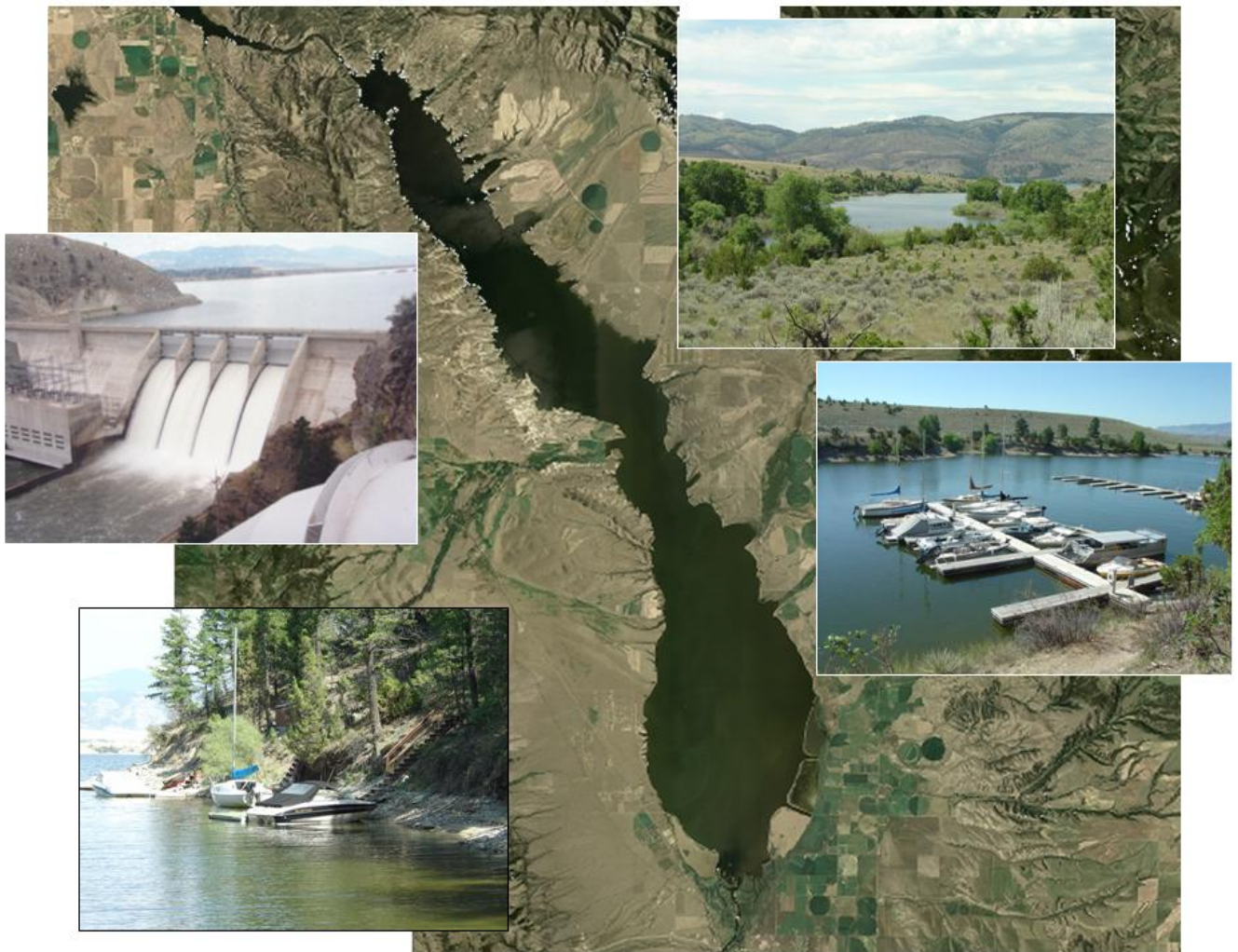


RECLAMATION

Managing Water in the West

Canyon Ferry Reservoir Shoreline Management Plan (DRAFT)



Preface

The Canyon Ferry Shoreline Management Plan was developed in partnership with, and through input from, many individuals that attended periodic public working group meetings held from 2003 to 2008. The purpose of the Plan is to provide balanced, practical, and relevant guidance for addressing public use, adjacent landowner concerns, and resource protection on the federally-owned shoreline of Canyon Ferry Reservoir. Many of the elements contained in the Shoreline Plan were outlined as actions in the preferred alternative of the 2003 Resource Management Plan.

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Introduction

This Shoreline Management Plan was developed to provide specific information about use and management of Reclamation-administered Federal land located at Canyon Ferry Reservoir below elevation 3,808 feet (i.e., the elevation of the flowage easement held by Reclamation around Canyon Ferry Reservoir). The Plan builds upon resource management direction provided in the Canyon Ferry Reservoir Resource Management Plan/Environmental Assessment (USDI-Bureau of Reclamation 2003). The Resource Management Plan and other documents cited in the text are available online (<http://www.usbr.gov/gp/mtao/canyonferry/index.cfm>) or at the Canyon Ferry Field Office (Please see the *Literature Cited and Suggested Information Sources* section for more information). References to the Code of Federal Regulations (CFR) may be found at: <http://www.gpoaccess.gov/>.

Canyon Ferry Reservoir was created by construction of a dam on the Missouri River for the purposes of power generation, irrigation, municipal and industrial water, flood control, and recreation. The Reservoir is a unit of the Pick-Sloan Missouri Basin Program that was authorized by the Flood Control Act of 1944 (Public Law 534 as amended). The Reservoir covers roughly 34,000 surface-acres at full pool with roughly 76 miles of shoreline. Both the Reservoir surface area and the shoreline length change seasonally with varying Reservoir elevations.

Surrounding mountains, forest, and grassland combine with broad, picturesque reservoir views to make Canyon Ferry shoreline highly valued for public recreation and for home-site development. Recreation pursuits include fishing, boating, camping, picnicking, swimming, hunting and wildlife viewing. These public recreational pursuits are very popular, and participation is growing.

Private residential ownership in shoreline locations was made possible by legislation unique to Canyon Ferry Reservoir. The Canyon Ferry Reservoir, Montana, Act (hereafter The Canyon Ferry Act, Public Law 105-277, Title X, Appendix A) transferred 265 former cabin site leases to private ownership, but maintained public ownership of adjacent shoreline. Administration of public shoreline near private cabin sites presents unique situations that are addressed in this Plan.

The Shoreline Management Plan was developed with public input obtained during public Working Group meetings (approximately five per year) held from May 2003 to April 2007. During this period, drafts of the document were posted to the Canyon Ferry home page to facilitate public review. The Plan was also made available to the U.S. Army Corps of Engineers, Montana Fish, Wildlife & Parks, Lewis and Clark Conservation District, and Montana Department of Environmental Quality.

For questions or suggestions about this Shoreline Management Plan, or for additional information, contact: USDI-Bureau of Reclamation, Canyon Ferry Field Office
7700 Canyon Ferry Road, Helena, MT 59602, (406)475-3310

Shoreline Access

Provided in this section are general descriptions of the various public uses supported by Canyon Ferry Reservoir along with the authorizations by which Reclamation administers those uses.

Access to and along the shoreline surrounding Canyon Ferry Reservoir is very important to both the general public and to Canyon Ferry cabin site owners. Roughly 1,000 acres of land in proximity to the Reservoir shoreline is devoted to developed recreational facilities. An additional 8,219 acres of land are undeveloped and open for dispersed non-motorized recreation.

On a smaller portion of the shoreline (141 acres) on the north end of the reservoir, the Canyon Ferry Act legislated a relatively unique condition whereby former cabin site lessees purchased the land for fair market value. The Canyon Ferry Act applied a “restrictive use covenant” requiring that public access to and along the shoreline near the cabin sites remain unobstructed and maintained. The Act also allowed Canyon Ferry cabin site owners access to one boat dock per cabin site, as well as to other improvements (e.g. boathouses, ramps, retaining walls) that were in place at the time the Act was enacted (i.e., October 1998).

In addition to the specific provisions contained in the Canyon Ferry Act, Reclamation must administer Federal land under its jurisdiction by applying established law, regulations, and policy (e.g., 43 CFR parts 420, 423, and 429). Uses of Reclamation lands must be managed in the public interest and be compatible with authorized project purposes, the environment, natural and cultural resources, and public health.

Shoreline Access for Public Recreation

Public recreational use of Canyon Ferry Reservoir shoreline is increasing in popularity. Appropriate recreation opportunities, facilities, and services will be provided on Reclamation land and reservoirs. Reclamation accommodates the demand for public recreation at Canyon Ferry Reservoir by developing and maintaining campgrounds (12), day-use facilities (8), boat ramps (16), group use shelters, and public restrooms. Further, Silos campground is located on Reclamation land but is managed by Broadwater County. Three concession marina operations exist through contract arrangements at Canyon Ferry. They offer an added variety of recreational services to the public. Public access to significant wildlife resources is provided on the 5,000-acre Canyon Ferry Wildlife Management Area which is managed by the Montana Department of Fish, Wildlife & Parks through a cooperative agreement with Reclamation. Please refer to the Canyon Ferry Reservoir Resource Management Plan/Environmental Assessment (USDI-Bureau of Reclamation, 2003) for more detailed information on recreational facilities and partnership agreements that are in place.

Reclamation is committed to improving access for persons with disabilities. Consequently, many recreation sites currently meet Americans with Disabilities Act (ADA) standards, and other sites are planned to be upgraded to meet those standards. For example, 2006 ADA

improvements were accomplished at Court Sheriff, Riverside, and Indian Road Campgrounds. Shoreline access for persons with disabilities is planned at developed access sites as well.

Personal Property on the Shoreline

Leaving personal property unattended for extended periods gives the impression of exclusive use of public land. Consequently, it is important that personal items are removed at the time that users vacate the shoreline. By Federal statute, personal property is presumed to be abandoned, and may be impounded, if left unattended on Federal land for a period exceeding 24 hours (43 CFR part 423.23). This regulation applies to all Reclamation-administered Federal land including shoreline located immediately adjacent to privately-owned Canyon Ferry cabin sites. Right of use authorization may be requested from Reclamation to accommodate limited special uses on federally owned shoreline. Special provisions for docks apply to the cabin sites as noted above and as outlined below.

Beach Camping and Campfires

Most of the Canyon Ferry Reservoir shoreline is undeveloped and access by land routes is often limited. Consequently, dispersed recreational use by the boating public occurs in these areas. Undeveloped shoreline areas accessed by boaters will remain open to camping and campfires. Reclamation encourages public use that leaves undeveloped areas in the condition that they were found. Overnight camping on the shoreline within one mile of an established camping area is discouraged. Public use of remote sites will be monitored to determine the need for sanitation facilities and for the need for closure due to natural resource damage. Specific information about beach camping can be obtained by contacting the Canyon Ferry Field Office.

Hunting, Fishing and Trapping

According to Federal Regulations (43 CFR 24 and 423), hunting, fishing, and trapping are allowed on most Reclamation land according to regulations and seasons established by the Montana Department of Fish, Wildlife & Parks (MFWP). However, discharging weapons and firearms may be restricted in special use areas such as developed camping and picnic areas (43 CFR 423.2). Special hunting regulations may also apply to the Canyon Ferry Wildlife Management Area (Appendix E). Hunters are urged to hunt responsibly by maintaining safe distances from developed public access sites, residences, livestock, and other structures.

For more information contact Reclamation or the MFWP at:

Montana Fish, Wildlife & Parks
1420 East Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0701
<http://fwp.mt.gov/default.html>

Hiking

There are no developed non-motorized trails on Reclamation-administered land surrounding Canyon Ferry Reservoir. However, much of the shoreline is easily accessed on foot and this type of use is allowed by Reclamation. Hiking is also allowed any where in the Canyon Ferry Wildlife Management Area including on maintenance roads that are closed to public motorized use.

Prospecting

Prospecting or other mineral extraction is not allowed on Reclamation lands as defined by 43 CFR 423.29. Exemptions to this rule may be permitted through a right-of-use authorization from Reclamation. Please see the Authorization and Permitting section for more information.

Off Road Vehicle (ORV) Use

While public motorized access is allowed on main, established roads, off-road access by motorized vehicles is prohibited unless specifically opened for that purpose (43 CFR Part 420). Federal Regulations require a public review process for special uses such as ORV use (43 CFR Part 423.61). Currently no sites at Canyon Ferry have been specifically opened to ORV use. Non-motorized overland access is allowed in undeveloped areas to provide recreational opportunity, reduce user conflicts, and maintain the long-term integrity of natural resources. Opportunities to restore sites impacted by unauthorized motorized access on Federal land will be actively pursued (USDI-Bureau of Reclamation 2003, page VI-15).

Reclamation Policy for Private Exclusive Use of Non-Concession Areas

Reclamation policy prohibits exclusive uses unless directed otherwise in the Canyon Ferry Act. Exclusive use is any use that excludes other appropriate public recreation use or users for extended periods of time, or which creates the perception of such exclusion. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, roads, or other amenities that are determined by Reclamation to be exclusive use. According to current policy (LND P04, <http://www.usbr.gov/recman/>), Reclamation will “Prohibit new exclusive uses and eliminate existing exclusive uses, as allowed by current use agreements, to maximize public recreation opportunities, facilities, and services. Any new use, facility, service or site determined by Reclamation to be exclusive use shall not be allowed.”

Enforcement

In order to protect public safety and security within Reclamation projects and on Reclamation facilities, lands, and waterbodies, public conduct regulations were codified on April 17, 2006 (Appendix F, 43 CFR 423). The public conduct regulations cover a wide array of activities from abandonment of personal property to camping, hunting, and littering. The regulations also describe violations and potential sanctions such as fines.

Design and Construction Guidelines for Shoreline Facilities

The long-term goal of these guidelines is to have all non-marina docks and other permissible shoreline facilities designed and constructed to ensure that the intrinsic values of Canyon Ferry Reservoir are protected equally and fairly for everyone who utilizes the reservoir. Proposals by Canyon Ferry cabin site owners for facilities that were authorized by the Canyon Ferry Act such as stairs, landings, boat rails systems, and shoreline stabilization measures must be reviewed and approved by Reclamation prior to construction. Docks and shoreline facilities located in marina areas are regulated by separate concession contracts.

Prior to making improvements, new installation, or alteration of existing facilities that occupy federally-owned shoreline, Canyon Ferry cabin site owners may also be required to obtain permits from the Army Corps of Engineers, and Lewis & Clark County Conservation District. Location and construction methods for those facilities will determine the necessity and type of permits required. Permits received from other entities do not constitute authorization to construct improvements on Reclamation land. The flow chart provided in Appendix C illustrates the process by which Reclamation will evaluate dock proposals.

Canyon Ferry cabin site owners are requested to design and construct docks and other shoreline facilities using the following guidelines.

Boat Dock Guidelines

These guidelines were developed by Reclamation with assistance from interested parties to provide residents and landowners with suggested standards for boat docks. Private boat docks other than those allowed by the Canyon Ferry Act constitute new private exclusive use which is not allowed. Permits from the U.S. Army Corps of Engineers and Lewis & Clark Conservation District must be secured prior to any work being done. Failure to obtain these permits may mean that the structure will have to be removed at the dock owner's expense. Reclamation notification is required for new boat docks or for some improvements to existing docks (please refer to the Boat Dock Request Flow Chart, Appendix C).

1. Number of Docks Allowed
 - a. Non-commercial situations
 - i) House or cabin on land adjoining the reservoir - maximum of one dock for each cabin site as authorized by the Canyon Ferry Act.
 - ii) Please see the Authorization and Permitting section or Appendix C for more information about permitting by Reclamation, the U.S. Army Corps of Engineers and/or the Lewis & Clark County Conservation District.
 - b. Community docks, a single dock having one or more slips that serve several houses or cabin owners, are encouraged and recommended.
 - c. All docks should be identified with a cabin number or owner's name placed on the dock in plain view.

- d. Commercial operations may need many docks for their business. Commercial operations are guided by Reclamation and Army Corps of Engineers dock standards.

