

Reclamation Manual

Directives and Standards

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| Subject: | Disposal of Bridges and Crossings on Bureau of Reclamation Land and Easements |
| Purpose: | Provides procedures for the disposal of bridges and crossings located on Reclamation land or easements. This Reclamation Manual (RM) Directive and Standard (D&S) provides benefits to Reclamation by compiling the primary body of requirements pertaining to disposal of bridges and crossings into one readily available document. This D&S provides structure to the disposal process and identifies requirements to be followed for resolving existing situations. |
| Authority: | The Reclamation Act of 1902 (32 Stat. 388; 43 USC 391, et seq.); as amended; Sale of Surplus Improved Public Lands Act of 1920 (Pub. L. 66-212; 41 Stat. 605-606; 43 USC 375); Reclamation Project Act of 1939 (Pub. L. 76-260; 53 Stat. 1187; 43 USC 485), as amended and supplemented; Federal Property and Administrative Services Act of 1949 (Pub. L. 81-152; 63 Stat. 377; 41 USC 251, et seq.), as amended; and 41 CFR part 102-75. |
| Approving Official: | Director, Policy and Administration |
| Contact: | Land Resources Division, 84-53000 |

- 1. Introduction.** Bridges and crossings on Reclamation land and easements pose unique ownership, maintenance, and liability issues for Reclamation. This D&S, consistent with RM D&S, *Bridge Inventory and Inspection Program*, FAC 07-01, provides the minimum requirements to dispose of bridges and crossings not needed for project purposes on Reclamation land or easements. Such disposals can eliminate maintenance and liability concerns for Reclamation. Refer to RM D&S, *Land Disposal*, LND 08-02; and 41 CFR part 102-75 for detailed requirements for disposal of real property and related personal property.
- 2. Applicability.** This D&S applies to all Reclamation staff with responsibility for land management. It also applies to employees with responsibility for bridge inventory and inspections. This D&S does not apply to bridges and crossings authorized under 43 CFR 429 and which are owned by other entities.
- 3. Definitions.** The following definitions apply to this D&S.
 - A. Bridge.** A structure including supports erected over a depression or an obstruction such as water, highway, or railway, and having a track or passageway for carrying vehicular or pedestrian traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of

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abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

- B. **Crossing.** Any structure that generally meets the above definition of a "bridge" except that it is less than 20 feet in overall span.
 - C. **Easement.** An easement conveys a possessory (control of property without ownership) interest in real property to private parties or public agencies. The recipient of a grant of easement is typically referred to as a grantee. The interest granted entitles the grantee to a specific use or possession of land. Easements are usually, but not always, appurtenant to the land involved. Easements classified as "appurtenant" are said to "run with the land," which means they are part of the formal ownership of the land rather than being the personal property of an individual.
 - D. **Fee Owned Land.** Land where the United States holds title and all rights and privileges associated with land ownership. For the purposes of this D&S, land that is categorized as acquired or withdrawn is considered to be fee owned land.
 - E. **Grantee.** Person or entity that acquires a bridge or crossing from Reclamation by donation, sale, grant, gift, or any other transaction which conveys ownership of a bridge or crossing.
 - F. **Public Authority.** A Federal, state, county, township, Indian tribe, municipality, or other local government or subsidiary thereof (including all water user organizations), with authority to finance, build, operate, or maintain highway facilities.
 - G. **Transferred Works.** Reclamation facilities, structures, land, resources, or other assets for which the operation and maintenance activities have been contractually transferred to, and are generally financed by, the contracting entity (usually a water user organization), but for which ownership remains with the United States.
4. **Responsibilities.**
- A. **Regional Directors.** Approve or reject a determination that a bridge or crossing is not needed for project purposes
 - B. **Regional Realty Officers.** Review and recommend for approval or rejection a determination that a bridge or crossing is not needed for project purposes.
 - C. **Area Managers.** Make determinations that a bridge or crossing is no longer needed for project purposes and forward the recommendation for disposal to the regional office.

