



**MINUTES**  
**WEDNESDAY, FEBRUARY 27, 2019**  
**SAN JOAQUIN RIVER CONSERVANCY**

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GOVERNING BOARD

Brett Frazier, Chairperson  
*Supervisor,*  
*Madera County Board of Supervisors*

Santos Garcia, *Councilmember*  
*City of Madera*

Nathan Magsig, *Supervisor*  
*Fresno County Board of Supervisors*

Steve Brandau, *Councilmember*  
*City of Fresno*

Kacey Auston, *Director, Fresno*  
*Metropolitan Flood Control District*

Carl Janzen, *Director*  
*Madera Irrigation District*

Julie Vance, *Regional Manager*  
*Department of Fish and Wildlife*

Kent Gresham, *Sector Superintendent*  
*Department of Parks & Recreation*

John Donnelly, *Executive Director*  
*Wildlife Conservation Board*

Julie Alvis, *Deputy Assistant*  
*Secretary*  
*Natural Resources Agency*

Jennifer Lucchesi, *Executive Officer*  
*State Lands Commission*

Karen Finn, *Program Budget Manager*  
*Department of Finance*

Bryn Forhan  
Paul Gibson  
Vacant  
*Citizen Representatives*

John M. Shelton  
*Executive Officer*

**Board Meeting Location:**  
Fresno City Council Chambers  
2600 Fresno St., Fresno, CA 93721  
and  
California Natural Resources Agency  
1416 Ninth Street, Ste. 1311  
Sacramento, CA 95814

MEETING AGENDA

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairperson Frazier called the meeting to order at 10:33 a.m. and Mr. Magsig led the pledge of allegiance.

**A. ROLL CALL**

Name	Present	Telecon- ference	Absent	Late
Chairperson Brett Frazier	X			
Mr. Santos Garcia	X			
Mr. Nathan Magsig	X			
Mr. Steve Brandau	X			
Ms. Kacey Auston			X	
Mr. Carl Janzen	X			
Ms. Julie Alvis	X			
Ms. Julie Vance	X			
Mr. Kent Gresham	X			
Mr. John Donnelly	X			
Ms. Jennifer Lucchesi	X			
Ms. Karen Finn	X			
Ms. Bryn Forhan	X			
Mr. Paul Gibson	X			

Ms. Bains confirmed a quorum was present.

Legal Counsel Present: Christina Morkner-Brown, Deputy Attorney General

Staff Present: John Shelton, Executive Officer  
Melinda Marks, Special Consultant  
Rebecca Raus, Associate Governmental Program Analyst  
Jasanjit Bains, Staff Services Analyst  
Heidi West, Program Manager, San Joaquin River Conservancy  
Projects, Wildlife Conservation Board (WCB)

**B. ADDITIONS TO THE AGENDA**

Items identified after preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Gov. Code § 54954.2(b)(2))

There were no additions to the Agenda.

**C. POTENTIAL CONFLICTS OF INTEREST**

Any Board member who has a potential conflict of interest may identify the item and recuse themselves from discussion and voting on the matter. (FPPC §97105)

There were no potential conflicts of interest.

**D. PUBLIC COMMENT AND BUSINESS FROM THE FLOOR**

Ten minutes of the meeting are reserved for members of the public who wish to address the Conservancy Board on items of interest that are not on the agenda and are within the subject matter jurisdiction of the Conservancy. Speakers shall be limited to three minutes. The Board is prohibited by law from taking any action on matters discussed that are not on the agenda; no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.

There were no comments from the floor.

**E. CONSENT CALENDAR**

All items listed below will be approved in one motion unless removed from the Consent Calendar for discussion:

E-1 **ACTION ITEM:** Approve Minutes of February 11, 2019

E-2 **INFORMATIONAL ITEM:** Update on the Multi-Benefit Water Quality, Water Supply, Ecosystem and Watershed Protection and Restoration Grants for the 2018-2019 Cycle

Staff Recommendation:

This report is provided for informational purposes. No Board action is recommended.

Mr. Shelton mentioned the roll call votes were not shown on the meeting minutes of February 11, 2019, as presented. There was one Board member who attended the Board meeting via teleconference. There were two votes taken by roll call vote, both unanimous. The minutes would be amended to show the roll call vote.

**Ms. Forhan moved to approve the Consent Calendar, with the minutes amended as recommended; the motion was seconded by Mr. Janzen. The motion passed as follows:**

Name	YES	NO	ABSTAIN
Chairperson Frazier	X		
Mr. Garcia	X		
Mr. Magsig	X		
Mr. Brandau	X		
Mr. Janzen	X		
Ms. Alvis	X		
Ms. Vance	X		
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Lucchesi			X
Ms. Finn	X		
Ms. Forhan	X		
Mr. Gibson	X		

**F. REGULAR SESSION ITEMS**

F-1 **ACTION ITEM:** Board Vote to Provide Direction to Staff on How to Proceed with Implementing the River West Fresno, Eaton Trail Extension Project. The Board May Vote to Direct Staff to proceed with implementing Alternative 5B, North Palm Access or Pursue a Different Direction for the Project, Including Considering Other Project Alternatives.

Mr. Shelton reported that this agenda item has been scheduled to provide the Board the opportunity to formally direct staff on how to proceed with implementing the River West Project. On February 11, 2019, the Board rescinded actions taken on three motions at the January 9, 2019; those actions are no longer valid and were being considered again at this meeting. If the Board directs staff to proceed toward consideration of Alternative 1 or another alternative or potential project, the Board shall not rescind Resolution 17-02 or approve an alternate until all analyses have been prepared, California Environmental Quality Act (CEQA) completed, and the proposed action is posted on a future agenda.

Mr. Shelton reviewed a range of possible Board actions as described in the staff report. The options discussed included but were not limited to: voting to direct staff to proceed toward implementing Alternative 5B, as approved per Resolution 17-02; voting to direct staff to proceed with analyses and documentation necessary for the Board to consider at a future public hearing rescinding approval of Alternative 5B per Resolution 17-02, and approving the Project with Alternative 1; and voting to direct staff to implement the core project elements described in the EIR certified in Resolution 17-01 and as approved in Resolution 17-02, and delay additional work to further implement the approved North Palm Access. The implementation steps, including CEQA compliance and tasks, were presented for each option.

