protection and development.

It is submitted that by the early 1960's a significant proportion of Congressmen would agree that: 1) there were generally inadequate opportunities for outdoor recreation and the subsequent over-crowding of existing recreation areas was incompatible with environmental quality; 2) the federal government had a responsibility to provide some of the recreational opportunities needed by the growing demand; 3) federal water projects provided a nationally significant amount of recreation, despite the general inadequacy of recreational development there; 4) a significant recreation potential existed at existing and proposed federal reservoirs; and 5) destruction of fish and wildlife in the wake of water development projects denoted a decline in environmental quality. If it is accepted that a significant proportion of Congressmen agreed with even some of these points, then the connection between PL 89-72 and Congressional intent to enhance the quality of the environment is apparent.

At least since the ORRRC reports it was generally accepted that outdoor recreation is good per se. This assumption stemmed in large part from the view that outdoor recreation renews the participants by relieving tensions built up by the frenetic pace of life in the increasingly crowded, artificial environments of metropolitan America. Hence, by increasing the opportunities for outdoor recreation at Federal reservoirs, the livability, i.e., quality of the environment would be improved. This would improve and/or be applicable to the conditions of the first four points above. Re the fifth point, the Act also strengthened the 1958 Fish and Wildlife Coordination Act, which did much towards mitigation and enhancement of fish and wildlife at Federal Projects. In this respect the effect of PL 89-72 on the quality of the environment was two fold: first, fishing and hunting opportunities would be increased; and second, enhancement of fish and wildlife would partially offset the relentless loss of these biota in the wake of water development projects, which would mollify those articulate groups defending these biota on moral and aesthetic grounds. Finally, in keeping with the structural approach to solving water problems, the Act would stimulate the construction of more dams which in turn would provide more storage water to abate the deteriorating water quality in the nation's rivers.

Thus, the Act gave legislative recognition to the idea that the enhancement of recreation, fish and wildlife values must share equal consideration with the traditional benefits from water development. It recognized that man, the ecological dominant, has the technological and political means not only to alleviate environmental damage caused by water projects, but also to enhance selected desirable aspects of his biophysical surroundings. And, by further encouraging the establishment of user fees, it forces upon the average recreationist a greater respect for the quality of at least those parts of the environment that he must pay to use. But a caveat must be appended: the Act also contains provisions which may tend to lower the quality of the environment. The

whole system of assessing benefits favors quantitative over qualitative criteria, which could have the effect of encouraging overcrowding and the further degradation of the already deteriorating quality of recreational experiences. Moreover, mass recreation might not only conflict with high quality outdoor experiences, but may also prove to be incompatible with certain types of fish and wildlife which are also supposed to be enhanced by the Act at many federal water projects. Clearly, implementing provisions of the Act may cut two ways with regard to the quality of the environment.[30]

Summary

PL 89-72 was one of a series of resource acts passed during the 1960's. These acts were designed to meet rapidly changing socio-economic conditions, which were altering the perception and use of natural resources. Although the growing discrepancy between the ability of the Corps and Bureau of Reclamation to provide nonreimbursable recreation was the factor that galvanized the Interior and Insular Affairs Committees into action, Congress attempted to accomplish several additional goals by enacting PL 89-72.

The Act legitimized outdoor recreation as an equal among project purposes. It established formulas and conditions for cost-sharing the enhancement of recreation and/or fish and wildlife at federal water projects. It encouraged a greater voice by nonfederal entities in planning recreation features when they agreed to cost-share. And it sought to improve the quality of the environment by providing more recreational opportunities.

In reality, however, the Act was in most respects a manifestation of the traditional approach to problem solving in the field of water resources: 1) It continued to rely on the construction of dams to solve problems that such construction may have created in the first place. 2) It contained something for all vested interests, even though some of these groups have conflicting goals. 3) Quantitative criteria of value continued to have precedence over qualitative consideration. In some respects, however, the Act was innovative: 1) It required greater financial contributions from nonfederal public bodies near federal water projects. 2) It encouraged nonfederal entities to enter actively into decision making at the project planning stage.

III. IMPLEMENTATION OF THE ACT ACROSS THE NATION*

Introduction

The purpose of this chapter is to document the distribution and extent of cost-sharing under PL 89-72 across the United States as it existed in 1971. As noted in Chapter I this was done to help develop background material for use in a more detailed analysis of the Act in the Pacific Northwest and also to develop a frame of reference so that conclusions about the implementation of PL 89-72 in a rather distinctive region could be placed in proper perspective.

Consideration of how the implementation of the Act affected environmental quality was not included in this nationwide survey as it would have been clearly beyond the scope of this research report. The other three major goals subsumed under the discussion of Congressional intent in the last chapter were considered by asking the following questions: can the construction agencies be expected to alter their behavior patterns in keeping with the new requirements of PL 89-72, i.e., will the enhancement of recreation and/or fish and wildlife be given the same priorities as traditional uses of water? Will the nonfederal entities be given an active voice in planning those functions they agree to cost-share? Will the nonfederal entities develop the expertise necessary to make meaningful inputs in the planning process that the Act now allows them to have? And can and will the nonfederal public bodies finance the large expenditures often required by the Act?

In an attempt to answer these questions, mail questionnaires were designed for federal, state, and local actors participating in the Act. Through questionnaires and interviews (largely in the Pacific Northwest) the following general categories of information were solicited from state agencies most likely to participate: the distribution of and the amount spent for cost-sharing under the Act at each project; and the identity of the nonfederal participants and their opinions about problems of implementing PL 89-72. Identical information was requested from the Corps of Engineers and Bureau of Reclamation, including the significance of recreation and/or fish and wildlife enhancement among the project purposes and in the projects' benefit-cost analyses.

*This chapter incorporates much of an unpublished research report by K.W. Muckleston entitled, "Problems and Issues of Implementing the Federal Water Project Recreation Act (PL 89-72) in the Pacific Northwest (Phase I)," September, 1971. The research was funded by the OWRR through the Water Resources Research Institute at Oregon State University, Corvallis, Oregon. Grant agreement number 14-31-001-3237. OWRR project number, A-004-Ore.

Distribution of Cost-Sharing under PL 89-72 in 1971

The distribution of cost-sharing under the Act and the amount of nonfederal separable costs envolved at each project are depicted on Figure 1 and Table 1. Whenever possible the sources of information for both Figure 1 and Table 1 are from the Federal construction agencies. Discrepancies between federal and state responses were the rule, with states usually listing less projects and smaller nonfederal commitments than the respective federal agencies did.

Not surprisingly, in terms of project per population the western half of the country has a larger share of projects under PL 89-72 than does the eastern part. This is in keeping with disproportionately larger federal investments in resources in the West. It must be noted that Figure 1 exaggerates this spatial imbalance in favor of the West by not including cost-sharing agreements at existing Corps' reservoirs.

The area within the Tennessee Valley Authority is conspicuously absent of cost-sharing under PL 89-72, as is New England. In the latter region there are however a number of existing projects where cost-sharing under PL 89-72 is taking place, some of which involve large sums of nonfederal expenditures.[1] In view of the depressed economic conditions in eastern Kentucky and in West Virginia, notable concentrations of cost-sharing are present there. State agencies are carrying almost all of the nonfederal responsibilities in these two states, probably as an attempt to breath new economic life into the local areas through water development. As noted in Chapter II Senator Cooper of Kentucky had opposed the bill on the floor on the grounds that local governments would be unable to meet the increased financial obligations.

Noteworthy concentrations of cost-sharing are present in the humid part of Texas and in Mississippi. In each case state created river basin authorities possessing wide ranging powers and responsibilities are the principal nonfederal partners. In Texas the river basin authorities do not appear bound by constitutional limitations on incurring debt that ostensibly affect the ability of Texas' agencies to participate in the Act.

The geographic limitation of the Bureau of Reclamation to areas west of the 98th meridian is evident. The most easterly project of this construction agency is the Palmetto Bend Project in Texas (Fig. 1, #14-Texas), where, perhaps significantly, it is cost-sharing with a flood control district. The Corps of Engineers, whose major responsibilities are navigation and flood control, has concluded most of its cost-sharing agreements on the humid eastern side of the 98th Meridian. In the intermountain West however the Corps has obtained some cost-sharing agreements on new projects near urbanized areas, notably Denver and Pueblo, Colorado, and Salt Lake City. Indeed, in this former bailiwick of the Bureau, the Corps appears to be the more successful in procurring letters of intent to cost-share at new projects. This probably results from two factors. 1) Bureau projects within the Colorado River Basin do not come within the purview of the Act but rather are treated pursuant to the Colorado

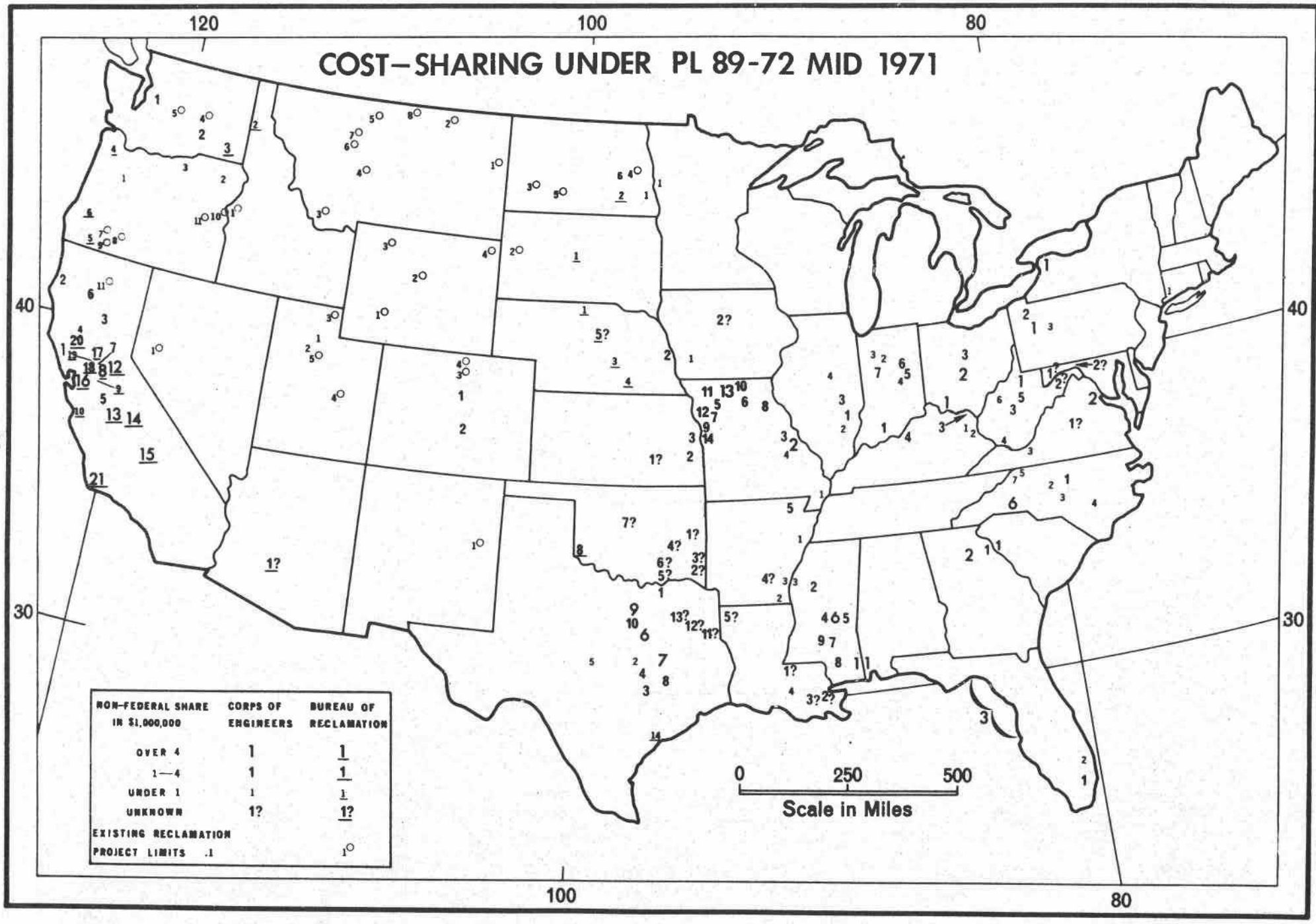

COST–SHARING UNDER PL 89-72 MID 1971
120
100
80
40
30
NON-FEDERAL SHARE IN $1,000,000
CORPS OF ENGINEERS
BUREAU OF RECLAMATION
OVER 4
1—4
UNDER 1
UNKNOWN
EXISTING RECLAMATION PROJECT LIMITS
0
250
500
Scale in Miles

Fig. 1

17. Oat Reservoir[4]	BR-Sacramento	Yolo County	$1,161,000
18. Noonan Reservoir[4]	BR-Sacramento	Solano County	$2,459,500
19. Putah Creek[4] (fishery access)	BR-Sacramento	Yolo & Solano Counties	$243,000
20. Middletown Res.[4]	BR-Sacramento	Lake County Flood Control & Water Conservation District	$1,700,000
21. Lompoc[4]	BR-Sacramento	City of Lompoc	$9,628,000
COLORADO			
1. Bear Creek	C-Omaha	Division of Game, Fish & Parks	$1,945,000
2. Fountain River	C-Albuquerque	" " " " " "	$2,205,500
3. Estes Lake[3]	BR-Denver	Rocky Mountain Metropolitan Recreation District	$100,000
4. Horsetooth[3]	BR-Denver	Larimer County	$100,000
CONNECTICUT			
1. Trumbull Pond	C-New England Division	Conn. Dept. of Agriculture Board of Fisheries & Game	$50,000
FLORIDA			
1. Central & Southern Florida Flood Control Project[5]	C-Jacksonville	Local Sponsor	$3,058,000
2. Martin County[5]	C-Jacksonville	Local Sponsor	$50,000
3. Gulf Coast Intra-coast Water Way[5]	C-Jacksonville	Local Sponsor	$6,371,000
GEORGIA			
1. Trotters Shoals	C-Savannah	State of Georgia	$1,750,000
2. Curry Creek	C-Savannah	" " "	$4,029,000
IDAHO			
1. Mann Creek[3]	BR-Boise	State of Idaho	$20,000
2. East Greenacres Unit	BR-Boise	Kootenai County	$16,000
ILLINOIS			
1. Louisville Res.	C-Louisville	Ill. Dept. of Business & Economic Development	$1,114,000
2. Helm River	C-Louisville	Ill. Dept. of Business & Economic Development	$863,000
3. Lincoln River	C-Louisville	Ill. Dept. of Conservation	$1,316,000
4. Oakley Lake & Channel Improvement	C-Chicago	State of Illinois	$716,000
INDIANA			
1. Patoka[6]	C-Louisville	Indiana Dept. of Natural Res.	$1,490,000
2. Lafayette[6]	C-Louisville	" " " " "	$705,000
3. Big Pine	C-Louisville	" " " " "	$790,000
4. Clifty Creek	C-Louisville	" " " " "	$906,000
5. Downeyville	C-Louisville	" " " " "	$1,876,000
6. Big Blue	C-Louisville	" " " " "	$2,100,000
7. Big Walnut	C-Louisville	" " " " "	$2,170,000

IOWA			
1. Davids Creek	C-Omaha	State Conservation Commission	$290,000
2. Ames River	C-Rock Island	Story County Conservation Bd.	$?
KANSAS			
1. El Dorado[7]	C-Tulsa	State of Kansas	$?
2. Garnett	C-Kansas City	Kansas Water Resources Board	$2,403,000
3. Hillsdale	C-Kansas City	Paola, Kansas & Kansas Water Resource Board	$2,920,000
KENTUCKY			
1. Paintsville[6]	C-Huntington	Kentucky Dept. of Parks	$787,000
2. Yatesville[6]	C-Huntington	Kentucky Dept. of Parks	$890,000
3. Kehoe	C-Huntington	Kentucky Dept. of Parks	$1,015,000
4. Taylorsville	C-Louisville	Kentucky Dept. of Natural Res.	$3,667,000
LOUISIANA			
1. Old River Locks[8]	C-New Orleans	Louisiana State Parks & Recreation Commission	$?
2. Bonnet Carre Spillway	C-New Orleans	Pontchartrain Levee District	$?
3. Launching Ramp at Arlington	C-New Orleans	Pontchartrain Levee District	$?
4. Launching Ramp at Plaquemines	C-New Orleans	Iberville Parish Police Jury	$3,700
5. Caddo Lake	C-New Orleans	Caddo Levee District	$?
MARYLAND			
1. Town Creek	C-Baltimore	Maryland Dept. of Natural Res.	$1,277,500
2. Sixes Bridge	C-Baltimore	" " " " "	$1,551,500
MINNESOTA			
1. Twin Valley Res.	C-St. Paul	Norman County Park Commission	$152,000
MISSISSIPPI			
1. Harleston[1,9]	C-Mobile	Pat Harrison Waterway District	$4,000,000
2. Yazoo River Nav. Project	C-Vicksburg	Lower Yazoo River Basin District	$1,404,000
3. Warfield Point[9]	C-Vicksburg	Washington County	$300,000
4. Ofahoma[9]	C-Mobile	Pearl River Waterway District	$3,990,000
5. Carthage[9]	C-Mobile	" " " "	$2,320,000
6. Edinburg[9]	C-Mobile	" " " "	$6,450,000
7. Taylorsville[9]	C-Mobile	Pat Harrison Waterway Dist.	$2,955,000
8. Bowie[9]	C-Mobile	" " " "	$3,272,000
9. Mize[9]	C-Mobile	" " " "	$3,164,000
MISSOURI			
1. Dorena & New Madrid Boat Launch	C-Memphis	Missouri Dept. of Conservation	$56,000
2. Pine Ford	C-St. Louis	" " " "	$5,950,000
3. Irondale	C-St. Louis	" " " "	$2,504,000
4. I-38	C-St. Louis	" " " "	$685,000
5. Braymer	C-Kansas City	Missouri Interagency Council of Outdoor Recreation(MIACOR)	$3,200,000

6. Brookfield	C-Kansas City	MIACOR	$1,433,000
7. Dry Fork & East Fork	C-Kansas City	" & City of Escelsoir Springs	$1,435,000
8. Long Branch	C-Kansas City	MIACOR	$1,182,000
9. Longview	C-Kansas City	Jackson County	$2,230,000
10. Mercer	C-Kansas City	MIACOR	$3,053,000
11. Pattonsburg	C-Kansas City	"	$3,500,000
12. Smithville	C-Kansas City	"	$1,950,000
13. Trenton	C-Kansas City	"	$8,840,000
14. Blue Springs	C-Kansas City	Jackson County	$1,155,000
MONTANA			
1. Lower Yellowstone Diversion Dam[3]	BR-Billings	Montana Dept of Fish & Game & Dawson County	$60,000
2. Nelson[3]	BR-Billings	Montana Dept of Fish & Game	$100,000
3. Clark Canyon[3]	BR-Billings	" " " " "	$100,000
4. Helena Valley[3]	BR-Billings	" " " " "	$75,000
5. Tiber 3	BR-Billings	" " " " "	$100,000
6. Willow Creek[3]	BR-Billings	" " " " "	$25,000
7. Pishkun[3]	BR-Billings	" " " " "	$25,000
8. Fresno[3]	BR-Billings	Hill County	$100,000
NEBRASKA			
1. Norden Res. (O'Neil Unit)	BR-Denver	Nebraska Game & Parks	$798,500
2. Papillion Creek	C-Omaha	" " " "	$2,300,000
3. Midstate[10]	BR-Denver	" " " "	$522,000
4. Angus[10]	BR-Denver	" " " "	$586,000
5. North Loup[10]	BR-Denver	Twin Loups Reclamation Dist.	$?
NEVADA			
1. Lahontan[3]	BR-Sacramento	Churchill & Lyon Counties Bicounty Parks and Recreation Commission	$100,000
NEW MEXICO			
1. Alamorgodo[3]	BR-Amarillo	New Mexico State Parks & Recreation Commission	$30,000
NEW YORK			
1. Sandridge[11]	C-Buffalo	New York Dept. of Environmental Conservation	$4,190,000
NORTH CAROLINA			
1. Falls	C-Wilmington	North Carolina Dept. of Air & Water Resources	$2,280,000
2. Randleman	C-Wilmington	N.C. Dept. of Air & Water Res.	$860,000
3. Howards Mill	C-Wilmington	" " " " " " "	$685,000
4. Thoroughfare Swamp	C-Wilmington	Wayne County	$41,950
5. Reddies	C-Charlston	N.C. Dept. of Air & Water Res.	$638,000
6. Clinchfield	C-Charlston	" " " " " " "	$14,064,000
7. Roaring River	C-Charlston	" " " " " " "	$458,000

NORTH DAKOTA			
1. Kindred Res.[12]	C-St. Paul	North Dakota Water Commission	$465,000
2. Garrison Unit	BR-Billings	Garrison Conservancy District	$1,210,000
3. E.A. Patterson Lk.[3]	BR-Billings	Dickinson Park District	$75,000
4. Jamestown[3]	BR-Billings	Stutsman County	$100,000
5. Lake Tschida[3]	BR-Billings	N.D. Dept. of Game & Fish	$100,000
6. Pipestem Lake	C-Omaha	Stutsman County	$150,000
OHIO			
1. Whiteoak	C-Huntington	State of Ohio	$8,444,000
2. Logan	C-Huntington	" " "	$10,118,000
3. Utica	C-Huntington	" " "	$3,155,000
OKLAHOMA			
1. Wister Res.[13]	C-Tulsa	State of Oklahoma	$?
2. Brazil Res.[13]	C-Tulsa	" " "	$?
3. Sherwood Res.[13]	C-Tulsa	" " "	$?
4. Parker Res.[13]	C-Tulsa	" " "	$?
5. Albany Res.[13]	C-Tulsa	" " "	$?
6. Durant Res.[13]	C-Tulsa	" " "	$?
7. Arcadia Res.	C-Tulsa	Cities of Edmond & Oklahoma City	$405,000
8. Mountain Park	BR-Amarillo	Altus, Oklahoma	$1,307,000
OREGON[16]			
1. Holley	C-Portland	Oregon Dept. of Parks & Recreation & Linn County	$625,000
2. Catherine Creek	C-Walla Walla	Union County & City of Union	$395,000
3. Willow Creek	C-Walla Walla	Morrow County	$57,000
4. Tualatin (Scoggins)	BR-Boise	Washington County	$421,000
5. Merlin	BR-Boise	Josephine County & Oregon State Game Commission	$586,000
6. Olalla	BR-Boise	Douglas County	$235,000
7. Agate[3]	BR-Boise	Jackson County	$100,000
8. Howard Prairie[3]	BR-Boise	" "	$100,000
9. Emigrant[3]	BR-Boise	" "	$100,000
10. Bully Creek[3]	BR-Boise	Malheur County	?
11. Agency Valley[3]	BR-Boise	" "	?
PENNSLYVANIA			
1. St. Petersburg Res.	C-Pittsburg	Penn. Dept. of Forests & Water	$13,900,000
2. Muddy Creek	C-Pittsburg	Penn. Fish Commission	$3,500,000
3. DuBois Local Flood Project	C-Pittsburg	City of DuBois	$45,000
SOUTH CAROLINA			
1. Trotters Shoals	C-Savannah	S.C. Dept. of Parks, Recreation and Tourism	$2,500,000
SOUTH DAKOTA			
1. Oahe	BR-Billings	S.D. Dept. of Game, Fish & Parks & Oahe Conservancy Subdistrict	$633,000
2. Belle Fourche[3]	BR-Billings	S.D. Dept. of Game, Fish & Parks	$60,000

TEXAS			
1. Bonham Res.	C-Tulsa	Bonham, Texas	$?
2. Aquilla	C-Tulsa	Hillsboro, Texas	$630,000
3. Millican	C-Ft. Worth	State of Texas	$2,021,000
4. Navasota	C-Ft. Worth	" " "	$1,312,000
5. Pecan Bayou	C-Ft. Worth	Brown County Water Improvement District	$989,000
6. Lakeview Res.	C-Ft. Worth	Trinity River Authority	$7,128,000
7. Tennessee Colony	C-Ft. Worth	" " "	$4,705,000
8. Trinity River	C-Ft. Worth	" " "	$2,994,000
9. Aubrey Res.	C-Ft. Worth	Cities of Dallas & Denton	$5,303,000
10. Roanoke	C-Ft. Worth	Dallas County Park Cities Water Control & Improvement District	$1,461,000
11. Big Sandy	C-Ft. Worth	Texas Water Development Board[17]	$2,132,000[17]
12. Lake Fork	C-Ft. Worth	" " " "	$1,801,000[17]
13. Mineola	C-Ft. Worth	" " " "	$3,340,000
14. Palmetto Bend	BR Amarillo	Jackson County Flood Control District[18]	$838,000
UTAH			
1. Little Dell	C-Sacramento	Metrowater Districts of Salt Lake City	$800,000
2. Jordan River Improvement	C-Sacramento	County of Salt Lake	$329,000
3. Hyrum Res.[3]	BR-Salt Lake City	Utah Div. of Parks and Recre.	$100,000
4. Scofield Res.[3]	BR-Salt Lake City	" " " " " "	$100,000
5. Deer Creek Res.[3]	BR-Salt Lake City	" " " " " "	$100,000
VIRGINIA			
1. Verona (Staunton)	C-Baltimore	Board of Conservation & Economic Development	$1,418,000
2. Salem Church	C-Norfolk	Board of Conservation & Economic Development	$12,970,000
3. Hipes[14]	C-Norfolk	Commission of Game and Inland Fisheries	$509,000
WASHINGTON[16]			
1. Snoqualmie	C-Seattle	King County	$2,193,000
2. Ben Franklin	C-Seattle	Benton and Franklin Counties	$2,338,150 & $521,250
3. Touchet Div.	BR-Boise	Port of Columbia County	$1,048,000
4. Scootney Res.[3]	BR-Boise	Franklin County	$16,000
5. Easton Res.[3]	BR-Boise	Washington State Parks	?
WEST VIRGINIA			
1. Stonewall Jackson Lake	C-Pittsburg	W.V. Dept. of Natural Res.	$12,100,000
2. North Mountain	C-Baltimore	W.V. Dept. of Natural Res.	$1,778,500
3. Birch Res.	C-Huntington	?	$3,737,500
4. Panther	C-Huntington	?	$660,000
5. Leading Creek	C-Huntington	W.V. Dept. of Natural Res.	$1,250,000
6. West Fork	C-Huntington	" " " " "	$860,000

WYOMING					
1. Big Sandy Res.[3]	BR-Salt Lake City	Wyoming	Recreation	Commission	$100,000
2. Boysen Res.[3]	BR-Billings	"	"	"	$100,000
3. Buffalo Bill Res.[3]	" "	"	"	"	$100,000
4. Keyhole Res.[3]	" "	"	"	"	$100,000

Footnotes to Table I

[1]Alabama and Mississippi will share $8,000,000. The Figure given is an estimate as the proportion each state will share is unknown.

[2]Letter of intent submitted by the governor. Not all of the responsible state agencies are willing to participate, however.

[3]Section 7(a) of PL 89-72 permits the Bureau of Reclamation to cost-share facilities for the enhancement of recreation, fish, or wildlife at existing Reclamation reservoirs. The Bureau may not spend more than $100,000. In practice many nonfederal entities cannot afford to cost-share $100,000, preferring to invest small amounts (one to several thousand dollars) when they can afford to do so. The Bureau of Recalmation then attempts to match these sums. With the exception of states in the Pacific Northwest Table I depicts the maximum amount that a nonfederal entity may expect to cost-share at existing Reclamation projects; Table 10, on the other hand, depicts the reported amounts spent at the existing projects in the Pacific Northwest. Therefore, if Tables I and 10 are compared it would appear as if there is less cost-sharing at existing reservoirs in the Pacific Northwest than there is in the rest of the country.