2. Dock Locations

- a. When possible, boat docks should be located in the Reservoir between the boundary markers of the dock owner's cabin site.
- b. When it is not possible or practical to place the boat dock between the boundary markers of the owner's lot, landowners are encouraged to reach agreements for dock placement that are suitable to all affected property owners. Written documentation of these agreements is strongly encouraged to prevent disputes in case the affected properties change owners. It is Reclamation's position that if affected land owner(s) written permission is not obtained, the landowner(s) must locate their dock between their lot corners.
- c. Landowners have priority to place their dock between their property boundary markers.

3. Boat Dock Design

- a. Standard Boat Docks
 - i) All new docks and replacement docks should be removable.
 - ii) Docks should be designed to allow water to flow under and around them. Solid docks that do not allow water to flow under or around them should not be used.

4. Boat Lifts

- a. No more than one boat lift is allowed per property.
- b. No boat lift shall impede access to other docks or property.
- c. No boat lift shall be constructed with solid side walls.
- d. No extension or other structure or object may be attached to, or upon a boat lift; however, a boat lift may be attached to an authorized dock.

5. Jet Skis

- a. Dock attachments for jet skis must be attached to the one dock allowed by the Canyon Ferry Act and kept to within dock dimensions as described in dock sizes below.

6. Dock Sizes

- a. Docks should be placed so that they do not block or hinder boating access to other docks or any part of the reservoir.
- b. To minimize visual and other impacts to shoreline uses, docks should be held to minimum functional dimensions of 2 to 3 boats. Community docks may require larger dimensions.
- c. Docks shall not exceed 60 feet in length if there is 5 feet of water depth at the end of the dock when the lake is at its ordinary high water (OHW) elevation of 3798.5. For a 60 foot dock, where the depth of the water is less than 5 feet, additional length may be allowed.

- d. No dock shall exceed one hundred (100) feet in length as measured from 3798.5 ft elevation.
- e. Maximum width of a dock should be 10 feet.
- f. On a T or C shaped dock the maximum width across the head of the T or C should not exceed 40 feet. (See Figure 1.)
- g. On an L shaped dock, the maximum length of the wing section should not exceed 30 feet. This creates a maximum of 40 feet across the head of the L. (See Figure 1.)

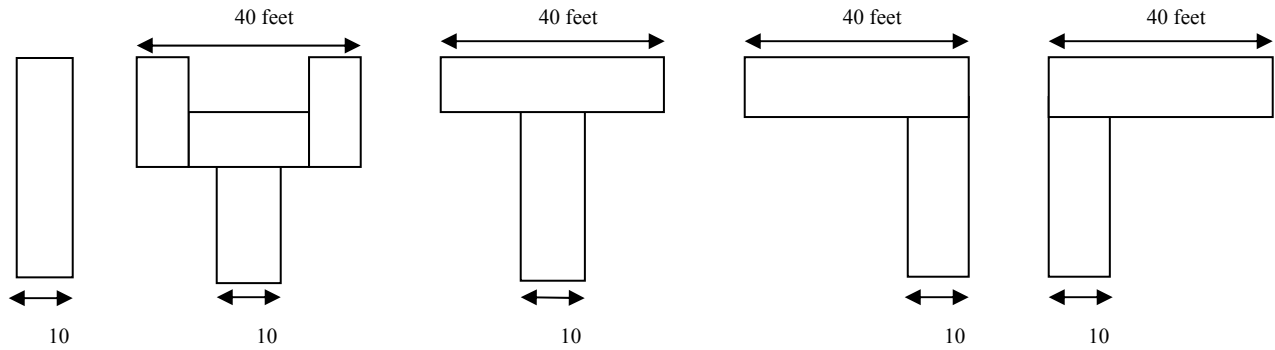
7. Dock Construction Materials

- a. Docks should be constructed of wood, metal, plastic, fiberglass or other material standard to the industry.
- b. Factory pressure treated (non-toxic marine grade) wood, untreated wood or plywood are suitable materials.
- c. All field applied preservatives, wood treatment, carpet, glue, paint, varnish and other such materials must meet state and Federal standards for marine applications.
- d. When applying an approved preservative, take precautions to avoid letting the preservative drip, spill or otherwise enter the water.
- e. When molded foam or other floating material is used, it must be enclosed or sealed to avoid breakup and/or scattering of loose material. If floatation material becomes scattered the source should be repaired immediately and the loose material must be removed from the reservoir.
- f. Wood, metal, metal pipe, axles and wheels or other durable material should be used for skids on docks to prevent shoreline damage and dock damage when removing and installing docks unless the dock is lifted in and out of the water.
- g. Natural, non-contrasting exterior finishes or colors such as natural wood, earth tones, or other colors found in the area should be used for all visible surfaces.
- h. Anchor materials should be of pre-formed concrete, rocks, steel blocks, or driven pipe with adequate nylon or polypropylene rope, or non-corrosive metal cable or chain.

8. Timeframe for Implementation of Dock Plan

- a. Dock owners should consider taking steps to meet these guidelines when docks are replaced or when dock maintenance or upgrades are more than ¼ of original dock. Permits for construction of new docks must be reviewed and approved by the appropriate agency before a permit is issued. Please see the Authorization and Permitting section and Appendix C for more information.

Figure 1. Standard Dock Designs:



Boat Docks for Canyon Ferry Cabin Sites

No special use permit is required for replacement of Canyon Ferry cabin site boat docks which are of the same type and configuration that existed at the time of sale because they are specifically allowed by the Canyon Ferry Act. Instead, a photocopy of the joint permit application required by the U.S. Army Corps of Engineers (section 404 and section 10 permits) and Lewis and Clark County Conservation District (310 permits) should be provided to Reclamation prior to the start of the project. Further, photocopies of subsequent permit approval from those entities must also be provided to Reclamation prior to dock placement.

If a new dock, new dock location, or dock improvement is proposed, the procedure illustrated in Appendix C should be followed. For new docks, and new dock locations that are outside of the boundary markers for the lot owner’s property, the written approval of neighboring landowners should be obtained prior to notifying Reclamation. For proposed improvements to existing permitted docks, Reclamation must be notified prior to construction. Notification may consist of photocopies of the U.S. Army Corps of Engineers and Lewis and Clark County joint permit application and subsequent permit approval.

Shoreline Protection and Erosion Control Plan

Canyon Ferry Reservoir shoreline is highly valued for its aesthetic appeal, lake access, recreational potential, and wildlife habitat. Consequently, loss of shoreline due to erosion is a serious concern for all parties. Shoreline protection and erosion control at Canyon Ferry Reservoir includes several site-specific challenges including seasonally varying water elevations (typically from 3780' to 3797') and unique shoreline soil properties. This section of the Canyon Ferry Reservoir Shoreline Management Plan provides information to aid in determining: A) when erosion control is warranted, B) the sources of erosion, and C) appropriate erosion control measures. It is Reclamation's intent that, wherever possible, the natural condition of the shoreline will be maintained for its aesthetic appeal and resource functions. Shoreline protection measures on Federally-owned property will require right-of-use authorization from Reclamation (see the Authorization and Permitting section or see <http://www.usbr.gov/pmts/lands/>). Reclamation reserves the right to refuse to authorize any use deemed incompatible with administration of Federal land in the public interest.

A. When Erosion Control Is Warranted

Consideration of right-of-use application for shoreline protection will generally be evaluated based upon the following criteria in order of priority.

- 1) Compatibility with authorized Reclamation projects, project purposes, project operations, and public safety and security.
- 2) Best interests of the United States, taking into account all associated environmental impacts and potential conflicts with Federal projects, initiatives, and future use of the land by the United States.
- 3) Threats to Federal land and project operations.
- 4) Availability of other reasonable alternatives.
- 5) Threats to private lands or structures, including lateral threats to adjoining lands.
- 6) Replacement of existing stabilization measures.

Please see the Authorization and Permitting section and Appendix D of this Plan for more information.

B. Erosion

Shorelines surrounding Canyon Ferry Reservoir are dynamic, undergoing various rates of change related to a variety of factors. Those factors include; soil structure and cohesiveness, slope, vegetative cover, wind exposure, seasonal water elevations, and fetch (length of water surface

wind-ward from the shore). Canyon Ferry Reservoir supports a wide spectrum of shoreline types ranging from granite outcrops that resist erosion (northwestern shore), to alluvial soils where erosion can be severe (northeastern shore). Understanding site-specific shoreline characteristics can provide insight regarding the need for, and type of, potential restoration or protection measures. An important consideration is how any particular erosion control measure will function given the dynamic nature and rate of shoreline change on the planning site. A comprehensive site evaluation should be completed as a first step in the shoreline planning process. Appendix B includes a form that will be used by Reclamation personnel as an evaluation tool for shoreline stabilization proposals. The form may also be used as a planning tool by individuals considering shoreline erosion control. For planning assistance, please contact the Canyon Ferry Field Office.

Erosive forces are typically greatest at or near the normal full pool elevation. Erosion severity is often contingent on shoreline attributes (e.g., slope) at this elevation. Generally, shorelines with ample shallow beach and gradual shoreline slope are less susceptible to significant erosion. Shallow, low gradient beaches dissipate erosive wave energy. Coarse beach material (e.g., gravel and cobble) also dissipates wave energy and provides natural shoreline armoring. Naturally-occurring vegetation contributes to shoreline stability by dissipating wave energy and holding soil in root systems. Protecting existing vegetation is an important first step in reducing the rate of shoreline erosion. Some shorelines are protected by landforms (e.g., bays and peninsulas) that reduce fetch and exposure to prevailing winds. Shorelines with characteristics such as those just described may not warrant any artificially constructed erosion control measures.

High rates of shoreline erosion may occur on steep banks that receive high wave energy where there is no armoring beach material. Shoreline restoration and erosion control may be compelling in these areas when structures, roadways, public recreational facilities, or important wildlife habitats are threatened. However, only those methods with the least impact to the natural environment should be selected for application. Shoreline restoration and erosion control methods vary from “soft” measures that dissipate wave energy, to “hard” structural measures that deflect wave energy. Hard, structural methods may deflect wave energy to the toe of the structure, and may accelerate flanking erosion on adjacent sites. Consequently, shoreline restoration and erosion control efforts should be coordinated with adjacent ownerships in problem areas.

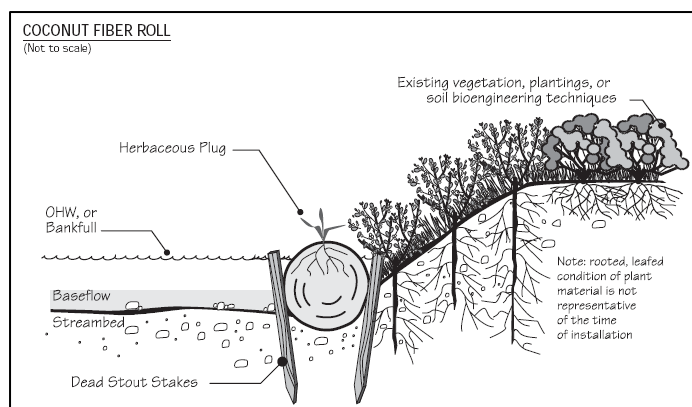


Figure 2. Coir logs (coconut fiber rolls) are used to stabilize shoreline sites. The rolls accumulate sediment and then biodegrade as plants become established.

Figure 3. Cave Point is a site where Reclamation has implemented and is monitoring shoreline stabilization measures including a coir log and cottonwood/willow plantings.



The type of shoreline protection and restoration method employed may also change within the shoreline segment as site conditions change. For example, wave energy may be greatest on an exposed point, and taper off to either side of the point. Consequently, measures applied to the point would be designed for high erosive force, whereas measures employed in flanking positions may incorporate more vegetation due to reduced erosive impact. Similarly, protection measures applied to the toe of the slope may differ from those used in less critical positions located higher on the shoreline bank.

Important criteria for selecting a method for shoreline restoration and erosion control include cultural and natural resource impacts, impacts of new stabilization on adjacent shoreline, effectiveness, cost, design complexity, functional life, risk and consequences of failure, availability of construction materials, equipment access requirements, and the amount of ongoing maintenance. For example, gabion, sheet pile, timber or concrete walls are very expensive and have limited potential to self-adjust to shoreline dynamics. Unstable underlying soils combined with especially severe weather events can result in compromised function, expensive repair, and/or total replacement. Due to significant resource and financial risks, the services of a qualified engineer with shoreline stabilization experience should be consulted for all structural erosion control proposals.

C. Appropriate Erosion Control Measures

Following is a suggested implementation hierarchy and brief description of selected erosion control measures:

1) No Action

The no action alternative is the best option to employ unless there are unavoidable and compelling reasons for active erosion control.

2) Relocation of Threatened Structures or Roadways

Where feasible, threatened structures and roadways should be moved rather than implement active erosion control. When siting new structures or roads, it is important that adequate setback is allowed to prevent future threats from shoreline erosion.

3) Non-Structural Stabilization

Vegetation protection, re-vegetation, and/or slope grading may be all that is needed to control shoreline erosion. Non-structural alternatives are the least impacting and most aesthetically appealing of the active erosion control alternatives.

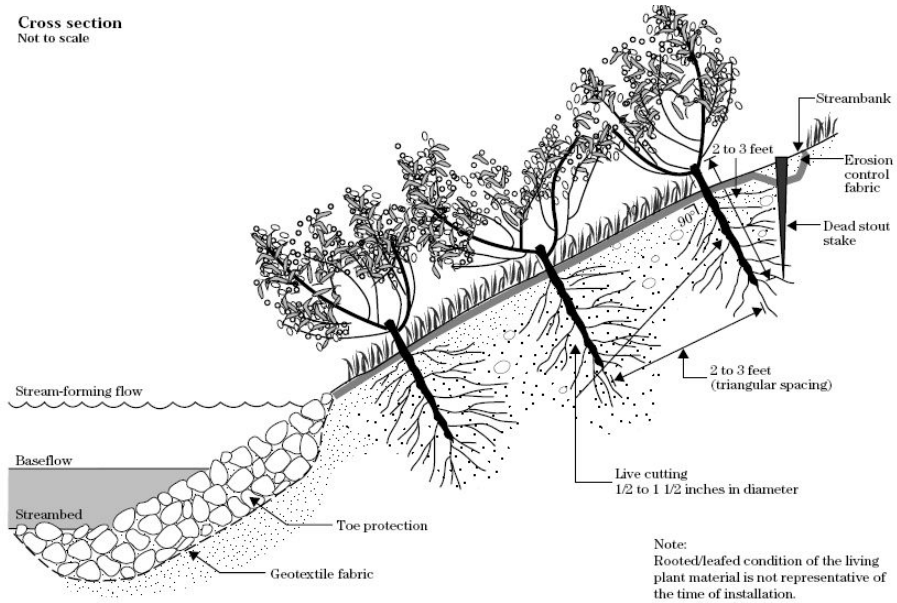
4) Dynamic Revetment

Dynamic revetments are appropriate on relatively low gradient shorelines. This method includes placement of gravel and cobble material that is anticipated to be re-arranged by wave action into an “equilibrium profile”. This contrasts with boulder-sized riprap revetments that are designed not to move. Dynamic revetments will require periodic maintenance. However, they constitute a less expensive, and more natural and aesthetically appealing solution than riprap placement. (see Allan et. al. 2005 for more information about dynamic revetments).

5) Bio-Engineering

Bioengineering includes either vegetation establishment alone or in combination with structural protection measures. The benefits of vegetation include wave energy dissipation, soil-holding root systems, induced sediment deposition, reduced abrasion due to long-shore sediment transport, aesthetic appeal, and fish and wildlife habitat. While shoreline protection using only inert materials (e.g., rock) will degrade with time, shoreline protection with live plants should improve with time. However, plant materials require special handling and planting methods (see NRCS 1996, and Allen and Leech 1997), and vegetation cannot be established until a site is stabilized. Consequently, some slope grading and structural stabilization may also be required, especially in critical toe and flank locations.

Figure 4. An example of bioengineering that incorporates both structural and vegetative measures. Taken from the NRCS Engineering Field Handbook, Part 650, Chapter 16 (NRCS, 1996).