Mr. Magsig asked Mr. Shelton what were the unavoidable impacts of Alternatives 1 and 3 identified in the Environmental Impact Report (EIR) for the project. Mr. Shelton stated for Alternative 1 there were unavoidable traffic impacts.

Ms. Morkner-Brown responded that the unavoidable impact for Alternative 3 was that it was not consistent with the San Joaquin River Parkway Master Plan.

On inquiry by Mr. Magsig regarding the Conservancy's role in building and maintaining the traffic signal required to mitigate Alternative 1, Mr. Shelton stated the Conservancy would need to partner with the City of Fresno.

Mr. Magsig added that Alternative 1 is not aligned with the City's General Plan. If the Board moves forward with a project that is not aligned with the City's General Plan, would the Conservancy be in a legal bind until the City is willing to accept that alternative?

Ms. Morkner-Brown stated that if an impact under CEQA cannot be mitigated, an agency can continue with a project with a statement of Overriding Considerations that outweigh the impacts.

Ms. Vance asked how the core project was presented in the EIR. Ms. Morkner Brown stated it was described in the EIR as the Proposed Project, and was to an extent included in each alternative, except the No Project Alternative.

Ms. Alvis noted that the Board had previously received preliminary information about the cost of operations and maintenance. Did those estimates include the core project and an alternative access point?

Ms. Marks stated the numbers that were provided were rough, ball-park estimates that considered the entire project. The main thing that drove the cost was providing for onsite full-time staff. The estimates would need to be investigated further.

Mr. Shelton stated there is a need for operations and maintenance funding for the entire Parkway. It might be possible to operate the project in a manner similar to the concessions agreement with the San Joaquin River Parkway and Conservation Trust to operate Sycamore Island. Volunteers and other nonprofits could enter into partnerships with the Conservancy as well.

Chairperson Frazier mentioned he received an email that stated there is no funding for Alternative 5B. He wanted clarification if the information was correct.

Mr. Shelton stated there is enough funding with bond funds to cover the development of both the core elements and the alternative, as well as some other Parkway projects. Authorization to expend the funds would need to come back to the Board for approval.

Chairperson Frazier added that the funding was available for any alternative or project, subject to Board authorization.

Ms. Vance added the bond funds are only for construction and not operations and maintenance.

Mr. Janzen mentioned there would need to be an agreement on operations and maintenance before there is a construction bid.

Mr. Shelton stated that until there is final design, it is difficult to assess operations and maintenance costs.

Ms. Finn mentioned, with regards to operations and maintenance funding, the Conservancy could bring forward a proposal to the Legislature for the funding, but this has not been done yet. Normally, in an agency's request for funding for a capital project, the operations and maintenance cost is laid out for the Legislature's understanding.

Mr. Shelton noted there was a bill passed by the Legislature last year that was not signed by the Governor, that began to tackle the operations and maintenance problem for the Parkway.

Mr. Gibson asked whether the City of Fresno could become the lead agency for the North Palm Access, while the Conservancy continued as the lead on the core elements of the project.

Ms. Morkner-Brown noted that the Board's decision today would provide direction to staff. Under the 3<sup>rd</sup> option it would leave the existing approvals in place, and staff would focus on the core elements which were stated in Resolution 17-02. This would allow the staff to come back to the Board with proposals for future work.

Ms. Vance added any agency could use another lead agency's CEQA document as the basis for its discretionary decisions. In the past the City has been unwilling to take responsibility for the Spano parcel or to hold a public access easement.

Mr. Donnelly stated he wanted to get on record a reoccurring statement that the WCB and its staff did not engage in drafting the public access easements until late December. He wanted to clarify that as early as January 2018, WCB staff recommended to the work group to coordinate on drafting the public access easement and begin that work immediately, but the work group felt at that time it was premature. WCB staff continued to encourage development of the easement from the spring through the summer because of the time it takes to get those documents through the state's public process. It was not until October 11, 2018, that the WCB staff received a request to start a draft of the public access easement. He feels it is important for the Board to know that no matter what direction the Board takes today, he and the WCB staff continue to stay committed, helpful, and serve in good faith as a valuable resource to see the Project through to its successful completion.

Mr. Shelton noted the Conservancy considers the WCB as a part of the team and the ultimate responsibility for not getting a draft document to the San Joaquin River Access Corporation (SJRAC) is on the Conservancy staff. He expressed his appreciation for the work of the WCB staff.

On inquiry by Mr. Gibson regarding the WCB's consideration of the drafted public access easement, Mr. Donnelly stated the final draft was provided and agreed to by the SJRAC on January 4, 2019. Had the project continued, the item would have been on the WCB's March 7, 2019, meeting agenda. The draft easement was withdrawn immediately following the January 9, 2019, Conservancy Board meeting by the SJRAC.

On inquiry by Chairperson Frazier regarding resubmission of the easement to the WCB, Mr. Donnelly stated if the Board decides to go that direction, the easement can be on the agenda for the May 22, 2019, WCB meeting.

Ms. Forhan suggested instead of rethinking the past options, she would like the Board to consider a combination of Alternatives 1 and 5B. Combining them could reduce impacts on traffic at specific locations. This agency was formed to resolve conflicts to provide public access. She is looking for the Board to develop a potential compromise.

Chairperson Frazier stated that everyone wants the same thing which is access to the river—there is just disagreement on how to get there.

Mr. Garcia suggested that school buses could use Riverview Drive without impacting the neighborhood. Threats of litigation are not new. Alternative 5B would destroy the bluff and trees, and create a steep, winding access road, like Lombard street in San Francisco. This is the first time he heard of a possible compromise. He cannot accept this compromise. There nothing in writing from the Mayor of Fresno.

Mr. Shelton stated the suggested compromise is within the scope of the direction to staff recommended on the agenda, but reminded the Board that it should hear the public comments before debating the merits of the options.

Chairperson Frazier invited Mayor Brand to speak.

City of Fresno Mayor Lee Brand thanked the Board for the opportunity. The City of Fresno will continue to take an active role to find the best and soonest way for the public to get to the river for the project. He is still a supporter of Alternative 5B—in a letter of 2017 he indicated his support, provided Alternative 5B was technically feasible. A long term commitment for operations and maintenance is still an issue; City staff estimates the cost of operating the project of \$250,000 to \$450,000 per year. One solution is State legislation; another solution is a local ballot measure, which is currently being assembled for 2020 and will include funding for parks' operations and maintenance. He believes the SJRAC met all of the Board's benchmarks. The Board should allow time to perfect the Alternative 5B process. Pursuing other options would cause additional delays.