[4]The figure represents ultimate costs of development. It is not clear whether these sums include the federal share of the separable costs. Letters of intent had been received for these reservoirs, although as of September 10th, 1970, they were not yet authorized.

[5]The Jacksonville District Office of the Corps of Engineers did not respond to either questionnaire; therefore, the Florida Department of Natural Resources was used as the source. Local sponsors were not identified.

[6]Contract signed for cost-sharing under PL 89-72. In the entire country only a few contracts have been signed.

[7]Letter of intent submitted by the governor

[8](Middle) size of symbols exaggerates magnitude of expenditure in La.

[9]The Mobile District Office of the Corps of Engineers did not respond to the 1970 questionnaire. The information was therefore taken from the Pat Harrison and Pearl River Waterway Districts.

[10]Nebraska withdrew its letter of intent on May 20, 1971. Local sponsors had not submitted letters of intent for Midstate and Angus reservoirs as of July 1971. The Twin Loups Reclamation District assumed responsibility for functions under PL 89-72 because this would decrease repayments by irrigators.

[11]Not cited by the Corps but by New York Department of Environmental Conservation.

[12]Authorized over the strenuous opposition of the State Game and Fish Department.

[13]Information on Corps' reservoirs is based from response to a 1968 questionnaire. The Tulsa office did not respond to the 1970 questionnaire.

[14]Cost is for fish enhancement only, as the proposed reservoir is in a National Forest.

[15]State Resources Agency withdrew the letter of intent

[16]For additional information see Table 11

[17]The Sabine River Authority

[18]Now known as the Lavaca-Navidad Authority

*Table 1 reflects some post 1971 data. Copies of the report containing the Table were sent to state and federal agencies that had responded to the questionnaire. Footnotes 14-18 were added as were details about non-federal sponsors and/or amounts to be cost-shared for California, Maryland, Texas, Virginia, West Virginia.

Storage Act, rendering it unnecessary to arrange for the construction of recreation facilities on a cost-sharing basis; and 2) Projects near urbanized areas not only generate a large demand for recreation but also these urbanized areas often provide the potential nonfederal participant with the financial resources to participate in the Act. In addition, urban sprawl in the flood plains facilitates the process of project justification.

On the Pacific Coast, the concentration of cost-sharing in California is the most visible characteristic. In this state the Bureau of Reclamation is dominant, being most active in the Central Valley where a number of projects are related to the California water plan. All of the Corps' five projects within the purview of PL 89-72 are in the northern part of the state where flood control considerations are of greater significance. Nonfederal participants are almost exclusively local governments, as the State Resource Agency has refused to participate in most of the proposed projects.

General Problems of Implementation: Response to the Questionnaires

Response to other parts of the questionnaires is now considered. As this juncture it must be emphasized that only tentative conclusions could be drawn therefrom because much of the information received was quite complex and therefore difficult to place into several neat categories.

Input of Nonfederal Levels of Government

One of the most significant questions about PL 89-72 is whether the desired planning functions are actually being devolved upon nonfederal entities as stipulated in the Act. In an attempt to gauge how much planning input the nonfederal entities had in 1970, questions dealing with this point were asked of federal, state, and local participants. All state agencies that were potential participants were asked,

> "...comment on the willingness of the federal agencies to accept the desires of your agency in planning the facilities cost-shared under provisions of PL 89-72".

Table 2 summarizes state responses.

In early 1971 although almost six years had elapsed since passage of PL 89-72, almost half of the responding agencies could not or would not answer the question. Thus, it appears that not enough nonfederal entities had had enough experience with the Act to draw hard and fast conclusions. Trends in the problems and issues of implementation were apparent however from the responses of the twenty-five state agencies that answered the question. When taken as a whole, state agencies having had experience with the Act appeared to feel that they did have an active voice in planning facilities cost-shared under PL 89-72. It is notable however that agencies responsible for a limited number of functions -- recreation, and especially fish and wildlife -- had a less sanguine view of the federal agencies surrender of their planning prerogatives as stipulated by PL 89-72.

Table 2 - State Response to Willingness of Federal Agencies to Accept Their Plans for Facilities Cost-Shared under PL 89-72

	1	2	3	4	5	6			
TYPES OF STATE AGENCIES	NOT APPLICABLE or NO EXPERIENCE or NO COMMENT	TOO EARLY TO SAY	VERY WILLING	GENERALLY WILLING	NOT WILLING	Positive a	OTHER* Neutral b	Negative c	Totals 2-6
Fish and Game Departments			1	2	2	2		2	9
Recreation and Parks Departments			3	1	1		1		6
Departments of Natural Resources and Conservation		2	7	1		1	3		14
TOTALS 49	20	2	11	4	3	3	4	2	29

*Respondents did not answer the question specifically, but commented in general terms about the state-federal relationships re PL 89-72. "Positive" should be interpreted as roughly equal to columns 3 or 4; "Neutral" to 1 or 2; and "Negative", to 5.

Such a difference of opinion by state agencies should be expected, because those agencies that incorporate a larger number of functions are naturally more favorably inclined towards water development in the traditional sense of the word (hydropower, navigation, irrigation, and flood control) than they are to recreation, fish and wildlife, which PL 89-72 was designed to enhance.[2] The trend towards amalgamating state agencies suggests that the federal agencies may well find an increasing number of nonfederal partners amenable to the traditional methods and priorities of planning recreation, fish and wildlife enhancement. On the other hand, growing public pressure for more leisure time uses of water could nullify the effects of the aforementioned trend.

Local entities attitudes towards the question of participation in planning are now considered. Approximately fifty questionnaires were sent to local entities that had been identified by federal agencies as having signed a letter of intent to participate in PL 89-72. They were asked

> "From your experience thus far, do you believe that the federal agency is giving you an active voice in planning those facilities that will be cost-shared under PL 89-72, or is it too early to say?"

Response by local entities to the questionnaire was quite limited. Of the nineteen local entities responding to the questionnaire, six did not answer the question, one denied that it was participating, three answers were either ambiguous or stated it was too early to say, and nine felt they were being given an active voice in planning. Obtaining usable information from local entities is challenging, particularly when regional or national coverage is desired.

When the foregoing responses are considered as a single unit, it would appear as if nonfederal entities were in general gaining a considerably greater voice in planning; and that recreation, fish and wildlife were becoming equals among other project purposes as stipulated in PL 89-72. But it was decided that the questions about the changing role of nonfederal entities vis-à-vis the federal agencies and about the equality of recreation among project purposes had to be put in more specific terms. This was done because the mere authority to plan recreational facilities i.e., to site picnic tables, drinking fountains and boat launching ramps, has little effect on other project purposes, and is therefore probably neither an accurate indicator of the input of nonfederal planning nor of the significance of recreation, fish and wildlife relative to other project purposes.

It is suggested rather that a voice in reservoir operations is a more accurate indicator of both nonfederal planning input and of the relative significance of recreation, fish and wildlife. Accordingly, the state agencies were asked,

> "in your opinion have reservoir operations been sufficiently modified to facilitate enhancement of recreation and/or fish and wildlife?"

The response is tallied in Table 3.

Table 3 - State Responses to whether Reservoir Operations Are Sufficiently Modified

TYPE OF STATE AGENCY	YES	SOME MODIFICATION	NO	UNDECIDED	UNCLEAR	TOTALS
Fish and Game Departments	1		8		1	10
Recreation and Parks Department	6		3			9
Departments of Natural Resources and Conservation	6	2	1	1	2	12
TOTALS	13	2	12	1	3	31

Similar to the broader question of planning input, opinions differed according to the type of state agency responding. Response to this question in 1970-71 suggested that when other project purposes might be adversely affected, interests favoring recreation, and/or fish and wildlife were likely to be relegated to their former role as residual legatees even though these benefits were frequently as great or greater than those of other project purposes. State fish and game departments were particularly negative about this point.

To gain the perspective of the federal agencies on reservoir modification the questionnaire asked,

> "Are nonfederal entities participating in PL 89-72 able to influence reservoir operation, or are operating schedules determined prior to negotiations...?"

Most of the answers were quite cautious, sometimes containing several qualifications. Some respondents answered that the question was not applicable (inappropriate?), while six others had no comment. The answers of the thirty-nine responding offices that had projects within the purview of PL 89-72 or would hypothesize on future actions are summarized in Table 4. Some of the answers were difficult to categorize due to numerous qualifications. It must be noted that about the time these questionnaires were being answered the Corps was disseminating new guidelines on the planning and management of recreation and fish and wildlife. These regulations stressed that these project functions were to become more than equal in name only and included sections that may be interpreted as allowing a greater nonfederal voice in reservoir operations.[3]

Table 4 - Federal Agencies' View of whether Nonfederal Entities Are Able to Influence Reservoir Operations

EXTENSIVE INFLUENCE	SOME INFLUENCE		LITTLE OR NO INFLUENCE	NOT CLEAR[2]
	Positive	Negative[1]		
2	6	7	4	8

[1] Qualified by statement to the effect that nonfederal entities may influence operations if other project purposes are not adversely affected.

[2] In most of these instances the responses connoted that little or no influence could be exercised by the nonfederal participant, even though the respondent appeared hesitant to state it clearly.

The Role of Increased Benefits

Another aspect of PL 89-72 is how significant recreation and/or fish and wildlife benefits have become in project b/c ratios. The Act significantly increased the allowable proportion of the total project costs that could be charged to the enhancement of recreation and/or fish and wildlife. This prompted some critics of the bill to charge that since the federal construction agencies not infrequently use the b/c analysis as a tool of justification rather than one of analysis, PL 89-72 would be used by them as a smokescreen behind which to justify otherwise infeasible projects.

To ascertain the significance of recreation in project benefit-cost analysis, which would be the first step in checking the validity of the aforementioned criticisms, federal agencies were asked whether benefits from recreation and/or fish and wildlife were necessary for a favorable b/c ratio. Due to the manner in which this question was worded, responses in some instances did not apply to all the projects within the responding agency's district that came within the purview of PL 89-72.[4] Although the response to this question was not therefore considered conclusive, it is nevertheless noteworthy. Three federal agencies answered that without benefits from recreation and/or fish and wildlife a total of eight projects would be jeopardized. Sixteen answered none; three stated that it was possible that one or more projects might be jeopardized; and one Corps District in the Pacific Northwest noted that while none of the authorized projects under PL 89-72 would be jeopardized by a lack of participation in PL 89-72 by a nonfederal entity, that seven of nine potential projects for which letters of intent were being sought apparently would be jeopardized if nonfederal participation in PL 89-72 was not forthcoming.[5] One federal respondent noted the possibility of recreation swinging

the project was becoming increasingly remote as benefits per user day were held constant as construction costs soared. It continued that indeed the b/c ratio could be lowered by the including recreation unless this relationship between frozen benefits and increasing costs was not changed. A subsequent appraisal of b/c ratios of projects in Washington and Oregon that are within the purview of PL 89-72 generally refuted this assumption: in most instances b/c ratios fall when recreation and/or fish and wildlife are omitted.

A question related to the significance of recreation and/or fish and wildlife in project b/c ratios is whether the necessity of these benefits to project b/c ratios might impel an otherwise unwilling local entity to participate in cost-sharing under PL 89-72: for to refuse to participate in these instances would mean loss of the entire project with its nonreimbursable benefits. It is suggested that state agencies would be less subject to this pressure as their territories are much larger and therefore are affected by water projects to a much lesser degree than the local entities. The flow diagram discussed in Chapter V illustrates this relationship.

In 1970 the local entities were asked whether to their knowledge cost-sharing under PL 89-72 was prerequisite to the entire project being built. Due to the small response and to the poor design of this question, little of value was gained. Subsequent investigation of this question in the Pacific Northwest indicated that there is a good deal of confusion on this facet of the Act.

The Willingness and Ability of Nonfederal Levels to Cost-Share

Another important aspect of PL 89-72 is whether the nonfederal entities are willing and able to cost-share under provisions of the Act. In keeping with "creative federalism", the Act required increased financial responsibility in return for greater planning inputs. If the Act is to be successfully implemented, the nonfederal participants must be both willing and able to finance the costs. Towards these ends the nonfederal participants in PL 89-72 are encouraged to charge user fees. This method is not without difficulty however as free access to water for fishing and recreation is widely considered as a birth right, particularly in the West. The nonfederal participant may also repay its share of costs under PL 89-72 through the donation of land and/or facilities. This may be done in combination with charging user fees. In either case, the nonfederal participant is required to repay the costs with between three and four percent interest.[6]

State and local entities were queried as to the method they were using and/or planned to use to recapture costs of participating in PL 89-72. Only fifteen of the local entities responded to this question, some citing two or more methods. In order of declining popularity the methods they cited are: charge user fees (9); general fund (3); increase taxes (2); donate land and/or facilities (2); increase domestic water rates (2); receive help from the state (2); no plan to recapture costs (1). Six still had the problem under study. Table 5 summarizes the methods that state level agencies are using or plan to use to recoup expenses of participating in cost-sharing recreation and/or fish and wildlife enhancement under PL 89-72.

Table 5 - Methods Used by State Agencies for Recapturing Costs of Participating in PL 89-72

	FISH AND GAME DEPARTMENTS	OTHER AGENCIES	TOTAL[1]
User Fees	2	15	17
General Fund	4	4	8
Donate Land and/or facilities	1	5	6
No Plan to Recapture	4	1	5
Bond Issue	2	2	4
Tax Increase	4	1	5
Not Sure	0	2	2
Other	0	2	2

[1]Some agencies checked more than one method

Again agencies responsible for fish and game appear to have a distinctly different attitude than those agencies concerned with recreation or with other water derived services. On the question of user fees this difference is most notable. Most fish and game departments are opposed in principle to charging user fees to someone who has already purchased a hunting or fishing license. This they state would be tantamount to double charging. State agencies responsible for these biota must be sensitive to their clientele groups of hunters and fishermen because the licenses these groups purchase often provide much of the agencies' funds. The divergent views of acceptability of user fees again illustrates the fallacy of treating recreation, fish and wildlife as if they were one phenomenon.

When comparing responses of local entities and state agencies to recapturing costs, it must be remembered that local participants in PL 89-72 are much more sensitive to irate taxpayers and fee-paying recreationists than most state agencies. When considering the total nonfederal response to methods of recapturing costs, user fees are unquestionably the most popular. With the exception of agencies responsible for fish and game, it appears as if the traditional resistance to charging user fees is breaking down at the nonfederal level. A caveat must be appended, however, because experience with user fees indicates that returns therefrom may well be considerably less than the draftsmen of PL 89-72 anticipated. Indeed, the National Water Commission has recently concluded that the fee system in general "can be classed as a failure and disappointment."[7]

Factors Impeding Implementation of PL 89-72

As a background to designing the questionnaire it was assumed that PL 89-72 contained several provisions that might render its implementation difficult. First and foremost nonfederal entities were required to pay for recreational enhancement, which often had been a free byproduct of federal water projects. Moreover, participation in PL 89-72 required assumption of long term debt, a situation against which most nonfederal entities had safeguards.

General Problems of Implementation

The questionnaires sought to isolate both general and specific types of problems that could impede the implementation of PL 89-72. At the general level federal agencies were asked to

> "comment on the principal reason(s) underlying the lack of nonfederal participation...at projects for which one or more nonfederal public bodies would not agree to cost-share under PL 89-72."

Results are summarized in Table 6.

Table 6. Federal Agencies' View of the Reasons why Nonfederal Entities Would not Participate in PL 89-72.

REASONS	NUMBER OF TIMES
Cost Too High	8
Did Not Fit State Priority	5
Did Not Want to Subsidize Recreation for "Outsiders"*	4
Cannot Commit Future Administration to Debt	3
Intervening Recreational Opportunities	2
Constitutional Reasons	1
Recreation Not Needed to Swing Project b/c Ratio	1
State Government Opposed to Entire Project	1
Total Refusals	25
Had Had no Refusals	15

*This reason was ascribed largely to counties in California, which declined to cost-share on the grounds that "outsiders," i.e. recreationists from other counties brought more problems than benefits.

To obtain the states' reasons for not participating, state agencies were asked,

> "Would you please give the reasons underlying the decision not to participate?"

(This referred specifically to projects at which they had refused to participate). Their response is summarized in Table 7.

Table 7 - States' View of Reasons Underlying Their Refusal to Participate in PL 89-72

REASONS	NUMBER OF TIMES MENTIONED		
	Fish and Game Departments	Other	Total
Cost too High	5	1	6
Wrong Location or Not in Accord with Priority	1	5	6
Cannot Bind Future Administrations to Debt, Including Constitutional Strictures Against This	2	3	5
Recreation and/or Fish and Wildlife only being used to Justify Project	2	2	4
No Replacement in Kind	2	0	2
Unsatisfactory Reservoir Operational Schedule	0	2	2
State Not Allowed to Help Draw up Project b/c Analysis	1	1	2
Recreation Lumped with Fish and Wildlife	1	0	1
Why Should Fish and Wildlife Enhancement Require State Money When Some Other Project Purposes are Nonreimbursable	1	0	1
TOTALS	15	14	29

A comparison of Tables 6 and 7 reveals that the federal and state levels of government had a somewhat different perspective of factors hindering implementation of the Act. Although both levels ranked nonfederal costs at the top, the federal response placed greater emphasis on it. While the question of priorities (including location of the project) was ranked as the second most important factor by the federal level, state agencies ranked it with cost. It is noteworthy that state agencies responsible for fish and game were not nearly as concerned with the questions of priority and of location as are the agencies responsible for outdoor recreation. It is suggested that this difference results from fish and game departments tending to be more interested in the production and maintenance of biota under their jurisdiction than in its harvest by sportsmen. Moreover, fishermen may well be willing to travel further to pursue their leisure time activities than the outdoor recreationists. When recreation is the principal consideration under PL 89-72, ready access to reservoirs by large numbers of urbanites may well be one of the major factors affecting the decision to cost-share.

Since the states are closer to the problem of nonfederal participation than the federal agencies, it would be expected that they offer a variety of reasons for not participating in PL 89-72. That some of their answers are critical of the procedures and conduct of the federal agencies is also to be expected.

State Constitutional and/or Legal Problems of Participating in the Act

In view of the large number of states having constitutional restrictions on incurring long term debt, as participation in PL 89-72 frequently entails, it is noteworthy that this reason was infrequently stated. This corroborates Hoggan's observation that constitutional limitations are easily circumvented by nonfederal entities through use of unguaranteed debt.[8] The questionnaire sought to elicit more specific information on constitutional and/or legal restrictions affecting implementation of the Act. Towards that end the states were asked,

> "If there are any constitutional and/or legal constraints on the ability of your agency to participate in cost-sharing under PL 89-72, would you please specify what they are."

While the federal agencies were asked,

> "Would you please include any constitutional and/or legal constraints in your district (or region) that hinder nonfederal participation in cost-sharing under PL 89-72."

The responses to these questions are summarized in Tables 8 and 9.

Table 8 - Response of State Agencies to the Presence of Constitutional and/or Legal Constraints to Participation in PL 89-72

	TYPE OF AGENCY		
	Fish and Game	Recreation Departments and Conservation Departments	Total
No Constitutional or Legal Limitations	8	15	23
Some Type of Limitation	4	7	11
Each Project Must be Approved by Legislature	0	3	3
Will Have to Make Detailed Legal Search Before	0	1	1
Not Known	12	26	38

Table 9 - Federal Agencies' Response to the Presence of Constitutional and/or Legal Constraints to Participation in PL 89-72

TYPE OF CONSTRAINT	NUMBER OF TIMES CITED
None or None Known	25
Some Type of Constraint*	7
Not Yet Known, Must be Determined	2

*Only one federal agency explicitly noted constitutional constraints: The Boise Regional Office of the Bureau of Reclamation answered that Oregon and Washington had raised constitutional questions.

On the face of it state agencies appeared to place markedly greater significance on their states' legal and/or constitutional restrictions than did the federal construction agencies. In reality the appraisal by federal agencies probably reflects more accurately the effectiveness of state laws and constitutions re implementation of PL 89-72. Evidence in the Pacific Northwest suggests that state agencies circumvent state restrictions when they desire to participate in PL 89-72, but cite the restrictions when participation in the Act is deemed undesirable.[9] This situation may well explain the discrepancy between the federal and the state responses to this question. The matter of interpretation is also significant as in several instances different federal agencies had conflicting answers for the same state.

As of 1971 laws in at least two states did appear to frustrate Congressional intent that recreation be an equal with other project purposes. In Florida eminent domain could not be used to acquire recreational land; while in North Dakota reimbursement was required for tax loss when lands were developed for recreation, which apparently resulted in higher costs to nonfederal entities cost-sharing under PL 89-72.

Additional Problems of Implementation

Interviews and correspondence (largely in the Pacific Northwest and Colorado) with federal, state, and local entities disclosed problems of implementing the Act that were not given in the response to the questionnaires.

As far as the states were concerned one of the most troublesome features of the Act was the uncertainty and long delays associated with federal water projects. From past experience they knew that it could take a decade or more from the time federal agencies asked for a letter of intent until the project was authorized. Then they could expect more years to pass between authorization and appropriation of funds before the project would be actually constructed. Nonfederal entities find it extremely difficult to plan future expenditures in the face of these uncertainties. As discussed in later chapters these uncertainties are somewhat less protracted for nonfederal entities participating at potential Corps' projects.

Another problem was the frequent withdrawal of federal matching monies by the Office of Management and Budget (OMB). Although the OMB can influence project authorization and/or appropriation of project funds, this problem applied specifically to existing reservoirs where under the Act the Bureau of Reclamation may cost-share the enhancement of recreation with a nonfederal entity. That agency was then placed in an awkward position when the OMB suddenly withdrew the federal matching funds that the agency had agreed to use for recreation enhancement. This withdrawal occurred even after the nonfederal entity had expended its funds.[10] This in turn reportedly undermined the confidence of the nonfederal entities in all parts of PL 89-72, and was thought to be one of the major reasons why nonfederal entities are reluctant to participate in PL 89-72 at new projects.[11] Additional factors that came

to light were: lack of wide spread expertise among nonfederal entities; the distance of purposed federal projects from centers of population; priorities of nonfederal entities that were not in accord with the federal schedule of project authorization, appropriation, and construction; and the unwillingness of state agencies to cost-share facilities on federal land around the reservoir.

Conclusions Drawn from 1971 Questionnaires

By the fall of 1971 it was concluded that implementation of the Act was at best proceeding slowly and unevenly; and that while agencies responsible for recreation were not particularly enthusiastic about participating in cost-sharing under PL 89-72, they were generally less negative than those agencies responsible for fish and wildlife.

Regarding the questions posed in the introduction of this chapter, it was tentatively concluded that: 1) recreation, fish and wildlife had not become equals with the traditional project functions; 2) even if personnel in the federal agencies had been willing to relinquish their traditional planning prerogatives vis-à-vis their new nonfederal partners, it is doubtful that many of the local nonfederal entities that were prospective participants in PL 89-72 would have had the planning capacity necessary to make a meaningful input into project plans as the Act intended (this may have been a problem for even several of the state agencies at that time); and 3) while many nonfederal entities had signed nonbinding letters of intent to participate, they displayed markedly less enthusiasm about signing contracts to cost-share under PL 89-72. It was with these conclusions that the research efforts then focussed on implementation of the Act in Washington and Oregon.

IV. IMPLEMENTATION OF THE ACT IN THE PACIFIC NORTHWEST

Regional Characteristics

In this study the Pacific Northwest (the Region) refers to the states of Oregon and Washington. Although Idaho and western Montana are not infrequently included in the mental construct "Pacific Northwest," these areas were not considered for several reasons. First, the scope of the study precluded a detailed coverage of that large area; second, there are few projects there within the purview of Section 2 of the Act; and third, of the combined populations of western Montana, Idaho, Oregon, and Washington, over eighty-five percent live in the latter two states.

The Region has a combination of biophysical and human phenomena that distinguish it from the United States as a whole and from other regions within the country. The region displays characteristics that may affect implementation of the Act in both a negative and a positive manner. Factors which would tend to encourage a greater degree of participation in PL 89-72 than the national average are: a relatively large per capita provision of federal water projects, both constructed and planned; a population that spends markedly more of its time in outdoor recreational, hunting, and fishing activities than the national average; and that the states' agencies eligible to participate in PL 89-72 have adequate expertise to participate meaningfully in the Act. Factors which would tend to discourage participation in PL 89-72 are: a much greater than average supply of opportunities for recreation, fishing, and hunting, both in per capita and absolute terms; a large proportion of the region under federal management, which would render the collection of user fees difficult because high quality outdoor recreational experiences generally cost the users little or nothing; active and influential preservation organizations whose opposition to water projects includes dissuading nonfederal entities from cost-sharing; both of the states' agencies responsible for fish and game generally have a negative attitude toward dams, because each agency is also responsible for anadromous fisheries that have been depleted by past water development; and state constitutions which have been interpreted to limit incurring debt as participation in the Act is sometimes interpreted to require.

Three years after passage of the Act, some of these factors were noted by the Secretary of the Interior when comparing the implementation of the Act in the Region to that in the rest of the United States.

> "...The Act (is) working quite well. It naturally works better in areas of the country that are not endowed naturally with vast outdoor recreation and fish and wildlife opportunities. Public response in the more arid and treeless sections of the Reclamation States has been universally affirmative (sic) while it has been less positive in the Pacific Northwest Region. This is for the very evident fact that people are loath to purchase something that exists in the natural state free of charge."[1]

As Table 1 indicates, despite the aforementioned factors militating against participation in the Act, by 1970 a number of nonfederal entities within the Region had signed letters of intent to participate; and since 1970 several more letters have been signed.

The Actors

Congress intended that implementation of PL 89-72 would involve actors at the three levels of government. In accordance with creative federalism (discussed in Chapter II) the Bureau of Reclamation or Corps of Engineers and nonfederal participants would cooperatively plan and finance the enhancement of recreation and/or fish and wildlife at reservoirs. Draftsmen of the Act believed that the state agencies would most frequently participate because they had both the financial capacity and planning expertise required for successful implementation of the Act. Table 1 indicates that with a few exceptions - most notably in Oregon and California - state agencies have elected to participate much more often than local levels of government. (It must be noted that Table 1 shows considerable local participation in the West, Montana for example, but that this was under Section 7 of the Act i.e., at existing Bureau of Reclamation reservoirs where nonfederal expenditures are limited to $100,000.)

Characteristics of the key actors in the Region are now considered. It is noteworthy that significant differences exist between actors in the two states, especially at the state level.

Oregon

Oregon Highway Commission's Division of Parks and Recreation

The state agency most elligible to participate in the enhancement of recreation under PL 89-72 is the Division of Parks and Recreation (ODPR). From its unique position in the State Highway Commission the ODPR has a statewide responsibility for providing parks and associated outdoor recreation. By most standards the ODPR has carried out its responsibility admirably, developing in Oregon one of the nation's leading park systems. On the face of it the ODPR has the prerequisites to participate in PL 89-72 as Congress intended: considerable planning expertise and adequate funding. But its policy towards cost-sharing under the Act is markedly negative. Indeed by virtue of its actions re PL 89-72, Oregon is considered to be one of the least cooperative states in the country vis-à-vis the Act. In most cases the ODPR has flatly refused to sign a letter of intent for both existing and proposed reservoirs, thus relegating the responsibility to the local level. Decision makers in the ODPR have advanced a variety of reasons for this position including, excessive distance between the reservoirs and center of population in Oregon, unsatisfactory reservoir operating schedules, excessive nonfederal costs resulting from alledged faulty methods of cost allocation and planning, and until 1971, the fact that the Oregon Constitution would not allow incurring debt as PL 89-72 required. It is submitted, however, that the aforementioned reasons - that are not without some validity - are manifestations of a philosophy about federal-state cost-sharing.

