

4 THE PLANNING PROCESS



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4.1 LEAD AGENCY

The Conservancy is the lead agency for the proposed Parkway Master Plan under CEQA. The Conservancy has the authority to approve the proposed Plan, acquire lands for the Parkway, approve specific projects on its lands, and approve grants to develop the Parkway, among other discretionary actions.

4.2 REGIONAL PLANNING CONTEXT AND REGULATORY JURISDICTIONS

4.2.1 INCORPORATING THE PARKWAY MASTER PLAN IN LOCAL AGENCIES' GENERAL PLANS

Local governments are implementing zoning and land use policies to conserve the riverbottom area as open space; have incorporated Parkway Master Plan policies in their General, Community and Specific Plans; and require public access to the river in accordance with the Subdivision Map Act. Figure 4-1 shows the spheres of influence for the City of Fresno, the County of Madera, and the County of Fresno in relation to the Parkway Planning Area.

4.2.2 OVERVIEW OF STREAM AND FLOODPLAIN-RELATED REQUIREMENTS AND PLANS

A brief summary of regulatory requirements affecting Parkway development and policy follows.

FEDERAL EMERGENCY MANAGEMENT AGENCY 100-YEAR FLOOD MAPS (FLOOD INSURANCE RATE MAPS)

- Map the base flood elevation for an event with 1% probability of occurring in any year.
- Flood insurance is required in the mapped floodplain.
- Habitable structures must be flood-proofed and elevated above the 100-year base flood elevation. Structures must be designed and constructed so that they cannot be substantially damaged by flooding and must not hinder the passage of flood flows.