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5. **Disposal Determinations.** Disposal actions are complex and site specific. Before any bridge or crossing is removed, destroyed, or otherwise disposed, the variables relevant to the case must be considered. The disposal steps taken depend in part on who built or funded the bridge or crossing, who is responsible for maintenance, and Reclamation's land interest where the bridge or crossing is located. The following determinations must be made before the appropriate disposal process is chosen:
- A. **Determine Bridge Ownership.** A determination of ownership must be made before proceeding with the disposal of a bridge or crossing.
- (1) **Bridge or Crossing Not Constructed by Reclamation.** If no documentation exists regarding bridge or crossing ownership, but it is confirmed that the bridge or crossing was constructed by someone other than Reclamation without authorization and/or without Reclamation funds, one of the following will apply:
- (a) When located on United States fee-owned land (acquired and withdrawn), the bridge or crossing must be removed or must be authorized by Reclamation to address ownership, maintenance, and liability responsibilities.
- (b) When located on a United States easement, the bridge or crossing must be removed or a consent document must be pursued to document non-interference with easement rights and to address ownership, maintenance, and liability responsibilities.
- (2) **Bridge or Crossing Constructed by Reclamation for Others That Is Owned and Maintained by Others.** If a bridge or crossing was constructed by Reclamation for use by others as a contractual obligation of the original land/easement acquisition, but the contract states ownership and maintenance are the responsibility of others, any action taken by Reclamation shall be in accordance with existing documents that address the specific bridge or crossing. Reclamation land ownership interest has no bearing on ownership of such a bridge or crossing or the responsibility for maintenance.
- (a) If the bridge or crossing has fallen into disrepair and is unsafe, Reclamation is to notify the other party that the bridge or crossing must be repaired or removed within a specified period of time or it will be removed by Reclamation.
- (b) If the landowner wishes to relocate such a bridge or crossing, the authorizing documentation must clearly specify ownership, maintenance, and liability responsibilities.

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- (3) **Bridge or Crossing Owned by the United States.** When no documentation exists to establish bridge or crossing ownership, but it is confirmed that the bridge or crossing was constructed either by Reclamation or by using Reclamation funds, Reclamation must assume the bridge or crossing is owned by the United States.
- (a) **Bridge or Crossing Constructed/Owned/Maintained by Reclamation for Others.** If a bridge or crossing was constructed by Reclamation for use by others as a contractual obligation of the original land or easement acquisition to reduce severance damages, the bridge or crossing will still be considered needed for project purposes, with ownership and responsibility for maintenance and liability remaining with Reclamation. Such a bridge or crossing cannot be removed or destroyed unless written agreement with the other party is obtained.
- (i) It is up to the other party to determine whether they are willing to assume ownership, maintenance, and liability responsibilities, since that constitutes a change in the original agreement.
- (ii) If the use of the bridge or crossing is proposed to be changed from the original intent or agreement and such use might require additional construction and/or increased maintenance (such as a farm access bridge becoming an access bridge for a subdivision), Reclamation will no longer be responsible for construction, reconstruction, or maintenance required in order to accommodate the increased use.
- (iii) Prior to allowing a change in use, the existing bridge or crossing agreement must be renegotiated, or a new replacement agreement executed, to document the other party's assumption of all ownership and maintenance responsibilities, including all liability. In either case, Reclamation shall absolve itself of all future liability associated with such change of use.
- (b) **Bridge or Crossing Constructed/Owned/Maintained by Reclamation Only for Project Purposes.** If a bridge or crossing is determined to be owned by Reclamation without any known outstanding obligations to others or those responsible for ownership/maintenance are not determinable; and there is no longer a project need for the bridge or crossing; and no other party is willing to accept ownership, maintenance, and liability for the bridge or crossing; then all of these facts will be documented by an authorized Reclamation official and, within the constraints below, the bridge or crossing will be removed after providing appropriate public notice.
- B. Determine Bridge or Crossing Is Not Needed for Project Purposes.** A written determination by the Reclamation official responsible for operation and maintenance of the associated project facilities must document that the bridge or crossing is not needed

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for project purposes. If the bridge or crossing is part of transferred works, the operating entity must concur, in writing, with the determination. Any disposal action will then be turned over to the land resources group responsible for processing realty transactions for the project.

C. **Determine Reclamation Land Ownership Interest.** Determine whether the bridge or crossing is constructed on Reclamation project withdrawn land, acquired land, or an easement. The disposal steps taken depend in part on Reclamation's land ownership interest. Refer to RM D&S *Land Records*, LND 09-01, for more land ownership information.