On inquiry by Mr. Garcia regarding restricting access through Alternative 1 (Riverview Drive), Mayor Brand stated having unfettered access would create problems in a dense residential area with existing traffic issues.

Mr. Garcia asked for an explanation of the revenue measures Mayor Brand had suggested. Mayor Brand mentioned funding available through State legislation or a local sales tax measure. The City of Fresno cannot bear the entire burden of funding operations and maintenance, but there are other ways to generate the funds.

Mr. Garcia stated that during the past year, the City had not provided any further concrete support for the project. Mr. Garcia asked whether the City would amend its General Plan to accommodate Alternative 1. Mayor Brand indicated he would be hesitant to bring an amendment to the Council.

Ms. Finn stated that this State property should be open to the people of California and not just local residents.

Mr. Gibson thanked Mayor Brand for being there; the City's commitment to the Parkway is vital. He asked Mayor Brand to comment on the possibility of becoming the lead on the North Palm Access.

Mayor Brand responded that it was important to see an end to the debate regarding the project. All parties would need to give up something to make the project a reality. The City could potentially take the lead role, with Council support.

Ms. Vance noted that if Riverview Drive was open to public vehicle access, then the Tutelian easement would be open to the same level of access.

Chairperson Frazier indicated the Board needed to proceed with public comments, since Mr. Magsig had another meeting to attend in the afternoon. He would allow 2 minutes for each commenter.

#### PUBLIC COMMENTS:

Ms. Sarah Parkes, a Fresno resident, stated that just because something can be done does not mean that it should. In a previous meeting Mr. Bruce Rudd, former City Manager, emphasized that the agencies should not build something if there are no resources to operate it. The Conservancy should not build a new road down a bluff or remove the vegetation on the bluff.

Mr. Tom Beggs, a representative of the SJRAC, reported that the SJRAC spent a lot of time on the post closure land use plan and working the benchmarks toward implementing Alternative 5B. He provided an aerial view of Alternatives 5B and 1. Alternative 5B is not like Lombard Street, and the City Department of Public Works has worked on many projects such as this before.

Ms. Anna Wattenbarger, Madera county resident and previous member of the San Joaquin River Parkway and Conservation Trust Board for nearly 30 years, stated there would be additional operations and maintenance costs for implementing Alternative 5B. The Parkway Trust delivered the land for the project to the Conservancy a long time ago. The Parkway Trust paid \$20,000 per acre for the Spano parcel on a dump site, but the land was not transferred to the Parkway Trust because the State would not acquire it. The process has been delayed enough and the Board should move forward with Alternative 1.

Mr. Miguel Arias, Fresno City Council Vice President, stated the current council has not taken a position nor have they determined if there is operations and maintenance funding available. He personally supports Alternative 1.

Mr. Magsig commented that it is his understanding that Alternative 1 is inconsistent with the City's General Plan (2015), while Alternative 5B is consistent with it. What would happen if a project is proposed that is not consistent with the General Plan?

Mr. Arias responded that a General Plan amendment would be required. The City of Fresno General Plan was approved several years ago and calls for 30-years' worth of projects; on an annual basis the Council accesses the planned projects. This project is nowhere near the horizon.

On inquiry by Mr. Magsig regarding changes to the General Plan to align with other alternatives other than Alternative 5B, Mr. Arias stated, at this point the Board would have to vote to adopt the new General Plan. There is a new council as of January and this council has not been entertained with the option before the Board nor are they willing to support either option.

Mr. Garcia stated his appreciation for Mr. Arias' personal concern and support of Alternative 1.

Mr. Arias suggested that the Board meeting be held at a later time so more participants can attend. The river is an asset to the whole county and it is important to hear all the voices.

Chairperson Frazier stated he cares greatly about how to get the most access to residents. With regard to transit, he and Councilman Brandau walked 22 minutes from the nearest bus stop to the Alternative 1 entrance, vs. 4 minutes from the nearest bus stop to Alternative 5B.

Mr. Arias stated the vast majority of residents do not use public transit. The City would like to make it a more efficient public system, but personal vehicles are the primary mode of transportation.

Mr. Scott Mozier, City of Fresno Department of Public Works Director, states the City's General Plan provides vehicular access at Palm Ave., and pedestrian and bicycle access and Riverview Drive. With regard to using the Tutelian haul road easement, there was a study by Blair Church and Flynn Engineering which showed that using that easement (Alternative 5 in the EIR) would require cutting into hazardous wastes to widen the road. Alternative 5B did not involve areas with hazardous materials.

On inquiry by Ms. Vance, Mr. Mozier stated widening the existing road for the planned 2-way traffic for a public vehicle access road from the Tutelian haul road to the proposed parking area would require cutting into landfill materials. He would not recommend building any kind of access road for one-way traffic. There are major hurdles to implement the Tutelian haul road option.

Mr. Gibson asked Mr. Mozier to evaluate the process conducted by the implementation work group, which both had participated in. Mr. Mozier stated he and his assistant engineer participated in monthly meetings with a wide variety of stakeholders, including the County Public Health Department, City of Fresno, the Conservancy, the San Joaquin River Parkway and Conservation Trust, and the SJRAC. A major accomplishment was the conditional approval of the Post Closure Land Use Plan (PCLUP); the final approval with the County of Public Health will not be possible until construction-ready documents are complete. The necessary lot line adjustment was processed by the City for the parcel to be acquired by the SJRAC. An access easement was completed to provide legal access to the parcel. The Fresno Metropolitan Flood Control District (FMFCD) has an existing trail easement that provides the vast majority of what is needed from the District for the access road. There have been high level conversations with the District General Manager and District Engineer, and they will process the easement when construction drawings are available.

On inquiry by Mr., Donnelly, Mr. Mozier noted that on-street parking is legal at Riverview Drive, facilitating future pedestrian and bike access at that location.

Ms. Vance asked for clarification of City requirements to implement Alternative 1. Mr. Mozier stated the required traffic signal is consistent with the General Plan. However, connecting a City street for public vehicle access to the project is inconsistent with the General plan; the street improvements would require an encroachment permit, and that would normally require consistency with the General Plan. An amendment might be required.

