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John M. Shelton  
Executive Officer

250.20

STATE OF CALIFORNIA  
Gavin Newsom, Governor

### **MINUTES**

WEDNESDAY, APRIL 7, 2021  
SAN JOAQUIN RIVER CONSERVANCY

#### **Board Meeting Location:**

Consistent with Governor Newsom's Executive Order N-29-20, the public and Board members participated in a meeting via Zoom and teleconference. Public comment was accepted per the agenda.

### **MEETING AGENDA**

#### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairperson Karbassi called the meeting to order at 10:01 a.m., and Mr. John Shelton led the pledge of allegiance.

#### **A. ROLL CALL**

Name	Present	Telecon- ference	Absent	Late
Mr. Karbassi	X			
Mr. Brandau	X			
Mr. Frazier	X			
Mr. Garcia	X			
Ms. Auston	X			
Mr. Janzen	X			
Ms. Vance	X			
Mr. Gresham	X			
Mr. Donnelly	X			
Ms. Scharffer	X			
Ms. Lucchesi	X			
Ms. Lukenbill	X			
Ms. Forhan	X			
Mr. Gibson	X			

Ms. Gavina confirmed a quorum was present.

Legal Counsel Present: Christina Morkner Brown, Deputy Attorney General

Staff Present: John Shelton, Executive Officer  
Rebecca Raus, Associate Governmental Program Analyst

Vanessa Gavina, Staff Services Analyst

**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 & 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.

Mr. Radley Reep asked how public members joining by phone can comment on an item.

Mr. James Pearce answered to press the pound and two number symbols, and it will show the panelists that a hand is raised, which will allow the public member to comment.

**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 March 3, 2021

Chairman Karbassi inquired if any members of the Board would like to make any comments or amendments prior to the motion of approving the minutes. With none given, a motion was made.

**Mr. Frazier moved to approve the item from Consent Calendar; the motion was seconded by Ms. Forhan. The motion passed as follows:**

**Roll Call Vote:**

Name	YES	NO	ABSTAIN
Mr. Karbassi	X		
Mr. Brandau	X		
Mr. Frazier	X		
Mr. Garcia	X		
Ms. Auston	X		
Mr. Janzen	X		
Ms. Vance	X		
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Scharffer	X		
Ms. Lucchesi	X		
Ms. Lukenbill	X		
Ms. Forhan	X		
Mr. Gibson	X		

## F. REGULAR SESSION ITEMS

**F-1 ACTION ITEM:** Direct Executive Officer to Engage in Discussion with CEMEX Regarding Potential Public-Private Partnership to Develop and Maintain Public Trails, River Access in the Vicinity of Ball Ranch, Ledger Island, and Lost Lake Park.

Staff Recommendation: It is recommended the Board direct the Executive Officer to engage in discussion with CEMEX regarding a potential public-private partnership to develop and maintain public trails, river access in the vicinity of Ball Ranch, Ledger Island, and Lost Lake Park.

Mr. Shelton stated that the CEMEX's plant is adjacent to the Conservancy's Ball Ranch property and the Department of Fish and Wildlife (DFW) Willow Unit Ecological Reserve (ER). CEMEX's extraction and quarry site is located across the river from the Conservancy's Ledger Island property, and is upstream of the Fresno County's Lost Lake Park. Mr. Shelton noted that he has had a few initial discussions with CEMEX staff and consultants. A major part of the discussion was how to route a trail through this part of the parkway. Early on, CEMEX informed Mr. Shelton that they are required to have a buffer area between their plant and their extraction area, Friant Road, and between the San Joaquin River. Given that these were basic, preliminary discussions, he wanted to bring this to the Board to inform the Board of these discussions and any potential plans and also to allow CEMEX to discuss some of these possibilities. At this point, there is no agreement, but there are some ideas.

Ms. Christine Jones, Resources Manager with CEMEX, stated that CEMEX owns and operates the Rockfield Sand and Gravel Operation that is located along the San Joaquin River. She shared an aerial view of the current operations, the planned final reclamation, and where the water would be. CEMEX has been operating these two facilities off Friant Road for over 100 years and have been a supporter of the San Joaquin River Parkway. CEMEX is interested in continuing that support as part of their ongoing operations. She

noted that Mr. Shelton has met with CEMEX to discuss the possibility of trails being connected to a trail system and made available to the public. A map was shared of the planned Parkway trails, future trail connections, and where they are suggesting that possible trails could go in the near future. In addition, they would like to explore ways with the Conservancy in which they could provide ongoing assistance for trail construction and maintenance. CEMEX would like to see trails made available to the public by adding those possible trail extensions that would help connect approximately three miles of a continuous trail system. She hopes the Board will consider allowing Executive Officer Shelton to work with CEMEX to explore these possible concepts, and then bring them back to the Board for consideration.