Namely, whereas more than one-half of Oregon is managed by the federal government, and whereas a considerable proportion of recreationists in the state are not Oregonians, and whereas the state has already done more than its fair share of providing outdoor recreation, future provision of outdoor recreation in Oregon rests largely on the shoulders of the federal government.[2] PL 89-72, requiring increased nonfederal payments for recreation, is an anathema to those holding the aforementioned philosophy; and decision makers at the ODPR have treated the Act as such.

Over the last two years it would appear as if the ODPR has modified its position vis-à-vis PL 89-72. For example the ODPR signed a letter of intent to participate at a Bureau of Reclamation project in the Willamette Valley and seriously considered participating at an authorized Corps project in northeastern Oregon.[3] When querried about these cases and whether they indicated a change in policy vis-à-vis the Act, spokesmen for the ODPR assured the investigator that these actions should not be construed as a change in policy: that the ODPR remained firmly opposed to cost-sharing under PL 89-72.

In 1971 the ODPR carried its opposition to the Act to the regional level by presenting its views on PL 89-72 at a meeting of the recreation subcommittee of the Pacific Northwest Rivers Basins Commission. Oregon's views were not concurred in by any other members there - both state and federal. Some federal representatives asked for rebuttal time at a future meeting, but the topic has not been raised at the regional level again.

Oregon Game Commission

The Oregon Game Commission (OGC) is the nonfederal public body best suited to participate under PL 89-72 when fish and/or wildlife are enhanced at federal water projects. Established in 1921, it formulates general policies and carries out programs for the management of game, sports fish, and wildlife. Thus, the OGC should be involved directly with PL 89-72 re the enhancement of fish and/or wildlife; it should be indirectly involved also because sports fish and recreation on reservoirs are inextricably intertwined -- even though the two are usually managed by separate agencies at both the federal and state level.

The Commission's responsibility for game fish but not for commercial fish causes jurisdictional problems, because in Oregon anadromous fish are classified as both. In Oregon the management of salmon and steelhead is bifurcated as it is at the Federal level. This has led to considerable competition and confusion in the past. The Fish Commission of Oregon, which is responsible for commercial fisheries, has been requested to cost-share under PL 89-72 but has always refused on the grounds that Congress did not intend the enhancement of anadromous fish to be reimbursable.

The position of OGC vis-à-vis PL 89-72 has been somewhat less negative than that of the Department of Parks and Recreation. But its participation in PL 89-72 has been quite poor relative to many other states' agencies charged with the management of fish and wildlife. There appear to be several major reasons why the OGC has not participated more frequently. First, most of its small budget is spent for ongoing projects that do not fit the construction schedule of the Corps or Bureau of Reclamation.

Second, similar to other state agencies responsible for anadromous fisheries, heavy losses of these biota due to past water development projects has not engendered a spirit of trust and cooperation towards the major federal construction agencies. And third, until the State Attorney General's opinion re the constitutionality of participating in PL 89-72, the OGC had for the most part interpreted Article XI Section 7 of the Oregon Constitution to mean that it could not participate in cost-sharing the capital costs connected with the enhancement of fish or wildlife as stipulated under PL 89-72.

These factors notwithstanding, the OGC has participated to a limited extent in PL 89-72. It has agreed to assume the costs of stocking and hatchery operations at some of the projects within the purview of PL 89-72. In most of these instances, however, some other nonfederal public body (usually a county) has had to agree to pay the capital costs as well as the operation and maintenance costs associated with fish enhancement. In a few instances the OGC has even agreed to cost-share capital costs and O & M costs. The willingness of the OGC to participate, within the constraints outlined above, is illustrated in another way by its waiver of some other constraints that would have further limited its participation under PL 89-72. For example, it has been a OGC policy not to stock fish where user fees are charged. But PL 89-72 encourages the charging of user fees, and at least two of the counties participating under PL 89-72 that have agreed to pay the nonfederal share of fish enhancement plan to charge user fees. In these cases OGC has agreed to waive its policy and will stock the reservoir. The OGC expects to do this at other reservoirs where the fisheries are enhanced under PL 89-72. Finally, the Game Commission's interpretation of Criteria for State Participation in Federal Water Development Projects under the Terms of 'The Federal Water Project Recreation Act' PL 89-72[4] appears to be less negative than that of ODPR: the OGC has also indicated that it may turn to the General Fund to facilitate its participation under PL 89-72.[5] This in itself is a marked change in policy that could increase its participation in cost-sharing significantly.

The Committee On Natural Resources

The Governor's Advisory Committee on Natural Resources (hereinafter NRC although its title was changed to the Natural Resources Planning Committee in 1970) also played a significant role in the state-federal relations re PL 89-72. Officially established in 1951 (ORS 184.410-184.450), the NRC comprises thirteen ex-officio members, most of whom are heads of agencies, commissions, and/or boards dealing with natural resources. Its functions are to coordinate, exchange, and amalgamate the differing views of Oregon's several agencies dealing with natural resources.

Within the NRC a special Subcommittee on PL 89-72 was formed to formulate a state policy on the Act. The Subcommittee drafted two policy statements on the Act. The first opposed PL 89-72 and attempted to have the Act amended by the Oregon Congressional Delegation. After this failed, the Subcommittee released a second report in October, 1969, entitled Criteria for Participation in the Federal Water Development Projects under the Terms of the 'Federal Water Project Recreation Act' PL 89-72. This report - characterized by several members of the Subcommittee as "an attempt to live with PL 89-72" - stipulated three conditions that should be met by

federal agencies before the state would enter into a cost-sharing agreement: First, all negative effects of the proposed project upon fish, wildlife, and recreation must be fully compensated for in kind or by an acceptable replacement. Second, public demand for the potential enhancement benefits must actually exist and the proposed project must provide the most advantageous methods of accommodating that demand. And third, that the required non-federal funds are available. It is axiomatic that conclusions on these points would reflect the values of the agency -- state or federal -- making the appraisal. It is quite doubtful that the federal construction agencies could or would let the state agencies be the sole judge of points one and two.

The State Water Resources Board

The State Water Resources Board (SWRB) was created by the Water Resources Act of 1955. Unlike the ODPR & OGC which have interests in only one or two water derived services, the SWRB is charged with a much broader approach to water use. Indeed, its raison d'être is to formulate a coherent statewide approach to water use. Thus, the SWRB has a direct interest in the matter of implementing PL 89-72 within the state, even though it may not agree with all aspects of the Act.

The SWRB attempted to convince the other agencies that the state had at least a moral if not legal obligation to participate in the Act. Towards these ends it worked informally with the other agencies and formally as part of the NRC. In its Biennial Reports the SWRB also attempted to convey to the Legislature the necessity of amending the Constitution so that state obligations in the water development field could be carried out.[6] Although the Legislature did not act on these recommendations by the SWRB, as noted earlier the State Attorney General finally clarified the Constitutional question. The SWRB was somewhat more successful in backing efforts to form water development districts that would be qualified to cost-share under PL 89-72. This may prove helpful in eastern Oregon where many of the counties would most probably find participation in PL 89-72 well beyond their financial capabilities.

Local Governments in Oregon

Due to the position of Oregon's state agencies most of the responsibility for cost-sharing under PL 89-72 has been relegated to the counties. Although letters of intent have been received from diverse counties throughout the state, it is doubtful whether all the letters are from counties that can or will actually sign a contract to cost-share under PL 89-72.

Oregon counties generally share many of the problems facing county governments across the country: first, many new services must be provided, which is particularly onerous for the one in three counties that have declining populations. Second, for counties near the periphery of metropolitan areas, the rapid influx of unplanned housing developments creates many new problems. And third, public apathy and indifference reinforces the attitudes that more government activity means higher taxes while not benefitting rural parts of the county, which not infrequently hold a disproportionate share of power in the county government.[7]

While many Oregon counties share the aforementioned problems, a great deal of diversity exists among counties in the state. Factors in Oregon which enhance the ability to counties to shoulder the nonfederal responsibilities required under PL 89-72 include: first and foremost an unusually bountiful source of funds from timber harvested on Oregon and California Revested Lands within the county (Table 10);[8] and counties with large and growing populations that have much larger planning and administrative staffs than the average Oregon county does. Most of these counties are found west of the Cascades, although by no means do all counties in this part of the state possess either of the characteristics noted above. In the eastern two-thirds of the state the counties have in general little wherewithall to participate in PL 89-72. The normal situation there is small populations which are static or declining, limited funds, and little or usually no staff with expertise in planning recreational facilities.

Washington

Washington Parks and Recreation Commission

Decades ago the Washington Park and Recreation Commission (WPRC) was formed to help meet the growing recreation demands in that state. Like its Oregon counterpart, it operated on dedicated funds but the sources were more diverse. While the number of parks it has developed are notably less than those created by the ODPR, its expenditures rose by over 200% during the last decade as state population and per capita recreation demands soured.

In contrast to the ODPR, the WPRC has agreed to extensive participation in cost-sharing under PL 89-72. Staff members of the WPRC admit that they would naturally like to have the federal government assume full financial responsibility for recreation at reservoirs, but they emphasize that cost-sharing under the Act is not unattractive. As of July 1973, the WPRC had agreed or was in the process of agreeing to cost-share under PL 89-72 for total of $2.4 million at nine existing and/or partially constructed Corps of Engineers projects along the main stream of the Columbia and Snake Rivers.

Several knowledgeable state and federal staff members have observed that the WPRC has an informal agreement to build a state park at every major Corps reservoir. A formal extension of this informal agreement is presently being reviewed at the state level. If this agreement between the Corps and the WPRC is approved it would mean that funds spent by either at any state park or reservoir could be matched anywhere in the state and, more significantly, it would practically guarantee a park on every major reservoir. But this would not mean an automatic letter of intent at all proposed Corps of Engineers reservoirs: each proposed project would be weighed on its merits.

It is not known how this agreement would affect the position of the WPRC on two proposed projects for which that agency did not submit letters of intent during the last decade. While each of the rather controversial projects - the proposed Ben Franklin and Snoqualmie multipurpose dams - has thus far been stalled by opponents, preventing Congressional consideration, local nonfederal public bodies signed letters of intent to participate in cost-sharing under PL 89-72. Spokesmen for the WPRC note that the agency has not precluded the possibility of becoming the nonfederal sponsor at these projects.

TABLE 10

Average Annual County Income from O & C Funds for Six Years (FY 1965-1970)

County	Average in $1,000's
Benton	700.8
Clackamas	1,364.5
Columbia	589.1
Coos	1,471.4
Curry	1,007.5
Douglas	6,247.3
Jackson	3,908.0
Josephine	3,012.7
Klamath	576.4
Lane	3,808.2
Lincoln	89.8
Linn	658.4
Marion	364.1
Multnomah	164.6
Polk	535.8
Tillamook	139.7
Washington	150.4
Yamhill	179.7

Washington Game Department

The Washington Game Department (WGD) is similar to its Oregon counterpart re its organization, responsibilities, and general view of PL 89-72. The WGD is under a Game Commission and is responsible for sports fish and wildlife. Parallel to the case in Oregon, a separate commission and department is responsible for commercial fish; and as in Oregon this administrative bifurcation with its competing interest groups has sprawned competition and confusion over which set of agencies is responsible for anadromous fisheries. Since both sets of agencies maintain that the enhancement of anadromous fisheries is not to be cost-shared under PL 89-72 (an interpretation sometimes contested by the President's Office of Management and Budget), it is generally agreed that the WGC is the most logical agency to administer the enhancement of fish and/or wildlife under PL 89-72.

The WGD appears even more opposed to cost-sharing under the Act than its Oregon counterpart. The WGD has refused to participate under PL 89-72 at all but one project (and that may be in question) of the many existing and potential projects within the purview of the Act. Approximately one year after passage of PL 89-72, the WGD outlined five reasons for its dissatisfaction with the Act in a letter to the Chairman of the International Association of Game, Fish and Conserv tion Commissioners:[9] First, since the WGD operates largely on funds supplied by hunting and fishing licenses, it can barely afford to maintain existing programs. Participation in PL 89-72 would require rapid expansion of fish and game programs which cannot be met with the existing revenue structure. Second, it feared that anadromous fisheries enhancement in Puget Sound streams would require cost-sharing under the Act, which would be prohibitatively expensive. Third, charging user fees as encouraged by PL 89-72 would be unacceptable to those holding hunting and fishing licenses. Fourth, PL 89-72 placed the WGD in a very difficult position of being responsible for causing a proposed project to become economically unfeasible. As a result the WGD was experiencing extreme pressures from various interest groups that would be adversely affected by loss of the project. And fifth, the WGD stated that if it did not agree to cost-share when the project was in the design stage, it would loose all possibility to do so later if and when it had the funds to participate.

A year later in a letter from the Applied Research Division of the WGD to its Director, the five problems were reiterated and another one added:[10] that the only way the WGD could meet the man-use days required by the U. S. Fish and Wildlife Service was to stock catachable size trout at seventeen cents apiece. This it was noted was far beyond the financial capacity of the WGD; and that while it could afford to stock smaller fish at two cents each this would not guarantee the man-use days required under PL 89-72. Contact with the WGD in 1970 and 1973 revealed that it has maintained its negative view of PL 89-72. In 1970 an knowledgeable staff member noted that the basic problem with PL 89-72 "...results from the fact that the federal project site is not selected for its fish or wildlife potential but, rather, for some other primary purpose..." Finally, in July 1973, a spokesman for the WGD indicated that the Department no longer supported cost-sharing under PL 89-72 at the one project where it had tentatively agreed to do so.

Interagency Committee for Outdoor Recreation

The Interagency Committee for Outdoor Recreation (IACOR) was formed during the last decade as state level government attempted to meet the burgeoning demand for outdoor recreation in Washington. The IACOR is made up of the heads of seven agencies and five citizens appointed by the Governor. The IACOR is to facilitate coordination between the diverse state agencies dealing with outdoor recreation and to supervise the distribution of various federal and state funds to both local and state agencies responsible for providing outdoor recreation.[11]

The IACOR could play a significant role in the implementation of PL 89-72. When local entities elect to participate in the Act, they may apply to the IACOR for one-half of the expense of participation. Thus, if the IACOR concurs with the request, the local expense of participating in PL 89-72 would be reduced by fifty percent. As noted in Chapter III, excessive nonfederal cost is generally held to be the greatest deterrent to implementing the Act, especially for local level entities. It must not be assumed, however, that the IACOR will automatically fund local participation in PL 89-72, because a significant number of the IACOR members are sensitive to the so called post-industrial values that are sometimes violated by water developments.

If the majority of the IACOR members feel that these values -- which include wilderness, white water boating, fish and wildlife habitat, archeological sites etc.-- would be violated by the proposed project, they could vote to withhold funds from the prospective local participant, thus doubling its costs of participating in the Act. This action appears likely in two of the three cases in the state where local public bodies have signed letters of intent to cost-share under PL 89-72. The impact of withholding IACOR support on a local government's decision to cost-share under PL 89-72 would probably be inversely proportional to the size of an entity's general revenue. Thus, in the case of Benton and Franklin counties (discussed below under case studies) lack of IACOR support might well mean that the counties would not participate under PL 89-72. On the other hand, King County decision makers would be much less influenced by an IACOR decision not to fund one-half of the nonfederal costs at the proposed Snoqualmie dam.

Local Governments in Washington

In many respects counties in Washington are quite similar to those discussed under the section on Oregon. They tend to operate under the same constraints; and, in general, the same dichotomy exists between counties east and west of the Cascade Range. But unlike eastern Oregon there are several significant urban areas in eastern Washington. Also there are no O & C lands in Washington, but due to the large agglomerations of population and industry along the eastern side of Puget Sound, counties in this part of Washington would find cost-sharing under PL 89-72 less burdensome than the most affluent counties in Oregon. And finally, as discussed in the last section, local levels of government may under certain circumstances receive state aid through the IACOR if they participate in PL 89-72.

The port commission is another type of local public body that has signed a letter to participate in cost-sharing under PL 89-72. (The Columbia County Port Commission for the Touchet Division Project.) This type of nonfederal entity would find it easier to participate in the Act than counties or cities, because port commissions may levy taxes without referral to the voters.

The Federal Construction Agencies

The nation's two major construction agencies -- the Corps of Engineers and the Bureau of Reclamation -- are the principal federal actors in the implementation of PL 89-72. Both agencies have regional offices that are responsible for their agencies' activities over a larger area than the study area i.e., Washington and Oregon. The North Pacific Division Office of the Corps is located in Portland, Oregon and supervises activities in the Columbia Basin and coastal streams of Washington and Oregon. Thus, the territory under its supervision includes all of Washington, all of Oregon with the exception of the Klamath River drainage, practically all of Idaho, Montana west of the Continental Divide and small parts of Nevada, Utah, and Wyoming within the Columbia Basin. Most of the basic planning is done by three large district offices in Seattle, Portland, and Walla Walla. Each of the three district offices has projects within the purview of PL 89-72 in Washington and/or Oregon. The Seattle District Office is responsible for projects in the coastal drainage basins of Washington (including Puget Sound streams) and the Columbia Drainage above Richland, Washington. The Portland District Office is responsible for the watershed area in Washington that drains into the Columbia below (west) of John Day Dam and the western two-thirds of Oregon, excluding the Klamath Basin. The Walla Walla District Office is responsible for the Snake River Drainage in Washington and in Oregon (in Oregon this would include most notably the Owhyee, Malheur, Burnt, Imnaha, and Grande Ronde subbasins), in addition to streams draining from Oregon into the Columbia to and including the John Day River Basin. Each of the district offices has a staff of recreation specialists that assist in dealing with potential nonfederal participants in PL 89-72. The Division Office also has recreation specialists.

The Bureau of Reclamation has its regional office in Boise, Idaho. Its area of jurisdiction is with very minor exceptions identical to that of the Corps North Pacific Division. Until June 1973, the regional area was subdivided between three offices that similar to the Corps District Offices performed many of the duties connected with planning water resource development projects. These Area Development Offices (in 1971 they were designated as Area Planning Offices and in May 1973 two were redesignated as Planning Field Branches) were located in Boise, Idaho; Spokane, Washington; and Salem, Oregon. In terms of the areas covered in Washington and Oregon, the Spokane or Upper Columbia Development Office was responsible for the entire state of Washington and the Umatilla Drainage in northeastern Oregon. The Snake River Development Office in Boise was responsible for the Snake Drainage in Oregon. And the Lower Columbia Development Office in Salem was responsible for the remainder of Oregon, with the exception of the Klamath Basin. It is noteworthy that in contrast to the Corps District Offices the Area Development Offices have not had any recreation planners and that the regional office in Boise has a relatively small recreation staff, less than one Corps District Office. While the Bureau of Reclamation depends on the Bureau of Outdoor Recreation and National

Park Service to perform some of the duties done by the larger Corps recreational planning staffs, use of other agencies is not without problems. The effacaciousness of the negotiating process is impaired not only because the other agencies have different priorities than the Bureau of Reclamation but also because coordination and communication costs rise appreciably. One Reclamation planner noted that this dependence on other agencies caused the Bureau "to lose control of the study."

Spatial Distribution of Agency Activities in the Region

The spatial distribution of dam building activities of the Corps and Bureau of Reclamation generally covaries with the major climatic regions in Washington and Oregon. The Corps activities are for the most part confined to the west side of the Cascades where winter flooding is a major problem; whereas the activities of the Bureau of Reclamation have been primarily irrigation projects in the subhumid to arid eastern regions of the two states. The major exception to this general pattern is a string of eight large Corps navigation and power dams on the mainstreams of the Columbia and Snake Rivers, reaching from 40 miles east of Portland to the Washington-Idaho border.

This general areal pattern of activities is being modified in Oregon. Over the last two decades each agency has proposed projects in parts of the state that were once considered the others area of predominant interest. Part of the movement by the Bureau of Reclamation to areas west of the Cascades reflects a changing appraisal of the climate there. Although the western part of the state is usually classified as having a Marine West Coast Climate (Cbf), it does not receive the amount of summer precipitation that is generally associated with this climatic type. Studies have shown that during the summer much of western Oregon should be placed in the Dry Summer Subtropical (Csa) category.[12] Hence, seasonal drought is characteristics in the "humid" part of Oregon. Thus on the west-side, irrigation has been increasingly recognized as a prerequisite for profitable agricultural activity.

On the other hand, the Corps has shown increasing activity on the east side of the Cascades. Although this part of the state is better known for summer drought, rapid snow melt in the late spring and early summer not infrequently causes flooding. Inundations also result from summer thundershowers. This has stimulated some local interests to turn to the Corps for aid. Indeed, three of the five Corps projects in Oregon that come within the purview of Section 2 of PL 89-72 (authorized since 1965 or in preauthorization stages) are in eastern Oregon -- the former bailiwick of the Bureau of Reclamation. These Corps reservoirs in eastern Oregon will also be used to store irrigation water, which could well place the Corps in the same difficult position that the Bureau of Reclamation has had to face since the passage of the Act.

Reservoir Operation and PL 89-72

The Region's climatic regime has a direct bearing on the conflict between groups backing recreation and irrigation, both of whom were supposedly aided by passage of PL 89-72; the dry season, the growing season, and the outdoor recreation season are concomitant. This conflict may well impede implementation of the Act.

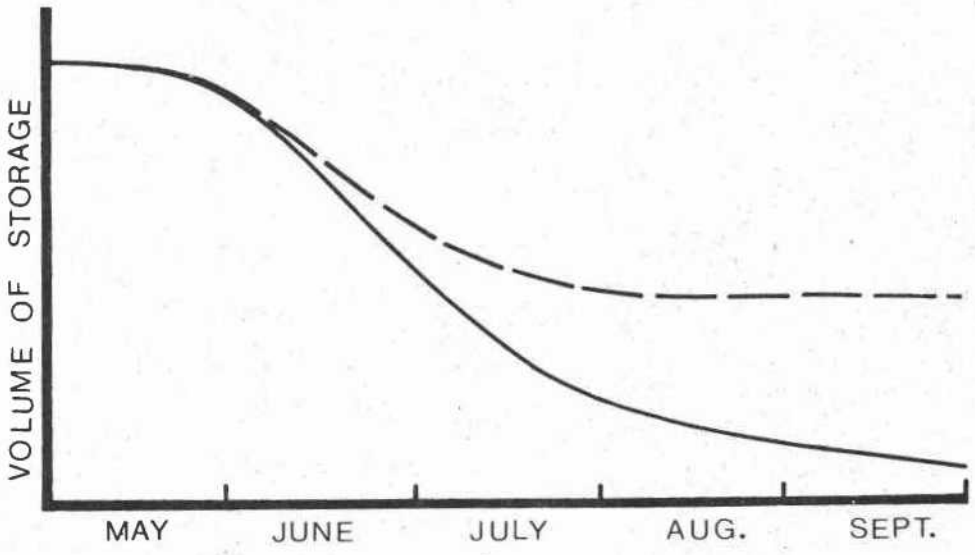
Prior to the 1950's, recreationists at reservoirs were generally residual legatees, recreating in, on, and near what water remained after drawdowns were made to supply downstream uses. As long as recreation was not recognized as a legitimate use of water at these reservoirs, there was little open conflict between recreationists and interests favoring the traditional, utilitarian uses: hydroelectric power, navigation, industrial use, irrigation, etc. Changes in socio-economic conditions since the close of World War II have elevated to unprecedented heights the importance attached to recreational use of water; and this elevation has caused increasing conflict between recreation and traditional uses.

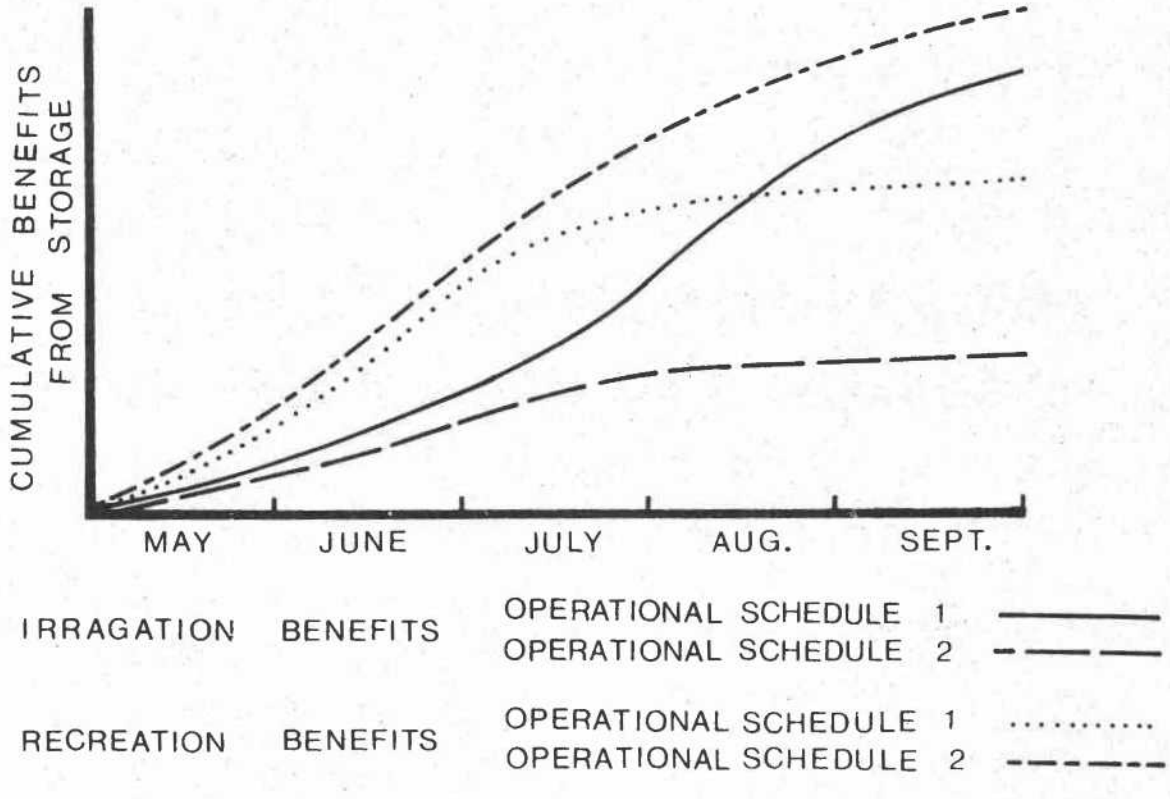
Passage of PL 89-72 has sharpened the conflict because it legitimized recreation as a coequal with other project purposes. In addition, the Act stipulated that nonfederal entities which agreed to cost-share the enhancement of recreation would in turn be given a voice in planning recreation at those reservoirs. A noteworthy ambiguity in the Act is whether a voice in planning recreation includes a voice in the determination of reservoir operating schedules, and not just an increased role in deciding the design and location of recreational facilities at the reservoirs. As discussed in Chapter III, the federal agencies have not generally agreed to allow recreational interests to determine reservoir operating schedules. This question of reservoir operating schedules affects the implementation of Act, because recreation planners often regard the timing and extent of the anticipated drawdowns during summer as one of the most important factors in assessing the recreational desirability of a reservoir.

Thus, in the Region, where dry summers prevail, the Bureau of Reclamation has been faced with a challenging problem of providing water both for irrigation and recreation during the summer. As the Corps builds reservoirs east of the Cascades, it could well experience these difficulties also. As illustrated in Figure 2, if water is retained for longer periods during the summer, benefits from recreation will increase, decreasing benefits from irrigation. Conversely, if irrigation benefits are maximized, total recreation benefits are decreased.

The Bureau of Reclamation appears however to be changing its traditional role in a manner that would solve this problem. Over the last year or two it has markedly deemphasized irrigation in favor of much greater benefits for recreation, fish and wildlife, and municipal water supply. If Congress authorized projects that emphasize these functions, the Bureau will be in a much better position to accommodate the interests asked to cost-share under PL 89-72.

The Corps' greater concern with flood control and major focus of activity west of the Cascades have made its reservoir operating schedules generally more acceptable to potential nonfederal sponsors than those of the Bureau. Figure 3 illustrates the complimentarity of the flood control function with recreation, especially on the west side of the Cascades.