Mr. Magsig added there would also need to be a maintenance agreement between the City and Conservancy, requiring City approval.

Mr. Gibson inquired if there is anything that prohibits Fresno Unified School District from bringing kids to the H pond from Riverview Drive. Mr. Mozier stated he is not aware of anything that would prohibit that.

Mr. Ted Morgan, Fresno resident, stated Alternative 1 is the only viable access point from the south of the River West property. The Board should make it a clear mandate to move forward with Alternative 1.

Mr. Tom Bohigian, Fresno resident, stated his belief that Alternative 5B is inconsistent with the Conservancy's mission statement. Alternative 5B destroys a city park, the natural bluff line, and 15 sycamore trees. The Board should consider Alternative 1 and protect the old growth trees. When it comes to operations and maintenance, the Parkway Trust is the only entity that will step up; and it is currently raising the money for this.

Ms. Sharon Weaver, Executive Director of the San Joaquin River Parkway and Conservation Trust, stated the organization supports use of the existing access point at Alternative 1 and that will also allow facilitate use of the existing public access easement evaluated in the EIR as Alternative 5. The City has the ability to use that road for public access if Alternative 1 is approved. She appreciates Mr. Brand's statement about having more access points; if the Board approves the core project access on Perrin Road, and Alternative 1, there would be three access points to the site. It would minimize undue impacts from using just one access point. She urged the Board to move forward with Alternative 1.

Ms. Myra Coble, resident of Fresno, stated she visited the sites in advance of making these comments. Alternative 1 uses existing roads; Del Mar and Riverview are not designed to be residential streets; they were designed as an access route to the property. Alternative 5B does not expedite public access. The removal of old growth trees is not conservation. The City can add a bus stop at the access point. The only reason for Alternative 5B is to protect the neighbors from other people; the river was there before the homeowners; they do not own the river, the public does.

Mr. Felipe Grimaldo, a community member from Madera County, asked the Board why they are willing to pave paradise to place a parking lot on top of a landfill. He enjoys fishing with his children at the river. As a voice for nature, he advocates for Alternative 1.

Mr. Sloan, resident of Fresno and member of RiverTree Volunteers, noted that the runoff from the urban area drains to the on-site ponds, so any added runoff due to Alternative 5B would not be an added concern. Alternative 5B provides better access to ponds and the river for recreational boats. The land at Spano Park was filled to create the current bluff so cutting into the bluff for the access road would not destroy the natural bluff. The particular sycamore tree in question will not be harmed by the project.

Mr. Narvell Conner, a bluff resident, stated that while there should be more public access, his concern is safety. The project needs entrances and exits in the event of grass fires. There should be more access downstream.

Mr. Donn Rooney, Fresno resident, stated he is in favor of access to the river. Alternative 5B and the Perrin access are adequate; extra traffic through a neighborhood is not the way to go.

Ms. Sarah Kolb, a representative of the SJRAC, provided documents to the Board. She stated in December 2017 the Board approved Resolution 17-02 which was conditioned upon all parties acting in good faith. She believed the documentation demonstrates the San Joaquin River Parkway and Conservation Trust did not act in good faith during the process.

Ms. Ana Melendez read a statement on behalf of Assemblymember Joaquin Arambula. The Conservancy has been tasked with bringing the Parkway to fruition. The Conservancy has been able to acquire a majority of the properties along the river to provide the public with access to the River. This is made possible by the use of public funding. Assemblymember Arambula has put forth Assembly Bill 559 which would allow the Conservancy enter into an operations and

maintenance agreement with State Parks. Assemblymember Arambula encourages the Board to consider an option for the project that would open access to the river as quickly as possible.

Chairperson Frazier expressed his appreciation for the work and efforts by Assemblymember Arambula. At 12:40 p.m., he adjourned the Board for a lunch break.

At 1:17 p.m. Chairperson Frazier reconvened the Board meeting.

Mr. Satya Mahanty, resident of Fresno, stated he has seen the traffic increase on Audubon Drive over the years. He provided a petition with signatures from residents of the community concerned about the traffic. The Board should make sure its project does not negatively affect traffic on Audubon to keep the neighborhood safe.

Mr. Paul Pierce, a former Planning Commissioner for Fresno County, stated the San Joaquin River is the closest opportunity for experiencing nature in the area. He strongly encourages the Board to move forward with Alternative 1.

Ms. Peggy Riley, a resident of the bluff neighborhood, stated the traffic at the intersection of Audubon and Del Mar is horrendous; She encouraged new Board members to visit the site to see the traffic issue the residents are dealing with. She supports Alternative 5B.

Mr. Tim Bakman, a resident of Fresno, provided the Board members with binders containing all of the site reports, including an independent traffic study. The SJRAC has worked very hard to get the work required by the Board's benchmarks completed. He took exception to the residents being referred to as "NIMBYs" [Not in my backyard]. The SJRAC team has worked very hard to find solutions and there could still be a compromise. He supports Alternative 5B.

Ms. Kristine Walter, a representative of the SJRAC, stated the Pinedale community is an important community that is being overlooked; in the EIR it is identified as a disadvantaged community. The SJRAC has signed a letter indicating the community is committed to the Alternative 5B access point. Spano Park will not be destroyed, and the EIR showed there were minimal environmental impacts. Also, the Board should not dismiss the importance of public transportation. The organization is prepared to keep the approved Project moving forward.

Mr. Harry Massucco, a Fresno resident, read into record a letter from his neighbor, Mr. Gaylord R. Ransom which stated his home would be negatively impacted by Alternative 1, and presented a list of problems associated with the proposed Riverview access.

Mr. Pete Weber, a resident of Fresno, stated this feels like Groundhog Day, with the Board revisiting decisions that have already been made. The Board's decision in Resolution 17-02 was to approve Alternative 5B, and reasonable progress has been made as staff reported. The Board's actions are moving the goal post after a game has been played. The Board could instead proceed with the approved Project without risk of legal challenge.

Mr. David Rodriguez, a Pinedale resident, stated he and his community support Alternative 5B, which is a customary pathway used by the community to get to the river. Paths are already established there. He stated the Board's integrity is on the line and the Board needs to be committed to their decision and go forward with the Project.