(1) **Bridge or Crossing Located on United States Owned Land.** Absent contractual obligation or existing authorization to another party, a bridge or crossing located on United States fee owned land (land categorized acquired and withdrawn) can be removed or destroyed if no longer needed for project or public purposes. Ownership of such a bridge or crossing can be transferred as follows:

(a) Ownership can be transferred in conjunction with a sale of surplus improved withdrawn land under the authority of the Sale of Surplus Improved Public Lands Act of 1920, or other appropriate project-specific legislation (e.g., Columbia Basin Project Act of 1943¹).

(b) Ownership of a bridge or crossing alone can be transferred by donation to a public authority (see Paragraph 6.D. below) under the Federal Property and Administrative Services Act of 1949 as real property, along with issuance of a grant of easement for access under the Reclamation Project Act of 1939.

(2) **Bridge or Crossing Located on United States Easement.** When a bridge is built on an easement that is under Reclamation jurisdiction, the title to that bridge will either vest in Reclamation or some other entity (private party, county or other local government, State, public authority, etc.). Unless provided in some duly-executed document, it will be difficult to vest title with the fee owner as the bridge rests entirely within the easement and is present solely as a result of the project for which the easement is held. Absent contractual obligation or existing authorization to another party, a bridge or crossing located on a United States-owned easement or right-of-way can be removed or destroyed if no longer needed for project or public purposes.

D. **Determine Current Replacement Cost and/or Estimated Value of a Bridge or Crossing.** Prior to disposal of a bridge or crossing, a determination of current cost and/or value must be made by a qualified person and documented with approval by a duly-authorized official other than the official directly accountable for the property. Considerations will include original cost, useful life, depreciation, etc.

¹Pub. L. 78-8; 57 Stat. 14; 16 USC 835.

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- E. **Determine Reclamation Disposal Authority.** Reclamation's disposal authority depends in part on value of the bridge or crossing.
- (1) The U.S. General Services Administration (GSA) has delegated authority to Reclamation to dispose of acquired real and personal property currently valued under \$50,000 by means most advantageous to the United States (41 CFR section 102-75.1095).
 - (2) Property over the \$50,000 threshold must be reported as excess property to GSA for disposal, or a specific delegation must be requested from GSA to authorize Reclamation to conduct the disposal whether by means of sale for continued use, off-site removal, destruction, or donation.

6. Disposal Methods

- A. **Abandonment.** No Reclamation-owned bridge or crossing shall be abandoned. Rather, it shall be disposed of pursuant to the provisions of Paragraphs 6.B., 6.C., and 6.D. below. Abandoned real property owned by others will be handled in accordance with GSA procedures and applicable regulations.
- B. **Disposal by Sale, Removal, Destruction, or Donation.** A bridge or crossing is to be sold, removed, destroyed, or donated in accordance with proper procedures (see 41 CFR part 102-75) in order to remove concerns for liability and safety hazards. Disposal of a Reclamation owned bridge or crossing, shall not take place until the following are accomplished:
- (1) Obtain GSA concurrence if the bridge or crossing value is \$50,000 or greater.
 - (2) Assess whether it is feasible to donate a bridge or crossing to a public authority. Disposal costs associated with the donation such as dismantling, removal, and cleaning up the premises if the bridge or crossing is removed must be paid for by the public authority.
 - (3) Determine if removal of a bridge or crossing can be done in a manner that is not detrimental or dangerous to public health or safety.
 - (4) Determine if removal of a bridge or crossing is in accordance with the provisions of all legal documents, if any, which address the rights of others to use the bridge or crossing.
 - (5) Provide public notice in the area in which the bridge or crossing is located in advance of removal. The notice must contain both a general description of the bridge or crossing to be removed or destroyed and provisions for the sale of the bridge or crossing for off-site removal. A copy of the notice must be provided to

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the GSA regional property disposal office for the appropriate region in which the bridge or crossing is located. Note: Exceptions to the requirement for public notice may be allowed as provided in 41 CFR 102-75.1045.