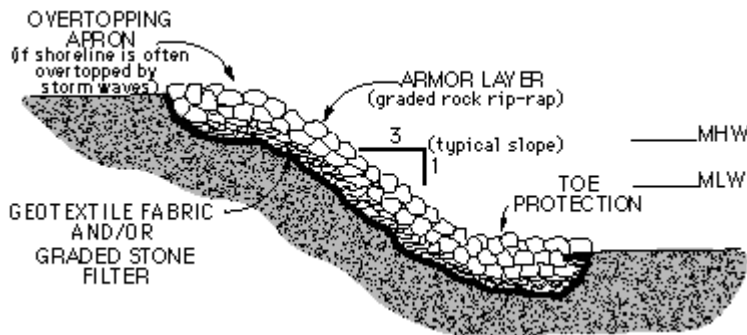
(210-vi-EPH, December 1996)

16-13

6) Stone Rip-Rap Revetment

Stone rip-rap revetments combine dissipation of wave energy with soil stabilization. First, the bank must be graded to a stable slope (a 3:1 or flatter slope is recommended). Filter fabric (geotextile) and/or gravel bedding is then placed over the graded slope to hold the underlying soil in place. Finally, rough, angular, interlocking rock of the appropriate size and thickness is placed to armor the slope. The size and thickness of the armoring stone will depend on the amount of wave energy anticipated to occur at the site. This type of shoreline protection often includes toe protection, an overtopping apron, and flanking protection at the ends of the revetment.

Figure 5. A basic riprap design.



Stone rip-rap revetments can be very costly, are un-natural in appearance, and will require periodic maintenance. However, they are unlikely to completely fail in severe storms.

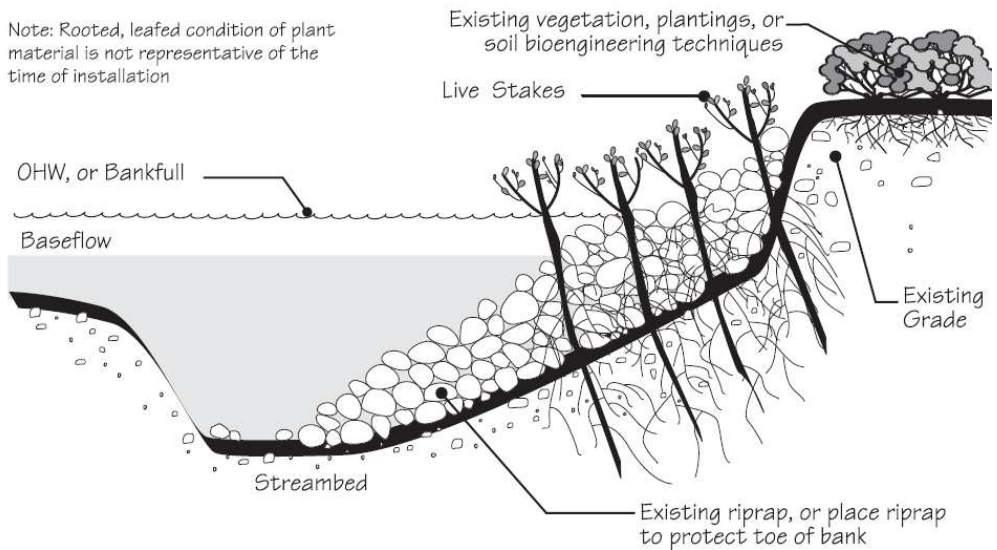
Figure 6. Examples of riprap at Canyon Ferry Reservoir.



The appearance and habitat function of stone revetments can be enhanced by tamping live stakes into joints between the rocks (see Eubank and Meadows 2002).

Figure 7. Planting live stakes into riprap is called joint planting.

JOINT PLANTING
(Not to scale)



7) Gabion Wall

Gabions are rectangular wire baskets filled with stone. Gabions should be staggered (rather than vertical) and joined together. Gabion walls can be very costly, are un-natural in appearance, and will deflect wave energy to the toe and to adjacent sites (flanks). Consequently, toe and flank protection (such as with rip-rap) is essential. Gabions will require periodic maintenance. Gabion

walls do not work where loose soils occur. Best locations include cohesive soils with high clay content.



Figure 8. An example of a gabion wall on Canyon Ferry Reservoir with flanking erosion due to deflected wave energy.

8) Concrete or Sheet Pile Walls

Constructed walls are used on steep shorelines that receive very high wave energy. These structures do not self adjust with shoreline dynamics and may require complete replacement with storm damage. Typical causes of failure include inadequate design and construction, poor quality materials, undercutting at the structure toe, freezing and thawing effects, accumulation of water behind the structure, and debris impacts. Constructed walls are very costly, un-natural in appearance, and deflect wave energy to the toe of the wall and to adjacent sites (flanks). Increased turbulence and scour from reflected wave energy may accelerate erosion of the foreshore in front of the structure. Consequently, toe and flank protection (such as with rip-rap) is essential to reduce undercutting and dissipate wave energy. Due to high cost, engineering requisites, potential for failure, and risk of resource impacts, Reclamation strongly recommends that proposals for concrete, timber or sheet pile walls include extensive site evaluation and alternative development. If, following thorough evaluation wall construction is still the preferred method, only engineered systems with proven reliability should be selected or will be permitted. Proposals for wall construction on federally-owned shoreline will undergo rigorous and critical review to develop aesthetically desirable alternatives prior to approval or disapproval by Reclamation.

9) Shoreline Rebuilding

While measures designed to arrest shoreline erosion will be considered, proposals to rebuild shoreline will not be authorized by Reclamation due to potential negative impacts on natural resources, and on public access. Natural resource impacts may accrue due to placement of backfill and resulting loss of beach. Steepened shoreline associated with placement of backfill may also impede or reduce public access. The Canyon Ferry Act emphasized the responsibility of cabin site owners and Reclamation to maintain public access to and along the federally-owned shoreline.

Authorization and Permitting

Right-of-Use Authorization

Use of federally-owned shoreline and other land should not result in, or give the appearance of, private exclusive recreational or residential use. Further, unless specifically designated, off-road vehicle use is prohibited, including on shoreline areas (Federal Register 43 CFR part 420).

Reclamation policy for administering land and water surfaces can be found at <http://www.usbr.gov/pmts/lands/>. At Canyon Ferry Reservoir, this policy is modified by the Canyon Ferry Act (Public Law 105-277) to allow one dock per cabin site as well as access to the dock and to improvements (e.g., boathouses, ramps, boat rail systems, retaining walls) for which access was provided in the leases as of the date of enactment. Reclamation law and policy applies to all new uses, and to maintenance of existing uses.

Proposed new uses of Reclamation-administered land, as well as maintenance of existing facilities located on Federal land, must first be authorized by Reclamation to ensure that Reclamation fulfills compliance requisites of the National Environmental Policy Act and National Historic Preservation Act. Right-of-use authorization may be requested by completing an application form (Form 7-2540) available at the Canyon Ferry Field Office or at <http://www.usbr.gov/pmts/lands/>. Examples of uses that may be deemed compatible with management of Federal land include temporary building material storage, stairs, walkways, trails, and temporary use of motorized vehicles including equipment used to construct or maintain shoreline facilities. However, Reclamation reserves the right to refuse to authorize any use which may be deemed incompatible. Examples of uses not likely to be considered compatible with management of Federal land include burning debris, regular motorized vehicle use, or long-term storage of personal property on the shoreline.

Once the applicant submits a right-of-use application, Reclamation will acknowledge in writing the receipt of the completed and signed application and application fee (\$200) within 30 calendar days of receipt. 43 CFR Part 429 requires a right-of-use application to pay for all administrative costs incurred by Reclamation plus a use fee based on an appraisal of the use. Following the initial review, Reclamation will notify the applicant in writing as to whether the application appears to be appropriate for further processing. At this time, Reclamation will give the applicant an initial estimate of administrative costs required to continue processing of the application. The applicant must pay these initial, estimated administrative costs in advance before Reclamation continues to process the application. If payment is not received within 90 days, the application file may be closed. If the applicant chooses to re-open a closed application file, a new application and \$200 application fee will be required. If the application is denied, the reasons will be provided to the applicant in writing and all but \$50 of the application fee will be returned to the applicant. Pursuant to 43 CFR 429.6(c) a waiver of administrative fees may be granted if: 1) there are reciprocal benefits to the United States; 2) the initial deposit and administrative costs exceed the value of the interest to be granted; 3) the permit holder provides a

valuable service to the general public or to the Department of the Interior; or 4) the right-of-use is the result of a service requested by a governmental agency.

The issuance of use authorization is at Reclamation's sole discretion. Not all requests will be authorized. Right-of-use authorization is an agreement between Reclamation and a person or organization and is not transferable. A new right-of-use authorization must be issued if a new person or entity wishes to continue a use previously authorized. A right-of-use authorization is issued for a specific length of time and is not perpetual. Applicants should be aware that Reclamation may charge additional administrative costs incurred for: 1) monitoring the use over time to ensure compliance with authorized terms and conditions; and 2) periodic analysis of the use to adjust the fee to reflect current conditions. Applicants are advised to contact the Canyon Ferry Field Office for additional guidance prior to submitting an application.

Temporary Water Service Contracts

In contrast to right-of-use authorization, temporary water service contracts are required for personal use of Canyon Ferry Reservoir water such as for irrigation of lawns and gardens (domestic use). Many times pipes and pumps associated with temporary water service have impact on shoreline resources. The North Canyon Park Homeowners Association has contracted for the use of water by members. This is administered as a single contract. Cabin site owners wishing to participate in the use of water from Canyon Ferry for domestic use are encouraged to contact the Homeowners Association at: Box 1371, East Helena, MT 59635 or <http://www.canyonferryhomes.org/>.

Permitting

In addition to right-of-use authorization from Reclamation, planned shoreline activities may require permits from the U.S. Army Corps of Engineers and the Lewis & Clark Conservation District. This is especially applicable to those projects falling below what the U.S. Army Corps of Engineers has determined as the "ordinary high water" (OHW) line of 3798.5 feet elevation.

A Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies is available from the U.S. Army Corps of Engineers. For more information, contact:

U.S. Army Corps of Engineers
10 West 15th Street, Suite 2200
Helena, MT 59626
(406) 441-1375

<https://www.nwo.usace.army.mil/html/od-rmt/mthome.htm>

A copy of the Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies must also be provided to the Lewis & Clark Conservation

District to obtain a 310 permit required by The Montana Natural Streambed and Land Preservation Act of 1975. For more information, contact:

Lewis & Clark Conservation District
790 Colleen Street
Helena, MT 59601
(406) 449-5000 ext. 112

http://www.dnrc.mt.gov/permits/stream_permitting/310_applicant.asp

Shoreline Management Land Categories

Undeveloped/Limited Access Areas

Undeveloped areas provide dispersed recreational opportunities and provide valuable riparian and upland habitat for antelope, deer, waterfowl, non-game birds, and many other species. Some undeveloped areas are accessed by established roads. However, motorized access is prohibited in most undeveloped areas to reduce user conflicts and protect natural resources. Opportunities to restore sites impacted by unauthorized motorized access on federal land will be actively pursued (USDI-Bureau of Reclamation 2003, page VI-15). Hunting and trapping are allowed in these areas as permitted or regulated by MFWP.

Residential Areas

Areas of dense residential development include the Canyon Ferry cabin sites which are separated from Canyon Ferry Reservoir by a thin strip of federally-owned shoreline. Land use challenges in these areas will include allowing for both legislated access (P.L. 105-277, APPENDIX A) to boat docks by cabin site owners and public access to the federally-owned shoreline strip. Portions of this Shoreline Management Plan (e.g., Shoreline Restoration and Protection, Design and Construction Plan for Shoreline Facilities) are especially relevant in these areas. While technically legal, hunting is discouraged near residences to ensure public safety.

Administrative Areas

Administrative areas are located immediately above and below Canyon Ferry Dam, and near Reclamation's Canyon Ferry Field Office, garage, shop and warehouse buildings. Portions of these areas are closed to public access for public safety and facility security purposes. Administrative area closures are identified with signage, cables, floating buoys, and chain-link and wire fences.

Also included in the Administrative Areas is approximately 10 acres leased to the Montana Office of Public Instruction (OPI). OPI owns 15 houses, 15 storage sheds, and boat dock facilities within the leased area. The leased land and associated facilities are used for continuing education.

Recreation Areas

Areas developed by Reclamation for recreation around Canyon Ferry Reservoir include thirteen campgrounds and nine day-use facilities, including the Silos campground which is managed by Broadwater County, through Agreement No. 03AG601760. These areas meet the criteria for special use areas as outlined in 43 CFR 423 Subpart E and are closed to hunting and discharge of firearms. These areas include identified campsites, group use shelters, public restrooms, beaches, and boat ramps. Developed recreation areas are heavily used. While technically legal, hunting and trapping is discouraged near developed recreation areas, and is prohibited in some special use areas to ensure public safety.

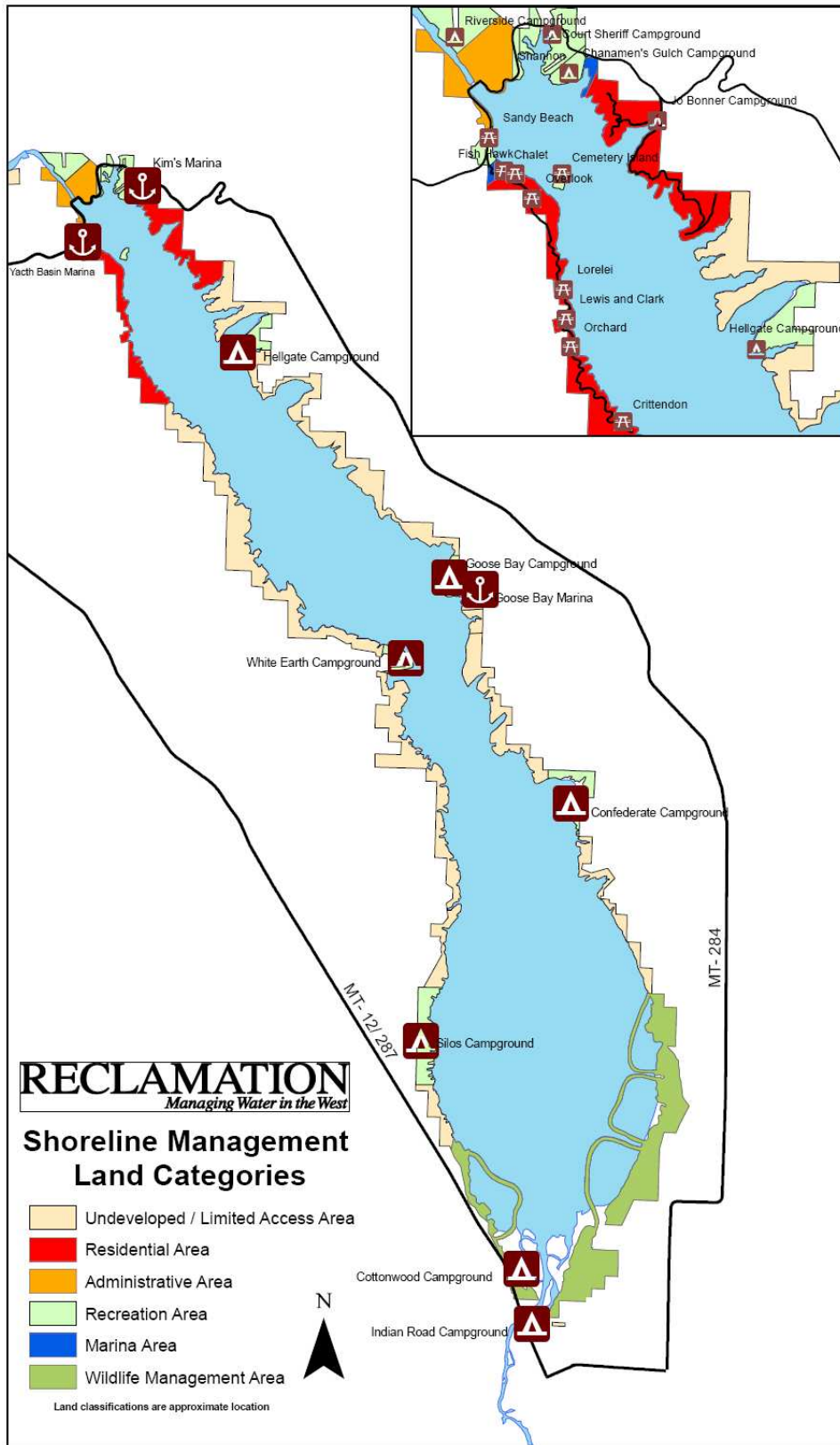
Marina Areas

The three marinas around Canyon Ferry Reservoir include Goose Bay Marina, Yacht Basin Marina, and Kim's Marina and RV Resort. Marina concessions located on Reclamation land around Canyon Ferry Reservoir provide facilities, goods, and services that are not available in other developed recreational sites (e.g., boat moorage, boat rental, cabin rental, groceries and fishing equipment). While shoreline in the marina concession areas is maintained by the concessionaire, public access is allowed at the marina site and to shoreline areas. More information about marina concessions at Canyon Ferry Reservoir is available in the Canyon Ferry Reservoir Resource Management Plan/ Environmental Assessment (USDI-Bureau of Reclamation 2003) and in the Commercial Services Plan & Financial Feasibility Evaluation Canyon Ferry Reservoir Montana (Aukerman, Haas & Associates 2004).