Mr. Cliff Tutelian, representing Park Place Holdings, stated the underlying purpose of the Board is the importance of serving the community. In Resolution 17-02 a decision was made, and there

is an obligation to develop access as approved. He stated trails alone will not be adequate to provide access. He described problems occurring with unmanaged, informal access to the river near Palm and Nees. These problems can be solved with managed wholesome uses. The Board should take the legal documents submitted to them very seriously; there are legal risks associated with changing course. He supports Alternative 5B.

Mr. Dan Morrow, a resident of Fresno on Audubon Drive, stated he was offended by some interests' attitude towards proponents of Alternative 5B. Audubon Drive is dangerous and is not a commercial street, it is a residential street. The right thing to do is for the Board to stick to its decision and continue with Alternative 5B.

Ms. Rebecca Maddox, attorney representing the SJRAC, raised concerns about the significant unavoidable impacts in the EIR associated with Alternative 1. If the Conservancy adopts a project with significant unavoidable impacts, it cannot approve that project unless it finds the project alternatives would not avoid or lessen the significant impacts. She believed the Board cannot approve Alternative 1 without violating CEQA. She provided pictures of the sycamore trees that are proposed to be removed for Alternative 5B; she believed that the photos being circulated by others are not representative of those to be affected by the Project.

Mr. John Kinsey, legal counsel for the SJRAC, stated the SJRAC would be willing to work with the Conservancy and stakeholders to find some middle ground to accomplish public access. The SJRAC's actions have shown they are a real partner. He recapped the actions the SJRAC took "in good faith" to follow the directive of the Board, including funding environmental studies and design work, and securing approvals from the City and other agencies. The Conservancy does not have the power of eminent domain; therefore, ultimately the agency needs to work with the SJRAC to make use of the SJRAC's parcel within the Parkway. Working in good faith is a 2-way street—those involved must follow the established rules and not change those rules midstream. Alternative 5B is the easiest and fastest way to get access to the river. The SJRAC is committed, ready, and willing to working with the Conservancy in good faith if the agency recognizes the SJRAC's hard work to make Alternative 5B a reality.

There being no other comment cards, Chairperson Frazier closed the public comment session.

#### BOARD DISCUSSION:

Ms. Vance stated Resolution 17-02 was specific regarding what would constitute reasonable progress. The SJRAC did not resolve the Spano easement to the Board's satisfaction or complete the public access easement, and the draft post-closure land use plan indicates increased costs to the Conservancy for maintenance, and the SJRAC now makes legal threats and inaccurate statements.

Mr. Magsig supported Alternative 5B as the quickest way forward to provide public access. The Conservancy staff reported the SJRAC met the benchmarks—he does not want to undermine staff's efforts to implement the Project as directed. It is important the Project be in alignment with the City's General Plan. If Alternative 1 is pursued it could take years to complete it, including getting the General Plan amended. Encroachment permits would be necessary and cannot be issued without General Plan alignment. Any other alternative would require more CEQA work. Although Alternative 5B still needs design work, it is the farthest along in the process. His bottom line is providing public access the quickest way possible.

Mr. Janzen stated there will need to be some compromise among the Board members. He did not originally vote for Alternative 5B, and still believes Riverview Drive should have on-site parking

near the top. He also will support future access to the west of the site where the SJRAC purchased property. Significant progress had been made, enough to go forward with engineering. Risking lawsuits is not the way to go.

Mr. Gibson acknowledged that the public engagement in the project has been tremendous, and will result in a better project in the long run. In a past spring, high river flows took the life of Neng Thao, who was a prospective valedictorian at his high school. The Conservancy needs to continue to make progress toward providing proper public access to the river. He appreciated the benchmarks adopted by the Board and stated substantial progress has been made in good faith. He suggested the City of Fresno could take over as lead agency to complete Alternative 5B. The Board could adopt further strong and enforceable benchmarks as the Project develops. The public wants to get to the river; now is the time for a compromise. He attended the Alternative 5B implementation work group meetings, and wants to see the approved Project move forward. He urged the Conservancy to post high water flow signs due to the anticipated high spring releases into the river.

Mr. Garcia stated the Board takes the seriously discussions on how to provide access to the river. After becoming a member of the Board, he immediately began to familiarize himself with the site and asked individuals for their perspectives; he gained valuable knowledge while on tour with various groups. In his view the best and quickest way to get to the river and safeguard the beauty and nature of the river is Alternative 1, not Alternative 5B. There is an access road already there that does not impact any homes.

Mr. Brandau stated that everyone wants access, but there is disagreement on where the access should be. The same arguments are presented on both sides regarding where access point should be. He stated the Board gave the SJRAC a year to reasonably meet the benchmarks provided by Ms. Vance—those were a valuable contribution to the Project by providing metrics and goals to meet along the way. He does not believe the Conservancy would be reasonably acting in good faith and he will not able to take the Board seriously if it is willing to allow the SJRAC to do all the work the Board required and then hang them up on a technicality.

**Ms. Forhan made a motion, “in the spirit of compromise,” to continue to implement the core elements and North Palm Access per Resolution 17-02, and develop a proposal for an additional entrance at Riverview Drive (Alternative 1), and bring that proposal back to the Conservancy Board in the future for a vote.**

Mr. Magsig stated he is prepared to second the motion but wanted more clarification from Ms. Morkner-Brown to ensure the motion meets the requirements for how the agenda item was noticed.

Ms. Morkner-Brown stated the agenda item was broadly noticed, and option 3 provides the necessary flexibility. The motion is understood as to direct staff to continue to implement Alternative 5B, which is the core elements and the North Palm Access, and direct staff to come forward to a proposal at a future meeting for the Board to consider an additional entrance at Alternative 1, which is Riverview Drive.

**Mr. Magsig seconded the motion.**

Ms. Vance asked for clarification of whether the motion includes both Alternatives 5B and 1, or if Alternative 1 to contingent on Alternative 5B. Two of the hardest benchmarks for Alternative 5B have not been met and may take a long time.

Ms. Forhan stated the intent of the motion is to find a compromise that would involve access at both points, Alternatives 5B and 1, and would recognize the Board's actions to date and the progress that has been made.

Ms. Lucchesi stated her primary concern with Alternative 5B is specifically the benchmark that deals with the issues associated with the Spano easement, and those issues not being resolved to the Board's satisfaction. Mr. Spano's rights reserved in the Spano easement will restrict in the future any ability to make changes to the Project. The Board is tying its hands prematurely. She appreciates the spirit of compromise; however, the motion moves forward with Alternative 5B, including the core elements and North Palm Access. The direction to further analyze under CEQA Alternative 1 (Riverview Drive entrance) in combination with Alternative 5B, puts the proposal in a more vulnerable position.