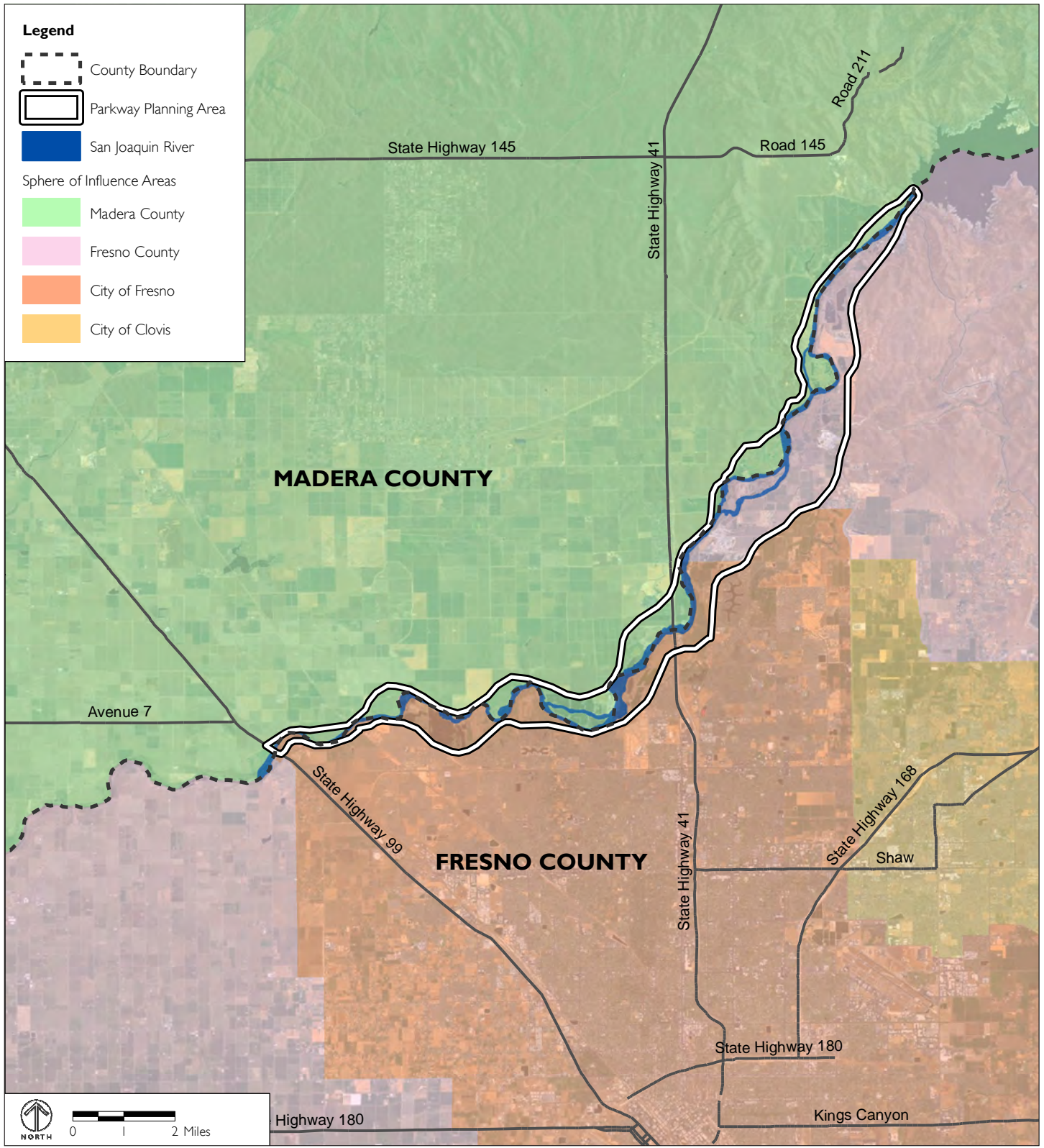


FIGURE 4-1
SPHERE OF INFLUENCE AREAS

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- Fill to elevate structures must be from on-site; there must be no net displacement of flows or capacity (generally, no imported fill).
- Revised by the US Army Corps of Engineers in 2001, after the 1997 flood.
- Map of the 100-year base flood elevation was modeled based on hypothetical uncontrolled flows from Friant Dam of 71,000 cubic feet per second (cfs).
- The 1997 flood was approximated at 60,300 +/- cfs.
- Prior to 2001, the maps were based on 100-year flows estimated to be below 20,000 cfs.

FEMA FLOODWAY, STATE DESIGNATED FLOODWAY

- During a 100-year flood, the floodway is the area expected to be conveying flows with strong currents (not areas that would experience standing inundation).
- No obstructions to flows or improvements that may come loose and become obstructions may be placed within the floodway.

CENTRAL VALLEY FLOOD PROTECTION PLAN

- This plan increased flood protection requirements in much of the San Joaquin River floodplain; this is legislatively intended to curb urban development and reliance on levees in flood prone areas.

STATE SOVEREIGN LANDS, LANDS IN THE PUBLIC TRUST

- Upon becoming a state, the State of California took ownership of lands underlying the state's navigable and tidal waterways, known as "Sovereign Lands." These state sovereign lands, between the ordinary low water marks, are in State fee title ownership and are under the management jurisdiction of the California State Lands Commission (SLC).
- Sovereign lands are held by the State in public trust. The Public Trust affirms the duty of the State to protect the people's common heritage in navigable waters for their common use. The Public Trust Doctrine embraces the right of the public to use the navigable waters of the State for fishing, swimming, boating, and general water-related recreational purposes. The Public Trust encompasses preservation of the lands in their natural state for scientific study, as open space, and as wildlife habitat.
- The areas between the high and low water marks are within the upland land ownership; however, they are subject to the Public Trust. Private uses within these areas may not conflict with or preclude Public Trust uses.
- State Lands Commission established administrative maps of the high and low water marks for SLC purposes for the Parkway reach of the San Joaquin River in 1992.
- Leases from the SLC are required for improvements and uses on state sovereign lands.

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U.S. ARMY CORPS OF ENGINEERS REGULATES DISCHARGES OF FILL TO WATERS OF THE U.S.

- Waters of the U.S. include jurisdictional streams riverward of the ordinary high water marks and all associated wetlands.
- Discharges of fill (very broadly construed) to waters of the U.S. require Section 404 permits.
- No net loss of wetland is required; avoidance is emphasized.
- Associated water quality permits (Section 401) are required by the Central Valley Water Quality Control Board.

