

## 3.14 Recreation

### 3.14.1 Introduction

This section analyzes the proposed project's potential impacts related to recreation. It describes existing conditions in the study area and summarizes the overall Federal, state, and local regulatory framework for recreation, and it analyzes the potential for the proposed project to affect these resources.

### 3.14.2 Existing Conditions

This section discusses the existing conditions related to recreation in the study area.

#### 3.14.2.1 Study Area

The project area is in the Central Valley, a region of the California which has fewer recreation facilities and less access to public open spaces compared to other state regions. The political support for park land and open space in the Central Valley has not been strong, and parks and open space have traditionally been viewed as low priority (California State Parks 2007:13, 17). The study area for the recreation analysis consists of the lower Feather River corridor and surrounding region. The lower Feather River region has a park-land-to-population deficit, which means that people travel out of the area to recreate because there are few or no local facilities. There is generally great pressure on publicly-owned land with river access and recreational resources in the lower Feather River corridor.

The lower Feather River and its adjacent levees are a popular recreation venue for local residents and visitors. While recreation opportunities vary among locations along the river, recreationists are attracted to water-based recreation as well as land-based recreation on the levees and facilities surrounding the river. Water-based recreation activities include boating, fishing, kayaking, canoeing, floating, tubing, waterskiing, and swimming. Land-based activities include bicycling, walking, hiking, hunting, bird-watching, wildlife viewing, enjoying nature trails, photography, and picnicking. Nearby public recreation facilities include Lake Oroville and the Lake Oroville State Recreation Area, Gray Lodge Wildlife Area, Feather River Wildlife Area, and the Gridley and Live Oak boat ramps. Each of these facilities offers some or all of the same recreation opportunities as the Oroville Wildlife Area (OWA).

Boating is a common activity along the Feather River. Motorized boat use (e.g., waterskiing, use of personal watercraft, and cruising along the river) is especially popular in various locations. Kayaking and canoeing are occasionally favored in reaches of the river. Downstream from the project area, boat ramps are distributed approximately every 7 miles between Thermalito Afterbay and the Sutter Bypass.

Fishing is another popular recreation activity throughout portions of the Lower Feather River corridor. Anglers fish from boats and the shore throughout the reaches of the river.

Access to the Feather River within the corridor is provided by state wildlife areas, local parks, and a wildlife sanctuary. Many parts of the shoreline, especially north of Yuba City and Marysville and

south of the OWA, are inaccessible to recreationists. The OWA is the only the recreation resource in or abutting the project area, as described below.

### **3.14.2.2 Oroville Wildlife Area**

The OWA is managed by California Department of Fish and Wildlife (DFW). The OWA encompasses approximately 11,869 acres and is primarily riparian woodland habitat along the Feather River and grasslands around Thermalito Afterbay (California Department of Fish and Wildlife 2016). Hunting, fishing, swimming, picnicking, hiking, horseback riding, birding, biking, boating, camping and other activities are allowed in the OWA (California Department of Fish and Game 1978:2). There is also an onsite shooting range for rifles, pistols, shotguns, and archery (California Department of Fish and Wildlife 2016). The OWA is accessible by driving, boating, biking, horseback riding, and walking from public roads or trails.

California Department of Water Resources (DWR) has traffic counters in place at all entrances to the OWA. Visitor use spikes during June–October mainly due to people accessing the Feather River for fishing opportunities. The peak visitation season begins in mid-July, which coincides with the annual opening of salmon fishing season on the river. For the past several years, the salmon fishing season has been quite slow due to reduced river flows and below average salmon returns. DWR's preliminary data numbers for 2014 indicate a total of 325,700 visitors to the OWA; of those visitors, 205,300 came during the peak months of June-October. The same data set indicates a total of 44,500 visitors to the project area; of those visitors, 28,000 came during the peak months of June-October (Dill pers. comm.).

## **3.14.3 Regulatory Setting**

Regulations and policies applicable to recreation are noted below.

### **3.14.3.1 Federal**

Federal policies or regulations related to recreation resources include the Constitution of the United States, the Federal Energy Regulatory Commission regulations, the 2004 Engineering Manual 1110-1-400 prepared by U.S. Army Corps of Engineers (USACE), and the Recreation Facility Design Guidelines prepared by U.S. Department of the Interior (DOI). These regulations apply to the access to, development of, improvements to, and ongoing maintenance of new and existing recreation facilities and resources in the project area. Federal plans prepared by USACE and DOI could affect the development of recreation facilities and resources in the project area.