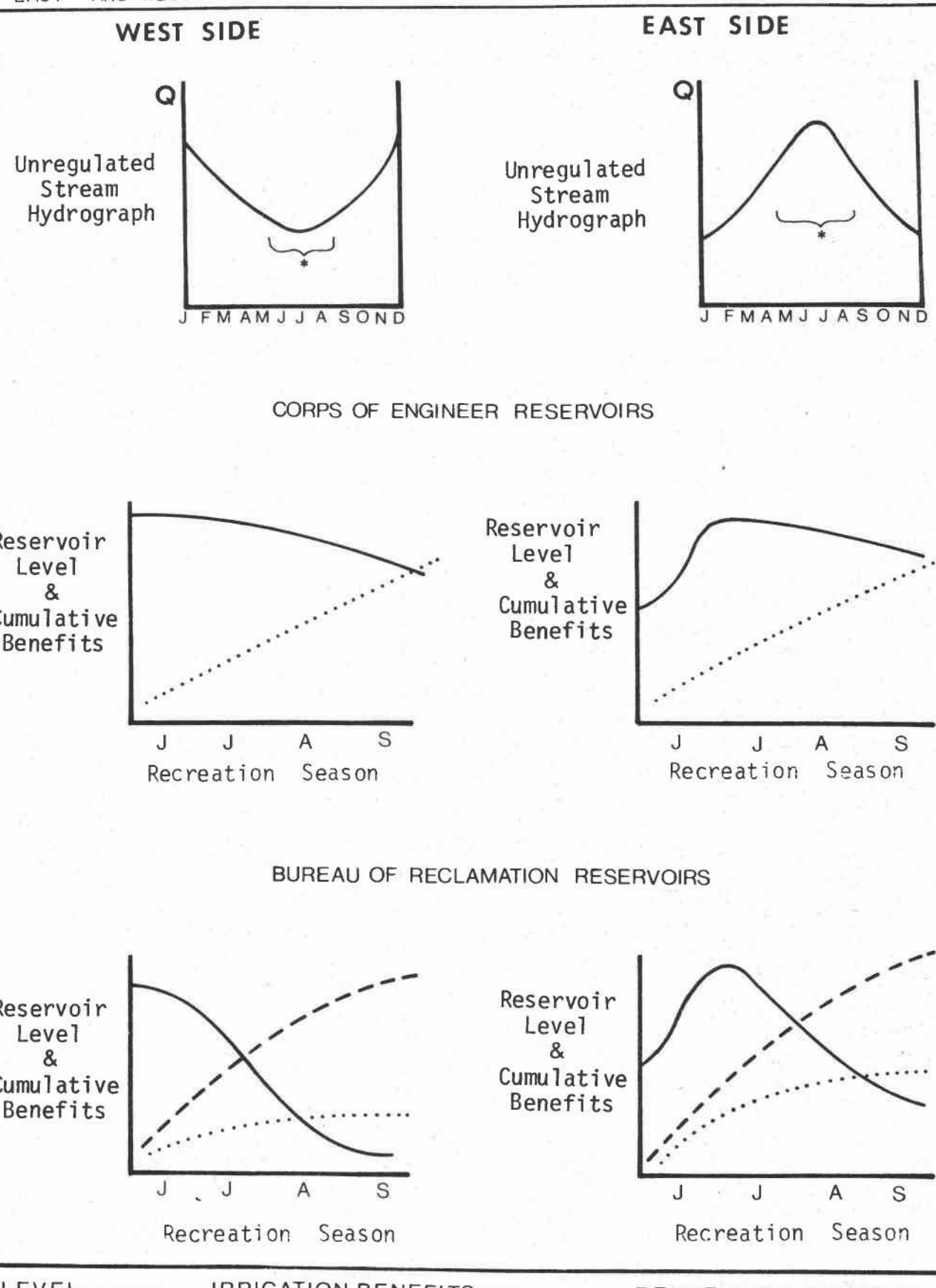




COMPETITION BETWEEN IRRIGATION AND RECREATION FOR STORAGE

Fig. 2

GENERALIZED RIVER REGIMES AND RESERVOIR OPERATING SCHEDULES ON THE EAST AND WEST SIDE OF THE CASCADE MOUNTAINS IN THE PACIFIC NORTHWEST



LEVEL——— IRRIGATION BENEFITS- - - - - RECREATION BENEFITS·····
*RECREATION SEASON

Fig. 3

The Relationship between Project Formulation and the Implementation of PL 89-72

The formulation of a water development project involves many actors, much coordination, and decades to complete (Figures 4 & 5 including addenda). Unless a cost-sharing agreement is necessary for the economic viability of the project, cost-sharing under PL 89-72 is a rather insignificant part of the protracted and complex process of project formulation. The agencies must concern themselves with as many as nine cost-sharing agreements other than those under PL 89-72. As explained in the addenda to Figures 4 and 5 , as many as eight formal contact points are made between the agency and the prospective nonfederal participant. In addition, innumerable informal contacts between these two levels of government are required. It is particularly noteworthy that through most of the protracted project gestation period that the potential nonfederal participant remains just that: it is not legally bound to participate until late in the post-authorization planning period. This causes uncertainty on the agency side; just as impoundment of funds, changes in policy, and long unexplained delays that originate at the higher echelons in the federal bureaucracy cause uncertainty on the side of the prospective nonfederal participant.

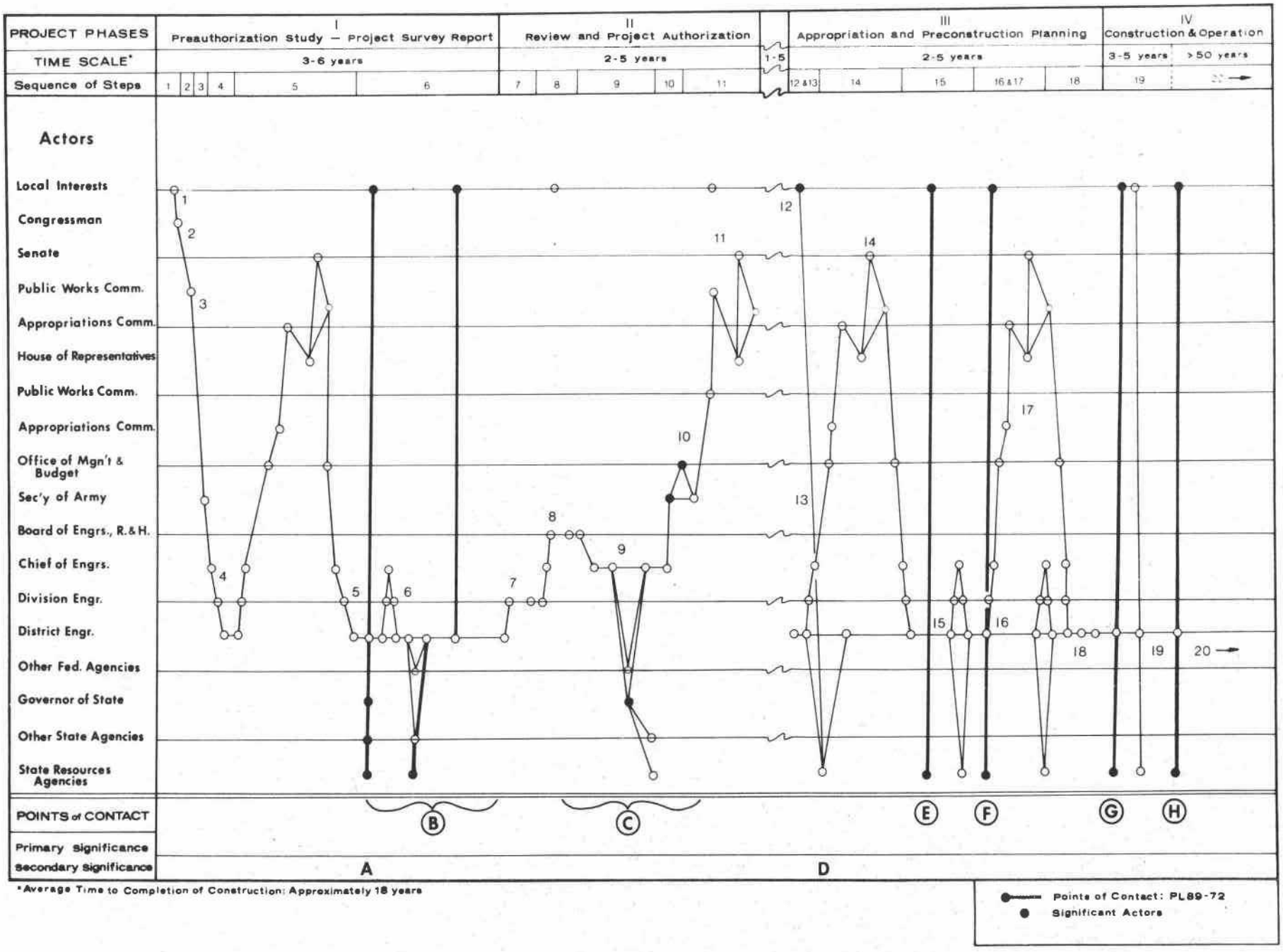
While Figures 4 and 5 illustrate the many similarities between the process of implementing PL 89-72 at Corps and Bureau projects, it should be pointed out that differences are also present. As the figures and addenda indicate, the Bureau of Reclamation has an even more protracted project gestation period than the Corps. This increases negotiation costs and uncertainty on both sides. There are more federal participants actively taking part in the process at Bureau of Reclamation projects, which, as it was noted above, has vitiated the efficaciousness of the Bureau's negotiating process. The figures also indicate that a Bureau of Reclamation project also must undergo more checks and approval points early in the process than a Corps project does.

Additional significant differences exist that are not shown in the figures. The OMB evidently scrutinizes Reclamation projects more closely than Corps projects, and at least once has required a cost-sharing contract to be signed before it approved post-authorization planning funds (Step 13 Figure 5).[13] Bureau of Reclamation projects are also scrutinized more carefully by Congress than those of the Corps, because every reclamation project is a public law, whereas scores of Corps projects are lumped together in an Omnibus Bill and passed en masse, thus lessening the chances of careful scrutiny and allowing some otherwise undesirable projects to be authorized. Finally, in general, the relative accessibility to most flood control projects from urban areas should make cost-sharing recreation not only more attractive but also less burdensome for the affected nonfederal entities (especially at the local level) than those entities affected by Bureau projects which are generally located in more sparsely populated areas.

Case Studies

In the Region there are approximately a score of projects within the purview of Section 2 of PL 89-72. As Table 11 indicates the stage of development varies from early preauthorization steps to post-authorization stages.

SIGNIFICANT POINTS IN THE IMPLEMENTATION OF PL89-72 -- CORPS OF ENGINEERS PROJECTS



*Average Time to Completion of Construction: Approximately 18 years

Fig. 4

EXPLANATION OF THE POINTS OF CONTACT IN THE IMPLEMENTATION OF PL 89-72 AT CORPS OF ENGINEERS PROJECTS (FIGURE 4)

A. (Step 5) District office contacts prospective nonfederal participants thirty days prior to the first public meetings, informing them of possible nonfederal obligations. At the meetings the prospective nonfederal participants go on record for or against the project. A positive reaction is taken to mean that cost-sharing is not unacceptable. It must be noted however, that at this step the plan of development has not yet been developed and therefore the magnitude of nonfederal obligations under PL 89-72 is not known.

B. (Step 6) During the several years the survey report is being formulated, the prospective nonfederal participants remain in contact with the District Office regarding the development of recreation and/or fish and wildlife. Before plans to develop full scale recreation and/or fish and wildlife enhancement under PL 89-72 are accepted by the Division (step 7), the nonfederal entity must submit a letter of intent to participate in cost-sharing as stipulated in PL 89-72. (It is also possible that the District will not incorporate full recreation and/or fish and wildlife enhancement into the survey report (step 6) until a letter of intent has been submitted).

C. (Steps 8-10, especially 10) Before the project plan is submitted to Congress for authorization, the Secretary of the Army and the Office of Management and Budget must approve plans for nonfederal participation in recreation and/or fish and wildlife enhancement under PL 89-72.

D. (Step 12) If a long delay occurs between authorization of the project (step 11) and the request for study funds (step 13), the District Office may request the nonfederal interests for an updated letter of intent.

E. (Step 15) During preparation of the General Design Memorandum, the District Office and the nonfederal participants reach accord on the level of recreation and/or fish and wildlife development. The nonfederal participants must submit a letter concurring with a draft contract of the cost-sharing agreements.

F. (Step 17) <u>If</u> consturction of the entire project depends on benefits under PL 89-72, the cost-sharing contract must be executed between the United States and participating nonfederal entity before a request for construction funds is initiated.

G. (Step 19) If the situation under point F is not present, then the cost-sharing contract must be executed between the United States and participating nonfederal entity before construction funds can be expended on recreation and/or fish and wildlife facilities in the project plan.

H. (Step 20) As the project goes into operation, the nonfederal participant assumes responsibility for 100% of the OM & R costs associated with the enhancement of recreation and/or fish and wildlife, and presumably within fifty years repays with interest 50% of the separable costs of enhancing those project functions under PL 89-72. It is doubtful however that the fifty year deadline will be observed.

KEY TO THE 20 STEPS* IN FIGURE 4

Points of Contact	Steps
-	1. Initiation of action by local interests.
-	2. Congressman consults with the Public Works Committee requestingreview of former studies or initiation of a study if none was done earlier.
-	3. Public Works Committee of the House or Senate passes a resolution requesting a study to be made (under Sect. 110 of PL 87-874).
-	4. Assignment of investigation by the Chief of Engineers to the Division and subsequently to the District Office.
A	5. After the study is funded by Congress and approved by the Executive Branch, public hearings are held by the Division or District office to ascertain the views of nonfederal interests on the project.
B	6. Investigation by the Division or District Office; and completion of a project feasibility study (survey report). Since the early 1970's there has been increased public participation through study workshops that is not shown in the figure.
-	7. Review by the Division Office and issuance of public notice explaining the report; also notification of interested parties to contact the Board of Engineers.
C	8. Review and if necessary hearing by the Board of Engineers for Rivers and Harbors.
C	9. Preparation of the proposed report of the Chief of Engineers and review thereof by affected state and federal agencies.
C	10. Review of the report by the Office of Management and Budget.
	11. Congressional authorization of the project and subsequent Presidential signature.
D	12. If there is a long delay between project authorization (11) and a request for planning funds (13), the District Office informs nonfederal entities that they must reaffirm the assurances of cost-sharing.
-	13. Request for post-authorization planning funds.
-	14. Appropriation of post-authorization planning funds by Congress and subsequent Presidential signature.

Points of Contact	Steps
E	15. Preparation and review of the General Design Memorandum.
-	16. Preparation and review of the Project Plans and Specifications.
F	17. Request for and appropriation of construction funds.
-	18. Invitation to bid and award of contracts
G	19. Construction of project.
H	20. Operation of project.

*Modification of a flow chart prepared for the Marine Affairs Conference and Marine Exchange, Inc. by the U.S. Army Engineer District, San Francisco (no date). Information was also drawn from EP 1120-2-1 "Survey Investigations and Reports" May 1, 1967. 6 pp; and from critiques of a draft diagram by the Seattle, Portland and Walla Walla District Offices and the North Pacific Division Office of the U.S. Army Corps of Engineers.

SIGNIFICANT POINTS IN THE IMPLEMENTATION OF PL89-72 --BUREAU OF RECLAMATION PROJECTS

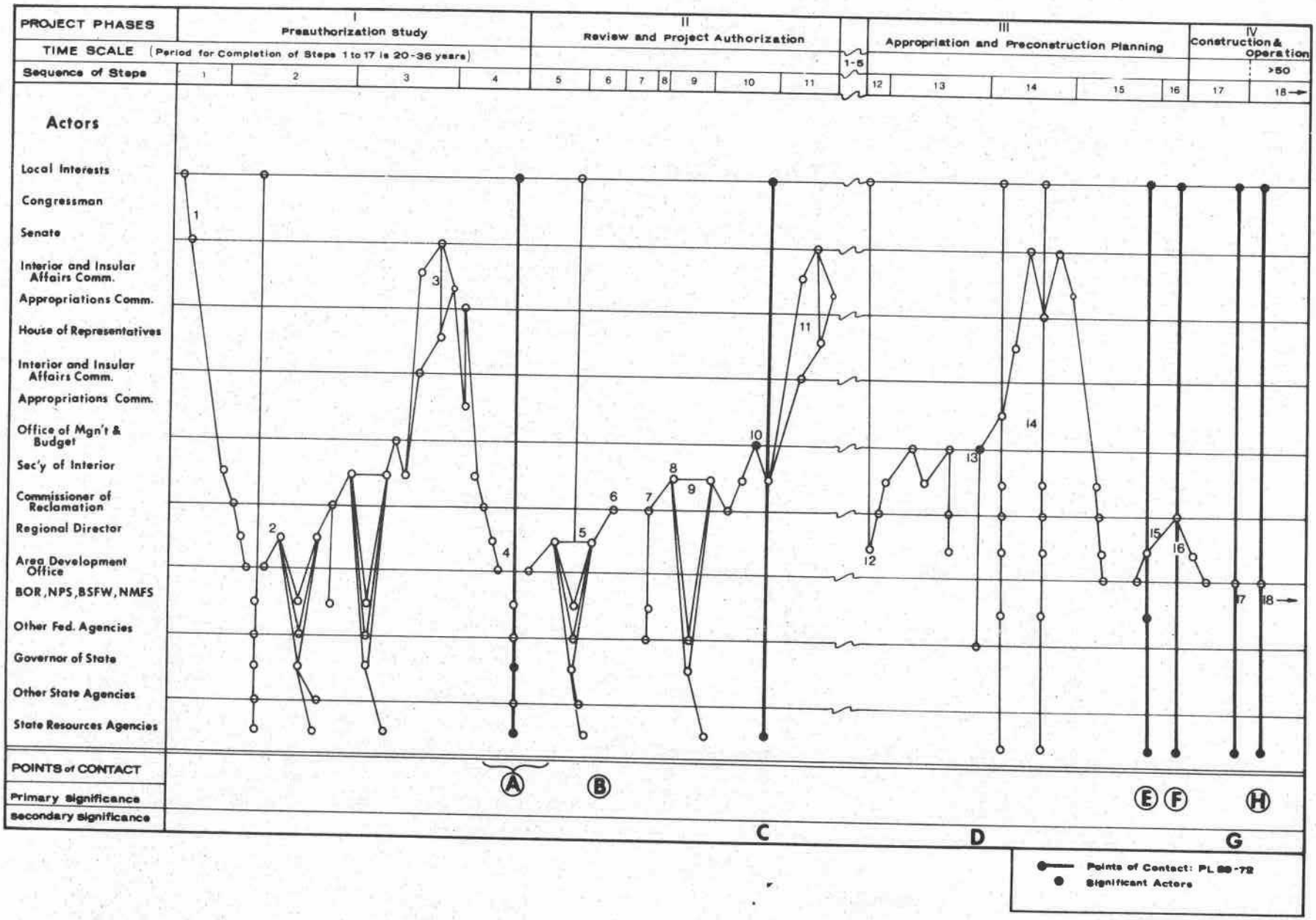


Fig. 5

EXPLANATION OF THE POINTS OF CONTACT IN THE IMPLEMENTATION OF PL 89-72 AT BUREAU OF RECLAMATION PROJECTS (FIGURE 5)

A. (Step 4) During the several years that the feasibility study is underway, potential nonfederal participants are contacted by the Area Development Office and the BOR (and BSFW and NMFS if fish enhancement is involved). A letter recognizing that there may be certain obligations under PL 89-72 is usually part of the Draft Report sent to the Regional Director.

B. (Step 6) Deadline for letter of intent.

C. (Step 10) An attempt is made to include reaffirmation of nonfederal intent re PL 89-72.

D. (Step 13) Negotiation of a cost-sharing contract is usually not required at this point, but the OMB may require it as they did for the Central Arizona Project.

E. (Step 15) During preparation of the General Plan Portion of the Definite Plan Report, the Regional Office and nonfederal participants reach accord on the level of recreation and fish and wildlife development. The nonfederal participants must submit a letter concurring with a draft contract of the cost-sharing agreements.

F. (Step 16) If construction of the entire project depends on benefits under PL 89-72, the cost-sharing contract must be executed between the United States and participating non-federal entity before allocation of construction funds.

G. (Step 17) If the situation under point F is not present, then the cost-sharing contract must be executed between the United States and participating nonfederal entity before construction funds can be expended on recreation and/or fish and wildlife facilities in the project plan.

H. (Step 18) As the project goes into operation, the nonfederal participant assumes responsibility for 100% of the OM & R costs associated with the enhancement of recreation and/or fish and wildlife, and presumably within fifty years repays with interest 50% of the separable costs of enhancing those project functions under PL 89-72. It is doubtful that the fifty year deadline will be observed, however.*

*See for example a Memorandum dated September 19, 1966 from the Office of the Solicitor to the Commissioner of Reclamation and Directors of the BOR and BSFW on "Repayment obligation of non-federal public bodies under Section 2(b) of the Federal Water Project Recreation Act." 4 pp.

KEY TO THE 18 STEPS* IN FIGURE 5

Points of Contact	Steps
-	1. Initiation of the project by local interests, Congressmen, or Bureau of Reclamation.
-	2. Preparation of the Preliminary Investigation (Appraisal Study or Reconnaissance Report) to determine whether Feasibility Report is warranted.
-	3. Authorization and funding of Feasibility Study.
A	4. Preparation of the Feasibility Report by the Area Planning Office (Before 1971 known as Area Development Office).
-	5. Review of Feasibility Report by Regional Office and other interested parties; preparation of Regional Director's Report.
B	6. Review of the Regional Director's Report by the Commissioner and preparation of the Commissioner's Report.
-	7. Commissioner's Report reviewed by interested bureaus and agencies in the Department of Interior.
-	8. Review of Commissioner's Report by the Secretary of the Interior.
-	9. Secretary of Interior distributes the Report to the Secretary of the Army and the affected state or states for a 90 day review.
C	10. The Commissioner's Report is then incorporated in the Secretary of Interior's Report and reviewed by the Office of Management and Budget (OMB) which advises the Secretary on the relationship of the project to the President's program. The Secretary of Interior then incorporates all comments on the project and forwards it to Congress.
-	11. Project is authorized after 1) hearings are held by the Subcommittees on Irrigation of the Interior and Insular Affairs Committees of the House and Senate, 2) votes in each House on the respective bills, 3) resolution of differences by a Joint Conference Committee, 4) and signature by the President.
-	12. After considering recommendations by the Commissioner and requests for funding by local interests and Congressmen, the Secretary of Interior submits budget estimates to the OMB.
D	13. OMB reviews estimates, both preliminary and final, holds hearings, consults with Treasury Dept. and incorporates planning funds for the project into the Presidents Budget.

Points of Contact	Steps
-	14. President formally transmits budget to a joint session of Congress, then a hearing on the project funding is held by the Public Works Subcommittee of the Appropriation Committee. First, the House of Representatives and then the Senate pass Appropriation Acts, the differences of which are resolved by a Joint Conference Committee. The President then signs the Committee version into law.
E	15. The directive to prepare the General Plan Portion of the Definite Plan Report is passed from the Commissioners Office to the Regional Office to the Area Planning Office that prepares the report. During this step the National Park Service prepares a Recreational Development Plan with the participating nonfederal entity.
F	16. The report is reviewed and modified as necessary by the Regional Office, Chief Engineers Office, and Commissioner's Office. Upon final approval allocation of construction funds is made.
G	17. After bids are let the Project Office (near the construction site) supervises construction under direction of the Chief Engineer and Regional Director.
H.	18. Operation of the project

* The diagram was constructed from information in Northcut Ely's Authorization of Federal Water Projects (NTIS PB 206 096) Nov. 1971, pp. 2-30, and from a flow chart entitled "Normal Report Processing Procedure (Bureau of Reclamation Planning Report)" Date & Source unknown.

During the last two years two changes have taken place that slightly modify the process depicted on the flow chart: 1) Since 1972 the Bureau of Reclamation has initiated Multiobjective Planning which is based on the Water Resources Council's "Proposed Principles and Standards for Planning Water and Related Land Resources" (Federal Register, December 21, 1971). This new process stresses greater public participation during project formulation (especially during the early steps) and the formulation of alternative plans and objectives for each potential project. The reports are necessarily less detailed than the former feasibility reports. 2) In 1973 centralization of planning has made the area Planning Offices considerably less autonomous and moved several of their functions to the Regional Office.

TABLE 11

STAGE OF PROJECTS WITHIN THE PURVIEW OF SECTION 2 OF PL 89-72

Bureau of Reclamation Projects

Project	State	Step†	Letter of Intent	Comments:
Illinois Valley	Oregon	6	None	Recreation would be handled by USFS. OGC against project. Project might conflict with proposed wild and scenic river.
Merlin	Oregon	15	Josephine County and OGC	O & C county able to cost-share. Project changing from an emphasis on irrigation to recreation. (see text)
Moores Valley	Oregon	4	ODPR	Feasibility report being redone according to the Multiple Objective Planning (MOP). Reservoir would be held full during 85% of the years. ODPR agrees to cost-sharing because it is in the Willamette Valley and has what the ODPR considers an acceptable operating schedule.
Olalla	Oregon	9	Douglas County	O & C county will cost-share. Rising discount rate has made b/c tenuous. Project lands being subdivided; doubtful that Olalla will be authorized as an irrigation project.
Tualatin	Oregon	17	Washington County OGC	First completed contract under Section 2 of PL 89-72 that Bureau of Reclamation has in the U. S. (see text)
Umatilla	Oregon	4	None	Feasibility study redone using the MOP method. Bureau hopeful that a special district will assume the role of nonfederal participant. Without cost-sharing under PL 89-72 project will have an unsatisfactory b/c ratio (.975:1)

TABLE 11 (Continued)

Bureau of Reclamation Projects

Project	State	Step[†]	Letter of Intent	Comments:
Upper John Day	Oregon	2	None	Without cost-sharing under PL 89-72 b/c ratio will fall to .912:1. Enhancement of anadromous fish is the chief project function, without this function the project b/c is .3:1.
Bumping Lake Enlargement	Washington	5	WGD(?)	Recreation would be managed by the USFS. Conflict between interests favoring a wilderness designation for the area and project proponents. USFS will probably opt for area around proposed project to be included in the Cougar Lakes Wilderness Area. The most significant function of the project would be the enhancement of anadromous fish.
Touchet	Washington	11	Columbia County Port District	Enhancement of anadromous fish is the principal project function. Some observers (Hammond op.cit., pp. 306-307) have felt that participation in recreation by a nonfederal entity was crucial to the b/c ratio as the discount rate rose. Potential participant that had signed the letter of intent denied having done so until recently.

TABLE 11 (Continued)

Corps of Engineer Projects

Project	State	Step†	Letter of Intent	Comments:
Catherine Creek	Oregon	15	OGC	Union County signed letter of intent and then withdrew. (see text)
Days Creek	Oregon	11	Douglas County City of Roseburg	Project was authorized last year but Public Works Bill was vetoed. The most wealthy of O & C counties is the nonfederal sponsor. O M B held up project by holding that anadromous fisheries were reimbursable; this question remains unresolved. City cost shares under PL 89-72 for downstream recreation benefits.
Holley	Oregon	6	Linn County ODPR	Joint state-local participation.
Lower Grande Ronde	Oregon	11	OGC(?)	Recreation would be managed by USFS. Benefits from enhancing fish may be significant in the project b/c ratio.
Marys River	Oregon	5	None	Too early for comment.
Thomas Creek	Oregon	5	None	Too early for comment.
Willow Creek	Oregon	11	Morrow County	Letter of intent signed by county with a small (<5,000), declining population base. No post-authorization funds appropriated since authorization in 1965. Nonfederal participation in PL 89-72 may be significant.
Ben Franklin	Washington	9	Benton County Franklin County	Project stalled by preservationists and fish and wildlife groups. As project is now constituted nonfederal participation in PL 89-72 is necessary for a viable b/c ratio. (see text)

TABLE 11 (Continued)

Corps of Engineer Projects

Project	State	Step†	Letter of Intent	Comments
Blue Creek	Washington	4	None	Nonfederal sponsers could not be found; rising discount rate made b/c ratio fall below unity. Project is inactive.
Okanogan	Washington	6	None	Too early for comment.
Snoqualmie	Washington	9	King County	Opposition by preservationists and questions by Governor have stalled the project. Potential conflict between proposed wilderness area and mass recreation use. Issues unrelated to PL 89-72 have put project in limbo.