Ms. Forhan stated she was open to modifying her motion to raise the comfort level of the State Lands Commission member.

Ms. Lucchesi stated one option, which she is not ready support at this time, would be direction to staff to evaluate under CEQA and bring back for Board consideration Alternative 1, and also a combined project consisting of Alternatives 5B and 1.

Ms. Forhan stated she is very open to the modification and wants the concerns of the State agencies taken into consideration.

Chairperson Frazier noted that if the Board adopts this motion as path moving forward, then the required public access easement and the other benchmarks must be met, and the Project must be deemed feasible to the satisfaction of the Board in order to consider funding for construction in the future. The Project can move forward and there will be many more Board decisions ahead to properly implement it.

Mr. Shelton confirmed that there would be many other approvals required as the Project is developed, including WCB approval of the public access easement.

Ms. Vance noted that there are two easements of concern: the executed easement between the SJRAC and Mr. Spano, and the public access easement that must be approved by the State.

Chairperson Frazier reiterated that if the Conservancy continues to move forward, it does not mean the Board would not have ultimate approval for it to be funded and implemented.

Mr. Shelton acknowledged that the Conservancy and WCB must approve more steps before building the entire project or any phase.

Ms. Lucchesi stated she differed with the motion, and preferred possible action #2 in the staff report, which would provide for updated CEQA work to evaluate Alternative 1, and adding to that the compromise of evaluating under CEQA the combination of Alternative 5B and Alternative 1.

Ms. Forhan stated she is trying to move the Project forward, rather than go back and forth with possible alternatives. The Board wants to have a clear path forward.

Mr. Lucchesi stated that unless the Board votes to confirm Alternative 5B, it would have to have another meeting that looks at its alternatives again.

Mr. Shelton stated the third option in the staff report allows for the Conservancy to continue working on the approved core project elements. The first option allows implementation of the core elements and Alternative 5B (the approved Project). The second option allows the Board to consider approving Alternative 1, the core project elements and the Riverview Drive entrance at a future meeting.

Chairperson Frazier stated we can move forward with the Perrin Avenue access point and trails (core elements) and whatever compromise can be created to consider in the future access at Alternatives 5B and 1 combined.

Ms. Lucchesi noted that looking at a combination of access under CEQA would be more extensive than reviewing Alternative 1.

Ms. Alvis stated that in December 2017, the Board adopted a path forward and determined if the Board decided reasonable progress was not met, staff would bring back Alternative 1 for consideration. Any additional analyses would further delay the Project. We are here to decide if Alternative 5B should move forward, or if not staff would come back evaluation of Alternative 1 for consideration.

On inquiry by Mr. Gibson regarding the motion to combine the alternatives, Mr. Magsig stated he understood the motion, it directed staff to continue to move forward with Alternative 5B, and also investigate pursuant to CEQA having an entrance at Alternative 1 as well.

**On inquiry by Mr. Gibson regarding exploring whether the City would take the lead in implementing the North Palm Access and SJRAC properties, Ms. Forhan agreed to modify the motion.**

Chairperson Frazier stated there has not been enough trust in the process; he has been able to look objectively at the perspectives and wants to work with everyone to find compromise. Today the Board has a compromise that both sides could agree to. He is a proponent for more access, which the compromise would achieve. He thanked Ms. Vance for her leadership in developing the benchmarks. He suggested the Board move forward and agree to consider both access points.

Ms. Vance stated she would like to hear from the SJRAC, whether they are willing to compromise and if they have an opinion on an option for the Board to consider Alternative 5B and Alternative 1, combined.

Mr. Kinsey stated if the Board continues the path implementing Alternative 5B, and continues to work with the SJRAC in good faith while considering access at Alternative 1, it is something that the SJRAC can work with. He stated the SJRAC has established that it is working in good faith with the Conservancy and is willing to work with the Conservancy to make the Project a reality.

Mr. Gresham stated this proposal to combine and maximize access is better than what was being considered in 2017. However, the motion is not clear. He asked how much additional CEQA work would be required to combine access at Alternatives 5B and 1, and how much time it would take.

Mr. Shelton stated staff can use information in the EIR, but would have to do additional CEQA analysis, which takes time.

Ms. Vance stated a supplemental EIR would have to be done because none of the alternatives looked at both access points together.

Ms. Morkner-Brown stated Resolution 17-02 allows the Board to develop the approved Project in the meantime. The work required to analyze an additional entrance would depend on the design. There would have to be a traffic analysis. The impacts of the parking lots were already analyzed in the EIR. There would be a narrow scope of issues that would be similar to the Alternative 1 entrance alone, and others that may require more analyses.

Mr. Santos requested clarification of the SJRAC's position from Mr. Kinsey.

Mr. Kinsey stated at this point the SJRAC should proceed with Alternative 5B. With regard to adding Alternative 1, the group is willing to consider a compromise but would like to see what the project and mitigation look like. There were some issues that were completely omitted from the environmental study that are of critical importance to his clients, such as specifics regarding the traffic signal location. The group would need to see the proposed project and make sure street intersections, such as Briar Court and Del Mar, are taken care of. He cannot negotiate without understanding what the proposed project would look like; however, there is a lot of opportunity to work together, and continue work on Alternative 5B that has already started.

Chairperson Frazier stated that even if the Board wanted to consider just Alternative 1, an update to the EIR would have to be done taking those concerns into consideration.

Ms. Vance stated the update wouldn't necessarily require a supplemental EIR; it could even be something that doesn't require recirculation for a new comment period. It might just be putting together the findings and making sure that there are no substantially new significant impacts.

Mr. Magsig added that the Board should realize that when it comes time for us to build a project, if we want to move forward with Alternative 1 in the City of Fresno, it goes against their General Plan. They cannot issue any necessary permits for the project to be built, unless the General Plan is modified first.

On inquiry by Ms. Vance regarding clarification on what approvals are needed from the City, Mr. Magsig stated encroachment permits would be required, and the City will not issue encroachment permits if the project is not in alignment with the General Plan.

Ms. Marks stated, as an example, the Friant Cove project required encroachment permits from County of Fresno for various improvements associated with Friant Road.