Wildlife Management Area

Management of a portion of Reclamation land on Canyon Ferry Reservoir was transferred to the Montana Department of Fish, Wildlife & Parks (MFWP) through a Memorandum of Understanding (MOU) in 1957. The MOU formed the Canyon Ferry Wildlife Management Area (CFWMA) which is managed by MFWP to provide public recreational access to significant wildlife resources. In addition to providing wildlife habitat, dikes and ponds were constructed on the CFWMA to minimize erosion and dust problems at the south end of the reservoir during periods of low lake elevation. Reclamation continues to work with MFWP to maintain the pond and dike system. Management direction for the CFWMA was detailed in the Canyon Ferry Wildlife Management Area Management Plan (Carlsen and Northrup 1992). Much of the CFWMA is open to non-motorized access only. See Appendix E for a map of the CFWMA. Contact the MFWP for more information (406-444-2535 or visit the MFWP Canyon ferry website at http://fwp.mt.gov/lands/site_281291.aspx).

Figure 9. Shoreline Management Land Categories



Definitions

BOAT RAIL SYSTEM: A facility consisting of tracks extending into the lake which is designed to facilitate launching or retrieving boats.

BOAT RAMP: A facility consisting of a pad, driveway or roadway extending into the lake which is designed to facilitate launching or retrieving boats.

CFR: Code of Federal Regulations available at: <http://www.gpoaccess.gov/>.

DOCK: A platform, either non-floating or floating, which extends into, over or across the water to provide for boat moorage, access to a moorage area, swimming facilities, or other related activities.

DOCK LENGTH: Dock length is the length of that portion of the dock which extends lake ward at any time over water and is measured from the current water level to the farthest water ward end of the dock.

DOCK WING: That portion of a dock and deck which lies generally parallel to the shoreline with its main function as a wave break or to provide a boat slip or sheltered area as opposed to primarily providing access out to deep water.

EXCLUSIVE USE: Exclusive use is any use that excludes other appropriate public recreation use or users for extended periods of time. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, roads, or other amenities that are determined by Reclamation to be exclusive use.

LIVE STAKE: Live branch cuttings that are tamped or inserted into the earth to take root and produce vegetative growth.

ORDINARY HIGH WATER (OHW): The Canyon Ferry Reservoir elevation of 3798.5 feet that has been determined by the U.S. Army Corps of Engineers to be the ordinary high water line.

ORV: Off road vehicle (ORV) means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, or natural terrain.

PERMIT: A document issued by a regulating agency verifying compliance with the requirements and provisions of state or Federal regulations.

RECONSTRUCTION: To rebuild an existing facility such that at the time of reconstruction in excess of 50% of the value or size of the facility excluding foundation is replaced.

RETAINING WALL: Any structure built essentially parallel and contiguous to the shoreline of a lake which is designed to protect the land mass inland from the structure from erosion.

REVETMENT: A facing to sustain an embankment.

RIPRAP: A layer, facing, or protective mound of stones, or rock or other materials randomly placed to prevent erosion, scour, or sloughing of a structure or embankment.

Literature Cited and Suggested Information Sources:

(Copies of the following publications may be viewed at the Canyon Ferry Field Office located at 7700 Canyon Ferry Road)

- Allan, J. C., R. Geitgey, and R. Hart. 2005. Dynamic revetments for coastal erosion control. Oregon Department of Transportation, Salem, OR and Federal Road Administration, Washington D.C. 83 pp.
http://www.oregon.gov/ODOT/TD/TP_RES/docs/Reports/DynamicRevetments.pdf
- Allen, H. H., and J. R. Leech. 1997. Bioengineering for streambank erosion control; Report 1, Plan. Technical Report EL-97-8. U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS. <http://el.ercd.usace.army.mil/elpubs/pdf/trel97-8.pdf>
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- Eubanks, C. E., and D. Meadows. 2002. A soil bioengineering guide for streambank and lakeshore stabilization. U.S. Department of the Agriculture Forest Service. FS-683. 187 pp. <http://www.fs.fed.us/publications/soil-bio-guide/>
- Maryland DNR. Date unknown. Shore erosion control Plan for waterfront property owners. Maryland Department of Natural Resources Water Resources Administration. 30 pp. <http://www.dnr.state.md.us/grantsandloans/waterfrontpropertyownersguide.pdf>
- NRCS. 1996. Chapter 16 Streambank and shoreline protection. *in* Engineering Field Handbook Part 650. U.S. Department of the Agriculture, Natural Resources Conservation Service.
<http://www.info.usda.gov/CED/ftp/CED/EFH-Ch16.pdf>
- Northwest Regional Planning Commission. 2004. The shoreline stabilization handbook. Northwest Regional Planning Commission. 49 pp.
<http://nsgd.gso.uri.edu/lcsg/lcsg04001.pdf>
- USDI-Bureau of Reclamation. 2003. Canyon Ferry Reservoir Resource Management Plan/Environmental Assessment. U.S. Department of the Interior, Bureau of Reclamation
<http://www.usbr.gov/gp/mtao/canyonferry/final.pdf>
- USDI-Bureau of Reclamation. 2004. Accessibility Action Plans (Draft). USDI-Bureau of Reclamation Technical Service Center. Denver, Colorado.

APPENDIX A

TITLE X—CANYON FERRY RESERVOIR, MONTANA, ACT

SECTION 1001. FINDINGS.

Congress finds that the conveyance of the properties described in section 4(b) to the lessees of those properties for fair market value would have the beneficial results of—

- (1) reducing Pick-Sloan project debt for the Canyon Ferry Unit;
- (2) providing a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—
 - (A) restore and conserve fisheries habitat, including riparian habitat;
 - (B) restore and conserve wildlife habitat;

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- (C) enhance public hunting, fishing, and recreational opportunities; and
- (D) improve public access to public land;
- (3) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Federal Government’s ownership of the properties while increasing local tax revenues from the new owners; and
- (4) eliminating expensive and contentious disputes between the Secretary and leaseholders while ensuring that the Federal Government receives full and fair value for the properties.

SEC. 1002. PURPOSES.

The purposes of this Act are to—

- (1) establish terms and conditions under which the Secretary of the Interior shall, for fair market value, convey certain properties around Canyon Ferry Reservoir, Montana, to private parties; and
- (2) acquire certain land for fish and wildlife conservation purposes.

SEC. 1003. DEFINITIONS.

In this Act:

- (1) CANYON FERRY-BROADWATER COUNTY TRUST.—The term “Canyon Ferry-Broadwater County Trust” means the Canyon Ferry-Broadwater County Trust established under section 8.
- (2) CFRA.—The term “CFRA” means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.
- (3) COMMISSIONERS.—The term “Commissioners” means the Board of Commissioners for Broadwater County, Montana.
- (4) LEASE.—The term “lease” means a lease or permit in effect on the date of enactment of this Act that gives a leaseholder the right to occupy a property.
- (5) LESSEE.—The term “lessee” means—
 - (A) the leaseholder of 1 of the properties on the date of enactment of this Act; and
 - (B) the leaseholder’s heirs, executors, and assigns of the leasehold interest in the property.
- (6) MONTANA FISH AND WILDLIFE CONSERVATION TRUST.—

The term “Montana Fish and Wildlife Conservation Trust” means the Montana Fish and Wildlife Conservation Trust established under section 7.
- (7) PROJECT.—The term “project” means the Canyon Ferry Unit of the Pick-Sloan Missouri River Basin Project.
- (8) PROPERTY.—
 - (A) IN GENERAL.—The term “property” means 1 of the cabin sites described in section 4(b).
 - (B) USE IN THE PLURAL.—The term “properties” means all 265 of the properties and any contiguous parcels referred to in section 4(b)(1)(B).
- (9) PURCHASER.—The term “purchaser” means a person or entity, excluding CFRA or a lessee, that purchases the properties under section 4.
- (10) RESERVOIR.—The term “Reservoir” means the Canyon Ferry Reservoir, Montana.
- (11) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(12) STATE.—The term “State” means the State of Montana.

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SEC. 1004. SALE OF PROPERTIES.

- (a) IN GENERAL.—Consistent with the Act of June 17, 1902 (32 Stat. 388, chapter 1093) and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), the Secretary shall convey to CFRA or a purchaser—
- (1) all right, title, and interest (except the mineral estate) of the United States in and to the properties, subject to valid existing rights and the operational requirements of the Pick-Sloan Missouri River Basin Program; and
 - (2) perpetual easements for—
 - (A) vehicular access to each property;
 - (B) access to and use of 1 dock per property; and
 - (C) access to and use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the leases as of the date of enactment of this Act.
- (b) DESCRIPTION OF PROPERTIES.—
- (1) IN GENERAL.—The properties to be conveyed are—
 - (A) the 265 cabin sites of the Bureau of Reclamation located along the northern end of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; and
 - (B) any small parcel contiguous to any property (not including shoreline or land needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate an inholding and facilitate administration of surrounding land remaining in Federal ownership.
 - (2) ACREAGE; LEGAL DESCRIPTION.—The acreage and legal description of each property and of each parcel shall be determined by the Secretary in consultation with CFRA.
 - (3) RESTRICTIVE USE COVENANT.—
 - (A) IN GENERAL.—In order to maintain the unique character of the Reservoir area, the Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that the use restrictions to carry out subparagraphs
 - (B) and (C) shall—
 - (i) be appurtenant to, and run, with each property; and
 - (ii) be binding on each subsequent owner of each property.
 - (B) ACCESS TO RESERVOIR.—
 - (i) IN GENERAL.—The Secretary, the purchaser, CFRA, and the subsequent owners of each property shall ensure that—
 - (I) public access to and along the shoreline of the Reservoir in existence on the date of enactment of this Act is not obstructed; and
 - (II) adequate public access to and along the shoreline of the Reservoir is maintained.
 - (ii) FEDERAL RECLAMATION LAW.—
 - (I) IN GENERAL.—No conveyance of property under this Act shall restrict or limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental 112 STAT. 2681–713 PUBLIC LAW 105–277—OCT. 21, 1998 to and amendatory of that Act (43 U.S.C. 371 et seq.).
 - (II) NO LIABILITY.—The operation of the Reservoir by the Secretary in fulfillment of the duties described in subclause (I) shall not result in liability for damages, direct or indirect, to the owner of any property conveyed under section 4(a) or damages from any loss of use or enjoyment of the property.
 - (C) HISTORICAL USE.—The Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that future uses of the property shall be limited to the type and intensity of uses in existence on the date of enactment of this Act, as limited by the prohibitions contained in the annual operating plan of the Bureau of Reclamation for the Reservoir in effect on October 1, 1998.
- (c) PURCHASE PROCESS.—
- (1) IN GENERAL.—The Secretary shall—
 - (A) solicit sealed bids for the properties;

- (B) subject to paragraph (2), sell the properties to the bidder that submits the highest bid above the minimum bid determined under paragraph (2); and
- (C) not accept any bid for less than all of the properties in 1 transaction.
- (2) MINIMUM BID.—
 - (A) IN GENERAL.—Before accepting bids, the Secretary shall establish a minimum bid, which shall be equal to the fair market value of the properties determined by an appraisal of each property, exclusive of the value of private improvements made by the leaseholders before the date of the conveyance, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.
 - (B) FAIR MARKET VALUE.—Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.
- (3) RIGHT OF FIRST REFUSAL.—If the highest bidder is other than CFRA, CFRA shall have the right to match the highest bid and purchase the properties at a price equal to the amount of the highest bid.
- (d) TERMS OF CONVEYANCE.—
 - (1) PURCHASER.—If the highest bidder is other than CFRA, and CFRA does not match the highest bid, the following shall apply:
 - (A) PAYMENT.—The purchaser shall pay the amount bid to the Secretary for distribution in accordance with section 6.
 - (B) CONVEYANCE.—The Secretary shall convey the properties to the purchaser.
 - (C) OPTION TO PURCHASE.—The purchaser shall give each lessee of a property conveyed under this section an option to purchase the property at fair market value, as determined under subsection ©(2).
 - (D) NONPURCHASING LESSEES.—
 - (i) RIGHT TO CONTINUE LEASE.—A lessee that is unable or unwilling to purchase a property shall be provided the opportunity to continue to lease the PUBLIC LAW 105–277—OCT. 21, 1998 112 STAT. 2681–714 property for fair market value rent under the same terms and conditions as apply under the existing lease for the property, and shall have the right to renew the term of the existing lease for 2 consecutive 5-year terms.
 - (ii) COMPENSATION FOR IMPROVEMENTS.—If a lessee declines to purchase a property, the purchaser shall compensate the lessee for the fair market value, as determined pursuant to customary appraisal procedures, of all improvements made to the property by the lessee. The lessee may sell the improvements to the purchaser at any time, but the sale shall be completed by the final termination of the lease, after all renewals under clause (i).
 - (2) CFRA.—If CFRA is the highest bidder, or matches the highest bid, the following shall apply:
 - (A) CLOSING.—On receipt of a purchase request from a lessee or CFRA, the Secretary shall close on the property and prepare all other properties for closing within 45 days.
 - (B) PAYMENT.—At the closing for a property—
 - (i) the lessee or CFRA shall deliver to the Secretary payment for the property, which the Secretary shall distribute in accordance with section 6; and
 - (ii) the Secretary shall convey the property to the lessee or CFRA.
 - (C) APPRAISAL.—The Secretary shall determine the purchase amount of each property based on the appraisal conducted under subsection ©(2), the amount of the bid under subsection ©(1), and the proportionate share of administrative costs pursuant to subsection (e). The total purchase amount for all properties shall equal the total bid amount plus administrative costs under subsection (e).
 - (D) TIMING.—CFRA and the lessees shall purchase at least 75 percent of the properties not later than August 1 of the year that begins at least 12 months after title to the first property is conveyed by the Secretary to a lessee.
 - (E) RIGHT TO RENEW.—The Secretary shall afford the lessees who have not purchased properties under this section the right to renew the term of the existing lease for 2 (but not more than 2) consecutive 5-year terms.
 - (F) REIMBURSEMENT.—A lessee shall reimburse CFRA for a proportionate share of the costs to CFRA of completing the transactions contemplated by this Act, including any interest charges.
 - (G) RENTAL PAYMENTS.—All rent received from the leases shall be distributed by the Secretary in accordance with section 6.
- (e) ADMINISTRATIVE COSTS.—Any reasonable administrative costs incurred by the Secretary, including the costs of survey and appraisals, incident to the conveyance under subsection (a) shall be reimbursed by the purchaser or CFRA.

- (f) **TIMING.**—The Secretary shall make every effort to complete the conveyance under subsection (a) not later than 1 year after the satisfaction of the condition established by section 8(b).