†See Figure 4 for the Corps projects and Figure 5 for the Reclamation projects.

There are probably several more projects at the early preauthorization stages that are not shown in Table 11, but at these early stages little if any action re PL 89-72 takes place.

The following four cases are presented as a cross section of the problems and issues involved in implementing the Act in the Region.

Tualatin

Implementation of PL 89-72 is much further advanced at this Bureau of Reclamation project than at any other in the Region. Knowledgeable sources expect the contract to be signed during the summer of 1973. This will be the first time that the Bureau will have concluded a contract for a project that is under Section 2 of the Act. Indeed, Washington County signed the contract in the spring of 1973 but it is still being reviewed by the Department of Interior!

Negotiations over the cost-sharing agreements have been protracted. Washington County signed a letter of intent before the project was authorized in 1966. Then after three years of negotiation it appeared as if the county would sign the contract during the summer of 1970. But then a question of the suitability of fish facilities arose which delayed Washington County's signature another three years. Due to the OGC 's refusal to participate in PL 89-72, the county had agreed to cost-share the enhancement of a resident fishery in addition to recreation. The costs of enhancing fish would have been approximately as much as the costs of enhancing recreation: $202,000 and $219,000, respectively. The county objected to what it felt was inadequate provision of screens which would cause very large losses of the fish it had agreed to cost-share. The Bureau finally agreed to solve the fish related problems but these and other modifications in the project changed the ratio between the reimbursable costs of recreation and fish enhancement. In 1973 the reimbursable costs for recreation (one-half of the seperable costs of enhancement) are over $1,200,000, while those for fish have fallen to $35,000.[14]

The question arises why Washington County should sign a contract when most nonfederal entities across the country have been very reluctant to move this fast. It is suggested that there are several reasons, with points two and three of paramount significance: first, the country was one of the four in Oregon with a home rule charter, thus when the constitutionality of cost-sharing under PL 89-72 was still being questioned prior to the Attorney General's opinion in 1971, the local decision makers were able to proceed with negotiations believing they would be unhindered by any constitutional questions that might arise. Second, Washington County is an affluent, populous, rapidly growing entity with a progressive group of decision makers who were sensitive to their constituents' demands. The county has an active Park Department, and of more significance, between 1966 and 1972 had a special position created to deal with the interrelationships between recreation and water. This Parks and Water Resources Coordinator functioned as a chief link between the county and both state and federal agencies involved with the implementation of PL 89-72 at the Tualatin Project. Third, there was considerable pressure from the people

of Washington County to have additional recreational opportunities developed. After the ODPR refused to participate with the Bureau of Reclamation at the proposed reservoir, the County Board directed the Parks and Water Resources Coordinator to undertake a study of the alternative recreational developments open to the county. The study concluded that development of recreation under PL 89-72 was the best alternative open to the county.[15] The County Board accepted the conclusion and maintained that position through years of negotiation, including that period after the defeat by voters of two tax increases part of the funds from which would have been used for recreation.

As discussed in Chapters II and III, creative federalism requires greater nonfederal responsibility for project cost in return for a greater voice in how the federal funds will be spent. Thus, since Washington County agreed to cost-share the enhancement of recreation and fish at Scoggins Reservoir, it should have had an active voice in planning these activities. This case illustrates both the positive and negative aspects of this facet of the Act. On the positive side, Washington County worked closely with the National Park Service in jointly producing a detailed plan for the project.[16] According to the County Parks and Water Resources Coordinator, working relations between his office and the NPS were excellent, with the latter incorporating the County's wishes into the joint plan to the greatest extent possible. He admitted however, that since the county had little experience in this type of planning that much of the initiative had to be left to the NPS. On the negative side, agencies at all levels of government who are interested in recreation and/or fish at Scoggins Reservoir--BOR, NPS, OGC, and Washington County--were dissatisfied with the Bureau's reservoir operating schedule. They felt that the drawdown, which will average fifty-three feet by late summer, will notably impair the quality of recreation and the maximum enhancement of fish. Moreover, this drawdown can be even greater in water short years. It must be noted however, that since the enhancement of recreation and fish make up a relatively small part of the total project benefits, the Bureau of Reclamation should be expected to reserve most of the stored water for irrigation. This situation illustrates the incompatibility of these functions. The passage of PL 89-72 has exacerbated the situation.

Throughout most of the negotiations Washington County had planned to change user fees to recoup expenses incurred from participating in PL 89-72. But as of August, 1973 the question of how to meet these costs was again under consideration.

It is concluded that if decision makers of an affluent local level of government decide that participating in PL 89-72 is the best way to provide sorely needed recreational opportunities, the costs involved with a medium size project (one or two million dollars) will not deter them.

Catherine Creek

If the Tualatin Project is an example of a local government intent on participating in PL 89-72 despite difficulties, then Union County's actions are illustrative of a nonfederal entity that desires to have recreation development at a proposed reservoir as long as some other public body pays

for it. It must be emphasized however, that Union County is in many respects representative of counties in eastern Oregon and therefore would find cost-sharing under PL 89-72 much more burdensome than Washington County. Although the county grew by approximately five percent during the last decade, its population is under 20,000 - only one-eighth that of Washington County. Union County's heavy dependence on agriculture and lumbering in addition to the distance between it and metropolitan centers do not augur well for large increases in population and/or income in the future. In addition to a shortage of funds, the county has little if any expertise in the planning and management of recreation. Development of expertise was unnecessary, as in the past recreational opportunities were provided by the U. S. Forest Service which manages over one-half of the land in the county, and to a lesser extent by the ODPR that has a state park near the future dam site.

The Catherine Creek dam site is in the sub-humid part of Oregon where traditionally irrigation has been very important in the occupance of the land. Accordingly the Bureau of Reclamation has had a long standing interest in the basin, but when the question was raised as to whether the Corps of Engineers or the Bureau of Reclamation should build the storage structures, nonfederal interests vigorously supported construction by the Corps as they expected more nonreimbursable benefits from this agency. Congress bowed to the wishes of state and local interests, authorizing the dam in the Flood Control Act of 1965. The flood control features of the projects were emphasized during the hearings in the spring of 1965, because only a few months earlier devastating floods had caused an estimated $9.5 million dollars damage in the Grande Ronde Basin.

Since PL 89-72 had not been enacted when Catherine Creek was authorized, no letter of intent to cost-share from a nonfederal public body was required; but the enhancement of recreation and fish at the dams was made contingent on nonfederal interests financing one-half of the separable costs and all of the operational and maintenance costs as stipulated in the pending bills (S. 1229 and H.R. 5269) that were to become PL 89-72.

Until 1973 it appeared as if nonfederal participation under PL 89-72 could be crucial to the construction of Catherine Creek dam, because the benefits that would be realized from enhancement of recreation and fish[17] constituted a significant part of the total benefits (Table 12). The Walla Walla District office recognized the significance of the functions under PL 89-72. In 1969, for example, the District Engineer noted:

> "...recreation had a major impact on justification of each of these three projects (Catherine Creek, Lower Grande Ronde, and Willow Creek), and in the absence of necessary local participation, rescoping and reallocation would be required. With such reanalysis, there is the possibility that one or more of the projects would not be justified."[18]

Prior to authorization, interests in Union County attempted to have the U. S. Forest Service assume recreational responsibility at the Catherine Creek reservoir. While that agency did agree at the nearby Lower Grande Ronde reservoir (also authorized in the 1965 Flood Control Act) because a

TABLE 12

Annual Benefits from the Proposed
Catherine Creek Dam (in $1,000)

Project Purpose	$	% of total benefits	% of benefits dependent on PL 89-72
flood control	143	29.5	--
irrigation	73	14.6	--
m & i supply+	12	2.4	--
water quality	85	17.0	--
downstream power	6	1.2	--
anadromous fish	16	3.4	--
downstream sports fisheries	2	negligible	negligible
resident fishery	34	6.8	6.8
recreation	128	24.5	24.5
	Σ 499		31.3

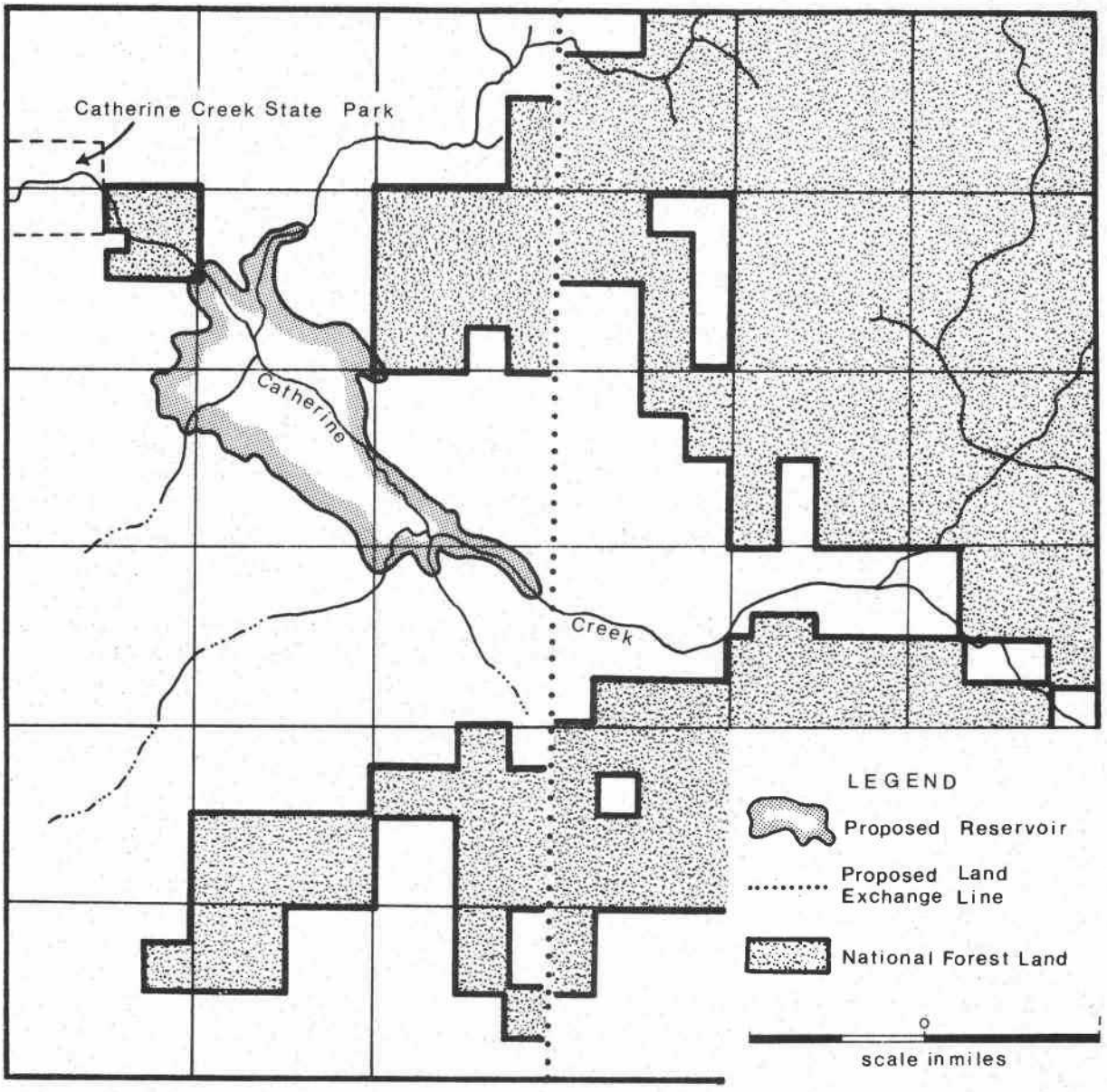
+Municipal and industrial supply.

Source: U. S. Congress, House of Representatives, Committee on Public Works, Grande Ronde River and Tributaries, Oregon, House Document No. 280, 89th Cong., 1st Sess., 1965, p. 61

considerable part of the reservoir would lie within the Wallowa-Whitman National Forest, it would not agree at the Catherine Creek site for the following reasons. First, only two corners of the national forest would touch the proposed reservoir (Figure 6). And second, these sections that would abut on the reservoir protrude far to the west of the boundary that the Forest Service desires to maintain; indeed in the project report the Forest Service detailed plans to exchange these sections (and others) with the purpose of removing the boundary of the national forest from the proximity of the proposed reservoir.[19] Nevertheless, these small points of contact between the National Forest and the proposed reservoir prompted the Union County Water Development Committee, Inc. to testify that the Forest Service would assume the entire responsibility for recreation development at Catherine Creek Reservoir.[20] The Forest Service has not agreed to do this, stating in the project report that the most likely nonfederal public body to assume the recreational development at the Catherine Creek was the Oregon Division of Parks and Recreation because it managed over sixty-five percent of the land to be inundated.[21] As usual the ODPR declined to participate under PL 89-72, which relegated the burgen to Union County.

Proposed Catherine Creek Reservoir

T. 5 S., R. 41E., W.M.



Source: U.S. Congress, House of Representatives, Committee on Public Works, Grande Ronde River and Tributaries, Oregon, House Document No. 280, 89th Congress, 1st Sess., 1965, p. 291.

Fig. 6

Because it appeared as if the project b/c ratio would be jeopardized without recreation, Union County eventually signed a letter of intent to participate and then sought support from other nonfederal entities. The Corps was informed by the County that the small city of Union, which is eight miles from the proposed dam, might assist the county cost-share under PL 89-72. The city denies this however, stating that it will be difficult enough to provide the necessary services stemming from a large influx of construction workers and their families when the dam is built.[22] The city of La Grande (approximately 30 miles from Catherine Creek Dam), which has over half the population in the county, has also declined to participate.

The letter of intent was sufficient to advance the post-authorization planning process, but the county stepped up efforts to pursuade the ODPR to help cost-share the project as preparation of the project general design memorandum continued. During this stage of post-authorization planning, the potential nonfederal participant must submit a letter concurring with a draft contract of the cost-sharing agreements (Step 15 contact point E in Figure 4).

It was argued that the ODPR owed Union County (and all eastern Oregonians) assistance in that most of the parks were west of the Cascades when there was a chronic shortage of overnite camping opportunities east of the Cascades. The ODPR agreed to help Union County by donating the state park towards lands and facilities that may be used to pay the nonfederal share of participating in the Act. Since the state park at Catherine Creek was worth about $200,000, Union County's obligation was reduced by fifty percent. But this was still more than the county decision makers could or would invest. Accordingly the county declared itself ineligible to participate ostensibly because it would require committing more than $5,000 which was its debt limitation.[23] Without recreation benefits the entire project was jeopardized and the county pressed the ODPR to assume the entire nonfederal responsibility for the reimbursable separable costs. In return, the county would take responsibility for the O & M costs.

After much deliberation, in May 1973 the ODPR decided to become the nonfederal sponsor for the separable costs of enhancing recreation at Catherine Creek, pending approval of the State Highway Commission. In July 1973, the State Highway Commission refused to accept the recommendation of the ODPR on the grounds that it might set a precedent of the Highway Commission funding "marginal" recreation projects.[24]

Union County immediately had its state senator (Thorn) introduce a bill (SJR 45) into the Oregon Legislature which would direct the State Highway Commission to 1) enter into an agreement with the Corps of Engineers for planning, development, construction, and operation of the proposed state park and recreation area at the proposed Catherine Creek Dam 2) allocate and expend up to $200,000 from the State Highway Funds or other available moneys for the acquisition, development and construction of a state park and recreation area to be included within the proposed Catherine Creek Project.

Since the Oregon Legislature was quite close to adjourning, there appeared little chance that SJR 45 would become law. But because Senator Thorn was Chairman of the Committee on Agriculture and Natural Resources, the bill was quickly reported out of that committee and to the Ways and Means Committee. There it died however without reaching the floor.

Under these circumstances it might appear that Union County was faced with a choice: to either cost-share recreation or jeopardize the entire dam with its various benefits to the community: in addition to recreation, flood control, irrigation, fish and wildlife, water quality enhancement, etc. In 1973 the b/c ratio was 1.18; without recreation it would probably fall to unity or below.

But cost-sharing recreation became unimportant as the Bureau of Reclamation revised the benefits from irrigation upwards, from $73,000 yearly to $200,000. This in effect changed the b/c ratio from 1.18 to 1.3; recreation was no longer necessary. As of August 1973 it was no longer considered to be a project function.

Merlin

After decades of consideration the Merlin Division was finally authorized in 1970. The key to the development of the Merlin Division is Sexton Dam on Jumpoff Joe Creek, which is approximately five miles from Grants Pass and within one mile of Interstate 5. At present irrigation remains the main project purpose, but other project purposes have become more significant over the last decade and are expected to become increasingly important with subsequent reallocation of priorities. The Sexton Reservoir is generally expected to contribute significantly to the recreation potential of Josephine County because the full-pool area would be four times greater than existing lake surface in the County. The contribution of this reservoir to recreation would be markedly reduced however, if the 1970 operational schedules are followed which call for drafting much of the water for irrigation.

The passage of PL 89-72 markedly changed the cost-sharing arrangements previously enjoyed by state and local entities within the Rogue River Basin. As a result of the Rogue River Development plan (PL 87-874) the costs of enhancing recreation, fish and wildlife were made nonreimbursable at a number of dams authorized in the Rogue Basin over the last decade. Passage of PL 89-72, which required nonfederal interests to make a substantial contribution towards this type of enhancement, was a shock to many interests in the basin.[25] It has not however, halted water developments in the Rogue Basin, as counties grown wealthy from timber receipts harvested on Oregon and California Revested Lands (O & C) have quickly assumed the new nonfederal obligations. Josephine County submitted a letter of intent to cost-share recreational enhancement at the Merlin Division only five months after PL 89-72 was passed.

Because of a large income from O & C lands within its borders, Josephine County is better able to participate under cost-sharing than many counties. The county finances its entire recreational program with these funds. It operates through a sizable Parks and Forest Department, has a five member Park Board, and is a member of the "California-Oregon Recreational Development

Association," which is made up of five counties in Oregon and California. Its big income and emphasis on recreation make Josephine County representative of the O & C counties in southwest Oregon.

Despite these characteristics, some of the Josephine County staff are not enthusiastic about participating under PL 89-72. As of 1970 the county's share of separable recreation enhancement costs at Sexton Reservoir was $529,000; in addition operation and maintenance were expected to be $29,500 yearly. Prior to authorization the director of Josephine County Parks noted that his department had "...little voice in the design and contractual procedure for construction...and therefore he felt that...the Federal Government was a wee bit out of line..." by requiring the county to assume over fifty percent of recreation costs at Sexton Reservoir.[26] He also stated that the County felt the costs that the BOR asked the County to assume during the recent reevaluation were much too expensive.[27] His remarks were premature however, because the negotiations between the nonfederal entities and the Federal construction agency could not begin in earnest until after authorization. Also the NPS Portland office will assume the role of jointly working out recreational developments with the county after authorization; in the past, relationships between this office and other counties in Oregon have been very good.

Until recently, Josephine County had planned to recoup its expenses by charging user fees. Since Sexton Reservoir is less than a mile from Interstate 5, the county expected to be compensated to a considerable degree by out of county and out of state visitors to the reservoir. However, with the greatly expanded recreational use that is now being considered-- with reimbursable costs for recreation probably in the several of millions of dollars-- the Josephine County decision makers are considering other methods of recouping expenses under PL 89-72.

Over the last fifteen years the emphasis placed on various functions has changed in accordance with the increasing discount rate and, later, with changing societal values.

As a result of the sharp increase in the interest rate, the Bureau of Reclamation restudied the Merlin Division benefit-cost calculations made in 1962. Twelve principal changes were made which affected the earlier benefit to cost calculations. Two of the changes directly related to PL 89-72 were the inclusion of fish and wildlife benefits and an increase in the expected benefits from recreation.[28] The benefit to cost ratio fell from 2.3/1 in 1962 when the interest rate was 2 5/8%, to 1.3/1 in 1970 with an interest rate of 4 7/8%.[29] Rapidly rising construction costs are also a problem; having almost doubled between July 1962 and February 1970. After the reevaluation irrigation was still dominant, although it was relatively less important than it had been in 1962 (Table 13).[30]

The benefits from recreation, fish and wildlife may be greater than indicated in Table 13, because 5,200 acre feet of the unassigned storage in the 1970 plan will probably be assigned to recreation and fish.

TABLE 13

REEVALUATION OF THE MERLIN DIVISION:
ANNUAL BENEFITS*

	1962 Total Benefits	Percent	1970 Total Benefits	Percent
Irrigation	$1,049,200	93.7	$1,727,100	80.7
Recreation	60,800	5.4	137,100	6.4
Fish and Wildlife	-	-	46,000	2.2
Flood Control	9,000	.9	71,600	3.3
Area redevelopment	-	-	159,200	7.4
Total	$1,119,000		$2,141,000	

*Source: "Reevaluation Statement" Merlin Division, Rogue River Basin Project, United States Department of Interior, Bureau of Reclamation Region I Boise, Idaho, February, 1970, p. 3.

The matter of a sharp drawdown to supply irrigation again appeared to be a bone of contention between the Bureau of Reclamation and all other agencies -- federal, state, local -- interested in recreation and/or fish and wildlife at Sexton Reservoir. Under the project authorization plans of the Bureau, the reservoir would fall approximately fifty feet, causing it to shrink from 620 to 260 surface acres during the recreation season. Even under these conditions, 25,000 angler days in addition to 100,000 recreation user days were anticipated. But the quality of the experiences at the reservoir would decline with the water level. The BOR, BSWL, OGC, and Josephine County have strongly expressed the view that less pool fluctuations would increase markedly the benefits from recreation and fish enhancement. But as long as irrigation remained a prime function, large drawdowns would occur.

In the wake of increasingly harsh criticism of traditional irrigation projects and irrigable project lands that are being subdivided, the Bureau of Reclamation has decided to reevaluate the Merlin Division once again. The stress will be on recreation as the prime function. The BOR is presently starting a thorough reappraisal of the recreational opportunities in this rapidly growing part of Oregon. It may be expected that the BOR will insist that the present operating schedule be changed to reflect the much greater emphasis on recreation. In the maintime reimbursable costs under PL 89-72 will increase accordingly, and reportedly could reach ten million dollars.[31]

Ben Franklin

This proposed project by the Corps of Engineers would be much larger than those thus far discussed. Its site is on the main stem of the Columbia not far above the confluence of the Snake and Columbia. If constructed it would dam the last free flowing stretch between Bonneville Dam and the Canadian Border. The proposed dam has been considered for over forty years; the plan first appeared in 1932 as part of the master plan for the Columbia River that was published by the Board of Engineers and Harbors. Through most of the

many years the dam was under consideration navigation and power were to be its principal functions; substantial recreation benefits were incorporated into the b/c ratio in later years. By 1968 the project report had been released by the Seattle District Office, approved by the North Pacific Division Office and forwarded to the Chief of Engineers Office (Step 9 Figure 4), where after a ninety day review by federal and state agencies it would have been included in the report of the Chief of Engineers and sent to the OMB.

Benton and Franklin Counties had signed letters of intent to cost-share the enhancement of recreation under PL 89-72 on their respective sides of the proposed reservoir. The costs were not insignificant: approximately $2,500,000 and $500,000 for Benton and Franklin Counties, respectively (price levels from the mid 1960's). As discussed earlier, local expenses of participating in PL 89-72 can be reduced by fifty percent with state funds dispensed through the IACOR. Since the project had a marginal b/c ratio,[32] recreation was most probably prerequisite to a viable ratio. Assuming that Benton County could not or would not participate without funds from the IACOR, approval by IACOR could well have been prerequisite to project authorization and construction. Given the excessive damage to post-industrial values the project would cause, it is safe to assume that the IACOR would not have approved the transfer of state funds to assist Benton and Franklin Counties participate in cost-sharing. IACOR was not faced with this decision however as the project was stalled by a groundswell of opposition spearheaded by the Columbia River Conservation League (CRCL), a preservation organization centered in southeastern Washington. The CRCL's cogent agruments that the project did not have a viable b/c ratio caused the Chief of Engineers office to return the project report to the Seattle District Office for further study.[33]

While it is doubtful that the IACOR will be requested to assist Benton and Franklin counties cost-share at the project, recent actions by the IACOR demonstrate that it would not approve use of state funds for this purpose in the future. In August 1972 the IACOR passed a resolution calling for a study of the stretch of the Columbia and riverine lands that would be inundated by the Ben Franklin Project;[34] the express purpose of the study is to have that section of the river designated as a national river "*...which would preserve the integrity of the river in a natural free-flowing condition.*"

This case indicates that in Washington preservation organizations (and others holding post-industrial values) may exert more influence on a local government's decision to cost-share under PL 89-72 than they can in Oregon.

V. THE NONFEDERAL DECISION TO COST-SHARE

A Systems Model of Implementing PL 89-72

The report has shown that the implementation of PL 89-72 in the Region involves a number of complex decision processes by many actors at three levels of government. A systems model of the principal relationships has been constructed (Figure 7). The model depicts the decision making mileau of water resource development in the United States by federal construction agencies and is designed to present the major flow of information between principal subsystems and their components.

The model considers three types of information. The first is influence which is defined as information from one subsystem with the power to alter the decision process within another subsystem. The second type of information is a request from one subsystem to another to initiate action re PL 89-72. And the third type is the information field which envelopes the system and is available to each subsystem as a basis for decision making. As a system it is structure elaborating and adaptive with purposive goal seeking behavior both within the individual components as well as within the entire system. Each subsystem operates within constraints imposed from within the subsystem as well as constraints from outside the subsystem which are contingent on outside action.

The model illustrates only formal flows of information such as legislation, executive orders, official correspondence and other types of communications available to the public. It is axiomatic that informal flows of information pervade the entire decision making process and probably carry a quantity of information equal to that of the formal flows. Direct questions or requests regarding implementation of the Act are illustrated by heavy lines designated with an (R); lighter lines with long arrowheads illustrate influence (I). Other important information flows are shown by small unlabeled lines with short arrowheads. Critical decision points are designated by diamond-shaped symbols. At these points the decisions are made which have a direct bearing on the implementation of PL 89-72.

Within the federal construction agencies, the staffs charged with recreation and fish and wildlife are shown in black. This illustrates not only the relatively small planning effort devoted to these functions but also their position at the bottom of the hierarchy of planners.