Mr. John Buada, a CEMEX consultant and President of Buada Associates, mentioned that he has been working on the San Joaquin River for over 40 years. He previously worked in the Fresno County Planning Department analyzing the open space plan on the San Joaquin River. He stated that there have been numerous gravel operations along the San Joaquin River and these sites have been reclaimed and are now part of the San Joaquin River Parkway. According to Mr. Buada, old gravel operations make up 63 percent of the Parkway properties that are out there currently, including the Ecological Reserve at the Milburn Unit, Rank Island, and the Willow Unit. There are also other numerous properties all former sand and gravel sites, including Sycamore Island, Ledger Island, and others. He did the mine and reclamation plans for every site, except Ledger Island.

The mining industry has a long connection with the Parkway. He has worked with Coke Hollowell and others, and they were instrumental in getting that together. With that history, it is logical to assume the reclaimed gravel site will potentially be part of the Parkway. The precedent is there. They have had discussions with Mr. Shelton. Mr. Shelton asked them if CEMEX was interested in selling the plant site property to the Conservancy. They took it to management and decided that at this point, they were not interested. However, Mr. Shelton and the CEMEX staff began looking at these potential trails and planning how they can be connected. There are two CEMEX sites between Birkhead Road through Lost Lake, and it was discussed how to get those trail connections with those two properties in between there. Mr. Shelton suggested that at the plant site to consider whether an easement can be put along Friant Road and at the quarry site. CEMEX has a 200-foot setback buffer for the San Joaquin River. A trail or an easement through the plant and quarry site would provide the Parkway with about three miles. Considering the history and this precedent, it seemed logical to continue this conversation of whether we can do something in the near future to get that moving. CEMEX has talked to management, and they are willing to consider those easements and get started on discussing ways to achieve that, so they can eventually get these trails connected.

Mr. Shelton introduced our legal counsel, Ms. Christina Morkner-Brown, to address an issue that was brought up in a letter received from Ms. Sharon Weaver and the San Joaquin River Parkway and Conservation Trust (Parkway Trust) regarding whether this action to direct the Executive Officer is actually required under the delegated authority.

Ms. Christina Morkner-Brown, Deputy Attorney General for the Conservancy, confirmed that Ms. Sharon Weaver was correct that the Conservancy has the authority to engage in

these kinds of agreements and partnerships. The question was whether Mr. Shelton, as the Executive Officer, has the delegated authority to pursue that without the Board's direction. Ms. Morkner Brown stated there is a very old delegation of authority from 2002 that specifies what has been delegated to the Executive Officer. It is not definitive within that delegation that he has the authority to go further than what he has done initially, which is to explore the potential partnership ideas without first coming back to the Board and getting additional direction. Hence, this was brought as an action item rather than Mr. Shelton continuing negotiating. This is more about the delegated authority to the Executive Officer.

Mr. Shelton stated that there was also a discussion with CEMEX about the planned parkway trails in the 2018 San Joaquin River Parkway Master Plan Update (Parkway Master Plan) in which the locations of the trails are relatively conceptual. There have been previous discussions with DFW about refraining from crossing the center of the Willow Unit of the San Joaquin River Ecological, but rather, crossing their Willow Unit by possibly going between Friant Road. He also explained that at the top of Ledger Island, there is a crossing of the river proposed in the Parkway Master Plan. In order to design a crossing, there is quite a bit of engineering and hydrology that would need to be figured out to find the best placement for any bridge. The Conservancy has not landed on the exact spot, but in the Parkway Master Plan, the trail follows the Old Gravel Road that goes through most of Ball Ranch. It is sensible to use the existing gravel road because there will hardly be any environmental disturbance, other than using that as our multi-purpose trail.

Mr. Karbassi asked if there were any questions from the Board.