DEPARTMENT OF FISH AND GAME STREAMBED ALTERATION AGREEMENTS

- Written agreements are required for all projects that will alter the bed, bank, or riparian corridor of a stream.
- Avoidance of impacts is emphasized.

SAN JOAQUIN RIVER RESTORATION PROGRAM (SJR RESTORATION PROGRAM)

- The SJR Restoration Program Stipulation of Settlement sets forth the agreed upon restoration releases from Friant Dam. The maximum SJR Restoration Program flows are 4,000 cubic feet per second (cfs) for approximately two weeks in wet and normal wet years (estimated probability 50 percent of years). Fall SJR Restoration Program releases are 400 to 700 cfs for ten days and spring releases are 500-2,000 for 8-16 weeks, in all but the driest years and varying by water year.
- SJR Restoration Program flows are not in addition to flood releases, and do not affect necessary flood releases. Potential SJR Restoration Program actions in the reach are available in Appendix G of the certified SJR Restoration Program Final Program Environmental Impact Study/Report.
- CDFW SJR Restoration Program actions and projects, including planned fisheries management actions in the Parkway reach, are described and the impacts are analyzed in the San Joaquin River Restoration Program: Salmon Conservation and Research Facility and Related Fisheries Management Actions Project EIR.

SPRING FLOOD RELEASES/DAM OPERATIONS

- Maximum controlled releases out of Friant Dam are normally 8,000 cfs.

ENDANGERED SPECIES

- Elderberries, common streambank plants in the Parkway, are the host plant of the valley elderberry longhorn beetle. Where the species occurs, avoidance buffers are required to protect against impacts

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to the species. Where it is impossible to avoid impacts, relocation and replacement planting at elevated ratios is required.

- California tiger salamanders utilize small mammal burrows the majority of the year and may be presumed by the regulatory agencies to be present in some areas of the Parkway.
- Other endangered species may potentially occur in Parkway project areas.
- A Safe Harbor Agreement may be necessary to allow the Conservancy to provide and manage lawful, public activities that may inadvertently “take” federally listed species.
- Initially, salmon reintroduced to the San Joaquin River as part of the San Joaquin River Restoration Program are considered a non-essential experimental population, providing the Conservancy protection from take of that species incidental to otherwise lawful activities. However, Parkway activities potentially affecting salmon may eventually require incidental take permits.

CENTRAL VALLEY VISION, DPR 2007

- The Conservancy and the Central Valley Vision strategic plan share common goals for acquisition and development, focusing specifically on areas with the following characteristics:
 - Protecting under-represented natural resources;
 - Providing recreational water features to support multiple uses and interests;
 - Establishing river recreation corridors and parkways;
 - Providing high demand recreational activities such as trails, day use, and youth activities;
 - Linking large areas of protected habitat;
 - Serving growing communities and diverse interests; and
 - Creating partnerships among organizations and agencies.
- State Parks emphasizes the need for collaboration to implement the Central Valley Vision strategic plan. San Joaquin River Parkway projects are inherently collaborative as a result of the Conservancy’s structure and the member agencies’ inter-reliance.

4.3 PROGRAMMATIC PLAN AND EIR

The Master Plan Update and EIR are both programmatic documents that provide a framework to guide the continued phased implementation and tiered site- and project-specific CEQA review of future Parkway projects in context with the overall intent and build-out of the Parkway. This framework enables individual projects to be consistent with the overall goals and policies of the Parkway. A program-level EIR provides the following efficiencies and benefits for the Parkway:

- More exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual project.
- Ensured consideration of cumulative impacts that might be slighted when reviewing individual projects.

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- Avoids duplicative reconsideration of basic policy considerations.
- Allows the Conservancy to consider broad policy alternatives and program-wide mitigation measures.
- Expedited environmental review for future projects that are consistent with the Master Plan Update.

If a future project has no new effects or no new required mitigation measures, the scope of that project can be covered by the program-level EIR, and no new environmental document would be required.

When there are new effects or new required mitigation measures, or new projects not previously addressed, the program-level EIR may be used for tiering later EIRs or negative declarations, thus expediting future environmental reviews.