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- (g) **CLOSINGS.**—Real estate closings to complete the conveyance under subsection (a) may be staggered to facilitate the conveyance as agreed to by the Secretary and the purchaser or CFRA.
- (h) **CONVEYANCE TO LESSEE.**—If a lessee purchases a property from the purchaser or CFRA, the Secretary, at the request of the lessee, shall have the conveyance documents prepared in the name or names of the lessee so as to minimize the amount of time and number of documents required to complete the closing for the property.

SEC. 1005. AGREEMENT.

- (a) **MANAGEMENT OF SILO’S CAMPGROUND.**—Not later than 180 days after the date of enactment of this Act, the Secretary, acting through the Commissioner of Reclamation, shall—
- (1) offer to contract with the Commissioners to manage the Silo’s campground;
 - (2) enter into such a contract if agreed to by the Secretary and the Commissioners; and
 - (3) grant necessary easements for access roads within and adjacent to the Silo’s campground.
- (b) **CONCESSION INCOME.**—Any income generated by any concession that may be granted by the Commissioners at the Silo’s recreation area—
- (1) shall be deposited in the Canyon Ferry-Broadwater County Trust; and
 - (2) may be disbursed by the Canyon Ferry-Broadwater County Trust manager as part of the income of the Trust.

SEC. 1006. USE OF PROCEEDS.

Notwithstanding any other provision of law, proceeds of conveyances under this Act shall be available, without further Act of appropriation, as follows:

- (1) 10 percent of the proceeds shall be applied by the Secretary of the Treasury to reduce the outstanding debt for the Pick-Sloan project at the Reservoir.
- (2) 90 percent of the proceeds shall be deposited in the Montana Fish and Wildlife Conservation Trust.

SEC. 1007. MONTANA FISH AND WILDLIFE CONSERVATION TRUST.

- (a) **ESTABLISHMENT.**—The Secretary, in consultation with the State congressional delegation and the Governor of the State, shall establish a nonprofit charitable permanent perpetual public trust in the State, to be known as the “Montana Fish and Wildlife Conservation Trust” (referred to in this section as the “Trust”).
- (b) **PURPOSE.**—The purpose of the Trust shall be to provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—
- (1) restore and conserve fisheries habitat, including riparian habitat;
 - (2) restore and conserve wildlife habitat;
 - (3) enhance public hunting, fishing, and recreational opportunities; and
 - (4) improve public access to public land.
- (c) **ADMINISTRATION.**—
- (1) **TRUST MANAGER.**—The Trust shall be managed by a trust manager, who—

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- (A) shall be responsible for investing the corpus of the Trust; and
 - (B) shall disburse funds from the Trust on receiving a request for disbursement from a majority of the members of the Joint State-Federal Agency Board established under paragraph (2) and after determining, in consultation with the Citizen Advisory Board established under paragraph (3) and after consideration of any comments submitted by members of the public, that the request meets the purpose of the Trust under subsection (b) and the requirements of subsections (d) and (e).
- (2) **JOINT STATE-FEDERAL AGENCY BOARD.**—
- (A) **ESTABLISHMENT.**—There is established a Joint State-Federal agency Board, which shall consist of—

- (i) 1 Forest Service employee employed in the State designated by the Forest Service;
 - (ii) 1 Bureau of Land Management employee employed in the State designated by the Bureau of Land Management;
 - (iii) 1 Bureau of Reclamation employee employed in the State designated by the Bureau of Reclamation;
 - (iv) 1 United States Fish and Wildlife Service employee employed in the State designated by the United States Fish and Wildlife Service; and
 - (v) 1 Montana Department of Fish, Wildlife and Parks employee designated by the Department.
- (B) REQUESTS FOR DISBURSEMENT.—After consulting with the Citizen Advisory Board established under paragraph
- (3) and after consideration of the Trust plan prepared under paragraph (3)© and of any comments or requests submitted by members of the public, the Joint State-Federal Agency Board, by a vote of a majority of its members, may submit to the Trust Manager a request for disbursement if the Board determines that the request meets the purpose of the Trust.
- (3) CITIZEN ADVISORY BOARD.—
- (A) IN GENERAL.—The Secretary shall nominate, and the Joint State-Federal Agency Board shall approve by a majority vote, a Citizen Advisory Board.
- (B) MEMBERSHIP.—The Citizen Advisory Board shall consist of 4 members, including 1 with a demonstrated commitment to improving public access to public land and to fish and wildlife conservation, from each of—
- (i) a Montana organization representing agricultural landowners;
 - (ii) a Montana organization representing hunters;
 - (iii) a Montana organization representing fishermen; and
 - (iv) a Montana nonprofit land trust or environmental organization.
- (C) DUTIES.—The Citizen Advisory Board, in consultation with the Joint State-Federal Agency Board and the Montana Association of Counties, shall prepare and periodically update a Trust plan including recommendations for requests for disbursement by the Joint State-Federal Agency Board.

112 STAT. 2681–717 PUBLIC LAW 105–277—OCT. 21, 1998

- (D) OBJECTIVES OF PLAN.—The Trust plan shall be designed to maximize the effectiveness of Montana Fish and Wildlife Conservation Trust expenditures considering—
- (i) public needs and requests;
 - (ii) availability of property;
 - (iii) alternative sources of funding; and
 - (iv) availability of matching funds.
- (4) PUBLIC NOTICE AND COMMENT.—Before requesting any disbursements under paragraph (2), the Joint State-Federal Agency Board shall—
- (A) notify members of the public, including local governments; and
 - (B) provide opportunity for public comment.
- (d) USE.—
- (1) PRINCIPAL.—The principal of the Trust shall be inviolate.
 - (2) EARNINGS.—Earnings on amounts in the Trust shall be used to carry out subsection (b) and to administer the Trust and Citizen Advisory Board.
 - (3) LOCAL PURPOSES.—Not more than 50 percent of the income from the Trust in any year shall be used outside the watershed of the Missouri River in the State, from Holter Dam upstream to the confluence of the Jefferson River, Gallatin River, and Madison River.
- (e) MANAGEMENT.—Land and interests in land acquired under this section shall be managed for the purpose described in subsection (b).

SEC. 1008. CANYON FERRY-BROADWATER COUNTY TRUST.

- (a) ESTABLISHMENT.—The Commissioners shall establish a nonprofit charitable permanent perpetual public trust to be known as the “Canyon Ferry-Broadwater County Trust” (referred to in this section as the “Trust”).
- (b) PRIORITY OF TRUST ESTABLISHMENT.—

- (1) **CONDITION TO SALE.**—No sale of property under section 4 shall be made until at least \$3,000,000, or a lesser amount as offset by in-kind contributions made before full funding of the trust, is deposited as the initial corpus of the Trust.
- (2) **IN-KIND CONTRIBUTIONS.**—
 - (A) **IN GENERAL.**—In-kind contributions—
 - (i) shall be approved in advance by the Commissioners;
 - (ii) shall be made in Broadwater County;
 - (iii) shall be related to the improvement of access to the portions of the Reservoir lying within Broadwater County or to the creation and improvement of new and existing recreational areas within Broadwater County; and
 - (iv) shall not include any contribution made by Broadwater County.
 - (B) **APPROVAL.**—Approval by the Commissioners of an in-kind contribution under subparagraph (A) shall include approval of the value, nature, and type of the contribution and of the entity that makes the contribution.
- (3) **INTEREST.**—Notwithstanding any other provision of this Act, all interest earned on the principal of the Trust shall PUBLIC LAW 105-277—OCT. 21, 1998 112 STAT. 2681-718 be reinvested and considered part of its corpus until the condition stated in paragraph (1) is met.
- (c) **TRUST MANAGEMENT.**—
 - (1) **TRUST MANAGER.**—The Trust shall be managed by a nonprofit foundation or other independent trustee to be selected by the Commissioners.
 - (2) **USE.**—The Trust manager shall invest the corpus of the Trust and disburse funds as follows:
 - (A) **PRINCIPAL.**—A sum not to exceed \$500,000 may be expended from the corpus to pay for the planning and construction of a harbor at the Silo’s recreation area.
 - (B) **INTEREST.**—The balance of the Trust shall be held and the income shall be expended annually for the improvement of access to the portions of the Reservoir lying within Broadwater County, Montana, and for the creation and improvement of new and existing recreational areas within Broadwater County.
 - (3) **DISBURSEMENT.**—The Trust manager—
 - (A) shall approve or reject any request for disbursement; and
 - (B) shall not make any expenditure except on the recommendation of the advisory committee established under subsection (d).
- (d) **ADVISORY COMMITTEE.**—
 - (1) **ESTABLISHMENT.**—The Commissioners shall appoint an advisory committee consisting of not fewer than 3 nor more than 5 persons.
 - (2) **DUTIES.**—The advisory committee shall meet on a regular basis to establish priorities and make requests for the disbursement of funds to the Trust manager.
 - (3) **APPROVAL BY THE COMMISSIONERS.**—The advisory committee shall recommend only such expenditures as are approved by the Commissioners.
- (e) **NO OFFSET.**—Neither the corpus nor the income of the Trust shall be used to reduce or replace the regular operating expenses of the Secretary at the Reservoir, unless approved by the Commissioners.

SEC. 1009. AUTHORIZATION.

- (a) **IN GENERAL.**—The Secretary is authorized to—
 - (1) investigate, plan, construct, operate, and maintain public recreational facilities on land withdrawn or acquired for the development of the project;
 - (2) conserve the scenery, the natural historic, paleontologic, and archaeological objects, and the wildlife on the land;
 - (3) provide for public use and enjoyment of the land and of the water areas created by the project by such means as are consistent with but subordinate to the purposes of the project; and
 - (4) investigate, plan, construct, operate, and maintain facilities for the conservation of fish and wildlife resources.
- (b) **COSTS.**—The costs (including operation and maintenance costs) of carrying out subsection (a) shall be nonreimbursable and nonreturnable under Federal reclamation law.

APPENDIX B
SHORELINE RESTORATION AND EROSION CONTROL
SITE EVALUATION FORM

NAME _____

ADDRESS _____

PROJECT LOCATION _____

CABIN LOT NUMBER _____

1) Is the shoreline federally-owned public land ? Y N

2) Is erosion occurring at the project site? Y N

3) Is erosion occurring on adjacent sites ? Y N

4) Why are you considering shoreline restoration and/or erosion control ?

Immediate threat to an existing structure

(please answer item 5)

Current loss of private land

Anticipated loss of private land

Would like to build a new structure on the shoreline

Want additional shoreline area

Want to improve the aesthetic appeal of the shoreline

Other _____

5) If applicable, what type of structure is threatened (e.g., road, shed, residence, etc.) ?

6) What type of slope occurs at the project site ?

Steep (>2: 1), high (> 15 feet high) bluff

Steep, low (< 15 feet high) bank

Moderately sloped (4:1 to 2:1)

Gentle slope (10:1 to 4:1)

Beach (flatter than 10:1)

Additional comments:

7) Is the project site exposed to prevailing west winds, east winds, or located in a protected area (e.g., bay or on the lee side of a landform such as a peninsula) ?

- Exposed to prevailing winds (please answer item 8)
- Exposed to east winds (please answer item 8)
- Protected

Additional comments:

8) If the project site is exposed to prevailing or east winds, what is the wind-ward length of water surface (i.e., fetch) in miles ? _____ miles

9) What is the condition of vegetation along the shoreline at the project site?

- Vegetated
- Sparsely vegetated
- Un-vegetated

Additional comments:

10) What kind of materials make up the soil at the project site?

- Consolidated clay
- Silt
- Sand
- Gravel/cobble
- Bedrock
- Mixed layers (sand, silt, clay, gravel)

Additional comments:

11) Does groundwater flow out of the face of the shoreline (i.e., piping)?
Y N

12) Is there surface run-off at the project site ?
Y N

13) Are there other shoreline attributes that could affect implementation of shoreline stabilization measures ? (please list)

14) Is the erosion control project necessary to protect public interests ? Y N

Please explain: _____

15) Would the erosion control proposal be considered a private exclusive use ? Y N

16) Would the erosion control proposal restrict public access to the shoreline ? Y N

17) What type of shoreline stabilization methods might be most appropriate for this site ?

- Relocation of structures, roads, or associated facilities
- Non-structural stabilization
- Dynamic revetment
- Bio-engineering
- Stone rip-rap
- Gabion wall
- Concrete or sheet pile wall

Please state the anticipated time frame for the erosion control proposal.

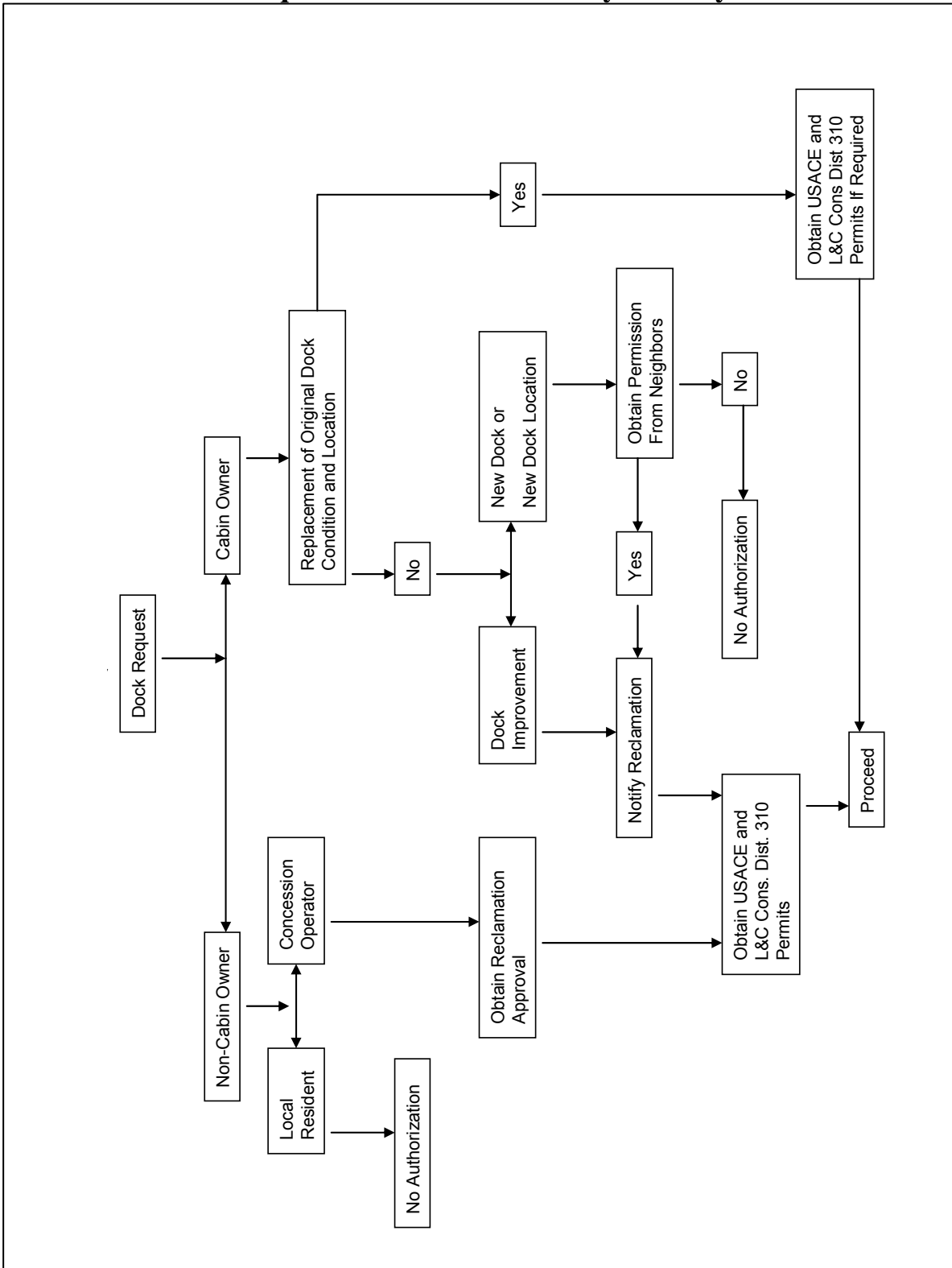
Start: _____ End _____

Please estimate the costs if known: \$ _____

Construction will be done by: _____ Reclamation _____ Lot Owner
_____ Private Contractor