Ms. Vance thanked Mr. Shelton for acknowledging their previous discussions with DFW, and she mentioned that she would like to clarify for the record that she does not want the graphic of the trails displayed going through the Willow Unit to become memorialized, and then referenced later because they have been clear about that trail not being feasible. Therefore, it should not be considered. She explained that ecological reserves are similar to a nature reserve, and this is different than Conservancy property which is for public recreation. Those two property types collectively make a mosaic of protected and public access lands, and it would be problematic to put a trail right through what is supposed to be set aside for wildlife purposes. Ms. Vance, however, did note that the trail that was shown going through Friant Road would be potentially feasible because we could make findings pursuant to Title 14 regulations that apply to ecological reserves regarding impacts being minimal given its frontage with a busy road.

Mr. Frazier inquired if this item was just to engage in discussion, and not the authority to develop. Any project would have to go through any normal process of being approved by the Board.

Upon inquiry from Mr. Frazier, Mr. Shelton stated that was correct; it was only to engage in discussion with CEMEX. This would be brought back to the Board, and also, any decisions that we would make to put a trail in place would still have to have the site-specific CEQA involved.

Mr. Frazier suggested that the Board could create an ad hoc committee that Board member Vance should be a part of.

Mr. Shelton replied that the Conservancy has worked closely with Ms. Vance's staff and DFW's Land's Unit on this issue, and he believes that the pathway going along Friant road is probably the most appropriate route. Of course, that will be part of the discussion we have regarding any trail development.

Mr. Gibson asked is there a request to Fresno County currently for ongoing sand and gravel operations? If so, then it would seem that these trail alignments would be crossing relatively busy commercial operation roads.

Mr. Shelton commented that the Conservancy is not directly involved with the planning process approvals, so we did not want to put anything in this report indicating that the Conservancy has approved any proposals. He agreed that this is something that is in the initial stages of California Environmental Quality Act (CEQA). For background, an Environmental Impact Report (EIR) is intended as a way to assess alternatives, and the County of Fresno can then approve the alternative that they determine is best. As of now, there is no approved alternative from Fresno County. His understanding is that CEMEX has put out the plans as part of their application to the County, and there is a Notice Of Preparation (NOP) regarding what CEMEX intends to do. There will be some relatively busy commercial areas in there. One of the main issues, even under existing operations, is to figure out how to get the trail either under the access road to the Rockwell plant or over it, such as constructing a bridge. There would need to be something that does not expose bicyclists, pedestrians, and horses to this heavy traffic. Mr. Shelton suggested it could potentially just be a stop sign, but those ideas would need to be considered. On the other side, upstream by CEMEX's extraction area, the trail will come off Friant before the entrance that they will use as their access. It goes along the river up to Lost Lake Park, so it would avoid some of those areas. There would be ongoing operations if Fresno County approves their request for an extension of their permit. However, this process can be worked through, and we should be able to mitigate any of the issues that arise. Mr. Shelton mentioned has also asked for input from the County of Fresno. He was not certain if Supervisor Brandau might have some answers, or how involved he has been in the process.

Mr. Brandau stated that he is not familiar with the totality of the project itself, but the County is in the beginning phases of CEQA. He did meet with some representatives of CEMEX a month ago. He stated he is uncertain if their day-operations posed a problem with this particular trail. Fresno County will look at those issues separately.

Mr. Karbassi asked Mr. Shelton if this is going to come back to the Board and the public for consideration once the details are finalized.

Mr. Shelton confirmed and stated that unless the County covers whatever it agreed to in their CEQA document, we will now need to do CEQA. Their CEQA process has already started, so the likelihood is that we would have a supplemental or tiered CEQA process for these trails.

Mr. Gibson inquired if this would be in a supplemental CEQA.

Ms. Vance asked if there is going to be mitigation for the mine expansion.

Mr. Shelton noted that if we put our trail along CEMEX's extraction area or along the plant, within our planning process, we should be able to mitigate some of the noise for pedestrians, bicyclists, and trail riders. If we do a project, we may be able to do our own mitigation for safety and other things that are a part of it.

Ms. Vance questioned what CEQA document he is assuming that this trail would be captured by.

Mr. Shelton clarified that the process for Fresno County has begun, and he stated he is uncertain at this point because we do not have an agreement with CEMEX. Therefore, it is not part of CEMEX planning process yet. However, if we come to an agreement early on, we may be able to get it into some sort of alternatives mitigation, but we are not there yet.