- (6) A bridge or crossing which is dangerous to public health or safety shall not be donated to a public authority without first rendering such property harmless or putting adequate safeguards in place. This issue must be addressed by contractual provisions wherein the grantee agrees to remediate those conditions and to prevent use of the bridge or crossing until such is completed.
- C. **Disposal to Multiple Property Owners.** When a determination is made to dispose of a bridge or crossing used by multiple property owners, it must be disposed either to a public authority or an entity representing all of the affected property owners. Using a single representative entity or public authority as the grantee reduces the number of parties Reclamation must deal with; makes it easier to assign ownership, maintenance, and liability responsibilities; and prevents one individual party from limiting or restricting use by other affected property owners.
- D. **Disposal by Donation to Public Authorities.** If a bridge or crossing is not needed for project purposes, and Reclamation determines, in writing, that any land or easement and bridge or crossing involved in a donation has no commercial value; or the estimated cost of continued care and handling exceeds the estimated proceeds from a sale, the bridge or crossing and land or easement can be conveyed by donation to a public authority that is willing to accept ownership, future maintenance, and all liability. If the bridge or crossing has a current estimated value in excess of \$250,000, the disposal must be processed by GSA or Reclamation must obtain a specific delegation from GSA to conduct the disposal by donation (41 CFR 102.75.1015).
7. **Conveyance Documents.** The bill of sale, or other appropriate document and any contract must specify that the bridge or crossing is sold "as is" and the new owner is responsible for all liability, maintenance, and necessary repairs and upgrades. Reclamation will, however, disclose any known deficiencies of the bridge or crossing at the time of the sale and will also provide the most recent bridge inspection report, if available, to the grantee. Refer to FAC 07-01 for additional information on bridge inspections.
- A. **Acquired or Withdrawn Land.**
- (1) When Reclamation holds fee title to the land on which the bridge or crossing is located, Reclamation will provide the grantee with a Bill of Sale or other appropriate document if the bridge or crossing is to be removed.
 - (2) When the bridge or crossing is to remain on United States land, Reclamation will provide the grantee a Bill of Sale or other appropriate document for the bridge or crossing and the grantee must also sign a use authorization contract, generally a Contract of Grant of Easement (or a license agreement) to cover the Reclamation

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land on which the bridge or crossing is located. The contract conditions will identify the grantee as the owner of the bridge or crossing, release the United States of any and all liability associated with the bridge or crossing, and bind the grantee to be solely responsible for bridge maintenance that shall meet all health, safety, and any other applicable Federal, state, county, or local bridge standards. Note: Use authorizations should only be issued after determining that there is a present or future Reclamation need for the land. If not needed for Reclamation purposes or protection of project works, land should be disposed of rather than encumbered with a use authorization.

B. Easements.

- (1) When Reclamation owns a bridge or crossing and holds only an easement interest in the land on which the bridge or crossing is located, Reclamation will provide the grantee with a Bill of Sale or other appropriate document if the bridge or crossing is to be removed by the grantee.
 - (2) When the bridge or crossing is to remain in place, Reclamation will provide the grantee a Bill of Sale or other appropriate document and must also obtain a consent document that includes the contract conditions identified in Paragraph 7.A.(2) above, in order to cross Reclamation's easement. Permission from the underlying fee title landowner is also required in order for the bridge or crossing owner to cross or use Reclamation's easement, consistent with RM D&S, *Land Use Authorizations*, LND 08-01.
8. **Compliance Issues.** All actions involving bridge or crossing disposals or use authorization will include National Environmental Policy Act compliance, as appropriate, including hazardous material surveys and National Historic Preservation Act clearances. To comply with the latter, prior to the removal, destruction, transfer, donation, or sale of a Reclamation-owned bridge or crossing, Reclamation must determine whether the structure is eligible for listing in the National Register of Historic Places. If the bridge or crossing is eligible, Reclamation must perform additional steps to assess the impact of the proposed action on the bridge or crossing. A determination of adverse effect will require Reclamation to consider alternatives to avoid, minimize, or mitigate the effect such as, moving a historic bridge rather than destroying it, documenting a bridge prior to demolition, or deciding to leave it in place.
9. **Records Management Requirements.** A bridge or crossing disposal must be documented on a Bureau of Reclamation Property Voucher (Form No. 7-763). Copies of all documentation must be provided to area office and regional office program managers for Operation and Maintenance, Land Resource Management, and Property Management. Appropriate changes must be made to the regional bridge inventory, the structures inventory, and the land inventory, as applicable. This will ensure that future inspections and reviews will not be scheduled and that the disposal is appropriately documented and entered into the financial records.

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