Implementation of the Act as Evaluated by the Model

The special interest groups initiate action within the system by requesting their Congressional representative to start the first step of the project planning process. During the planning process both Congress and the federal agencies search the information field for input pertinent to planning. From this information Plan I is developed so that Congress can make the decision whether

SYSTEMS MODEL FOR IMPLEMENTING PL 89-72

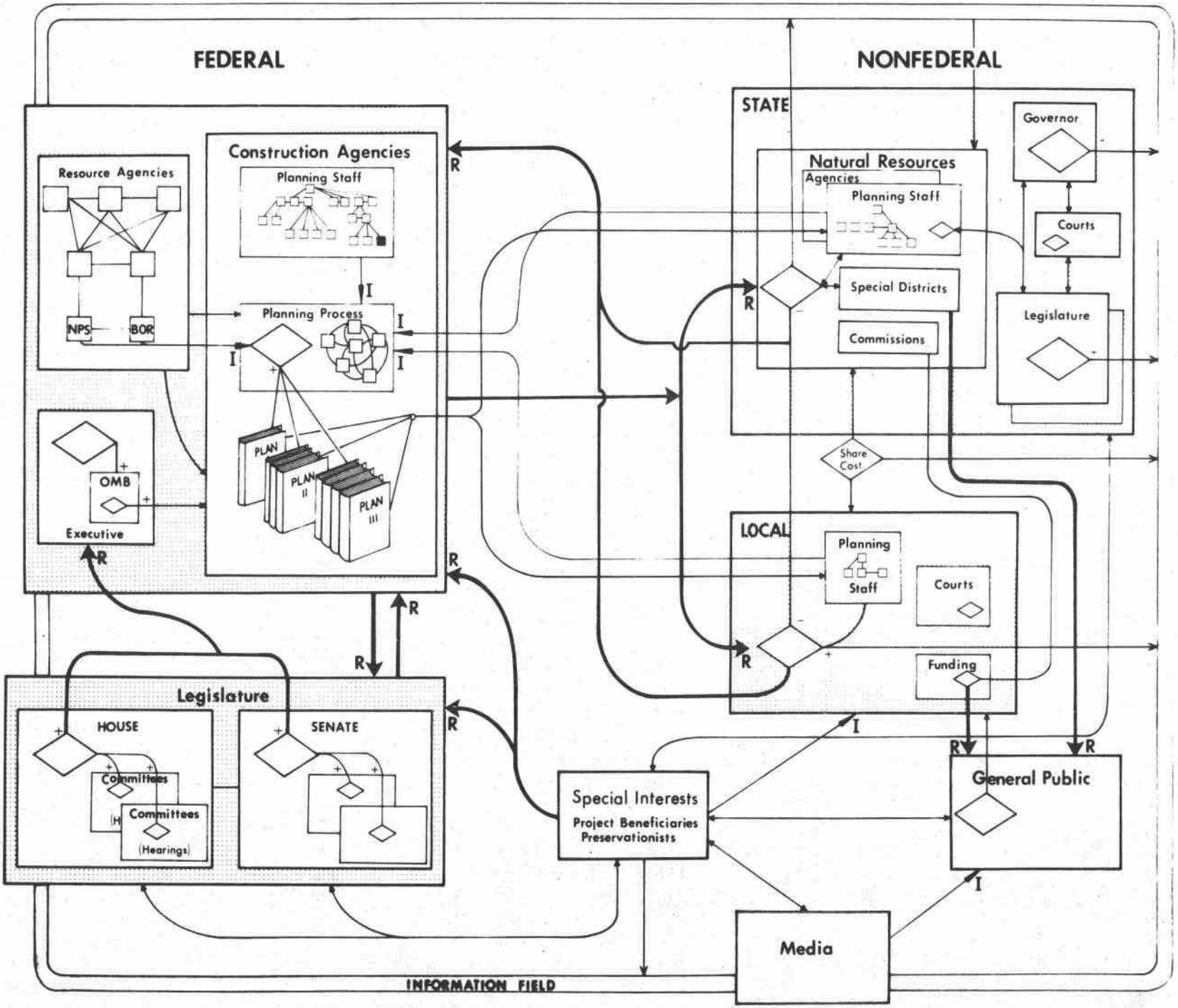


Fig. 7

more detailed planning is warranted. The federal construction agencies solicit feedback from special interest groups which if favorable triggers more detailed planning that will culminate in Plan II. This planning phase lasts several years. During this phase the federal construction agency requests the state level to participate in cost-sharing under PL 89-72. Although the state resource agencies are usually requested to participate, the Governor's office and/or legislature may receive the request. If the state level refuses to submit a letter of intent to participate in PL 89-72, the federal construction agency requests a local level of government to do so.

At this stage of intermediate plan development information flows become much more elaborate as increased information moves from the nonfederal to the federal levels as well as between all actors within the system. These flows include: requests from preservationists to stop or alter the project; requests from special interest groups (potential project beneficiaries) to increase the tempo of planning; review of the plans by state and federal levels; and feedback from the nonfederal participant in PL 89-72 as it assesses its input in the project planning process. Before Congressional consideration of the project plan can take place it must be appraised by the OMB. This is an access point for special interest groups and also causes increased flows of information between the Executive Branch and other components within the federal subsystem.

After appraisal by the OMB the project is routed through the construction agency and echelons above it to Congress. Congressional hearing are pre-requisite to authorization and can generate a large volume of each of the three types of information flows noted above--influence, requests, and the information field. For example, the construction agency may be required to alter a facet of the project plan dealing with PL 89-72; and/or the potential nonfederal participant may be requested to testify, clarifying its position on cost-sharing. After Congress authorizes the project, Presidential approval is required before the project is returned to the construction agency for additional planning.

Up to this juncture there have been several critical decision points. At the federal construction agency where yes-no decisions were made on the desirability of initiating and continuing the project plan and from which the nonfederal entity is requested to participate in PL 89-72. Decisions on how to react to requests by the nonfederal participant concerning the scaling down or altering of facilities under PL 89-72 and other matters subject to negotiation are also made at this point. At the state level it is determined which subsystem will make the decision to cost-share. This is usually a resource agency but it can be the state legislature or Governor's office that decides. A special district may have to refer the decision to its constituency. At the local level the primary decision making group usually makes the decision whether to participate in PL 89-72, but this group may also refer the decision to its constituency.

The OMB decision point is very important and one through which the project passes a minimum of three times. The decisions made here are whether to approve funds for planning at both the preauthorization and postauthorization stages and whether to approve appropriation of construction funds. As noted in the text the OMB is also concerned with cost-sharing, appraising the share that the non-federal entities will pay and associated procedures of cost allocation.

At the Congressional level the main decision points are in the committees that handle legislation for the construction agencies (Public Works for the Corps of Engineers and Interior and the Insular Affairs for the Bureau of Reclamation), the Appropriation Committees, and the full houses. In addition to the many decisions bearing on project planning and funding, specific decisions on cost-sharing under PL 89-72 are frequently scrutinized by the committees and may even be considered by the full house.

In sum the decisions making system re PL 89-72 is part of a much larger water resources development program which is an ongoing, interacting, heuristic system.

The Problem of Predicting Cost-Sharing under PL 89-72

There are knotty problems associated with predicting whether a non-federal entity will cost-share at a project within the purview of PL 89-72. Figure 8 and Table 14 illustrate the basic combinations of possible decisions for cost-sharing under the Act at any one project.[1] In Figure 8 three nodes of decision making are shown: when the potential nonfederal participant is requested to sign 1) a letter of intent, 2) a letter concurring with the contract, and 3) the contract. Since these decision making nodes are usually separated by several years or more, a myriad changes in the decision making environment can take place from one node to the next. This means that both input variables and decision criteria may well vary from node to node and that subsequent actions are not contingent upon past actions.[2]

As discussed in earlier chapters, the potential nonfederal participant is not legally bound to participate in the Act until it has signed the contract. Thus, it may communicate affirmative intentions by submitting both the letter of intent and a letter of concurrance with the contract and then refuse to sign the contract; or, a nonfederal entity may remain non-commital (or even negative) until just before project construction begins and then sign the contract to cost-share under PL 89-72. Although informal flows of information would probably reduce the uncertainty in such instances, the case studies in Chapter IV illustrate the high degree of uncertainty associated with the process of securing a nonfederal sponsor to participate in PL 89-72.[3]

BASIC DECISION TREE FOR COST-SHARING UNDER PL89-72

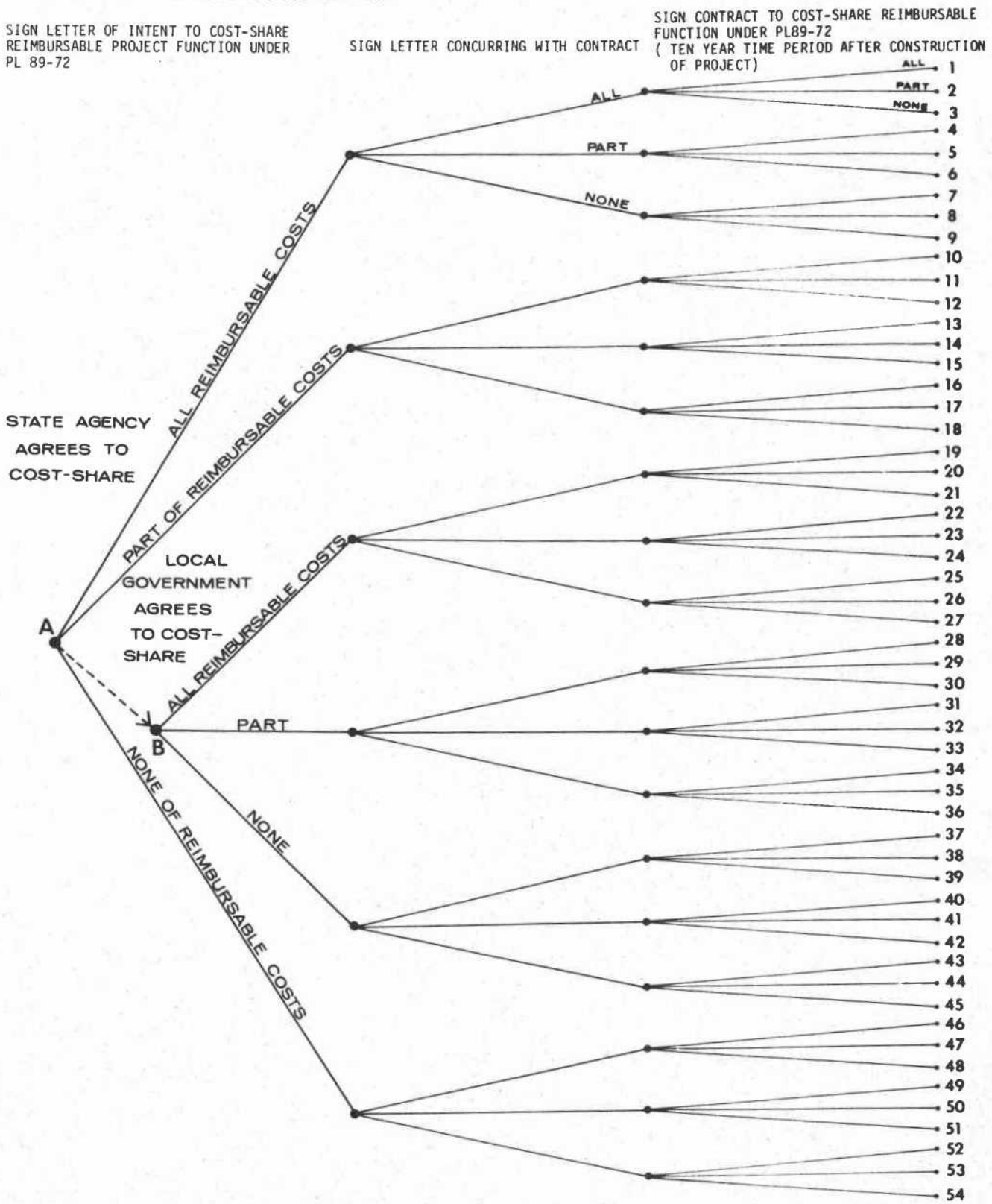


Fig.8

Table 14 - Sets of Decisions re Nonfederal Entities' Signature of Cost-Sharing Contracts under PL 89-72

A = {Set of decisions when a state agency signs a contract to cost-share the entire nonfederal share} = {1,4,7,10,13,16,46,49,52}

B = {Set of decisions when a state agency does not sign a contract to cost-share} = {3,6,9,12,15,18,48,51,54}

C = {Set of decisions when a state agency signs a contract to cost-share part of the nonfederal share †} = {2,5,8,11,14,17,47,50,53}

D = {Set of decisions when a local entity signs a contract to cost-share part of the nonfederal share ††} = {20,23,26,29,32,35,38,41,44}

E = {Set of decisions when a local entity does not sign a contract} = {21,24,27,30,33,36,39,42,45}

F = {Set of decisions when a local entity signs a contract to cost-share the entire nonfederal share} = {19,22,25,28,31,34,37,40,43}

G = {Set of decisions where contract is signed}

$G = A + F + C \cap D$

$P(G) = P(A) + P(F) + P(C \cap D)$

$P(G) = P(A) + P(F) + P(C)\ P(D|C)$

* Numbers refer to those in Figure 8.
† The other part is shared by a local entity.
††The other part is shared by a state agency.

Variables Affecting the Nonfederal Entities' Decision to Cost-Share under PL 89-72

At the outset of the research it was postulated that several key variables would explain why the nonfederal decision makers accept or reject cost-sharing under PL 89-72. The subsequent research revealed that a number of variables do affect the nonfederal decision makers attitude towards cost-sharing under the Act. Considerable effort was then spent in attempting to construct a model which could be used to assess the likelihood of cost-sharing when certain characteristics of the project and of the nonfederal entity were known. This proved unsuccessful for the reasons given in the last section and because of the lack of data as discussed in Chapter I.

It is suggested however that a discussion of the individual variables will contribute to a better understanding of why PL 89-72 is being implemented where it is as it is. The variables are not presented in order of significance, although some are undoubtably more significant than others in most cases.

Relative Expense of Participating in PL 89-72

As discussed in Chapter III the expense of participating in PL 89-72 is the most common reason given for nonfederal entities expressing opposition to participation in the Act. Since there were few actual refusals to sign a letter of intent and even fewer signed contracts, a surrogate indicator of cost was used to estimate how much a local entity would be expected to pay when participating in the Act. (State agencies were not considered because it was assumed that their decisions would be less affected by the cost.) The surrogate indicator was the amount the local entities signing letters of intent indicated they would pay. Using Spearman's rank correlation coefficient, a relationship was sought between the amount and six socio-economic variables (Table 15).

Table 15 - Rank Correlation of the Amount to be Spent under PL 89-72

Socio-Economic Characteristics	All U. S.	U. S. Except Pacific Northwest*	Pacific Northwest*
Population Size	.50	.47	.64
Population Change	.38	.42	.18
General Revenue	.80	.65	.72
Recreation Expenditure	.58	.64	.54
Per Capita General Revenue	.37	.60	.16
Per Capita Recreation Revenue	.49	.59	.37

* Idaho was included with the Pacific Northwest in this instance.

Based on the significance of general revenue, ratios were plotted between the probable costs of participating in PL 89-72 and the general revenue of each participant (Table 16).

Table 16 - Ratio of the Cost of Participation in PL 89-72 to the General Revenue of the Potential Participant

County	Cost* (Millions)	General Revenue** (Millions)	Ratio
Benton	2.338	1.981	1.230
King	2.193	47.531	.046
Douglas	2.235†	11.083	.201
Linn	.625	4.639	.067
Josephine	.586	4.986	.106
Franklin	.521	1.774	.293
Washington	.421	4.180	.101
Union	.400	.968	.310
Morrow	.057	1.003	.057
Kootenai	.016	1.288	.012

* One half of the separable costs of enhancing functions under PL 89-72 and interest during construction. It does not include O & M costs which usually equal separable costs between 20-30 years after the project goes into operation.

**Average general revenue (1966-67).

† For two projects within the purview of PL 89-72.

Note that Benton County has committed a markedly larger share of its revenue than any other county. In this instance assistance from the IACOR would appear crucial. As discussed in Chapter IV such assistance is at best remote. On the other hand, King County with its very large revenue would readily cost-share an amount almost equal to Benton County's commitment. Thus, IACOR support would not be important. The actions of Union County (discussed) in Chapter IV) suggest that its decision makers felt .155 was excessive (the ODPR had agreed to turn a park over to the county for use towards cost-sharing. The park was valued at $200,000, leaving $200,000 for the county to pay).

It is suggested that if federal agencies knew where a threshold zone of expenditures for recreation lay, that they could then plan the recreational benefits (use) that would have costs within that range. Although there are a few instances where costs of participating in PL 89-72 were scaled down upon request by the potential participant, it has been the general practice of federal agencies to attempt to maximize recreational or fish benefits with little consideration to the magnitude of costs involved.

Perceived Importance of Withholding PL 89-72 Functions from the Project B/C Ratio

It is assumed that the more the withdrawal of functions within the purview of the Act jeopardizes the economic viability of the project, the greater the incentive will be for both the construction agency and the prospective nonfederal participant to cost-share under PL 89-72. This assumption is based on two factors. First, the rasion d' être of each agency is to provide a variety of water derived services--largely by constructing facilities that alter the spatial and temporal distribution of water. And second, the state[4] and local level decision makers generally view Corps and Bureau projects in a positive light, although evidence suggests that some of the enthusiasm has been waning in recent years. Projects have meant development of resources, growth of payrolls and taxbase, and increased economic activity, which are viewed as good per se. Several of the water derived services stemming from a project are entirely or at least partially nonreimbursable, which is a principal reason that nonfederal entities favor federal water development.

As most of these real and/or perceived benefits have a greater impact locally than at the state level, it is assumed that local decision makers are more favorably inclined towards a project than those at the state level. If a project is jeopardized by lack of a cost-sharing agreements, it is postulated that many of the potential beneficiaries (most of whom are not connected with recreation) would strongly encourage local decision makers to agree to cost-share under PL 89-72 in order that local interests realize the many and diverse benefits from the constructed project.[5] Since the benefits from most projects are not as important to a state, it is assumed that the state level decision makers will in general attach significantly less importance to realizing the project than the local decision makers do.

Unless rules of cost allocation are changed, the importance of withholding benefits under PL 89-72 will increase because benefits within the purview of PL 89-72 are constituting an increasing proportion of total project benefits. Since WW II as societal values have changed towards a greater emphasis on leisure time uses of water (recreation, fish and wildlife habitat, enhanced water quality, and appreciation of aesthetic qualities of water), benefits from these difficult-to-measure project services have assumed an increasing importance in project b/c ratios. Fox and Herfindahl, for example, noted that between 1950 and 1962 these hard to measure benefits (including water supply) grew from an average of three percent of project benefits to 27 percent.[6] The significance that recreation benefits have attained at many Corps projects was brought to light in a recent study which among other things appraised the benefit-cost analyses of twenty-five proposed projects by the Corps in an attempt to determine the effect on project feasibility of the refusal of nonfederal entities to cost-share recreation. If recreation benefits were deleted, ten of the projects would have benefits less than costs; in twenty-one of the twenty-five cases total project benefits were reduced with the deletion of recreation.[7]

This method of assessing the significance of recreation was then attempted for projects in the Region within Section 2 of the Act. But due to inaccessibility of data the following formula was used to assess the change in the project b/c ratio.

$$\frac{\text{BENEFITS OF THE PROJECT WITHOUT RECREATION AND SPORTS FISHERY}}{\text{COSTS OF THE PROJECT MINUS SEPARABLE COSTS OF THESE FUNCTIONS}}$$

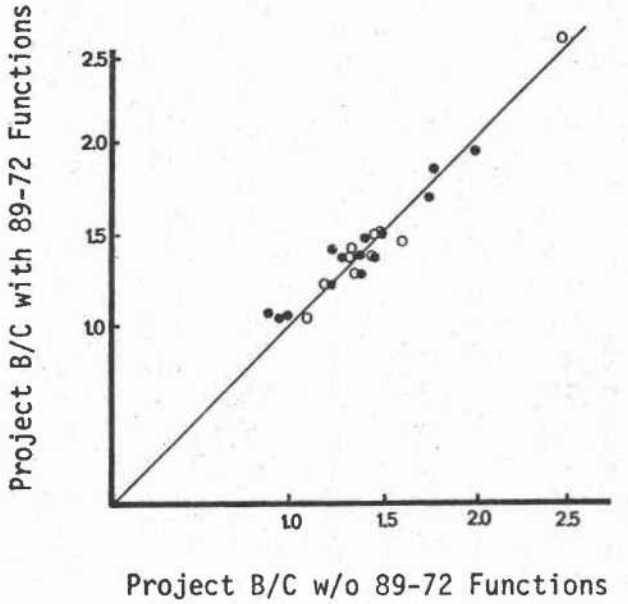
Of the sixteen project b/c ratios tested, three ratios fell below unity (Figure 9). Of the thirteen remaining projects none declined to a point where the project would be in jeopardy i.e., below 1.1. However, caution must be excercised when considering Figure 9A for several reasons. It was not possible to get recent figures for all the projects and as the project discount rate rises until authorization it is probable that by using more recent figures more of the projects would have shown greater declines in the overall b/c ratios. Second, the project figures may undergo periodic rescoping, i.e. reallocation of costs and benefits among different project functions. Thus, as discussed in the Catherine Creek case, a project that appears to be in jeopardy due to the low b/c ratio may become viable again when "new benefits" are found. And third, in some cases only the recreation function could be considered as the costs and benefits of anadromous fisheries (which are not usually cost-shared) were combined with those of resident fisheries. Moreover, the method used does not consider the combined impact of deleting both recreation and fish and wildlife from the project b/c ratio, which may in some cases not depict the potential impact of a nonfederal refusal to cost-share.

Figure 9A suggests several points. First, the twenty-five projects analyzed by Marshall may not have been representative: withdrawal of the PL 89-72 functions from the projects in the Region would jeopardize a much smaller proportion than those analyzed by Marshall. Indeed, if the b/c data are credible (and they may not be), one-third of the project b/c ratios would increase if PL 89-72 functions were deleted. Second, deleting PL 89-72 functions would not cause a big change in the b/c ratio in either direction. Third, the projects that would be affected most adversely by deleting PL 89-72 functions are recent Bureau of Reclamation projects which reflect that agency's "new look."

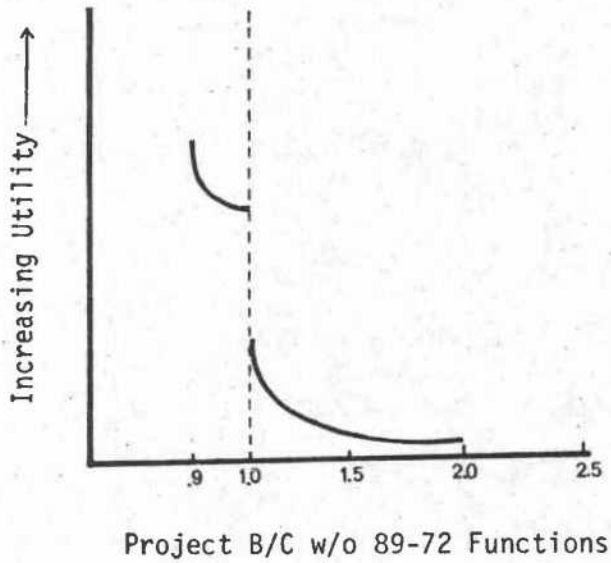
Figure 9B illustrates the assumption that the utility to negotiate a cost-sharing contract is a function of the project b/c ratio without PL 89-72 functions. It is postulated that when that ratio is above 2 the utility to negotiate will be zero. As the ratio without PL 89-72 functions approaches unity, the utility to cost-share increases sharply, particularly when it is at 1.1 and below. When the b/c ratio is within this range, increasing pressure will be put on the nonfederal decision makers by the potential project beneficiaries to participate in PL 89-72. The federal construction agency will also put increasing effort towards successful negotiation with the prospective nonfederal participant, because as the b/c ratio of any project approaches unity reviewing bodies and advisary groups will become more critical and, in general, the chances of project authorization, appropriation of planning and construction funds, and approval by OMB decrease. If the b/c ratio without PL 89-72 functions is at unity or below, the utility to cost-share increases markedly. When the b/c ratio without the PL 89-72 functions is between unity and .9, it may be possible to rescope the project, finding new benefits so that cost-sharing under PL 89-72 might not become necessary. But rescoping requires time and funds, neither of which may be available. Unless the project is rescoped, cost-sharing under PL 89-72 is prerequisite to the construction of the project. When the b/c ratio

THE ASSUMED IMPORTANCE OF PL 89-72 FUNCTIONS ON THE
UTILITY TO NEGOTIATE A COST-SHARING AGREEMENT

A. Changes in Project B/C Ratios by Deleting PL 89-72 Functions



B. Utility of Cost-Sharing



PROJECT DATA FOR THE REGION

	Project	Project B/C	Project B/C • Recreation B/C	Without o Fish & Wildlife B/C
1.	Ben Franklin	1.36	1.36	- -
2.	Bumping Lake	2.56	- -	2.46
3.	Carlton	1.01	0.87	- -
4.	Catherine Creek	1.40	1.20	1.30
5.	Days Creek	1.37	1.42	- -
6.	Holley	1.26	1.35	1.31
7.	Illinois Valley	1.95	1.97	- -
8.	Lower Grande Rhonde	1.42	- -	1.57
9.	Merlin	1.45	1.39	1.42
10.	Olalla	1.47	1.45	1.47
11.	Snoqualmie	1.83	1.73	- -
12.	Touchet	1.69	1.71	- -
13.	Tualatin	1.36	1.28	1.29
14.	Umatilla	1.002	0.975	1.06
15.	Upper John Day	1.01	0.912	- -
16.	Willow Creek	1.20	1.20	1.19

FIGURE 9

falls below .9 it is assumed that the possibility of rescoping is remote and that cost-sharing under the Act becomes the only way the project will be built. Accordingly the utility to negotiate an agreement will be very high.

Spatial Priorities

This variable was cited by states as frequently as high cost for the reason underlying the refusal to participate in PL 89-72. Although the Act stipulates that recreation and fish and wildlife are coequals among project purposes, the projects are usually sited to realize benefits for traditional project purposes such as navigation, or power, or irrigation, or flood control. Hence, the location of the project frequently does not fit with the priorities of state level agencies.

In general, recreation agencies are more sensitive to the location of the water project than are those responsible for fish and wildlife because easy access from population centers is the key to water related recreation (Table 7). That location is very significant to the ODPR is attested to by its special consideration of cost-sharing for projects within the Willamette Valley; and by statements from the WGD on location and priorities (Chapter IV). Only the WPRC would appear to be relatively insensitive to this aspect with its impending agreement with the Corps of Engineers to put a park on every major Corps reservoir.

At the local level the problem of spatial priorities would not usually enter the decision making process. Few local level governments have enough area to make the question of accessibility germane; and few have stringent locational priorities for recreational development even when they do have plans.

It is concluded that at the state level the question of spatial priorities is extremely important in the cost-sharing decision. Since most of the cost-sharing under PL 89-72 is done by state agencies, this variable should help to explain the incidence of participation and refusals.

Philosophy of Cost-Sharing PL 89-72 Functions

This variable can be the most important deterrent to cost-sharing of all the decision variables. Although this decision variable would not often be significant in a national appraisal of the Act, it is important in the Region. Chapter IV discussed the sharp contrast between the ODPR and the WPRC. The former was staunchly opposed to PL 89-72 because the cost of providing recreation at federal reservoirs was deemed to be a federal responsibility. Because of this view the ODPR has seldom given serious consideration to participating in the Act. If the project is in the Willamette Valley, i.e. accessible to the bulk of Oregon's population, and has a reservoir operating schedule that guarantees near full pools throughout the recreation season, then the ODPR will consider cost-sharing. If these conditions are not met, there is little chance that the ODPR will consider it unless extraordinary circumstances are present (see Catherine Creek case study).

The WPRC on the other hand takes the position that cost-sharing under PL 89-72 is an advantageous method of providing outdoor recreational opportunities in the state. In only exceptional circumstances will the WPRC not enter into a cost-sharing contract at major Corps of Engineers reservoirs. (The WPRC

staff allege that they also favor participation at Bureau of Reclamation reservoirs but are not working out a long term agreement with that agency).

Both game commissions in the region hold a rather negative view towards cost-sharing under PL 89-72. They do so largely because both are also responsible for anadromous fisheries which have been depleted in the wake of water development projects. Their views on charging user fees and fiscal constraints reinforce this attitude towards the Act. The Washington Game Commission appears to be more negative than its Oregon counterpart.