Ms. Vance expressed concern. It would definitely need CEQA coverage. The mine expansion is controversial and environmentally impactful. She mentioned that DFW has already started anticipating that, and probably more so when the EIR comes out. She believes the trails are important, and she is glad they are talking about it. However, she is concerned about the Board appearing, even if they are not intending, to be in an advocacy role for the project before tied to it.

Mr. Shelton stated that regardless of what the County of Fresno does or does not do, the Conservancy will need CEQA coverage. If we go through with this project and it is not part of CEMEX's projects, the Conservancy will need to do our own CEQA process. It would not be supplemental to the County because it would be our CEQA process. It would essentially be a standalone, but it could tier off some of the County's findings, if they chose to do this. Also, the County could decide to go with the "No Action" alternative, and we would still be interested in the trail. We would then have our own standalone CEQA document on what we want to do for the trail, similar to what was done for the Eaton Trail expansion on River West. We would go through a process to figure out what we want to do.

Mr. Karbassi noted that there was a raised hand from Mr. John Buada. He thanked board members Vance and Gibson for bringing this up for the benefit of the Board and the public. He believes this is a very important point, and he would rather go to the source and ask them if the trail is in the County's CEQA or requires a separate CEQA, and if they are aware of that.

Mr. John Buada stated that this access utilizing the easements are not dependent on this project. In order to get from the Birkhead Road up to Lost Lake Park, it is going to have to go through these two properties at some point, with or without the CEMEX. Regardless of if the project is turned down, there would still be a need for an easement across there.

CEMEX would like to make that happen. They can make the access happen relatively quick if the Board can come up with some sort of an agreement. It is not permitting design as mitigation for the project at all, the project will have mitigation for those impacts and can happen without the project if the project was turned down, and agreements are made between the parties.

Mr. Gibson asked Mr. Buada if he is an active participant in the Fresno County permit extension request, and if he could share the anticipated timeline for the County regarding the EIR.

Mr. Buada stated that he is an active participant in the Fresno County permit extension request, and they are in the process of the EIR. They are hoping sometime soon. The EIR consultant has been selected, the contracts have been signed, and they are actively working on it. They are doing peer reviews of the reports associated with the project that was submitted as part of the project application. The last time CEMEX had talked with the County and the EIR consultant, the plan was to start getting portions of the EIR to review in the next month or two. He does not anticipate there to be a completed draft ready to go out to the public until mid-year at the earliest. Going through the process of a review, they anticipate numerous comments, and they would have to be answered by the EIR consultants, and perhaps, a draft might be available at the end of the year or fourth quarter, for public review. Then, it would have to go through all the comments and responses to comments, and they might be ready to go to the Board or the planning commission possibly at the end of the year or the first quarter of the next year.

Mr. Garcia recommended that the Board remove this as an action item because the Board can make it a simple process by giving direction without making it an action item for the Executive Officer to be able to engage in discussions with CEMEX regarding this issue. There are a lot of moving parts to this, and the Board would not be able to move forward with any kind of certainty today.

Mr. Karbassi inquired if Mr. Garcia would like to make a motion. He stated maybe this is not traditional, but it would be better to have this discussion in public in order to be more transparent. He asked if there a legal concern about having a vote on this item.

Mr. Garcia stated the Board members should be able to ask questions and engage, but it is traditionally the role of the Executive Officer to be able to bring an item that the Board could engage on. Right now, it seems that there are several questions already about whether the trails can be placed where the maps are indicating. There is still discussion needed with the County. He feels we are just brainstorming.

Ms. Forhan stated similar concerns to Mr. Garcia. She noted that they should let the process at Fresno County occur while recognizing that we have this opportunity in the future. She feels that there is too much unknown in all of this, and she is not familiar with what is happening at the Fresno County level.

Mr. Karbassi asked what the timeline for the Fresno County process was, in case they waited for that to be completed before the Board decided to move forward.