#### **Constitution of the United States**

The Commerce Clause of the U.S. Constitution conveys on the Federal government “the control for that purpose, and to the extent necessary, of all the navigable waters of the United States...This power to regulate navigation confers upon the United States a dominant servitude, which extends to the entire stream and the stream bed below ordinary high-water mark.” United States v. Rands (1967), 389 U.S. 121.

#### **Federal Energy Regulatory Commission**

DWR's original license for operation of the Oroville Facilities (Lake Oroville, Lake Oroville State Recreation Area, and the OWA), Federal Energy Regulatory Commission (FERC) Project No. 2100,

issued by the Federal Power Commission on February 11, 1957, expired on January 31, 2007. A settlement agreement for relicensing the Oroville Facilities was made and entered into pursuant to FERC Rule, 18 Code of Federal Regulations (CFR) § 385.602 between various stakeholders in 2006 for the purpose of resolving all issues that have or could have been raised by stakeholders in connection with FERC's order issuing the new license (California Department of Water Resources 2006a:1-7).

As a component of the new FERC license to operate the Oroville Facilities, a Recreation Management Plan (RMP) was developed by DWR. The RMP is a guide to facilitate the management of existing and future recreation resources associated with the Oroville Facilities. The RMP provides a vision of the desired future condition for recreation resources in the Oroville Facilities project area, establishes long-term goals and objectives for managing recreation resources in the project area, and identifies both site-specific and programmatic recreation measures to be implemented over the term of the anticipated new license. The RMP is intended to be specific to DWR's recreation resource roles and responsibilities for the term of the new FERC license (California Department of Water Resources 2006b:ES-1).

### **U.S. Army Corps of Engineers**

USACE prepared Engineering Manual 1110-1-400 to achieve a nationwide standard for park and recreation facilities managed by USACE. The manual provides guiding principles for ensuring consideration of the design, use, accessibility, sustainability, and cost of facilities; the health, safety, recreation needs, and welfare of the intended users; and the long-term harmony of the facility with the environment and maintenance requirements. The most recent update to the manual was in 2004.

### **U.S. Department of the Interior**

In 2013, DOI prepared The Recreation Facility Design Guidelines for the Bureau of Reclamation, its managing partners, and concessionaires to use during the recreation facility planning, design, and budget development process. The document provides a design data checklist, facility design guidelines, and guidance for using manufactured site components. A large portion of the document is devoted to accessibility requirements and sustainability in design.

## **3.14.3.2 State**

State policies or regulations related to recreation resources may apply to implementation of the proposed project including the Constitution of the State of California and the Oroville Wildlife Area Management Plan.

### **Constitution of the State of California**

The California law principle of a public right to access navigable waterways runs parallel to the Federal concept of a navigable servitude, described above. Article X, section 4 of the California Constitution guarantees members of the public a right of access to the navigable waters of the state, which are held in trust for the benefit of the people:

No individual, partnership, or corporation, claiming or possessing the frontage of tidal land of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most

liberal construction to this provision, so that access to navigable waters of this State shall always be attainable for the people thereof.

This right is also reiterated in statute, see, e.g. Gov. Code, § 39933. This right is inherent in the public trust under which the navigable waters are held (see *Marks v. Whitney* [1971] 6 Cal.3d 251; 79 Ops.Cal.Atty.Gen. 133, 135-146 [1996]). The interest of the public in the waters and bed of a navigable river is analogous to that of the public in a public road. See, e.g., *People ex rel. Younger v. County of El Dorado*, 96 Cal. App. 3d 403, 157 Cal. Rptr. 815 (3d Dist. 1979).

Although the state may not “divest the people of the State of their rights in navigable waters of the state,” the public’s right to access navigable waterways is not absolute. For example, the public has no right to trespass and cross private lands in order to reach navigable waters to hunt or fish. *Bohn v. Albertson*, 107 Cal. App. 2d 738, 238 P.2d 128 (1st Dist. 1951). The state’s authority to control and regulate usage of its navigable waterways is absolute when it is acting within the terms of the public trust. For example, an agency may restrict the public’s access rights in a specific instance if the purpose of the restriction is to promote the overall use of navigable waters (*City of Berkeley v. Superior Court*, supra, 26 Cal.3d at 523-526), and when there are competing trust uses, the state may prefer one use over another (*Carstens v. California Coastal Commission* [1986] 182 Cal.App.3d 277, 289 [holding that the law did not preclude an agency from considering “commerce as well as recreational and environmental needs” in mediating access disputes]).