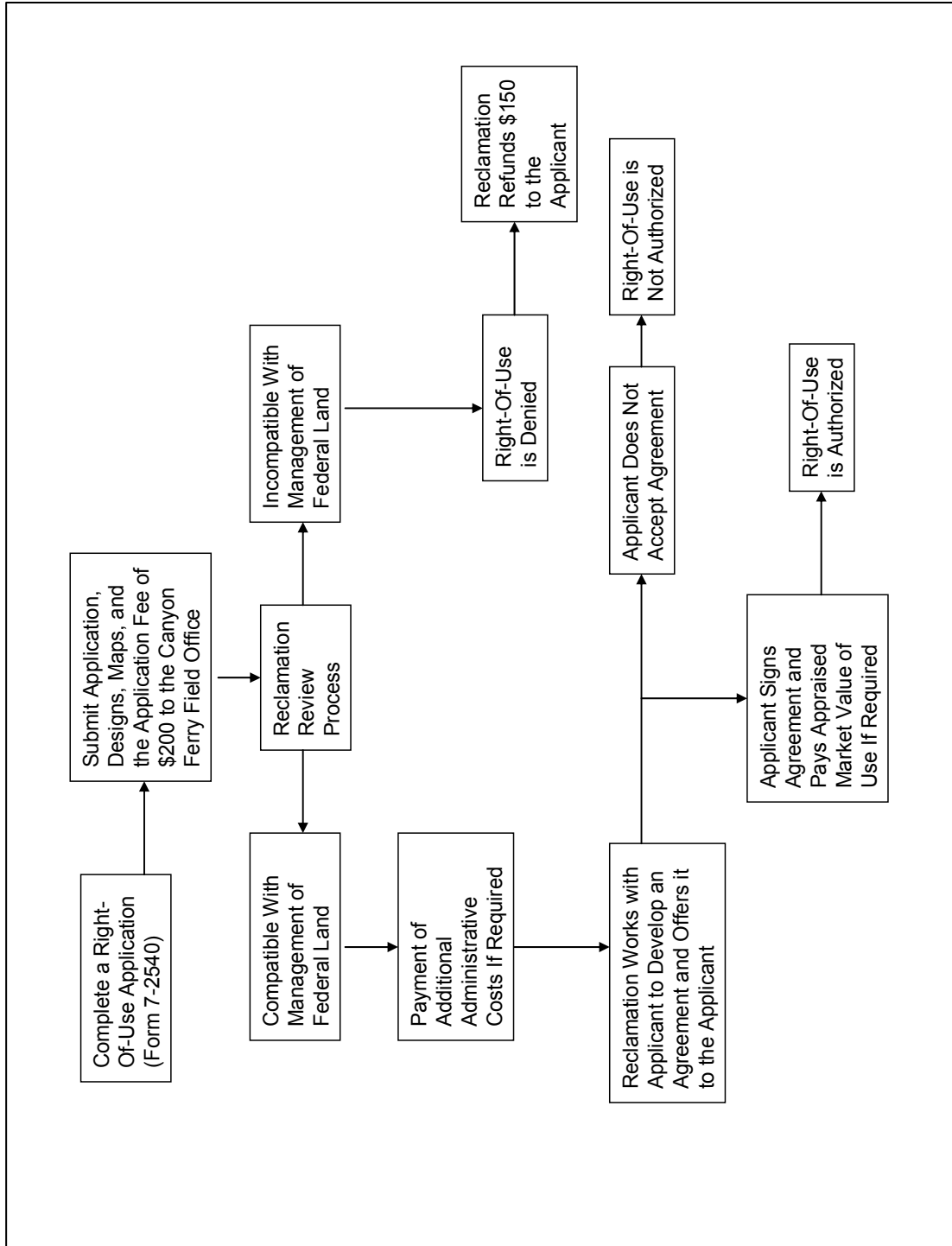
APPENDIX C

Boat Dock Request Flow Chart for Canyon Ferry Reservoir

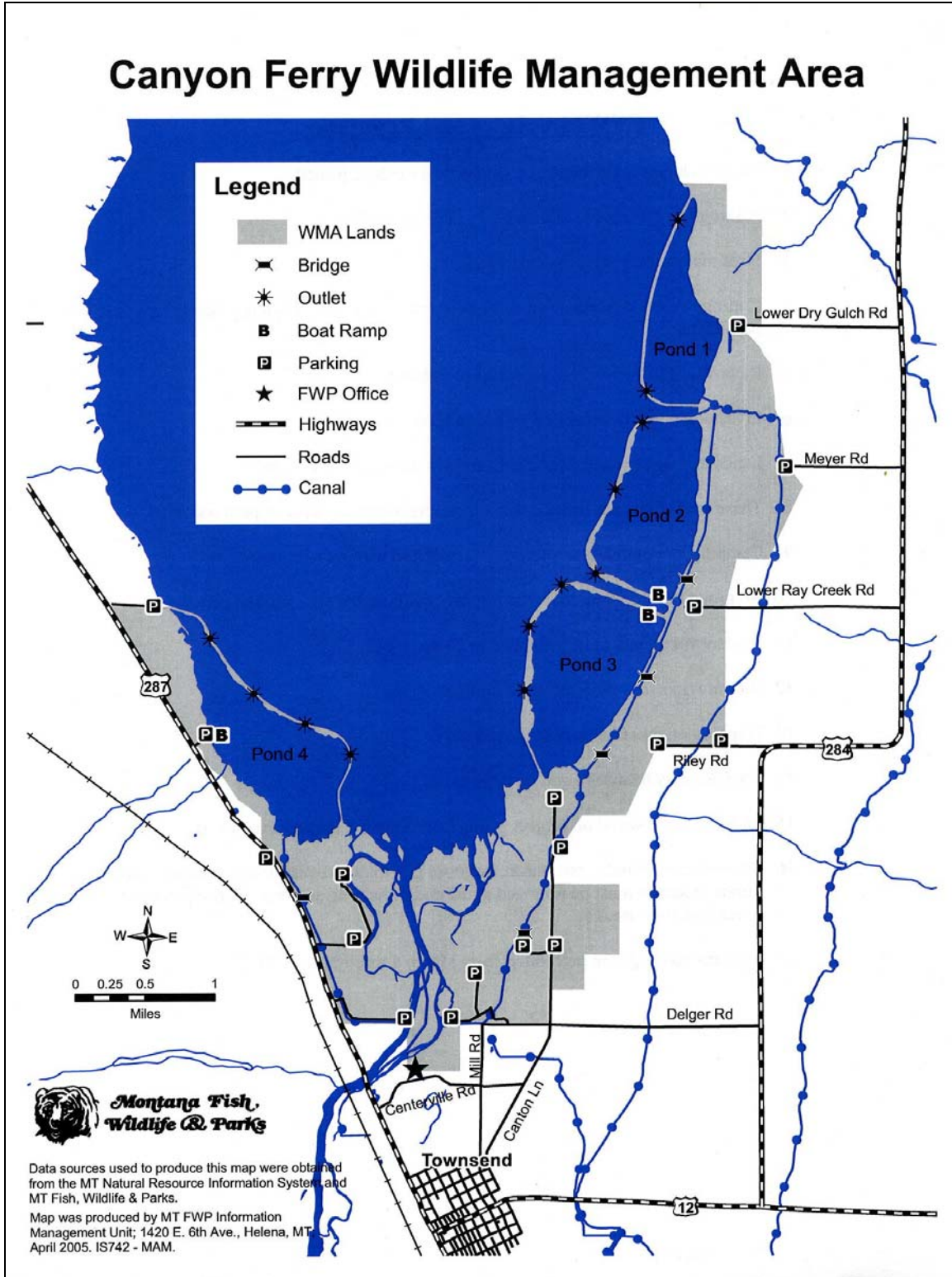


APPENDIX D

Right-of-Use Authorization Flow Chart For Canyon Ferry Reservoir Please contact the Canyon Ferry Field Office (406-475-3310) or see <http://www.usbr.gov/pmts/lands/> for additional information.



APPENDIX E



APPENDIX F

Title 43: Public Lands: Interior

PART 423—PUBLIC CONDUCT ON BUREAU OF RECLAMATION FACILITIES, LANDS, AND WATERBODIES

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- [§ 423.36 Swimming.](#)
- [§ 423.37 Winter activities.](#)
- [§ 423.38 Operating vessels on Reclamation waters.](#)
- [§ 423.39 Standards for vessels.](#)
- [§ 423.40 Vehicles.](#)
- [§ 423.41 Aircraft.](#)
- [§ 423.42 Gambling.](#)
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Subpart E—Special Use Areas

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[§ 423.61 Notifying the public of special use areas.](#)

[§ 423.62 Documentation of special use area designation or termination.](#)

[§ 423.63 Reservations for public use limits.](#)

[§ 423.64 Existing special use areas.](#)

Subpart F—Violations and Sanctions

[§ 423.70 Violations.](#)

[§ 423.71 Sanctions.](#)

Authority: Public Law 107–69 (November 12, 2001) (Law Enforcement Authority) (43 U.S.C. 373b and 373c); Public Law 102–575, Title XXVIII (October 30, 1992) (16 U.S.C. 460I–31 through 34); Public Law 89–72 (July 9, 1965) (16 U.S.C. 460I–12); Public Law 106–206 (May 26, 2000) (16 U.S.C. 460I–6d); Public Law 59–209 (June 8, 1906) (16 U.S.C. 431–433); Public Law 96–95 (October 31, 1979) (16 U.S.C. 470aa–mm).

Source: 71 FR 19794, Apr. 17, 2006, unless otherwise noted.

Subpart A—Purpose, Definitions, and Applicability

§ 423.1 Purpose.

The purpose of this part is to maintain law and order and protect persons and property within Reclamation projects and on Reclamation facilities, lands, and waterbodies.

§ 423.2 Definitions of terms used in this part.

Aircraft means a device that is used or intended to be used for human flight in the air, including powerless flight, unless a particular section indicates otherwise.

Archaeological resource means any material remains of past human life or activities which are of archaeological interest, as determined under 43 CFR part 7, including but not limited to pottery, basketry, bottles, weapons, projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human remains, or any portion of any of the foregoing items. Archaeological resources are a component of cultural resources.

Authorized official means the Commissioner of the Bureau of Reclamation and those Federal, state, local, and tribal officials, and agencies to which the Commissioner has delegated specific and limited authorities to enforce and implement this part 423.

Camping means erecting a tent or shelter; preparing a sleeping bag or other bedding material for use; parking a motor vehicle, motor home, or trailer; or mooring a vessel for the intended or apparent purpose of overnight occupancy.

Cultural resource means any man-made or associated prehistoric, historic, architectural, sacred, or traditional cultural property and associated objects and documents that are of interest to archaeology, anthropology, history, or other associated disciplines. Cultural resources include archaeological resources, historic properties, traditional cultural properties, sacred sites, and cultural landscapes that are associated with human activity or occupation.

Disorderly conduct means any of the following acts:

- (1) Fighting, or threatening or violent behavior;
- (2) Language, utterance, gesture, or display or act that is obscene, physically threatening or menacing, or that is likely to inflict injury or incite an immediate breach of the peace;
- (3) Unreasonable noise, considering the nature and purpose of the person's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances;
- (4) Creating or maintaining a hazardous or physically offensive condition; or
- (5) Any other act or activity that may cause or create public alarm, nuisance, or bodily harm.

Explosive means any device or substance that can be ignited or detonated to produce a violent burst of gas and/or other materials, including, but not limited to, blasting caps and detonatable fireworks and pyrotechnics. This definition does not include fuel and ammunition when properly transported and used.

Firearm means a device that expels a projectile such as a bullet, dart, or pellet by combustion, air pressure, gas pressure, or other means.

Fishing means taking or attempting to take, by any means, any fish, mollusk, or crustacean found in fresh or salt water.

Geophysical discovery device means any mechanism, tool, or equipment including, but not limited to, metal detectors and radar devices, that can be used to detect or probe for objects beneath land or water surfaces.

Historic property means any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource.

Hunting means taking or attempting to take wildlife by any means, except by trapping or fishing.

Museum property means personal property acquired according to some rational scheme and preserved, studied, or interpreted for public benefit, including, but not limited to, objects selected to represent archaeology, art, ethnography, history, documents, botany, paleontology, geology, and environmental samples.

Natural resources means assets or values related to the natural world, such as plants, animals, water, air, soils, minerals, geologic features and formations, fossils and other paleontological resources, scenic values, etc. Natural resources are those elements of the environment not created by humans.

Off-road-vehicle means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or natural terrain. The term excludes all of the following:

- (1) Nonamphibious registered motorboats;
- (2) Military, fire, emergency, or law enforcement vehicles when used for emergency purpose;
- (3) Self-propelled lawnmowers, snowblowers, garden or lawn tractors, and golf carts while being used for their designed purpose;
- (4) Agricultural, timbering, construction, exploratory, and development equipment and vehicles while being used exclusively as authorized by permit, lease, license, agreement, or contract with Reclamation;
- (5) Any combat or combat support vehicle when used in times of national defense emergencies;
- (6) "Official use" vehicles; and
- (7) Wheel chairs and carts designed and used for transporting persons with disabilities.

Operator means a person who operates, drives, controls, has charge of, or is in actual physical control of any mode of transportation or other equipment.

Permit means any written document issued by an authorized official pursuant to subpart D of this part 423 authorizing a particular activity with specified time limits, locations, and/or other conditions.

Person means an individual, entity, or organization.

Pet means a domesticated animal other than livestock. ("Livestock" is any hoofed animal used for agricultural, riding, pulling, or packing purposes.)

Public use limit means any limitation on public uses or activities established by law or regulation.

Real property means any legal interest in land and the water, oil, gas, and minerals in, on, and beneath the land surface, together with the improvements, structures, and fixtures located thereon.

Reclamation means the Bureau of Reclamation, United States Department of the Interior.

Reclamation facilities, lands, and waterbodies means Reclamation facilities, Reclamation lands, and Reclamation waterbodies.

Reclamation facility means any facility constructed or acquired under Federal reclamation law that is situated on Reclamation lands and is used or occupied by Reclamation under a lease, easement, right-of-way, license, contract, or other arrangement. The term includes, but is not limited to, any of the following that are under the jurisdiction of or administered by Reclamation: Dams, powerplants, buildings, switchyards, transmission lines, recreation facilities, fish and wildlife facilities, pumping plants, and warehouses.

Reclamation lands means any real property under the jurisdiction of or administered by Reclamation, and includes, but is not limited to, all acquired and withdrawn lands and lands in which Reclamation has a lease interest, easement, or right-of-way.

Reclamation project means any water supply, water delivery, flood control, or hydropower project, together with any associated facilities for fish, wildlife, recreation, or water treatment constructed or administered by Reclamation under the Federal reclamation laws [the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.), and Acts supplementary thereto and amendatory thereof].

Reclamation waterbody means any body of water situated on Reclamation lands or under Reclamation jurisdiction.

Refuse means any human or pet waste, litter, trash, garbage, rubbish, debris, contaminant, pollutant, waste liquid, or other discarded materials.

Sacred site means any specific, discrete, or narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the land managing agency of the existence of such a site.

Special use area means an area at or within a Reclamation facility, or an area of Reclamation lands or waterbodies, in which special rules for public conduct apply that may differ from those established in subpart C of this part 423. A special use area must be established by an authorized official as provided in subpart E of this part 423.

State and local laws means the laws, statutes, regulations, ordinances, codes, and court decisions of a state and of the counties, municipalities, or other governmental entities which are enabled by statute and vested with legislative authority.

Traditional cultural property means a discretely defined property that is eligible for inclusion on the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that:

- (1) Are rooted in that community's history; and
- (2) Are important in maintaining the continuing cultural identity of the community.