Ms. Vance stated in this case there is no need for a new road, road widening, or a turn lane.

Mr. Shelton added, where streets and access roads meet, the construction needs to tie the two together for drainage, curb improvements, etc. and for construction equipment movement. That usually requires an easement, maybe just a construction easement.

Chairperson Frazier called on Mayor Brand.

Mayor Brand stated he would verify with the City attorney if the City could go forward subject to CEQA being approved on Alternative 1 and could move forward with a General Plan amendment.

On inquiry by Mr. Brandau regarding City of Fresno being the lead agency on the North Palm Access, Mayor Brand stated he is okay with the motion by Ms. Forhan, as amended.

On inquiry by Ms. Vance, Mr. Mozier stated as a lead agency, the City would act as the implementing agency for the Alternative 5B access road and parking lot area, which would be consistent with the partnerships the City and Conservancy have had in the past. He worked with former Conservancy Executive Officer, Melinda Marks, on a number of successful projects such as the design and construction of the McMichael loop trail. If that were the Board's direction, the City would work together with the Conservancy to develop cooperative reimbursement agreements.

Mr. Magsig inquired if the City would be willing to be lead agency on the development with Alternative 1 as long as it was in alignment with the City's General Plan.

Mr. Mozier stated yes, the City could be the lead, as they have approved numerous agreements such as that.

Mr. Garcia stated there is no agreement to move forward with Alternative 1 from the SJRAC.

Chairperson Frazier stated the Board would have to reasonably assume that the SJRAC is going to do what they state.

Mr. Magsig asked Mr. Kinsey to comment further on the potential for the SJRAC's support of a compromise alternative. Mr. Kinsey stated they would need to see the plan. He understands the Board's hesitation, but he has a neighborhood to represent. If there is a proposed version of Alternative 1 where their concerns are resolved, the SJRAC would help further the process. They need to see what the proposal and the mitigation look like, for example so the traffic is not made miserable.

Mr. Shelton restated Ms. Forhan's amended motion: **to direct staff to continue to implement the approved project and cooperate with stakeholders to develop a proposal for consideration of additional public vehicle access at Riverview Drive; this work could include working to transfer responsibility for implementing the North Palm Access to the City of Fresno.**

Ms. Vance stated her concern with the way the motion is worded is that it states to move forward with Alternative 5B and then consider if Alternative 1 can be added. What others have said is to consider both alternative access points together.

Mr. Shelton stated Alternative 5B, as approved in Resolution 17-02, is both the Core Project and the North Palm Access point.

Ms. Vance expressed she was dissatisfied with the motion.

Chairperson Frazier stated the motion would put into effect option three; the Conservancy would still implement the core elements, and Board direction would be in relation to considering implementing both Alternatives 5B and 1 as access points.

Mr. Shelton stated staff can be directed to prioritize the core project, and not to work on other access until there is a compromise solution. We may have to come back for a full CEQA review,

or it may be less involved. That direction would give the staff the ability to work on the core elements, and the Board has the discretion to delay work on the North Palm Access.

Ms. Vance stated she is not comfortable with the core project moving forward. While it is great to develop public access, not having public parking on the Fresno side is absurd. For Alternative 5B to move forward, it has to be married with Alternative 1.

Mr. Gresham added both alternatives need to be on an equal playing field.

Ms. Forhan stated she recognizes the CEQA issue. Her intent is to keep both alternatives together, not one over the other.

Mr. Magsig stated that is not how he understands the motion: the alternatives are not married, but instead working in a parallel direction, on parallel tracks. As the public process proceeds, one or the other may fall off or modified.

Ms. Lucchesi noted the SJRAC cannot agree today that Alternative 1 will work for its clients and members. The Board is being asked to compromise on a position. She does not want the Board to move forward when there are no assurances that we are going to have an agreement on Alternative 1. She is not comfortable moving forward with Alternative 5B, as there are concerns that some of the benchmarks have not been met.

Chairperson Frazier stated there is still work that needs to be done; the motion does not state the benchmarks have been met. The benchmarks would still have to be worked on.

Ms. Morkner-Brown stated it is not clear if the Board wants to ask staff not to proceed with the approved project.

Ms. Vance stated as some of the letters from attorneys indicate, the Board needs to rescind Resolution 17-02.

Mr. Gibson stated repealing the resolution would be the wrong thing to do, as it provides the opportunity to move forward with the core project, including bicycle and pedestrian access points. There is nothing keeping us from building the core elements as soon as possible and the Board should keep Resolution 17-02 in place for that reason. The City would be the lead in the North Palm Access, which would prove its viability. Alternative 5B cannot get ahead of Board control, as the funding proposal would be presented to the Board for approval. The Parkway Trust is moving forward with an operations and maintenance fund to open up the core project. This is the quickest path to access for the public to this land that they have owned for so many years. He will support Ms. Forhan's motion.

On inquiry by Chairperson Frazier regarding the motions and the environmental process, Ms. Morkner-Brown stated the Board would be directing staff to do the work necessary to consider adding an additional access point in addition to what was already approved at a future meeting. The Board would be modifying the approved Project to add an additional access point. Also, the Board wants its direction to mean consideration of the two entrance points together. Ultimately the CEQA analysis would look similar to the prior analysis, but refreshed with a new perspective. Staff would work with the City to see if they are willing to be the lead implementer for the North Palm Access, while doing additional work to add an additional access point at Riverview.

Ms. Lucchesi wanted to make a friendly amendment to the motion to direct staff to implement the

core project which is the Perrin Avenue entrance plus the trails, but not the North Palm Access. Then staff would bring back to the Board after the additional CEQA due diligence is done: a proposal to approve Alternative 1 and rescind the approval of the Palm Avenue element of Alternative 5B; and, also, a proposal to approve Alternative 1 and the North Palm Access element of Alternative 5B. This would include all the additional CEQA findings and all the supplemental information that the Board would need to make a decision at some point to rescind Alternative 5B and approve Alternative 1, or approve Alternatives 1 and 5B together.

Mr. Magsig stated that is not a friendly amendment, but a new motion.

Chairperson Frazier stated that drastically changes the whole project.

Ms. Vance stated there would be three choices: the Core Project which is Perrin only public vehicle access, Alternative 1, and Alternatives 1 and 5B.

Chairperson Frazier stated the intent of the compromise is to do both access points.