### **Oroville Wildlife Area Management Plan**

The document describes the purpose, current uses, potential uses, and long range plan for the OWA. The primary purpose of the wildlife area is to preserve and enhance the fish and wildlife resources for use and enjoyment by the public (California Department of Fish and Game 1978:1)

#### **3.14.3.3 Local**

Butte County and the Feather River Recreation and Park District have each adopted policies and goals promoting recreation via trail, bikeway, open space, and park facilities.

#### **Butte County General Plan 2030**

The Butte County General Plan 2030 establishes several goals, policies, and actions affecting recreation including bicycle and park facilities (County of Butte 2012:197–208, 241–247, 350–353). These appear in the Circulation Element and the Public Facilities and Services Element.

**Goal CIR-1:** Promote intergovernmental communication and cooperation concerning transportation-related issues.

**Goal CIR-2:** Plan for transportation modes and strategies that ensure good air quality, reduce greenhouse gas emissions, reduce petroleum consumption and reduce the need to devote additional lands to transportation uses.

**Goal CIR-3:** Design new neighborhoods, and improve existing neighborhoods, to accommodate and promote alternative modes of transportation.

**Goal CIR-5:** Provide a safe, continuous, integrated, and accessible bicycle system, so as to encourage the use of the bicycle as a viable transportation mode and as a form of recreation and exercise.

**Goal CIR-9:** Provide a circulation system that supports public safety.

**Goal COS-6:** Engage in cooperative planning efforts to protect biological resources.

**Goal COS-7:** Conserve and enhance habitat for protected species and sensitive biological communities.

**Goal COS-8:** Maintain and promote native vegetation.

**Goal COS-10:** Facilitate the survival of deer herds in winter and critical winter migratory deer herd ranges.

**Goal PUB-6:** Support a comprehensive and high-quality system of recreational open space and facilities.

**Goal PUB-7:** Encourage local, regional, and State parks providers to engage in coordinated and cooperative planning efforts.

**Goal PUB-8:** Coordinate an interconnected multiuse trail system.

- **Policy PUB-P8.1** The County shall work with the municipalities and park and recreation districts to connect trails between incorporated and unincorporated regions of Butte County.
- **Policy PUB-P8.2** The County shall work with local jurisdictions, Lassen and Plumas National Forests, the California Department of Water Resources and the California Department of Fish and Game to designate additional shared use trails along unpaved County roads, access roads, and fire roads.
- **Policy PUB-P8.3** The development of abandoned railroad rights-of-way, levee tops, utility easements, and waterways for new multiuse trails shall be pursued where appropriate.
- **Policy PUB-P8.4** The County supports development of additional equestrian trails, including safe routes along roads.
- **Policy PUB-P8.5** The County supports development of additional off-road vehicle trails.
- **Policy PUB-P8.6** The County supports acquisition of appropriate and adequate funding for the creation and ongoing maintenance of trails.
- **Policy PUB-P8.7** New development shall incorporate multiuse trails and connections to existing trail networks.
  - **Action PUB-A8.2** Cooperate with appropriate agencies to conduct a countywide trails planning study to identify new needed routes and connections to the existing trails network, as well as to address funding and management of trail facilities.

## Countywide Bikeway Master Plan

Butte County adopted the Butte County Bicycle Plan in June of 2011. The Butte County Bicycle Plan identifies the following goals, objectives, and policies affecting recreation (County of Butte 2011:22–25):

**Goal 1:** Provide a safe and efficient bikeway system.

**Goal 2:** Provide continuous and convenient bicycle access to and between major destinations throughout the County.

- **Objective:** Develop a bikeway program that identifies inter-regional bikeway needs.
  - **Policy** Provide inter-jurisdictional coordination and prioritization for the implementation of an inter-regional bikeway program.
  - **Policy** Identify and give funding priority to projects which connect existing regional bikeway facilities.
  - **Policy** Encourage linkages between local bikeways to regional bikeways.

- **Policy** Promote bikeway linkages to regional educational, recreational, shopping, governmental, and other attractions.