Trapping means taking, or attempting to take, wildlife with a snare, trap, mesh, wire, or other implement, object, or mechanical device designed to entrap, ensnare, or kill animals, including fish.

Trespass means:

- (1) Unauthorized possession or occupancy of Reclamation facilities, lands, or waterbodies;
- (2) Personal entry, presence, or occupancy on or in any portion or area of Reclamation facilities, lands, or waterbodies that have been closed to public use pursuant to subpart B of this part 423;
- (3) Unauthorized extraction or disturbance of natural or cultural resources located on Reclamation facilities, lands, or waterbodies;
- (4) Unauthorized conduct of commercial activities on Reclamation facilities, lands, or waterbodies;
- (5) Holding unauthorized public gatherings on Reclamation facilities, lands, or waterbodies; or
- (6) Unauthorized dumping or abandonment of personal property on Reclamation facilities, lands, or waterbodies.

Vehicle means every device in, upon, or by which a person or property is or may be transported or drawn on land, whether moved by mechanical, animal, or human power, including but not limited to automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles, trailers, campers,

bicycles, and those used exclusively upon stationary rails or tracks; except wheelchairs used by persons with disabilities.

Vessel means any craft that is used or capable of being used as a means of transportation on or under water or ice, including but not limited to powerboats, cruisers, houseboats, sailboats, airboats, hovercraft, rowboats, canoes, kayaks, ice yachts, or personal watercraft. A seaplane on Reclamation waters is considered a vessel for the purposes of §423.38 of this part. Inner tubes, air mattresses, and other personal flotation devices are not considered vessels.

Weapon means a firearm or any other instrument or substance designed, used, or which can be used to cause or threaten to cause pain, injury, or death.

Wildlife means any non-domestic member of the animal kingdom and includes a part, product, egg, offspring, or dead body or part thereof, including but not limited to mammals, birds, reptiles, amphibians, fish, mollusks, crustaceans, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity.

You means a person or entity on Reclamation facilities, lands, or waterbodies.

§ 423.3 When does this part apply?

(a) This part and all applicable state and local laws apply to all persons on Reclamation facilities, lands, and waterbodies, with the following exceptions:

(1) Certain exceptions apply to Federal, state, local, and contract employees, as further addressed in paragraph (b) of this section.

(2) Certain exceptions apply to non-Federal entities, as further addressed in paragraph (c) of this section;

(3) Certain exceptions apply on Reclamation facilities, lands, and waterbodies administered by other Federal agencies, as further addressed in paragraph (d) of this section;

(4) Certain exceptions apply on Reclamation facilities, lands, and waterbodies subject to treaties and Federal laws concerning tribes and Indians, as further addressed in paragraph (e) of this section; and

(5) This part does not apply on Hoover Dam; on any structure, building, or property appurtenant thereto; or on the surrounding Reclamation facilities and lands. Public conduct at Hoover Dam is governed by 43 CFR part 421.

(b) This part does not apply to:

(1) Federal, state, and local law enforcement, fire, and rescue personnel in the performance of their official duties on Reclamation facilities, lands, and waterbodies;

(2) An employee or agent of the Federal government when the employee or agent is carrying out official duties; or

(3) An employee or agent of an entity that has entered into a contract or agreement with Reclamation to administer, operate, maintain, patrol, or provide security for Reclamation facilities, lands, and waterbodies, when the employee or agent is working within the scope of the defined activities described in the contract or agreement.

(c) If a non-Federal entity has assumed responsibility for operating, maintaining, or managing Reclamation facilities, lands, or waterbodies through a contract or other written agreement, public conduct in and on those Reclamation facilities, lands, and waterbodies will be regulated by this part 423 as well as any regulations established by the entity, the terms of the entity's contract with Reclamation, and applicable Federal, state, and local law.

(d) Public conduct on Reclamation facilities, lands, and waterbodies administered by other Federal agencies under statute or other authority will be governed by the regulations of those agencies rather than this part 423. However, Reclamation retains the right to take necessary actions to safeguard the security and safety of the public and such Reclamation facilities, lands and waterbodies.

(e) This part applies on all Reclamation facilities, lands, and waterbodies that are subject to Treaties with, and Federal laws concerning the rights of, federally recognized Tribes, and individual Indians who are members thereof, to the extent that this part is consistent with those Treaties and Federal laws.

(f) This part 423 and other Federal laws will govern over any conflicting regulations of a non-Federal entity.

Subpart B—Areas Open and Closed to Public Use

§ 423.10 What areas are open to public use?

All Reclamation facilities, lands, and waterbodies are open to lawful use by the public unless they are closed to public use under this subpart B of this part 423, or as provided by 43 CFR part 420, Off-Road Vehicle Use.

§ 423.11 What areas are closed to public use?

The following Reclamation facilities, lands, and waterbodies, or portions thereof, are closed to public use:

- (a) Those that were closed to public use as of April 17, 2006, as evidenced by fencing, gates, barriers, locked doors, road closures, signage, posting of notices, or other reasonably obvious means, as provided in §423.14;
- (b) Those that are closed after April 17, 2006 under §423.12;
- (c) Those that are closed periodically and regularly under §423.13; and
- (d) Those that are closed to off-road vehicle use pursuant to 43 CFR part 420.

§ 423.12 How will Reclamation notify the public of additional closed areas?

(a) *Non-emergency situations.* In non-emergency situations, an authorized official must provide 30 days advance public notice before closing all or portions of Reclamation facilities, lands, or waterbodies. The notice must include publication in a newspaper of general circulation in the locale of the Reclamation facilities, lands, or waterbodies to be closed. Non-emergency situations covered by this section include:

- (1) Protection and security of Reclamation facilities and of Reclamation's employees and agents;
- (2) Protection of public health and safety, cultural resources, natural resources, scenic values, or scientific research activities;

- (3) Safe and efficient operation and maintenance of Reclamation projects;
- (4) Reduction or avoidance of conflicts among visitor use activities;
- (5) National security; or
- (6) Other reasons in the public interest.

(b) *Emergency situations.* In emergency situations where delay would result in significant and immediate risks to public safety, security, or other public concerns, an authorized official may close all or portions of Reclamation facilities, lands, or waterbodies without advance public notice.

§ 423.13 How will Reclamation establish periodic and regular closures?

Reclamation facilities, lands, or waterbodies that are closed periodically and regularly, regardless of the date of the initial closure, must be noticed as provided in §423.12(a) only once, and at any time the schedule of closure is changed.

§ 423.14 How will Reclamation post and delineate closed areas at the site of the closure?

Before or at the time of closing all or portions of Reclamation facilities, lands, or waterbodies to public use, the responsible authorized official must indicate the closure by:

- (a) Locked doors, fencing, gates, or other barriers;
- (b) Posted signs and notices at conspicuous locations, such as at normal points of entry and at reasonable intervals along the boundary of the closed area; or
- (c) Other reasonably obvious means including, but not limited to, onsite personal contact with a uniformed official.

§ 423.15 How will Reclamation document closures or reopenings?

(a) The authorized official must document the reason(s) for establishing any closure or reopening that occurs after April 17, 2006. The official must do this before the closure or reopening, except in the situations described in §423.12(b). In such situations, the authorized official must complete the documentation as soon as practicable.

(b) Documentation of a closure must cite one or more of the conditions for closure described in §423.12 of this part.

(c) Documentation of closures or reopenings will be available to the public upon request, except when the release of this documentation could result in a breach of national security or the security of Reclamation facilities.

§ 423.16 Who can be exempted from closures?

(a) You may be exempted from a closure, subject to any terms and conditions established under paragraph (c) of this section, by written authorization from the authorized official who effected or who is responsible for the closure, if you are:

(1) A person with a license or concession agreement that requires you to have access to the closed Reclamation facilities, lands, or waterbodies;

(2) An owner or lessee of real property, resident, or business in the vicinity of closed Reclamation facilities, lands, or waterbodies who cannot reasonably gain access to your property, residence, or place of business without entering and crossing such closed Reclamation facilities, lands, or waterbodies; or

(3) A holder of a permit granting you an exemption from the closure issued under subpart D of this part 423 by the authorized official who effected or who is responsible for the closure.

(b) You may request exemption from a closure by writing to the authorized official who effected or who is responsible for the closure. You need not do so if you have such an exemption in effect on April 17, 2006.

(c) An authorized official may establish terms and conditions on any exemption from a closure, or terminate such exemption, for any of the reasons listed in §423.12.

§ 423.17 How will Reclamation reopen closed areas?

An authorized official may reopen to public use any Reclamation facilities, lands, and waterbodies, or portions thereof. The authorized official may do this at any time with advance or subsequent public notice, except as required by other statute or regulation, and must document the reopening as provided in §423.15.

Subpart C—Rules of Conduct

§ 423.20 General rules.

(a) You must obey all applicable Federal, state, and local laws whenever you are at or on any Reclamation facilities, lands, or waterbodies.

(b) You must comply with all provisions of this subpart C whenever you are at or on any Reclamation facilities, lands, or waterbodies, except as specifically provided by:

(1) A permit issued by an authorized official under subpart D of this part 423;

(2) A contract with Reclamation or agency managing Reclamation facilities, lands, and waterbodies;

(3) The rules established by an authorized official in a special use area under subpart E of this part 423; or

(4) A right-of-use issued under 43 CFR part 429.

§ 423.21 Responsibilities.

(a) You are responsible for finding, being aware of, and obeying notices and postings of closed and special use areas established by an authorized official under subpart B and subpart E of this part 423.

(b) You are responsible for the use of any device, vehicle, vessel, or aircraft you own, lease, or operate on Reclamation facilities, lands, or waterbodies. You may be issued a citation for a violation of regulations applicable to the use of any device, vehicle, vessel, or aircraft as provided in this part as the owner, lessee, or operator.

(c) You are responsible for the use and treatment of Reclamation facilities, lands, and waterbodies, and the cultural resources, wildlife, and other natural resources located thereon, by you and those for whom you are legally responsible. This presumption is sufficient to issue a citation to you for violation of provisions of these regulations by you or by those for whom you are legally responsible.

(d) The regulations governing permits, other use authorizations, and fees on Reclamation lands that are found in subpart D of this part 423 apply to your use of Reclamation facilities, lands, and waterbodies.

(e) You must furnish identification information upon request by a law enforcement officer.

§ 423.22 Interference with agency functions and disorderly conduct.

(a) You must not assault, threaten, disturb, resist, intimidate, impede, or interfere with any employee or agent of Federal, state, or local government engaged in an official duty.

(b) You must comply with any lawful order of an authorized government employee or agent for the purpose of maintaining order and controlling public access and movement during law enforcement actions and emergency or safety-related operations.

(c) You must not knowingly give a false report or other false information to an authorized government employee or agent.

(d) You must not interfere with, impede, or disrupt the authorized use of Reclamation facilities, lands, or waterbodies or impair the safety of any person.

(e) Disorderly conduct is prohibited.

§ 423.23 Abandonment and impoundment of personal property.

(a) You must not abandon personal property of any kind in or on Reclamation facilities, lands, or waterbodies.

(b) You must not store or leave unattended personal property of any kind.

(1) Unattended personal property is presumed to be abandoned:

(i) After a period of 24 hours;

(ii) At any time after a posted closure takes effect under subpart B of this part 423; or

(iii) At any time for reasons of security, public safety, or resource protection.

(2) If personal property is presumed abandoned, an authorized official may impound it, store it, and assess a reasonable impoundment fee.

(3) The impoundment fee must be paid before the authorized official will return the impounded property to you.

(c) An authorized official may impound or destroy unattended personal property at any time if it:

(1) Interferes with safety, operation, or management of Reclamation facilities, lands, or waterbodies; or

(2) Presents a threat to persons or Reclamation project resources.

(d) An authorized official may dispose of abandoned personal property in accordance with the procedures contained in title 41 CFR and applicable Reclamation and Department of the Interior policy.

§ 423.24 Trespassing.

You must not trespass on Reclamation facilities, lands, and waterbodies.

§ 423.25 Vandalism, tampering, and theft.

(a) You must not tamper or attempt to tamper with, move, manipulate, operate, adjust, or set in motion property not under your lawful control or possession including, but not limited to, vehicles, equipment, controls, recreational facilities, and devices.

(b) You must not destroy, injure, deface, damage, or unlawfully remove property not under your lawful control or possession.

(c) You must not drop, place, throw, or roll rocks or other items inside, into, down, or from, dams, spillways, dikes, or other structures and facilities.

§ 423.26 Public events and gatherings.

You must not conduct public assemblies, meetings, gatherings, demonstrations, parades, and other events without a permit issued pursuant to subpart D of this part 423. Public gatherings that involve the possession or occupancy of Reclamation facilities, lands, and waterbodies are governed by 43 CFR part 429.

§ 423.27 Advertising and public solicitation.

You must not engage in advertising or solicitation on Reclamation facilities, lands, or waterbodies except as allowed under a valid contract with Reclamation, or as allowed by a permit issued pursuant to subpart D of this part 423.

§ 423.28 Memorials.

You must not bury, deposit, or scatter human or animal remains, or place memorials, markers, vases, or plaques on Reclamation facilities, lands, or waterbodies. This section does not apply to the burial of parts of fish or wildlife taken in legal hunting, fishing, or trapping.

§ 423.29 Natural and cultural resources.

(a) You must not destroy, injure, deface, remove, search for, disturb, or alter natural resources or cultural resources, including abandoned buildings or structures, on or in Reclamation facilities, lands, or waterbodies except in accordance with §423.29(g) and other applicable Federal, state, and local laws.

(b) You must not introduce wildlife, fish, or plants, including their reproductive bodies, into Reclamation lands and waterbodies without a permit issued pursuant to subpart D of this part 423.

(c) You must not drop, place, throw, or roll rocks or other items inside, into, at, or down, caves, caverns, valleys, canyons, mountainsides, thermal features, or other natural formations.

(d) You may bring firewood to or gather dead wood on Reclamation lands for fires as allowed under §423.31. You must not damage or remove any live tree or part thereof except with proper authorization under 43 CFR part 429.

(e) You must not walk on, climb, enter, ascend, descend, or traverse cultural resources on Reclamation lands, including monuments or statues, except as specifically allowed in special use areas designated by an authorized official under subpart E of this part 423.

(f) You must not possess a metal detector or other geophysical discovery device, or use a metal detector or other geophysical discovery techniques to locate or recover subsurface objects or features on Reclamation lands, except:

(1) When transporting, but not using, a metal detector or other geophysical discovery device in a vehicle on a public road as allowed under applicable Federal, state, and local law; or

(2) As allowed by a permit issued pursuant to subpart D of this part 423.

(g) You may engage in renewable natural resource gathering activities such as picking berries and mushrooms, collecting antlers, and other similar activities as regulated by this part 423 and other applicable Federal, state, and local laws.

§ 423.30 Weapons, firearms, explosives, and fireworks.

(a) You may possess firearms, ammunition, bows and arrows, crossbows, or other projectile firing devices on Reclamation lands and waterbodies, provided the firearm, ammunition, or other projectile firing device is stowed, transported, and/or carried in compliance with applicable Federal, state, and local law, with the following exceptions:

(1) You must not have a weapon in your possession when at or in a Reclamation facility.

(2) You must comply with any prohibitions or regulations applicable to weapons in a special use area established by an authorized official under subpart E of this part 423.

(b) You must not discharge or shoot a weapon unless you are:

(1) Using a firearm or other projectile firing device lawfully for hunting or fishing as allowed under §423.32, or at an authorized shooting or archery range; and

(2) In compliance with applicable Federal, state, and local law.

(c) You must not use or possess explosives, or fireworks or pyrotechnics of any type, except as allowed by a permit issued pursuant to subpart D of this part 423, or in special use areas so designated by an authorized official under subpart E of this part 423.

§ 423.31 Fires and flammable material.

(a) You must not leave a fire unattended, and it must be completely extinguished before your departure.

(b) You must not improperly dispose of lighted smoking materials, including cigarettes, cigars, pipes, matches, or other burning material.

(c) You must not burn materials that produce toxic fumes, including, but not limited to, tires, plastic, flotation materials, or treated wood products.