Large Source of O & C Revenue

As discussed in Chapter IV the six O & C counties receiving the greatest amount of O & C funds have always reacted in an affirmative manner towards cost-sharing under PL 89-72. They have large park and recreation staffs and high per capita expenditures for recreation. Although O & C funds are not earmarked for any particular purposes, these counties appear to spend a large proportion for parks and recreation.

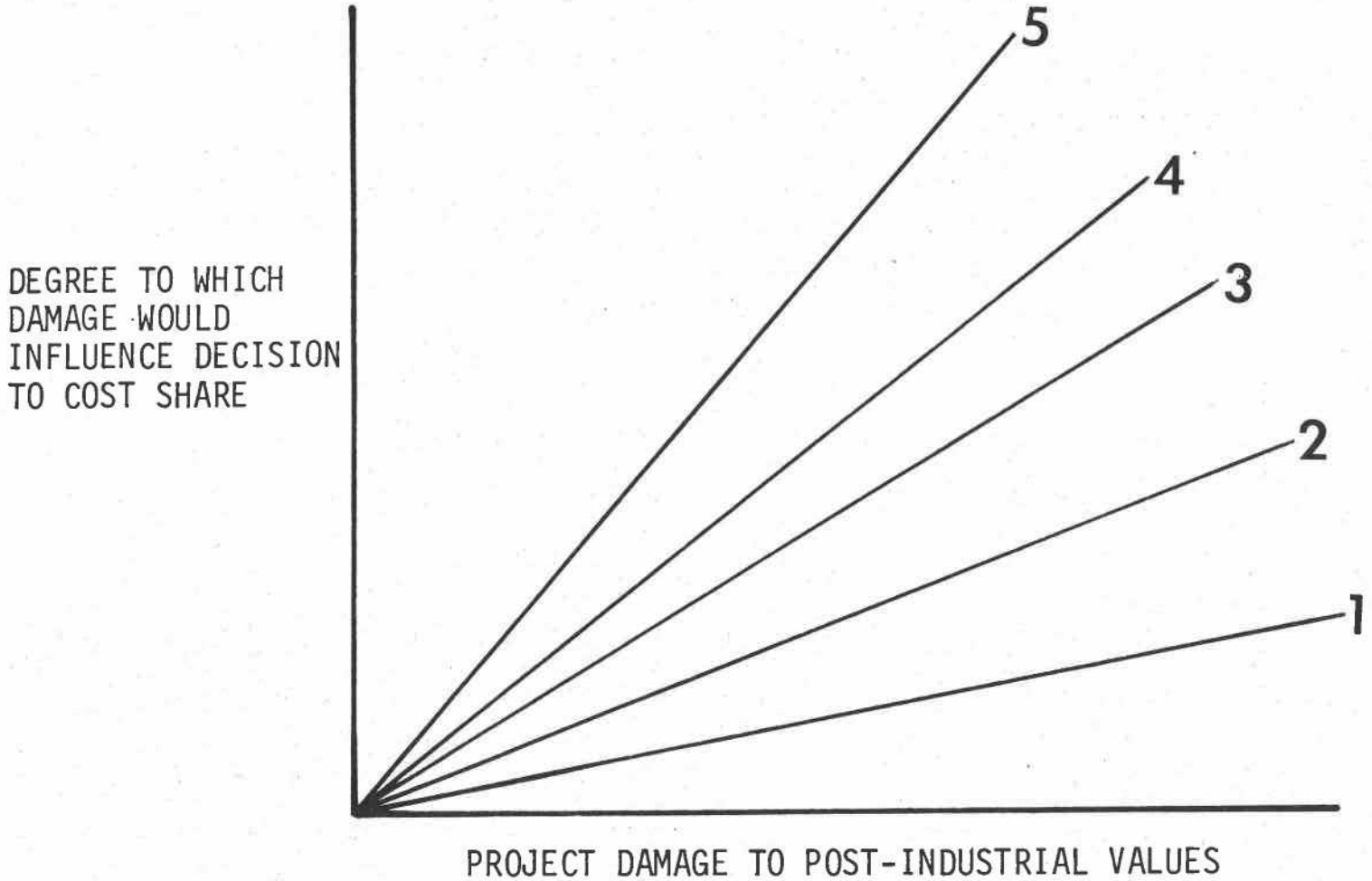
These counties were also considered as a separate decision variable because some other methods that assess the affluence or ability to pay for services do not place O & C counties particularly high. For example, their general revenue is not always suggestive of their willingness and ability to pay for recreation. Moreover, in a recent study[8] of the "economic health" of Oregon counties, none of the three O & C counties that have participated extensively in PL 89-72--Jackson, Douglas, and Josephine--were ranked within the first quartile, i.e. among the nine "healthiest counties" in the state. Indeed Jackson, Douglas, and Josephine placed in the second, third, and fourth quartiles, respectively.

Receptivity to Post-Industrial Values*

It is submitted that if a proposed project is perceived to threaten post-industrial values, preservationist organizations, allied interest groups, and sympathetic portions of the public may well affect the cost-sharing decision. They may do this in two ways: by stopping or delaying the entire project (as illustrated in the Ben Franklin and Snoqualmie cases); or, failing to do that, they may seek to dissuade nonfederal decision makers from entering into a cost-sharing agreement. The latter case is of greater relevance to the study. Figure 10 illustrates that as the perceived negative impact increases so does the likelihood that the cost-sharing decision will be affected. (At this stage of development linear relationships are used for lack of more data). Figure 10 also reflects the fact that preservation organizations have more influence at state than at the local levels; and that this is modified in Washington State by the Interagency Council for Outdoor Recreation (IACOR). As discussed in Chapter IV, the IACOR is very sympathetic to post-industrial values and may withhold state financial support from local governments willing to cost-share in projects that the IACOR considers to be undesirable.

* Wilderness, de facto and de jure
  Wild and scenic rivers - state and federal
  Archeological sites - real and suspected
  National parks and monuments
  Scenic state parks
  White water recreation areas
  High quality and/or unique fish and wildlife and their habitat

HYPOTHESIZED EFFECT OF POST-INDUSTRIAL VALUES ON THE NONFEDERAL DECISION TO COST-SHARE



1 Oregon Counties Without Large Urban Centers
2 Washington and Oregon Counties not included in 1
3 ODPR and WPRC
4 OGC and WGD (only for Fish and Wildlife values)
5 IACOR

Fig. 10

As indicated in Figure 10 it is postulated that the decision makers in Oregon counties without large urban centers (or without small cities with large universities) will be least affected by these negative impacts on post-industrial values, because they would remain relatively impervious to pressures by preservationist organizations. As the county population increases with urban agglomerations containing sizeable concentrations of population (e.g. enough to qualify as an Urbanized Area[9]), it is suggested that the decision makers will show increasingly greater sensitivity to pressure from preservationist organizations.

It is axiomatic that there is a real problem of accurately assessing the negative impacts of a proposed project on post-industrial values. An attempt to do so was made by asking spokesmen for the leading preservationist organizations in Oregon and Washington (the Oregon Environmental Council and the Washington Environmental Council) to classify the proposed projects within the purview of PL 89-72 in terms of their opposition to them.[10] There are, however, two major disadvantages of this approach. First there is relatively little spread among degrees of opposition (if opposed they are strongly or vehemently opposed) and, second, the spokesmen do not feel well enough informed about many projects to classify them. This latter case is particularly evident for projects in the early stages of planning.

It is suggested that another method of scaling opposition would be to use Environmental Impact Statements and their reviews, a draft of which must be completed and reviewed prior to the project reaching Congress. While this approach would probably result in a wider range of opposition (and might be less subjective), assessment of projects in the earlier stages of plan formulation would still remain difficult at best.

Perceived Constitutional Limitations on Indebtedness

Since PL 89-72 is sometimes interpreted as requiring that the nonfederal participant assume a long term debt, constitutional restrictions have been cited by both state and local entities as the reason underlying their refusal to participate in the Act (Table 8). As discussed in Chapter III, this reason might well be an excuse not to participate when some other reason underlies the refusal, however.

In an attempt to ascertain how significant limitations on indebtedness were in the United States the following procedure was followed. Using the classification of indebtedness[11] developed by Mitchell, participation in PL 89-72 was compared to the degree of limitations on debt. Little if any association was found between degree of limitation and participation in PL 89-72, even though nonfederal entities often cite this as a barrier to their participation.

Then a state by state comparison was made of those instances where the state level entities have a different level of restrictiveness for debt limitations than the local governments. It was assumed that if debt restrictiveness was significant, the level of government with less restrictions would participate in PL 89-72 with greater frequency than those in the more restrictive level. This assumption proved untenable: state level entities participated with much greater frequency regardless of the relative debt restrictiveness. It is suggested that the greater frequency of state participation and little apparent association between participation and the level of debt restrictiveness, results respectively from the high costs of participation and the ease with which limitations on debt may be circumvented.

In the Region this consideration may well have had more significance than at the national level, however. The Oregon Game Commission interpreted the Oregon Constitution to prohibit participation in PL 89-72 and the Oregon Department of Parks and Recreation usually cited this reason (among others) for refusal to participate in the Act until the Attorney General's opinion on the matter in 1971. And Union County disqualified itself from participation in the Catherine Creek project ostensibly because of limitations on indebtedness (Chapter IV).

It is suggested that constitutional limitations on indebtedness may deter the decision makers from cost-sharing under the Act only when one or more other reasons are perceived to make participation in cost-sharing undesirable. This conclusion pertains both to future decisions in the Region and to the U. S.

Perceived Capability of Obtaining Funds from New or Nontraditional Sources to Allow Participation in PL 89-72

This variable was not tested during the research but its consideration may be instructive in future assessments of factors affecting the decision to cost-share. It is suggested that if nonfederal decision makers are reasonably sure that they can obtain funds from sources customarily not open to them that the probability of them making an affirmative decision on cost-sharing under PL 89-72 will increase.

Included under the several sources of deriving revenue to participate in the Act are: the general fund, special legislation, selling revenue bonds, raising taxes, and, for local governments in Washington State, the IACOR. As discussed in Chapter IV the OGC indicated it might turn to the general fund to aid participation in PL 89-72. Both the OGC and the ODPR will obstensibely have to have special legislative appropriations to circumvent violation of the Oregon Constitution if they participate in PL 89-72. These state agencies may sign a letter of intent without legislative action, however. As noted earlier in the study Washington County sought to raise the property tax in the county, part of the funds from which would have been used for later recreation development at Scoggins Reservoir. It is noteworthy, however, that lack of success in this venture did not appear to deter the county decision makers once they had decided that participation in PL 89-72 was advantageous. Josephine County decision makers are reportedly contemplating sale of bonds to finance cost-sharing under PL 89-72 at the Merlin project, which is being changed from a traditional irrigation project to one stressing outdoor recreation. This is being considered because the costs under PL 89-72 are expected to increase at least several fold over those for which the county signed a letter of intent several years ago. It is also possible for counties to introduce special legislation calling for state support in cost-sharing under PL 89-72. As discussed under the case of Catherine Creek, the Oregon State Highway Commission would have been obliged to assume Union County's share of the proposed nonfederal costs under PL 89-72 had the Legislature passed the bill introduced at the behest of the county.

Perceived Ability to Influence Planning

It is submitted that this can be an important element in a nonfederal entity's decision to cost-share under PL 89-72. In general the greater the

planning capability and expertise of the nonfederal entity in question, the more important this consideration would become. Evidence presented in Chapter III indicates that as of 1971 a considerable proportion of the nonfederal entities were somewhat dissatisfied about their planning input. Subsequent study of this question in the Region revealed that there were misgivings about input at the state level in particular. Three of the four state agencies most likely to be the nonfederal participant expressed concern about this aspect of PL 89-72.[12]

At the local level it would appear as if in general the perceived ability to make a meaningful input into the project planning process would be of considerably less importance, particularly to those counties with no planning staffs. The decision makers of these counties would place a higher value on one or more of the traditional water derived services that the project would provide. Indeed, it is probable that some local governments are participating in PL 89-72 only as a means of deriving flood control, irrigation or some other type of traditional benefit. It is suggested however that as the expertise in recreational planning increases at the local level so does the concern for planning input. Because counties with large metropolitan centers and some O & C counties have relatively large recreational planning staffs, their decision makers would probably consider this point more carefully than the average county in the Region or country.

Perception of the Ten Year Option

Although this variable was not considered during the research and relatively little information was learned about it, it is suggested that the option of waiting ten years may well be a significant factor in the nonfederal decision to cost-share under PL 89-72.

This option would generally remove any sense of urgency that a prospective nonfederal entity might have about participating in the Act. (In instances where the functions under PL 89-72 are necessary for a viable b/c ratio, this ten year option is not available of course). Speculation about amending the Act in favor of the nonfederal participant would also encourage delay on the part of the nonfederal participant. The decision makers may defer the decision to cost-share and adopt a "wait and see" attitude. If after five to nine years it appears as if participation would be advantageous in light of new circumstances, then a cost-sharing agreement may be concluded.

It is suggested however that there may also be several disadvantages associated with waiting until after the reservoir is created. First, it would be difficult if not impossible to alter the reservoir operating schedule after years of operation. This has proven to be the case at existing reclamation reservoirs where cost-sharing under section 7 of the Act may take place. Second, a reallocation of joint costs among project functions is not possible: only the separable costs of recreation are shared. This would preclude the tilting of costs towards nonreimbursable functions and therefore make the entire project more expensive for the nonfederal entity.[13] And third, this section of the Act could be amended or otherwise invalidated thus precluding the opportunity to participate: Executive Order 11508 promulgated by the Nixon Administration has ordered the General Services Administration to survey all federal real estate and report as excess that which it judges to be underutilized or unutilized. It is

It is assumed that 11508 may be a real threat to this ten year option because the NWC has reacted to it as if it could be used to prevent purchase and reservation of recreational land for ten years as PL 89-72 directs.[14]

Attitude towards People from outside the Area of Jurisdiction Using the Recreation Resources

This variable may be quite influential in the decision of the nonfederal entity whether to cost-share under PL 89-72. Because leisure time users of water are already highly mobil and becoming increasing so, nonfederal decision makers may expect an increasing proportion of recreationists to originate in other jurisdictions. How this affects the nonfederal decision makers re participation in PL 89-72 depends on their view of first, whether user fees are an efficacious means of recouping expenses and second, whether the net effect of tourist-recreationists has a positive or negative impact on their entity. It is suggested that the size of the jurisdiction also has a bearing on the decision because local level entities would be affected by tourists to a markedly greater degree than the state agencies.

In the Region there was some evidence that this question was being considered seriously by state agencies. As long as out of state users buy fishing or hunting licenses, the respective fish and game agencies of Washington and Oregon would not be concerned. While the WPRC apparently would not give serious consideration to the question, a policy adopted several years ago by the ODPR suggests that area of origin might be considered: to counter an increasingly common situation of Oregonians being unable to find camp facilities in state parks (large numbers of which were occupied by Californians and Washingtonians), a reservation system was initiated which favors Oregonians. Since the ODPR does not view the charging of user fees as a satisfactory method of recouping expenses, the consideration of the probable proportion of nonstate use could become significant in the future. It is noteworthy that when Union County interests pushed for more state help in cost-sharing at the Catherine Creek project they emphasized that chiefly Oregonians would be using the project.

At the local level tourism and recreation has long been hailed by chambers of commerce as good per se, because these activities ostensibly brought money to the community. As discussed in Chapter IV, one of the reasons that interests in Josephine County favored the Merlin Project is its high degree of accessibly from Interstate 5, which carries a heavy stream of tourists. This variable was most significant in California where several counties gave the reason for lack of participation that "outsiders" would use the facilities (Table 6). It is apparent that these county decision makers felt that the "outsiders" would bring more problems than benefits. It is suggested that when counties with good dam sites and small populations are juxtaposed with counties in populous lowlands that the former counties may well not want to cost-share.

Attitude towards Charging User Fees

The nonfederal decision makers' attitude towards charging user fees may well affect their decisions whether to cost-share under PL 89-72. The Act gives the nonfederal entity the option of charging user fees to repay the separable costs incurred by participating in PL 89-72; and the federal construction agencies have encouraged prospective nonfederal participants to elect this

option. It is suggested that a negative attitude towards charging user fees would discourage participation in the Act. In Chapters III and IV it was demonstrated that this was one of the principal reasons given by state fish and game agencies for refusing to cost-share under PL 89-72.

Although it has become evident that charging user fees will most probably not repay the reimbursable costs of participating in PL 89-72 (nor even the OM&R costs!), the charging of user fees would appear to be an increasingly attractive option to nonfederal decision makers because it has also become doubtful that the nonfederal entity choosing this option would be obliged to repay the reimbursable costs under the Act within the fifty year period stipulated in section 2(b) of the Act.[15]

It is noteworthy that since 1968 the concept of charging user fees has been eroded by other legislation. Congress intended that PL 89-72 reinforce the concept of the wider application of user fees promulgated by the Land and Water Conservation Fund Act (LWCFA) passed in 1964. This concept has been vigorously opposed by influential interests who succeeded in generating legislation that amended the LWCFA. Both PL 90-483 and PL 93-81, passed in 1968 and 1973 respectively, amended cost-sharing provisions of the LWCFA which may also affect the success of collecting user fees by nonfederal entities participating in PL 89-72. Among other things, the acts of 1968 and 1973 prohibit the collection of user fees at federal campgrounds and/or water oriented facilities unless they meet extraordinarily high standards of accomodation and development. Thus, a nonfederal entity seeking to collect user fees at the same reservoir would have to compete with free opportunities offered by the federal government.

Which Federal Construction Agency Will Build the Project

The Corps of Engineers has a more efficacious process of negotiating with the prospective nonfederal participant than the Bureau of Reclamation. This stems largely from a much larger recreation staff that is within that organization; whereas, the Bureau of Reclamation must depend on the BOR and NPS which increases negotiation between the federal actors and sometimes produces confusing information for the prospective nonfederal participant. The Corps less protracted project gestation period also aids negotiation by reducing uncertainty. Moreover, the increasing centralization of Bureau of Reclamation activities in the Regional Offices would hinder the frequent federal-nonfederal contact necessary during the the negotiations. Finally, it is suggested that the attitude of the nonfederal decision makers might well be more positive when entering cost-sharing negotiations re PL 89-72 with the Corps of Engineers than with the Bureau of Reclamation, because the Corps can in general offer the nonfederal entity more nonreimbursable benefits from the entire project than the Bureau can.[16]

The additional Corps advantages resulting from project site characteristics and reservoir operating schedules are reflected in the other decision variables and therefore will not be discussed here.

It is noteworthy that in the Region the WPRC would appear to be giving special consideration to Corps projects: the WPRC has stated that it will build a state park on every major Corps reservoir; and is negotiating a long

term agreement with that agency to facilitate cost-sharing under PL 89-72 at proposed and existing Corps reservoirs throughout the state. The Bureau of Reclamation is conspicuously absent from consideration.

Conclusions

The nonfederal decision whether to cost-share under PL 89-72 is very complex. It is part of a much larger water development system interacting with innumerable phenomena in the biophysical and human systems in the United States. Although the cost of participation is a prime consideration, the nonfederal decision makers weigh many additional factors: including but not limited to, where the project is located relative to existing priorities, how the proposed reservoir operating schedule will affect recreation and/or fish and wildlife, whether use will come principally from within or outside of the entity sharing the costs, the position of preservationist organizations on the project, and how significant not participating in PL 89-72 will be to the viability of the project b/c ratio. For reasons discussed in the report, prediction of whether a nonfederal entity will participate in the Act is fraught with difficulty; it is suggested that additional research effort be made of this question.

VI. CONCLUSIONS

Congress intended that the Act accomplish three goals: place the Bureau of Reclamation and the Corps of Engineers on equal grounds re provision of recreation; ensure that recreation and fish and wildlife become coequals among traditional project purposes at Corps and Reclamation projects; and further creative federalism by requiring a greater financial effort from the nonfederal entities in return for increased input in the planning of recreation and fish and wildlife enhancement. The research sought to assess the implementation of these goals in the country in general and in the states of Washington and Oregon in particular. While the protracted project gestation period and relative recency of the Act would make firm conclusions premature, there is enough evidence to comment on the trends of implementation.

First, although the ability of the Bureau of Reclamation to provide recreational opportunities has improved relative to the Corps since passage of the Act, the latter agency retains the advantage. This is most notable at existing reservoirs where the Bureau of Reclamation is limited by Section 7 of the Act to cost-share not more than $100,000, while the Corps may provide sums many times larger. At least two additional conditions in the mileau of U. S. water development militate against the attainment of equality between the two agencies re provision of recreation under PL 89-72. First, Corps projects require less time between planning and authorization, thus reducing uncertainties which discourage nonfederal participation in the Act. As long as Corps projects are lumped together in omnibus bills to be authorized en masse while Bureau projects are scrutinized individually, the Corps will retain the advantage. Outside the Institutional framework, the Corps has another advantage: the relative accessibility of many flood control projects from urban areas should make cost-sharing more attractive to the affected nonfederal entities than those of the Bureau which are in general located in more sparsely populated areas. The Act could not of course have changed the last factor, and would most probably not have become legislation if it had attempted to modify the route of Corps projects via Omnibus bills.

Since enactment of PL 89-72 interests favoring recreation and/or fish and wildlife have gained some influence in planning multipurpose projects, but they most definitely have not become coequals as the Act stipulated. Increased influence has only come about recently. During the first five years after passage of PL 89-72 interests favoring functions within the purview of the Act retained their position of residual legatees. Federal construction agencies have been eager to enter large benefits from recreation and/or fish and wildlife in project benefit-cost analyses, but hesitant to make the proper tradeoffs if and when functions under PL 89-72 conflicted with reservoir operations designed to maximize benefits from traditional water derived services. Over the last two to three years functions under PL 89-72 have been receiving more attention, but they are far from coequal. The small number of staff specializing in recreation and in fish and wildlife and their low position in the planning hierarchies attest to this.

Congress intended that PL 89-72 stimulate the devolution of planning responsibility upon nonfederal entities in return for greater financial responsibility. This goal of PL 89-72 is not being realized. The federal agencies have not readily surrendered their former planning prerogatives, because in part many of the nonfederal entities did not develop the expertise to participate meaningfully in the Act. And, of even greater significance, many of the potential nonfederal participants either will not or cannot assume the increased financial responsibilities required by the Act.

At this juncture it appears appropriate to pose some fundamental questions about Congressional foresight and PL 89-72.[1] Was the Act realistic in light of the realities of the water development system in which it had to function? A major point subsumed under this general question is how Congress could have expected the federal construction agencies to alter their patterns of behavior to accord with the goals of PL 89-72. First, given the fact that the federal construction agencies are prone to use the benefit-cost analysis as a tool of project justification rather than as a method of analysis, was it realistic to assume that they would not use the greater benefits allowable under PL 89-72 in the same manner? And second, as long as the Corps of Engineers and Bureau of Reclamation remain in charge of project formulation, maintaining a symbiotic relationship with clientele interest groups, was it realistic for Congress to expect that recreation and fish and wildlife would become coequals in plan formulation? Evidence presented in this report suggests that until the last two to three years the agencies did not alter their behavior appreciably. Since 1970 some efforts have been made by the Corps to upgrade recreation and fish and wildlife in accord with PL 89-72; and since 1972 the Bureau of Reclamation appears to have given much greater attention to these functions, although it is not clear whether this "new look" is an effort to survive as a viable water development agency or whether Reclamation planners are convinced that recreation and fish and wildlife really should become coequals as the Act stipulated over eight years ago. It is noteworthy that while both agencies are now operating in somewhat closer accord with the goals of PL 89-72, they are also striving to have the Act amended.

Successful implementation would also require cooperation by nonfederal entities. Even if the construction agencies did treat recreation and fish and wildlife as coequals and did alter their behavior to allow full participation by nonfederal public bodies in planning these functions, would it be realistic to assume that these entities could make meaningful contributions to planning at federal water projects when a significant number of them have neither the funds to meet the financial obligations of the Act nor the necessary planning expertise? This question is all the more germane because a significant proportion of the projects are far from metropolitan areas, and are therefore most likely to be in counties with small populations and declining tax bases. In addition, such projects are likely to be low on the priority lists of state agencies.

It is suggested that the problems of implementing PL 89-72 in the Region as well as in the United States stem in no small part from Congressional dependence on the traditional approach to water development. First, the Act is a manifestation of the pragmatic and often expedient "problem-solving" approach. As Wengert points out, action through this approach is only stimulated after an articulation of need reaches Congress.[2] The response, he continues, is an attempt to alleviate the assumed causes of conflict while meeting the needs of the interests articulating their desires. This "quick-fix" approach is often the antithesis to comprehensive planning. Through passage of PL 89-72, Congress sought at least partially to meet the demand for greater recreational opportunities by providing more recreation at federal water projects. But this was done with little thought about the location of projects, many of which are too far from centers of population to be used intensively. Moreover, the stipulations prerequisite to the creation of recreational opportunities at the projects are beyond the desire and/or ability of many of the nonfederal entities that were expected to be partners in the undertaking.

The shortcomings of the quick-fix approach are also apparent in the provisions of PL 89-72 that were designed to enhance fish and wildlife. These biota were being steadily diminished in the wake of population growth and galloping technology. Both preservationists and sportsmen (hunters and fishermen) expressed concern, albeit for different reasons. Through passage of PL 89-72 Congress sought to mollify both groups while continuing to build dams, the construction of which may have in no small part contributed to the losses in the first place.[3] The Act moderately increased the sum available for mitigation of losses due to projects, but as state agencies responsible for fish and game point out, mitigation does not mean full replacement in that mitigation has technically taken place if only one percent of the project-caused losses are replaced. PL 89-72 is not an efficacious remedy for this situation. Moreover, mitigation in kind is the exception, and many state agencies feel that the losses of furbearers and game animals are not compensated by the creation of a reservoir fishery. Hence, in many instances the nonfederal agencies that Congress expected to cost-share the enhancement of fish and wildlife are reluctant to participate in PL 89-72. In addition, the cost-sharing features of PL 89-72 are not as advantageous to the states as those in some federal laws that antedated the Act. It appears as if Congress did not think through the ramifications of its actions before it applied the quick-fix solution to the problems of fish and wildlife at federal water projects.

Second, the Act is also but another manifestation of the discrete parts approach to natural resources, which tends to compartmentalize each use as the exclusive concern of a particular Congressional committee and/or federal agency and clientele group. Proponents of this fragmented approach to resource management conveniently assume that the public interest is equal to the sum of the partial, articulate and particularized interests benefiting directly from the water development. This study reaffirms the speciosity of this argument: Congressional intent has been vitiated by the welter of conflicting pressures exerted by the involved bureaus and agencies at both the state and federal levels.

Third, PL 89-72 is another example of a construction-oriented approach to solving problems. Congress sought to enhance recreation and fish and wildlife as a by-product of constructing more water projects. Since large sums of money may be spent for the enhancement of recreation and fish and wildlife under the provisions of PL 89-72, it may be questioned whether alternative methods of enhancement might not have provided greater returns per dollar invested. As White cogently portrayed in Strategies in American Water Management, nonstructural alternatives to meeting problems were only beginning to be recognized in the last decade.[4] PL 89-72 clearly antedated such recognition.