**Goal 3:** Promote bicycling as a part of the intermodal transportation system.

**Goal 5:** Develop a bikeway system that encourages and facilitates commuter use.

**Goal 6:** Develop a bikeway system that encourages and facilitates recreational use.

- **Objective:** Encourage recreational bicycling by providing a bikeway system that responds to the riding needs of both the avid cyclist and the “weekend” rider.
  - **Policy** Emphasize connections to regional recreational centers, such as Bidwell Park, Lake Oroville, the Afterbay, and along the Sacramento River.
  - **Policy** Plan bikeway facilities to take full advantage of the scenic qualities of Butte County for the enjoyment of residents and visitors alike.
  - **Policy** Provide adequate bicycle parking facilities at regional recreation areas where warranted by demand.

**Goal 7:** Promote fitness and health benefits through increased opportunities for bicycling activity

- **Objective:** Emphasize health and fitness benefits by collaborating with area agencies, schools, and groups to promote and educate local residents on the available opportunities and benefits provided by the County bikeway system.
  - **Policy** Promote adequate bicycle parking facilities at regional recreation areas where warranted by demand.

**Goal 8:** Pursue and obtain maximum funding available for bikeway programs.

- **Objective:** Develop a bikeway project list that includes projects that meet requirements for a variety of funding sources.
  - **Policy** Develop ongoing contacts with regional, state, and federal agencies, and private entities to identify available funding sources.

The Butte County Bicycle Plan lists and shows existing and planned Class I and Class II bike routes in the county, including a Class II bike route planned along Pacific Heights Road less than 0.1 mile east of the project area (County of Butte 2011:31, 52). The plan does not include any planned bicycle facility for the Feather River Levee or roadways within the project area.

### **Feather River Recreation and Park District Master Plan**

The portion of the OWA east of the Feather River, including the project area, is in the South Planning Area of the 735-square-mile Feather River Recreation and Park District (FRRPD). The FRRPD has developed a 2020 Park and Recreation Master Plan with input and cooperation from the general public and public agencies. The plan is intended to provide a framework to implement FRRPD’s mission and vision of providing and maintaining quality parks and promoting recreation opportunities along the Feather River Parkway downstream of Oroville Dam (Feather River Recreation and Park District 2011:3-4–3-5). Population growth within and adjacent to FRRPD is expected to increase between 2.1% to 3.5% over the next 10 years and increase pressure on recreation facilities. Priorities identified for the South Planning Area that pertain to the project area include:

- Secure land to protect open space and natural resources along the Feather River
- Create/expand existing public lands and add new recreation opportunities to create an expanded Feather River Parkway

An action item included in the plan suggests that FRRPD should work with DWR to plan and extend the existing asphalt trail in the Feather River Parkway to the west and south along the Feather River, including a section within the OWA (Feather River Recreation and Park District 2011: 4-61). Part of the plan includes pursuing funding opportunities through the Oroville Facilities settlement agreement as a recreation related improvement within the FERC Project boundary and could include recreation improvements within the OWA (Feather River Recreation and Park District 2011:6-31).

In regards to the FERC license, DWR does not make management or resource commitments to local recreation providers for capital improvements, operation, or maintenance except for allocations of the supplemental benefit fund (SBF). The SBF was created by DWR as part of the FERC relicensing agreement to mitigate the loss of recreation due to the damming of the Feather River. Up to approximately \$60 million will be available over the next fifty years for allocation to fund projects approved by the SBF Committee, a committee comprised of members from the Oroville City Council and RFFPD's Board of Directors (Feather River Recreation and Park District 2011:3-30-3-33).

### 3.14.4 Environmental Effects

Potential impacts of the proposed project on recreation are discussed in the context of State CEQA Guidelines Appendix G checklist items:

*a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

#### **Impact REC-1: Temporary Disruption of Recreation Opportunities during Construction (less than significant with mitigation for all components)**

Portions of the OWA would likely be closed to the public to accommodate construction activities. The construction sequencing plan indicates most or all of the parking areas would be open by July 16 and available to visitors during peak visitation season. Proximity to the construction equipment and noise could degrade recreational experiences in the portions of the OWA remaining open during construction. Recreationists may choose to use other nearby facilities offering similar recreation experiences such as portions of the OWA on the other side of the river, Gray Lodge Wildlife Area, Feather River Wildlife Area, Lake Oroville State Recreation Area, or the Gridley and Live Oak boat ramps. Most recreationists would likely stay within the OWA and utilize the access points to the Feather River on the west side. DWR's preliminary data numbers for 2014 indicate a total of 122,200 visitors to OWA's west side; of those visitors, 75,600 came during the peak months of June–October (Dill pers. comm.). Assuming 25% of peak season visitors to the project area could choose to use other nearby facilities, 7,000 visitors over the 5-month period may recreate in the OWA's west side or elsewhere. This is equivalent to approximately 46 visitors per day.