(d) You must not transport gasoline and other fuels in containers not designed for that purpose.

(e) You must comply with all applicable Federal, state, and local fire orders, restrictions, or permit requirements.

§ 423.32 Hunting, fishing, and trapping.

(a) You may hunt, fish, and trap in accordance with applicable Federal, state, and local laws, and subject to the restrictions of §423.30, in areas where both of the following conditions are met:

(1) The area is not closed to public use under subpart B of this part 423; and

(2) The area has not been otherwise designated by an authorized official in a special use area under subpart E of this part 423.

(b) You must comply with any additional restrictions pertaining to hunting, fishing, and trapping established by an authorized official in a special use area under subpart E of this part 423.

§ 423.33 Camping.

(a) You may camp on Reclamation lands, except that you must comply with any restrictions, conditions, limitations, or prohibitions on camping established by an authorized official in a special use area under subpart E of this part 423.

(b) You must not camp on Reclamation lands at any single Reclamation project for more than 14 days during any period of 30 consecutive days, except as allowed by a permit issued under 43 CFR part 429;

(c) You must not attempt to reserve a campsite for future use by placing equipment or other items on the campsite, or by personal appearance, without camping on and paying the required fees for that campsite daily;

(d) You must not camp on or place any equipment at a campsite that is posted or otherwise marked as “reserved” or “closed” by an authorized official without a valid reservation for that campsite, except as allowed by a permit issued under subpart D of this part 423; and

(e) You must not dig in or level any ground, or erect any structure other than a tent, in a designated campground.

§ 423.34 Sanitation.

(a) You must not bring or improperly dispose of refuse on Reclamation facilities, lands, and waterbodies. Both the owner and the person bringing or disposing refuse may be issued a citation for violating this provision.

(b) Campers, picnickers, and all other persons using Reclamation lands must keep their sites free of trash and litter during the period of occupancy and must remove all personal equipment and clean their sites before departure.

(c) You must not construct a latrine within 200 yards of any Reclamation waterbody, or within 200 yards of the high water mark of any reservoir.

§ 423.35 Animals.

(a) You must not bring pets or other animals into public buildings, public transportation vehicles, or sanitary facilities. This provision does not apply to properly trained animals assisting persons with disabilities, such as seeing-eye dogs.

(b) You must not abandon any animal on Reclamation facilities, lands, or waterbodies, or harass, endanger, or attempt to collect any animal except game you are attempting to take in the course of authorized hunting, fishing, or trapping.

(c) Any unauthorized, unclaimed, or unattended animal on Reclamation lands may be:

(1) Removed in accordance with Federal law, and applicable state and local laws; and

(2) Confined at a location designated by an authorized official, who may assess a reasonable impoundment fee that must be paid before the impounded animal is released to its owner.

(d) The following animals are prohibited and are subject to removal in accordance with Federal law, and applicable state and local laws:

(1) Captive wild or exotic animals (including, but not limited to, cougars, lions, bears, bobcats, wolves, and snakes), except as allowed by a permit issued under subpart D of this part 423; and

(2) Any pets or animals displaying vicious or aggressive behavior or posing a threat to public safety or deemed a public nuisance.

§ 423.36 Swimming.

(a) You may swim, wade, snorkel, scuba dive, raft, or tube at your own risk in Reclamation waters, except:

(1) Within 300 yards of dams, power plants, pumping plants, spillways, stilling basins, gates, intake structures, and outlet works;

(2) Within 100 yards of buoys or barriers marking public access limits;

(3) In canals, laterals, siphons, tunnels, and drainage works; or

(4) At public docks, launching sites, and designated mooring areas.

(b) You must display an international diver down, or inland diving flag in accordance with state and U.S. Coast Guard guidelines when engaging in any underwater activities.

(c) You must not dive, jump, or swing from dams, spillways, bridges, cables, towers, or other structures.

§ 423.37 Winter activities.

(a) You must not tow persons on skis, sleds, or other sliding devices with a motor vehicle or snowmobile, except that you may tow sleds designed to be towed behind snowmobiles if joined to the towing

snowmobile with a rigid hitching mechanism, and you may tow disabled snowmobiles by any appropriate means.

(b) You must not ice skate, ice fish, or ice sail within 300 yards of dams, power plants, pumping plants, spillways, stilling basins, gates, intake structures, or outlet works.

§ 423.38 Operating vessels on Reclamation waters.

(a) You must comply with Federal, state, and local laws applicable to the operation of a vessel or other watercraft on Reclamation waters, and with any restrictions established by an authorized official.

(b) You must not operate a vessel in an area closed to the public.

(c) You must observe restrictions established by signs, buoys, and other regulatory markers.

(d) You must not operate a vessel, or knowingly allow another person to operate a vessel, in a reckless or negligent manner, or in a manner that endangers or is likely to endanger a person, property, natural resource, or cultural resource.

(e) You must not operate a vessel when impaired or intoxicated under the standards established by applicable state and local law.

(f) You must not occupy a vessel overnight, except where otherwise designated under applicable Federal, state, or local law, or where otherwise designated by an authorized official in a special use area.

(g) You must not use a vessel as a place of habitation or residence.

(h) You must not place or operate a vessel on a Reclamation waterbody for a fee or profit, except as allowed by contract or permit issued pursuant to subpart D of this part 423.

(i) You must remove your vessels from Reclamation lands and waters when not in actual use for a period of more than 24 hours, unless they are securely moored or stored at special use areas so designated by an authorized official.

(j) You must not attach or anchor a vessel to structures such as locks, dams, regulatory or navigational buoys, or other structures not designed for such purpose.

(k) You must display an international diver down, or inland diving flag in accordance with state and U.S. Coast Guard guidelines when operating a vessel involved in any underwater activities.

(l) You may engage in towing activities, including but not limited to waterskiing and tubing, only during daylight hours and subject to any applicable Federal, state, and local law.

§ 423.39 Standards for vessels.

(a) All vessels on Reclamation waters must:

(1) Be constructed and maintained in compliance with the standards and requirements established by, or promulgated under, Title 46 United States Code, and any applicable state and local laws and regulations;

(2) Have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements and in compliance with applicable state and local boating safety laws and regulations; and

(3) If motorized, have and utilize a proper and effective exhaust muffler as defined by applicable state and local laws. Actions or devices which render exhaust mufflers ineffective are prohibited.

(b) Owners or operators of vessels not in compliance with this §423.39 may be required to remove the vessel immediately from Reclamation waterbodies until items of non-compliance are corrected.

§ 423.40 Vehicles.

(a) When operating a vehicle on Reclamation lands and Reclamation projects, you must comply with applicable Federal, state, and local laws, and with posted restrictions and regulations. Operating any vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barricade, is prohibited.

(b) You must not park a vehicle in violation of posted restrictions and regulations, or in a manner that would obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property, or natural feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.

(c) You must not operate any vehicle, or allow another person to operate a vehicle in your control, in a careless, negligent or reckless manner that would endanger any person, property, natural resource, or cultural resource.

(d) In addition to the regulations in this part, the regulations governing off-road-vehicle use in 43 CFR part 420 apply.

§ 423.41 Aircraft.

(a) You must not takeoff or land an aircraft on Reclamation lands or waterbodies except in special use areas so designated by an authorized official. This paragraph does not apply to pilots engaged in emergency rescue or in the official business of Federal, state, or local governments or law enforcement agencies, or who are forced to land due to circumstances beyond the pilot's control.

(b) You must not operate any aircraft while on or above Reclamation facilities, lands, and waterbodies in a careless, negligent, or reckless manner so as to endanger any person, property, or natural feature.

(c) This section does not provide authority to deviate from Federal or state regulations, or prescribed standards, including, but not limited to, regulations and standards concerning pilot certifications or ratings and airspace requirements.

(d) Except in extreme emergencies threatening human life or serious property loss, you must not use non-standard boarding and loading procedures to deliver or retrieve people, material, or equipment by parachute, balloon, helicopter, or other aircraft.

(e) Operation of aircraft on or over Reclamation lands and waterbodies is at the risk of the aircraft owner, pilot, and passenger(s).

(f) You must comply with all applicable U.S. Coast Guard rules and §423.38 when operating a seaplane on Reclamation waterbodies.

(g) You must securely moor any seaplane remaining on Reclamation waterbodies in excess of 24 hours at mooring facilities and locations designated by an authorized official. Seaplanes may be moored for periods of less than 24 hours on Reclamation waterbodies, except in special use areas otherwise designated by an authorized official, provided:

(1) The mooring is safe, secure, and accomplished so as not to damage the rights of the Government or the safety of persons; and

(2) The operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(h) Commercial operation of seaplanes from Reclamation waterbodies is prohibited.

(i) You must not operate a seaplane on Reclamation lands and waterbodies between sunset and sunrise.

(j) You must comply with any further restrictions on the operation of aircraft in the proximity of specific Reclamation facilities, lands, or waterbodies established by an authorized official.

(k) You must not operate model aircraft except as allowed in special use areas established by an authorized official under subpart E of this part 423.

§ 423.42 Gambling.

Commercial gambling in any form, or the operation of gambling devices, is prohibited on Reclamation facilities, lands, and waterbodies unless authorized by applicable treaties or Federal, state, and local laws or regulations.

§ 423.43 Alcoholic beverages.

You must not possess or consume alcoholic beverages in violation of Federal, state, or local law, or the rules of a special use area established by an authorized official under subpart E of this part 423.

§ 423.44 Controlled substances.

You must not possess, consume, deliver, or be under the influence of, controlled substances included in schedules I, II, III, IV, or V of part B of the Controlled Substance Act (21 U.S.C. 812) on Reclamation facilities, lands, or waterbodies, unless the controlled substance was legally obtained through a valid prescription or order.

Subpart D—Authorization of Otherwise Prohibited Activities

§ 423.50 How can I obtain permission for prohibited or restricted uses and activities?

(a) Authorized officials may issue permits to authorize activities on Reclamation facilities, lands, or waterbodies otherwise prohibited or restricted by §§423.16(a)(3), 423.26, 423.27, 423.29(b), 423.29(f), 423.30(c), 423.33(d), 423.35(d)(1), and 423.38(h), and may terminate or revoke such permits for non-use, non-compliance with the terms of the permit, violation of any applicable law, or to protect public health or safety or natural or cultural resources.

(b) You may apply for permission to engage in activities otherwise prohibited or restricted by the sections listed in paragraph (a) of this section. You may apply to the authorized official responsible for the area in

which your activity is to take place, and this authorized official may grant, deny, or establish conditions or limitations on this permission.

(c) You must pay all required fees and properly display applicable permits, passes, or receipts.

(d) You must not violate the terms and conditions of a permit issued by an authorized official. Any such violation is prohibited and may result in suspension or revocation of the permit, or other penalties as provided in subpart F of this part 423, or both.

(e) You must, upon request by a law enforcement officer, security guard, or other government employee or agent acting within the scope of their official duties, display any permit authorizing your presence or activity on Reclamation facilities, lands, and waterbodies.

Subpart E—Special Use Areas

§ 423.60 How special use areas are designated.

(a) After making a determination under paragraph (b) of this section, an authorized official may:

(1) Establish special use areas within Reclamation facilities, lands, or waterbodies for application of reasonable schedules of visiting hours; public use limits; and other conditions, restrictions, allowances, or prohibitions on particular uses or activities that vary from the provisions of subpart C of this part 423, except §423.28; and

(2) From time to time revise the boundaries of a previously designated special use area and revise or terminate previously imposed schedules of visiting hours; public use limits; and other conditions, restrictions, allowances, or prohibitions on a use or activity.

(b) Before taking action under paragraph (a) of this section, an authorized official must make a determination that action is necessary for:

(1) The protection of public health and safety;

(2) The protection and preservation of cultural and natural resources;

(3) The protection of environmental and scenic values, scientific research, the security of Reclamation facilities, the avoidance of conflict among visitor use activities; or

(4) Other reasons in the public interest.

§ 423.61 Notifying the public of special use areas.

When establishing, revising, or terminating a special use area, Reclamation must notify the public as required by this section.

(a) *What notices must contain.* The notice must specify:

(1) The location of the special use area; and

(2) The public use limits, conditions, restrictions, allowances, or prohibitions on uses and activities that are to be applied to the area or that are to be revised or terminated.

(b) *How notice must be made.* Reclamation must publish the notice required by paragraph (a) of this section in the Federal Register at least 15 days before the action takes place. Reclamation must also notify the public by one or more of the following methods:

- (1) Signs posted at conspicuous locations, such as normal points of entry and reasonable intervals along the boundary of the special use area;
- (2) Maps available in the local Reclamation office and other places convenient to the public;
- (3) Publication in a newspaper of general circulation in the affected area; or
- (4) Other appropriate methods, such as the use of electronic media, brochures, and handouts.

(c) *When notice may be delayed.*

(1) Notice under this section may be delayed in an emergency where delaying designation, revision, or termination of a special use area would result in significant risk to:

- (i) National security; or
- (ii) The security of a Reclamation facility, Reclamation employees, or the public.

(2) If the exception in paragraph (c)(1) of this section applies, Reclamation must comply with paragraph (b) of this section within 30 days after the effective date of the designation.

(3) Failure to meet the Federal Register notice deadlines in paragraphs (b) or (c)(2) of this section will not invalidate an action, so long as Reclamation meets the remaining notification requirements of this section.

(d) *When notice is not required.* Notice under this section is not required if all the following conditions are met:

- (1) The action will not result in a significant change in the public use of the area;
- (2) The action will not adversely affect the area's natural, esthetic, scenic or cultural values;
- (3) The action will not require a long-term or significant modification in the resource management objectives of the area; and
- (4) The action is not highly controversial.

§ 423.62 Documentation of special use area designation or termination.

(a) The authorized official must document the reasons for designating a special use area and the restrictions, conditions, public use limits, or prohibitions that apply to that area. In the case of the termination of a previously established restriction, condition, public use limit, or prohibition, the authorized official must make a written determination as to why the restriction is no longer necessary.

(b) Documentation of the designation or termination of a special use area must occur before the action, except in the emergency situations described in §423.61(c). In the latter case, the documentation is required within 30 days after the date of the designation.

(c) Reclamation will make documents produced under this section available to the public upon request except where such disclosure could compromise national or facility security, or human safety.

§ 423.63 Reservations for public use limits.

To implement a public use limit, an authorized official may establish a registration or reservation system.

§ 423.64 Existing special use areas.

Areas designated and formally documented for special uses, public use limits, or other restrictions, on April 17, 2006 will remain so designated without the need for compliance with §§423.60 through 423.63, except with respect to termination or modification of the special uses, public use limits, or other restrictions.

Subpart F—Violations and Sanctions

§ 423.70 Violations.

(a) When at, in, or on Reclamation facilities, lands, or waterbodies, you must obey and comply with:

- (1) Any closure orders established under subpart B of this part 423;
- (2) The regulations in subpart C of this part 423;
- (3) The conditions established by any permit issued under subpart D of this part 423; and
- (4) The regulations established by an authorized official in special use areas under subpart E of this part 423.

(b) Violating any use or activity prohibition, restriction, condition, schedule of visiting hours, or public use limit established by or under this part 423 is prohibited.

(c) Any continuous or ongoing violation of these regulations constitutes a separate violation for each calendar day in which it occurs.

§ 423.71 Sanctions.

Under section (1)(a) of Public Law 107–69, you are subject to a fine under chapter 227, subchapter C of title 18 United States Code (18 U.S.C. 3571), or can be imprisoned for not more than 6 months, or both, if you violate:

- (a) The provisions of this part 423; or
- (b) Any condition, limitation, or prohibition on uses or activities, or of public use limits, imposed under this part 423.

Comments?

The information in this Shoreline Management Plan can be found on the Montana Area Office website at:

www.usbr.gov/gp/mtao/canyonferry/index.cfm

Please mail comments to:

Ms. Robin Sutton

Bureau of Reclamation

7700 Canyon Ferry Road

Helena, MT 59602

fax your comments to: **406-475-9147**

or email your comments to: rsutton@gp.usbr.gov

by **July 24, 2008**