Ms. Lucchesi stated that is not her intent. The Board is looking to combine Alternatives 5B and 1, but is not at this point at making a decision in favor of just Alternative 1 or 5B. She does not know what the CEQA analysis of combining both alternatives would look like. She is comfortable with moving forward with just Alternative 1, but she understands there is a desire to consider moving forward with Alternative 5B combined with Alternative 1.

Mr. Brandau inquired if there is any reason why the Board cannot move forward with Alternative 5B, the core project elements, and to direct staff to continue with analysis of Alternative 1, with the understanding that staff would be working towards a proposal that would have access at both locations.

Ms. Vance inquired if the SJRAC is willing to let things proceed, since they retracted their approval of the draft public access easement.

Mr. Kinsey stated that after Board voted down Alternative 5B, the SJRAC retracted the easement. If Alternative 5B continues, the SJRAC is ready, willing and able to present the easement to the WCB Board.

On inquiry by Ms. Vance regarding the SJRAC's position, Mr. Kinsey stated if Resolution 17-02 stands and the Conservancy is authorized to move forward with Alternative 5B and the benchmarks are affirmed to be reasonably satisfied, the SJRAC is willing to move forward with the draft easement as it was on January 9, 2019.

Ms. Vance stated she is not comfortable with implementation of the Core Project.

Chairperson Frazier stated Resolution 17-02 still stands until it is rescinded.

Ms. Vance asked what staff would be bringing back to the Board at the next meeting. Ms. Morkner-Brown stated the Board is asking for documentation for three possible proposals. Until there was a review of the information and a proposed project description, she did not know what additional analyses and documentation need to be prepared.

**Ms. Forhan restated her motion, to direct staff to continue to implement the core elements and the North Palm Access per Resolution 17-02, with the City of Fresno being the lead**

implementing agency for the North Palm Access, and directing staff to develop a proposal for an additional entrance at Riverview Drive as analyzed as Alternative 1, and bring that proposal back to the Board for a future vote. The restated motion was seconded again by Mr. Magsig.

The motion failed as follows:

Name	YES	NO	ABSTAIN
Chairperson Frazier	X		
Mr. Garcia		X	
Mr. Magsig	X		
Mr. Brandau	X		
Mr. Janzen	X		
Ms. Alvis		X	
Ms. Vance		X	
Mr. Gresham		X	
Mr. Donnelly		X	
Ms. Lucchesi		X	
Ms. Finn		X	
Ms. Forhan	X		
Mr. Gibson	X		

**Mr. Brandau moved to adjourn the meeting; seconded by Mr. Magsig.**

Ms. Lucchesi appreciated the concern regarding the length of the meeting, but that the Board should leave with some direction for going forward.

Mr. Magsig stated he is extremely frustrated. The Board's goal is to provide access to the river, but, as has been stated, if we cannot get encroachment permits until a General Plan amendment takes place, if the Alternative 1 project is not consistent with the General Plan or can be approved by the jurisdiction, the project will not work. This issue has been debated for twelve years. He is open to another motion that would stop the debating and move forward.

Chairperson Frazier stated the Board was trying to accomplish more access, but everything got muddled with competing motions. For the first time there is a willing partner, the City of Fresno, to be an implementing agency. We were proposing to have access at two points, and the vote was otherwise. The Board members are trying to do the same thing—increased access—but cannot get on the same page.

**Mr. Garcia made a motion to move forward with investigating Alternative 1. Ms. Vance seconded the motion.**

Mr. Magsig stated there are two motions on the floor with a second, and the chair decides on which motion will be voted on first.

**Chairperson Frazier requested a roll call vote on the motion to adjourn. The motion failed as follows:**

Name	YES	NO	ABSTAIN
Chairperson Frazier		X	
Mr. Garcia		X	
Mr. Magsig	X		
Mr. Brandau	X		
Mr. Janzen		X	
Ms. Alvis		X	
Ms. Vance		X	
Mr. Gresham		X	
Mr. Donnelly		X	
Ms. Lucchesi		X	
Ms. Finn		X	
Ms. Forhan		X	
Mr. Gibson		X	

Chairperson Frazier stated he voted no because he does not want to leave without a decision. It is an emotional decision. Although he is not a resident of Fresno, he would like to see the best and greatest access for everyone. The Board has the ability to expand access, but once we go down the path of Mr. Garcia's motion it will limit access. There may be no opportunity to come back with a compromise. Willing partners may not be there later, and that would be a travesty to the Board and the people of the State. He wants everyone to understand the gravity of the decision on the roll call.

Ms. Morkner-Brown clarified the motion was to direct staff to bring forth a proposal for consideration and a vote on Alternative 1 at a future meeting.

Chairperson Frazier asked if the maker of the motion was willing to accept a friendly amendment to allow for Alternative 5B and 1.

Mr. Garcia declined the friendly amendment. **His motion to move forward with investigating Alternative 1 passed as follows:**

Name	YES	NO	ABSTAIN
Chairperson Frazier		X	
Mr. Garcia	X		
Mr. Magsig		X	
Mr. Brandau		X	
Mr. Janzen		X	
Ms. Alvis	X		
Ms. Vance	X		
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Lucchesi	X		
Ms. Finn	X		
Ms. Forhan	X		
Mr. Gibson		X	

Chairperson Frazier adjourned the meeting at 3:25 pm.

Due to time constraints, the remaining Agenda items G. through H. were not discussed.

**G. ADMINISTRATIVE AND COMMITTEE REPORTS**

No action of the Board is recommended.

G-1 Organizations

If time allows, the following oral reports will be provided for informational purposes only, and may be accompanied by written reports in the Board packet

G-1a San Joaquin River Parkway and Conservation Trust

G-1b RiverTree Volunteers

G-2 Deputy Attorney General Report

G-3 Executive Officer Report

G-4 Board Members' Reports and Comments

**H. NOTICE OF ADVISORY AND BOARD COMMITTEE MEETINGS, OTHER PUBLIC MEETINGS**

None.

**I. NEXT BOARD MEETING DATE**

The next Board meeting is scheduled for Wednesday, March 27, 2019, at the Fresno Metropolitan Flood Control District. [The meeting was subsequently cancelled.]

**J. ADJOURN**

Chairperson Frazier adjourned the meeting at 3:25 p.m.

Respectfully Submitted,

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John M. Shelton  
Executive Officer- San Joaquin River Conservancy