#### **Vegetation Management**

The proposed project would remove a total of 700 acres of invasive plant species and install approximately 150 acres of new riparian woodland. The vegetation management would result in these areas of the OWA being temporarily closed over a period of years including construction and later maintenance and monitoring activities. With implementation of Mitigation Measure REC-MM-1, which requires notification of construction area closure to ensure public safety and provide closure notice in advance of construction activities, this impact would be less than significant.

### **Hydraulic Improvements**

The installation of rock gabions, notch connections, flood control outflow weir, fish barrier berm, interior channel grading improvements, and interior road culvert crossings would result in these areas of the OWA being temporarily closed for a period of approximately 7 months. With implementation of Mitigation Measure REC-MM-1, which requires notification of construction area closure to ensure public safety and provide closure notice in advance of construction activities, this impact would be less than significant.

### **Recreation Features**

The installation of parking area improvements, a concrete pad for existing portable restrooms, two pedestrian footbridges, and shared pedestrian/vehicular bridge and implementation of the Feather River pedestrian access grading improvements would result in these areas of the OWA being temporarily closed for a period of approximately 7 months.

The disruption of recreation opportunities during construction is temporary and highly localized. There are alternative locations for hunting, fishing, swimming, picnicking, hiking, horseback riding, birdwatching, biking, boating, camping, and wildlife viewing within a few miles of the project area at other locations in Butte, Sutter, and Yuba Counties. Other portions of the OWA will remain open and accessible during project implementation. With implementation of Mitigation Measure REC-MM-1, which requires notification of construction area closure to ensure public safety and provide closure notice in advance of construction activities, this impact would be less than significant.

#### **Mitigation Measure REC-MM-1. Post Notices of Construction Activities**

SBFCA will ensure that the contractor posts notice of construction activities and intended days of construction area closure at least 30 days in advance of closures in and near formal recreation facilities. SBFCA will designate a Public Information Officer for this project. Appropriate signage will be posted adjacent to access roads; signs will be at least 3 square feet in size; inform visitors of the current conditions, road closures, and access limitations; and provide a contact (Public Information Officer) for questions regarding project construction. SBFCA will also ensure that the construction area is fenced off to preclude public access.

***b. Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?***

#### **Impact REC-2: Long-term increase in recreation opportunities with beneficial effect on the environment (beneficial effect for all components)**

Improvements in vegetation management, hydraulics, and recreation features would constitute an upgrade in the habitat quantity, recreation quality, and safety of the existing OWA and enhance recreation experiences for recreationists. The recreation enhancements would occur within an area already designated for recreational use and advance the policies of Federal, state, and local agencies.

### **Vegetation Management**

The proposed project would remove a total of 700 acres of invasive species and install approximately 150 acres of new riparian woodland. The vegetation management would result in these areas of the OWA being temporarily closed for maintenance and monitoring activities while work is conducted. All closures would be coordinated with DFW and DWR. Following installation of



the new riparian woodland and scrub plantings, habitat quality and habitat value for wildlife viewing and hunting within the OWA would be increased. Habitat enhancement through vegetation management would be expected to continue in the years following project implementation as a beneficial effect on recreation and the environment.

### **Hydraulic Improvements**

Hydraulic improvements are expected to benefit fish populations and improve fish habitat. Project implementation would result in improved fishing opportunities for recreationists and would have a beneficial effect on recreation and the environment.

### **Recreation Features**

Following installation, the recreation opportunities and experience of the OWA would be improved. Recreation enhancements, including replacement of footbridges and grading of terrain, would allow for improved pedestrian access to the Feather River and OWA from the parking areas and trail network. Vehicular access to OWA would also be improved through parking lot enhancements. The vehicular access improvements would increase safety and decrease emergency vehicle response time. Sanitary conditions and comfort of recreationists could be improved by the construction of a concrete pad for existing portable restrooms included as part of the project. The proposed improvements would also reduce the potential for habitat and water quality degradation from vehicles or human activities by establishing formal parking areas for vehicles, designating trails for pedestrian traffic, and providing bridges over water areas near parking and trail areas. These improvements are considered beneficial effects on recreation and the environment.