The Act also contained three innovative features, two of which would facilitate implementation. These features do not offset however the effect of the traditional approach discussed above. First, by interposing another set of interests between the construction agencies and the narrow set of regional, state, and local interests served by the traditional approach to water development, Congress began in theory, at least, to subscribe to the "new emphasis" recommended by the National Academy of Sciences.[5] This new emphasis includes the identification of all available alternatives for coping with water related problems. In that federal and nonfederal interests negotiate plans for the enhancement of recreation and fish and wildlife under PL 89-72, more alternatives are considered. This would begin to break with the "one best plan" approach that predominated in the past and would encourage greater participation by nonfederal entities. The encouragement of user fees is another way in which PL 89-72 diverges from the

traditional approach to water development. As noted in the report, charging user fees as a means of recouping the costs of participating in the Act may well be the least expensive alternative open to the nonfederal participants. The cost-sharing provisions of the Act were also innovative, but unlike the other innovative aspects of PL 89-72 they have not encouraged implementation. As shown in the report, the nonfederal public bodies are reluctant to pay for something that was often free before passage of the Act.

In sum, the goals of the Act were unrealistic in view of the water development system in which PL 89-72 operates. Implementation of the Act is proceeding in a halting and uneven manner, fitting some regions and states better than others. It is probably more difficult for the federal construction agencies to obtain the necessary nonfederal cooparation in the Region than in the country as a whole, because Washington and Oregon have a relatively low ratio of population to existing opportunities for outdoor recreation. In addition, within the region are influential interests responsible for and/or committed to the protection and management of anadromous fisheries; these interests continue to be opposed to the traditional, dam-oriented approach to water development as manifested by PL 89-72. Despite these differences, almost all of the decision making variables discussed in Chapter V are applicable on a national scale.

FOOTNOTES CHAPTER I

[1]Harold E. Marshal, Federal Cost-Sharing Policies for Water Resources PB 208 304 (Washington D.C.: 1972, National Bureau of Standards), p. 154.

[2]This does not include contracts signed under Section 7 of the Act. These contracts cover only reclamation reservoirs authorized and/or built before 1965 and limit the nonfederal and federal participants to $100,000 each.

[3]C.F. Luce, et al, Review Draft, Proposed Report of the National Water Commission. PB 212 993 (Arlington, Virginia: National Water Commission, 1972) Volume I, p. 5-162.

FOOTNOTES CHAPTER II

[1]U.S., Congress, House, Committee on Interior and Insular Affairs, Recreation Allocation Policy, Hearing, 88th Cong., 1st Sess., December 3-12, 1963 (Washington: Government Printing Office, 1964), p. 17.

[2]"Water Project Recreation," Congressional Quarterly Weekly Report, XXII, 26 (Week Ending June 26, 1964), 1304.

[3]U.S., Congress, House, Committee on Interior and Insular Affairs, Water Project Planning Policy, Hearing, 88th Cong., 1st Sess., March 28-April 26, 1963 (Washington: Government Printing Office, 1963).

[4]U.S., Congress, House, Committee on Interior and Insular Affairs, Federal Water Project Recreation Act, H. Rept. 254 to accompany H.R. 5269, 89th Cong., 1st Sess., April 27, 1965 (Washington: Government Printing Office, 1965), p. 6.

[5]For a detailed description of the differences see: "Cost-Sharing Rules Set for Water Project Recreation," Congressional Quarterly Almanac, XXI (1965), 777.

[6]Hearings for the House version of S. 1229, H.R. 5269, were not printed. For extensive hearings by the House on a similar bill (H.R. 9032) that preceded H.R. 5269 by two years, see: U.S., Congress, House, Committee on Interior and Insular Affairs, Recreation Allocation Policy, op. cit.

[7]U.S., Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, S. 1229, Hearing, 89th Cong., 1st Sess., March 23, 1965 (Washington: Government Printing Office, 1965), pp. 29, 30, 44.

[8]Ibid., p. 36.

[9]Ibid., p. 65.

[10]Ibid., p. 36. (Actually irrigators would have to repay less after passage of the Act).

[11]U.S., Congressional Record, 89th Cong., 1st Sess. (1965), CXI, No. 11, 14810 14814.

[12]U.S., Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, op. cit., pp. 63-64.

[13]Based on personal correspondence between T.S. Roberts, Assistant Director, Bureau of Sport Fisheries and Wildlife, and the writer, April 24, 1968.

[14]U.S., Department of Interior, Bureau of Sport Fisheries and Wildlife, Bureau Analysis of the Federal Water Project Recreation Act, PL 89-72 (79 Stat. 213), Appendix Part A-11 Legal References, Exhibit 10 (1965), p. 5. (Mimeographed.)

[15]Ibid., p. 4

[16]U.S., Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, op. cit., p. 39

[17]Outdoor Recreation Resources Review Commission, Outdoor Recreation for America, A Report to the President and to the Congress (Washington: Government Printing Office, 1962), pp. 69, 173-182.

[18]Outdoor Recreation Resources Review Commission, Water for Recreation - Values and Opportunities, ORRRC Study Report 10 (Washington: Government Printing Office, 1962). p. 43.

[19]Outdoor Recreation Resources Review Commission, Multiple Use of Land and Water Areas, ORRRC Study Report 17 (Washington: Government Printing Office, 1962), pp. 24-26.

[20]H. Hinote, Benefit-Cost Analysis for Water Resource Projects: A Selected Annotated Bibliography (Knoxville: University of Tennessee, Center for Business and Economic Research, 1969), pp. 122-123.

[21]U.S., Congress, Senate, Committee on Interior and Insular Affairs, Water Project Recreation Act, op. cit., p. 38

[22]U.S., Congress, House, Committee on Interior and Insular Affairs, Recreation Allocation Policy, op. cit., p. 17.

[23]These terms are defined in Section 10 of PL 89-72 which is appended.

[24]Based on personal correspondence between Representative Wayne N. Aspinall, Chairman of the House Interior and Insular Affairs Committee, and the writer, May 28, 1968.

[25]J.W. Milliman, "Cost-Sharing for Recreation and Fish and Wildlife under PL 89-72," Memorandum to P. Glick, Water Resources Council, June 27, 1968, pp. 3-4.

[26]Enhancement in this sense pertains to the increasing of runs of anadromous fish over present runs. This is accomplished through releases of storage water during periods of low flow, construction of fish passage facilities, etc. It could be argued that such enhancement is actually mitigation because it increases runs of fish that were decimated by other uses of water over the last century, particularly by the development of irrigation and hydroelectric power, but also including waste carriage.

[27]U.S., Department of Interior, Bureau of Sport Fisheries and Wildlife, op.cit., p. 7.

[28]U.S., Congressional Record, 89th Cong., 1st Sess. (1965), CXI, No. 8, 10882.

[29]U.S., Congress, House, Committee on Interior and Insular Affairs, Federal Water Project Recreation Act, op. cit., p. 18; see also U.S., Congress, Senate, Committee on Interior and Insular Affairs, Federal Water Project Recreation Act, S. Rept. 149 to accompany S. 1229, 89th Cong., 1st Sess., April 7, 1965 (Washington: Government Printing Office, 1965), p. 5.

[30]Most of this paragraph is taken from: K.W. Muckleston, "Water Projects and Recreation Benefits," Congress and the Environment, eds. R.A. Cooley and G. Wandesforde-Smith (Seattle: University of Washington Press, 1970), pp. 121-122.

FOOTNOTES CHAPTER III

[1]For example: in Vermont, the North Hartland and North Springfield Reservoirs, $290,000 and $150,000 respectively; in New Hampshire the Hopkinton-Everett Project $100,000; in Massachusetts the Cape Cod Canal and East Brimfild projects, $1,171,000 and $195,000 respectively, etc. The Corps can cost-share more than $100,000 per existing reservoir while the Bureau of Reclamation is limited by section 7(a) of PL 89-72 to that amount. Corps regulation ER 1120-2-404, part of which covers cost-sharing at existing reservoirs, does not specify a cost limitation.

[2]For example, personnel responsible for biota in Colorado's Division of Game, Fish and Parks, report that their influence was reduced considerably when their former Department was merged with parks and placed under a Department of Natural Resources. Interview June 24, 1971, Denver, Colorado.

[3]E.g., Corps of Engineers, U.S. Army. ER 1120-2-404, Federal Participation in Recreational Development August 14, 1970; ER 1120-2-400, Recreation Resources Planning November 1, 1971; and ER 1165-2-400, Recreational Planning, Development, and Management Policies, August 3, 1970. Based on interviews about these directives with recreation planning staff members at the three district offices in the Region, it is submitted that during the first five years the Corps did not treat recreation as a coequal at projects and that the three planning directives cited above were an attempt to change this situation.

The Office of the Chief also disseminated new regulations on fish and wildlife about the same time, which dealt in part with PL 89-72: ER 1120-2-401, Preservation and Enhancement of Fish and Wildlife Resources, August 14, 1970.

Similar responses by the Bureau of Reclamation to the problem of enhancing recreation, fish and wildlife were not found by the investigators.

[4]The question referred back to projects for which no nonfederal sponsors could be found. Some respondents answered on these grounds, which severely limited the number of projects considered. Other respondents evidently considered the total number of projects within the purview of PL 89-72 in their district or region.

[5]Based on personal correspondence between P.D. Triem, District Engineer, Portland District, Corps of Engineers and the writer, September 15, 1970. Upon further inquiry planners in the Portland District Office have maintained that these projects are not far enough along for further comment.

[6]The interest rate is identical to that charged to project beneficiaries paying for costs associated with municipal-industrial supplies. It has risen very slowly from 2.544% in 1950 to 3.649 in 1970.

[7]National Water Commission, Water Policies for the Future, (Washington: GPO, 1973), p. 194.

[8] D.H. Hoggan, State and Local Capability to Share Financial Responsibility of Water Development with the Federal Government. Report of the United States Water Council (Washington D.C.: Water Resources Council, 1971), pp. 13-16.

[9] Ibid., and K.A. Hammond, D.P. Beard, and K.W. Muckleston, The Impact of Federal Water Legislation at State and Local Levels. Completion Report for Water Research Project [B-019-Wash.] (Ellensburg, Washington: 1970), pp. 248-289.

[10] For example: Within a year after passage of PL 89-72 Jackson County, Oregon, agreed to cost-share recreation enhancement at three existing reservoirs -- Emigrant, Agate, and Howard Prairie. By 1969 the county had invested a total of about $100,000, while the Bureau of Reclamation had matched less than $10,000. This placed Bureau personnel in an awkward position.

[11] From interviews with personnel at Bureau of Reclamation Region VII offices June 25, 1971, Denver, Colorado.

FOOTNOTES CHAPTER IV

[1]Based on correspondence between Senator H.M. Jackson and Secretary of the Interior Udall, July 2, 1968.

[2]Much of this paragraph is drawn from Charles McKinley, The Management of Land Related Water Resources in Oregon: A Case Study in Administrative Federalism (Washington, D.C.: Resources for the Future, 1965), pp. 427-8.

[3]The Bureau's proposed Moore's Valley reservoir in the Charlton Division. Due to unusual circumstances the reservoir will be maintained at the full level throughout the recreation season during 85% of the years. The other project is the proposed Catherine Creek Dam discussed as a case study later in this chapter.

[4]Governor's Committee on Natural Resources, Criteria for State Participation in Federal Water Development Projects under the Terms of the "Federal Water Project Recreation Act" PL 89-72. (Phase II), (State of Oregon), October, 1969, (Mimeographed.)

[5]Based on extensive telephone and personal interviews with OGC personal between 1969-1972; and on correspondence with the Game Commissioner about his interpretation of "Criteria for State Participation in ...PL 89-72."

[6]See for example, State Water Resources Board, Seventh Biennial Report, submitted to the 55th Legislative Assembly (Salem: 1968), p. 33.

[7]R.F. Ross and K.F. Millsap, State and Local Government and Administration (New York: The Ronald Press Company, 1965), pp. 98-104.

[8]Eighteen counties' in western Oregon contain O & C lands. These lands were originally grant lands for the Oregon and California Railroad and the Coos Bay Wagon Road. Since revestment, the lands have been managed by the Bureau of Land Management (BLM), which returns a markedly higher percent of timber receipts to the counties than the Forest Service does (50% vs. 25%). These counties received relatively few receipts from O & C timber sales prior to the 1950's; since then funds have poured into the counties' coffers. As of 1972 the O & C counties had received over $370 million and the annual income is increasing yearly. These revenues are extremely important to most of the 18 counties. The recommendations (June, 1970) of the Public Lands Review Board that these counties no longer receive these funds has caused very strong reaction in western Oregon. Change in the O & C formula for revenue sharing would limit the ability of some of these counties to cost-share under PL 89-72. For general references on the O & C lands; see a) McKinley, op. cit., pp. 39, 191-211, 423, 549; b) M. Clawson and B. Held, The Federal Lands: Their Use and Management (Lincoln: University of Nebraska Press, 1957), pp. 281-282, 324-329; c) M. Clawson, The Federal Lands Since 1956: Recent Trends in Use and Management (Washington: Resources for the Future, 1967), p. 30-39.

[9]Letter to John E. Phelps, Chairman, Water Resources Committee, International Association of Game, Fish and Conservation Commissioners from Ralph W. Larsen, Chief, Applied Research Division, Washington Department of Game, May 13, 1966.

[10]Letter to John A. Biggs, Director Washington Department of Game from Ralph W. Larsen, Subject: Public Law PL 89-72, October 16, 1967.

[11]For a lengthy description of IACOR activities see K.A. Hammond, D.P. Beard, and K.W. Muckleston, The Impact of Federal Water Legislation at the State and Local Level OWRR Completion Report (B-019-Wash) Ellensburg, Washington: 1970), pp. 123-166.

[12]R.D. Rudd, "Precipitation Periodicity in Western Oregon," Rocky Mountain Social Science Journal, II, 1(March, 1965), p. 85-94.

[13]D.J. Allee and H.M. Ingram, Authorization and Appropriation Processes for Water Resource Development, NTIS PB 212 140, pp. 3-10 to 3-15 and Chapter 2.

[14]Telephone interview with M. Dorough, Washington County Planning Staff, August, 1973.

[15]Telephone interview with A.A. Grahm, The Washington County Parks and Water Resources Coordinator, May 25, 1972. Other helpful information was received from A.A. Grahm over a three year period from 1969 through 1972.

[16]U.S. Department of Interior, National Park Service (Pacific Northwest Region), A Recreation Development Plan for Scoggins Reservoir, Tualatin Project, Oregon: prepared for the Bureau of Reclamation (Seattle N.N., 1970), 28 pp. and 11 diagrams.

[17]After years of hesitation the OGC has agreed to cost-share enhancement of resident fisheries for $16,000. But not all fish oriented organizations are enthusiastic about the Catherine Creek Dam. In July, 1973, it was reported that the national director of Trout Unlimited had indicated that law suits might be filed to halt Corps projects on the Grande Ronde, including Catherine Creek.

[18]Based on personal correspondence between R.J. Giesen, District Engineer, Walla Walla District, Copps of Engineers, and the writer, November 20, 1969.

[19]U.S., Congress, House, Committee on Public Works, Grande Ronde Rivers and Tributaries, Oregon H. Doc. 280 Appendix F, 89th Cong., 1st Sess. August 26, 1965 (Washington GPO, 1965), p. 289.

[20]U.S., Congress, House, Committee on Public Works, Omnibus Rivers and Harbors and Flood Control Bills, 1965, Hearings, 89th Cong., 1st Sess., July 26 - August 9-17, and August 17-27, 1965 (Washington: GPO, 1965) p. 1078 (Part II)

[21]U.S. Congress, House, Committee on Public Works, Grande Ronde River and Tributaries, Oregon, loc. cit.

[22]Based on personal correpondence between A.W. Peters, Mayor, City of Union, Oregon, and the writer, November 12, 1969.

[23]The county exceeds this antiquated limitation when it desires to expend funds for purposes it deems desirable e.g., roads. Union County did not deem participation in PL 89-72 desirable and used the debt limitation as the reason it "could not" participate.

[24]Telephone interview with administrative staff at the ODPR, July 29, 1973.

[25]Statement by W. Pitney, Chief, Basin Investigations Oregon Game Commission, telephone interview, October 14, 1969.

[26]Based on personal correpondence between J.R. Sim, Director, Josephine County Parks, and the writer, May 3, 1968.

[27]Statement by J.R. Sim, telephone interview, October 14, 1969.

[28]The benefit from recreation was increased in the project b/c analysis because the BOR study completed in 1969, predicted a much heavier use than the NPS had in 1962. In a report prepared for the Bureau of Reclamation entitled, "Supplemental Report on the Recreation Use and Development of the proposed Sexton Reservoir, Merlin Division--Rogue River Project, Josephine County, Oregon," the NPS estimated that 40,000 visitors yearly could be expected (p. 3). In 1969 a memorandum to the Regional Office of the Bureau of Reclamation from the Regional Office of the BOR reported that the initial visitation, exclusive of hunting and fishing, would be 100,000 recreation days. This evaluation was based on a study of use characteristics of eight existing reservoirs in southwestern Oregon, and included consideration of the increased movement of traffic on Interstate 5 which is very near the proposed site. The BOR used a unit day value of 95¢ per recreation day when computing the value of recreation at the proposed reservoir. This is considerably less than the $1.60 per user day used by the NPS in 1962. The BOR used the method stipulated in Supplement No. 1 to Senate Document 97, which had not been promulgated in 1962. It is not known what values are being used by the BOR in its present reevaluation.

[29]U.S., Department of Interior, Bureau of Reclamation, "Reevaluation Statement (3 1/4% interest), Merlin Division, Rogue River Basin Project, Oregon," (Boise: n.n., 1970), pp. 1-2, (Mimeographed.)

[30]"Irrigation benefits increased for several reasons. 1) Current procedures to estimate benefits differ from those used in 1962. 2) The type of irrigation was changed from an open gravity canal and lateral system to a closed pipe pressure system. This lowered cost estimates associated with rights of way and will result in a more efficient use of the irrigation water, both of which raise benefits. 3) The impact of technology on farming was also considered, which presumably increased benefits. Ibid.

[31]Interview with Bureau of Reclamation Planners, Boise, July 19, 1973.

[32]Reported to be about 1:1 by T.M. Clement, Jr. and G. Lopez, Engineering A Vistory for Our Environment: A Citizen's Guide to the U.S. Army Corps of Engineers (Washington: The Institute for the Study of Health and Society, 1971), (Np pagination). In U.S., Congress, House, Committee on Public Works, Columbia River and Tributaries (In 5 volumes) H. Doc. 403 Volume I, 87th Cong., 2nd Sess. May 19, 1962 (Washington: GPO, 1962), p. 233, the b/c ratio was given at between 1.16:1 and .92 to 1.

A figure obtained from the Seattle District Office in August, 1973 stated that it was 1.36:1 at 4 7/8%.

[33]Clement and Lopez., op.cit. (no pagination). These authors devote approximately 26 pages to the efforts of the CRCL.

[34]Interagency Committee for Outdoor Recreation, Minutes of meeting in Richland, Washington, August 28, 1972, pp. 4-5. (Mimeographed)

FOOTNOTES CHAPTER V

[1]The number of actual possibilities shown in Figure 8 is reduced because the diagram includes in the same node the signing of a contract just prior to construction and signing a contract within ten years after construction of the project.

[2]Monks describes these problems when discussing the feasibility of models to evaluate alternative water resource allocation decisions in Carl Brown, Joseph G. Monks, and James R. Park, Decision-Making in Water Resource Allocation (Lexington, Massachusetts: Lexington Books, 1973) pp. 71-79.

[3]See particularly the Catherine Creek and Snoqualmie case studies in Chapter IV.

[4]With the important exception of state agencies responsible for anadromous fisheries in the Region. In general state fish and game agencies hold a more negative view of the Act than other state agencies.

[5]See footnote 13 below.

[6]Harold E. Marshal, Federal Cost-Sharing Policies for Water Resources P.B. 208 304 (Washington, D. C.: 1972, National Bureau of Standards), p. 88, fn 1.

[7]Ibid., p. 170; For a more detailed description of the method used see Marshall's Ph. D. dissertation, The Relationship Between Local Cost-Sharing and Efficient Water-Resource Development unpublished, 1969, pp. 159-64.

Evidence suggested that this situation might also be common in the Region (see p. 32 and footnote 5 in Chapter III). But information proved difficult to get as the federal construction agencies are understandably reluctant to freely supply detailed project data from which conclusions about the significance of various project functions can be drawn.

[8]Leland F. Smith, "Balancing Oregon's Economic Growth: Should Industrial Incentives be Used?" Economic Research and Development Forum (Portland, Oregon: Portland General Electric), Issue No. 32, September-October 1972.

[9]That is, having at least one urban place of 50,000 or more. Criteria used by the U. S. Census for areas contiguous to an Urbanized Area are probably not germane when considering this variable.

[10]The spokesman for the Washington Environmental Council registered strong opposition to the Ben Franklin, Snoqualmie, and Bumping Lake Projects. Based on a telephone interview with Mr. Thomas Wimmer, Seattle, Washington, July 6, 1973.

The spokesman for the Oregon Environmental Council was asked to classify the organization's position on a six point scale: Vehemently opposed, 1; strongly opposed, 2; moderately opposed, 3; neutral, 4; too early to tell or no position, 5; and other, 6.

Project	OEC Position	Comment
Merlin	5	
Olalla	5	
Tualatin	6	Had opposed until Bureau of Reclamation agreed with non-federal fish interests over modification of facilities.
Umatilla	2	
Carlton	5	
Illinois Valley	1	
Holley	5	
Lower Grande Ronde	5	
Catherine Creek	6	Will be strongly opposed until Corps answers questions raised by OEC.
Days Creek	2	Until land-use planning and turbidity studies are undertaken.
Mary's River	5	

Based on a telephone interview with Mr. Larry Williams, Portland, Oregon, July 13, 1973.

[11] States were classified in groups. In order of increasing restrictiveness they are: 1. States that can borrow through legislative actions with generally no limits related to amount or purpose of debt; 2. States that can generally borrow any amount for any purpose but only after each debt proposal has been approved by a voter referendum; 3. States that can generally only borrow after constitutional amendments are effected, exempting particular issues from debt-limitation restrictions.

Local governments are also placed into three groups. In order of increasing restrictiveness they are: 1. Statutory debt limitations and either legislative action or a simple majority referendum necessary to authorize debt issues; 2. Constitutional limitation but legislative action to authorize debt issues or a special majority authorization coupled with a statutory debt limitation; and 3. Constitutional limitation with a simple or special majority referendum. Most of this footnote is taken verbatim from D. Hoggan, State and Local Capacity to Share Financial Responsibility of Water Development with the Federal Government, Water Resources Council, pp. 9-11. The original source is W. E. Mitchel, "The Effectiveness of Debt Limits on State and Local Government Borrowing." New York University, Institute of Finance, Bulletin Number 45.

[12] Of the Oregon Game Commission, the Oregon Department of Parks and Recreation, the Washington Game Department, and the Washington Parks and Recreation Commission, only the latter did not express concern about this question.

In addition, Oregon's Natural Resources Committee suggested three stipulations that should be met by federal construction agencies before an Oregon agency participates in cost-sharing under the Act (Chapter IV).

[13]Under the separable cost remaining benefit method of cost allocation, joint (or residual) costs are allocated on the basis of remaining benefits. Thus, by increasing recreation benefits (which occurs when there is a nonfederal participant under PL 89-72), joint costs can be shifted away from other purposes to recreation (which only cost-shares separable costs) with no additional reimbursement requirement demanded from recreation beneficiaries.

For example, the Senate Appropriations Committee discovered that at the Corps' Tocks Island Project, reimbursement for M & I water was reduced from $70 million to $54 million by increasing recreation benefits from $3.6 to $11.7 million. See James C. Laughlin, "Cost-Sharing for Federal Water Resource Programs with Emphasis on Flood Protection." Water Resources Research, VI (April, 1970), especially p. 367.

This tilting of costs makes a wider group of beneficiaries interested in PL 89-72 than might otherwise be the case and also encourages planners to inflate expected recreation benefits.

[14]National Water Commission, Water Policies for the Future (Government Printing Office, 1973), pp. 5-150-1.

[15]See footnote on page 63.

[16]See for example, Edward C. Crafts, How to Meet Public Recreation Needs at Corps of Engineers Reservoirs (Unpublished Research Report for the Corps of Engineers, 1970), pp. 99; Harold E. Marshal, Federal..., op. cit., pp. 42, 100-1, 150-2, 164-6; David J. Allee and Helen M. Ingram, Authorization and Appropriation Processes for Water Resource Development P.B. 212 140 (Government Printing Office, 1972), pp. 2-23 to 2-44 and 3-10 to 3-16; and Northcutt Ely, Authorization of Federal Water Projects P.B. 206 096 (Government Printing Office, 1971), pp. 1-45, 110-134, and 160-166.

FOOTNOTES CHAPTER VI

[1]Much of the remaining material is modified from an unpublished Ph. D. dissertation by Keith W. Muckleston, The Problem of Implementing the Federal Water Project Recreation Act in Oregon, (1970) pp. 141-8.

[2]Norman Wengert, "Perennial Problems of Federal Coordination," Political Dynamics of Environmental Control, Vol. 1, Environmental Studies: Papers on the Politics and Public Administration of Man-Environment Relationships, ed. L. K. Caldwell (Bloomington, Indiana: Institute of Public Administration, 1967), p. 50.

[3]Dams causing loss of fisheries has been particularly serious in the Pacific Northwest. In some other parts of the country, construction of dams may create large resident fisheries.

[4]G. F. White, Strategies of American Water Management (Ann Arbor: University of Michigan Press, 1969).

[5]Committee on Water (G.F. White, Chairman), Alternatives in Water Management, Publication 1408 (Washington: National Academy of Sciences, National Research Council, 1966), p. 48.

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APPENDIX A

Public Law 89-72
89th Congress, S. 1229
July 9, 1965

An Act

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 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.

Federal Water Project Recreation Act.

79 STAT. 213.
79 STAT. 214.

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—

Non-Federal public bodies. Project administration.

(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 nonreimbursable.

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without

Projects for 1965, exception.

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-reimburseable 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.

79 STAT. 214.

79 STAT. 215.

Provisions for acquisition of lands.

(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:

(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.

Lease of facilities and lands to non-Federal public bodies.

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.

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.

79 STAT. 215.
79 STAT. 216.

Outdoor recreation provisions.
16 USC 460l-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 460l-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: *Pro-*

Limitation.

vided, 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.
79 STAT. 216.
79 STAT. 217.

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.

Agreements with Federal agencies, etc.

(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.

Transfer of lands.

(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.

Feasibility reports.

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.

Project allocations.
32 Stat. 388.
43 USC 371 note.

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 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.

79 STAT. 217.
79 STAT. 218.

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

79 STAT. 218.

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.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 254 accompanying H. R. 5269 (Comm. on Interior & Insular Affairs) and No. 538 (Comm. of Conference).
SENATE REPORT No. 149 (Comm. on Interior & Insular Affairs).
CONGRESSIONAL RECORD, Vol. 111, (1965):
Apr. 13: Considered and passed Senate.
May 18: Considered and passed House, amended, in lieu of H. R. 5269.
June 23: House agreed to conference report.
June 25: Senate agreed to conference report.

Papers and Publications Resulting from the Research Project

1) "The Problem of Fitting National Legislation to State and Local Levels" presented at the Annual Meetings of the Oregon Academy of Science, February 26, 1972, Portland, Oregon. The Abstract appears in Proceedings of the Oregon Academy of Science, Volume VIII, 1972, p. 39.

2) "The Problems and Issues of Implementing National Legislation at Sub-national Levels" presented at the International Geographical Union Water Resources Symposium, August 2, 1972, Victoria, British Columbia. The paper is published in W. P. Adams and F. Helleiner (eds.), International Geography 1972 (University of Toronto Press, Toronto, 1972) Vol. II, pp. 1264-6.

3) "Problems of Cost-Sharing Leisure Time Activities at Federal Water Projects" presented at the Annual Meetings of the Association of Pacific Coast Geographers, June 15, 1973, San Diego, California.

4) "The Problem of Cost-Sharing Recreation and Fish and Wildlife at Federal Reservoirs in the Pacific Northwest" presented at the Ninth American Water Resources Conference of the American Water Resources Association, October 21, 1973, Seattle, Washington.