Mr. Shelton was unsure of a definitive timeline. His understanding is that Fresno County will put out a draft EIR to the public, which can then be commented on. They will address the comments and do a Final EIR. Once the Final EIR is done, if a new project is approved, they will set up a new reclamation plan and permit process. He believed the process will probably be a couple of years. Mr. Shelton was uncertain if they are deciding for him not to work with CEMEX and wait for all the permits to be done, and then see if we can put a trail on top of what they have already agreed to do, or if we can get into being a part of the process. He wants to ensure that the Board understands this is a separate project. There are overlaps, just as there will be with some of the other projects we have going on at Ball Ranch, but the idea is, regardless of what Fresno County does, we have the potential to work with CEMEX on our trails. He does not want to be completely hands-off until their planning process is all done, and then try to see what we can come up with.

Mr. Frazier stated that it is critical to look at it from our aims and goals as an organization. This is the time that we should be engaging in these discussions and before it gets planned where we can no longer use this kind of area, or we do not have a partner. This is not lending support to CEMEX's project EIR, but rather, exploring opportunities. This is what is best for the San Joaquin River Conservancy because this is a very significant piece, and we need to engage now. With that, Mr. Frazier stated he would like to make a motion to direct the Executive Officer to engage in discussion and to bring back any updates to the Board of potential projects that are being considered.

Mr. Karbassi asked if there was a second to the motion made by Mr. Frazier.

Mr. Janzen seconded.

Mr. Gibson commented he is having trouble understanding the existing EIR that is in process. As he understands, he does not see these as separate issues, and the trail is not even mentioned in CEMEX's request to extend their mining operations some years into the future.

Mr. Shelton answered that CEMEX has put in an application of what they want to do. CEMEX may have already put in some suggestions of significant impacts and what other mitigation compensation that they can do. However, that is the County's EIR, and they do not even have their administrative draft done yet. Therefore, we do not know what is in there and whether they will be willing to share that with him. He is assuming they are sharing that with CEMEX and their consultants. However, he does not want to give the idea that the County will not also list this as a significant impact or potentially significant impact. They have to do the analysis. In our Parkway Master Plan, we have the proposed development of the Eaton Trail that the Parkway Master Plan is a CEQA document. Under CEQA, the County does have to take that into consideration, so we have already indicated a trail through that will all be part of the discussion. Although the CEQA document in the Parkway Master Plan does discuss those trails as being relatively conceptual and can move around a little bit, it is clear that it will be somewhere between Birkhead and Lost Lake.

Mr. John Buada confirmed that the existing operations, as well as the proposed projects, are consistent with the Parkway Master Plan. In the policies, it recognizes the existence and the need for current and future mining operations. The project will not impede the implementation of the trail. It is a recognition that the plan and proposed trails are there, and the locations of the trails are not absolute. What they are suggesting is to have further discussion about how to make those work, and to get them in place soon than later. They are attempting to work out some agreement to get the easements in place. They think some of these suggestions, especially the one near the quarry site along the river, are much better than the one that goes down through the middle of an existing quarry.

Mr. Shelton asked Mr. Buada to clarify the timelines for the existing permit that they have for operation and extraction if they were not applying for a new permit.

Mr. Buada stated that CEMEX's permits will expire in 2023.

Mr. Shelton shared that the scenario is that they either have a new permit or know what they are going to do by 2023. If the decision is to extend it longer than that from Fresno County, they would have to do an extension of CEMEX's existing operations, he is assuming.

Mr. Buada replied that is correct, 2023 is the expiration date. If the project was turned down, then they would finish up the reclamation under the existing mine plans and reclamation plans. At that point in time, the operations would have to cease.

Mr. Frazier requested for clarification on the motion. He indicated that he believes he and Mr. Garcia are essentially motioning the same thing. He wanted to know if they need a formal motion or a consensus of the Board to provide direction to the Executive Officer to engage in discussions.

Ms. Christina Morkner Brown stated that if the Board is comfortable that these discussions fall within Mr. Shelton's delegated authorities and day-to-day management of Conservancy's administrative duties, then she believes they could go forward with this being more of an information item, and the Board just providing direction for him to continue. The Board could ask him to provide updates; and when there is actually some proposal, that it be brought to the Board at that time as a board item.

Mr. Karbassi asked Ms. Morkner Brown if it is possible that someone who is in opposition of the action that is being taken by the Board, regarding if they informally give direction or take a formal action instructing our Executive Officer to continue discussions with CEMEX, could sue because of the motion made?

Ms. Morkner Brown stated that once the Board takes formal action on a proposal, then that is the activity that could be challenged. However, at this point, the Board is only giving direction to the Executive Officer.

Mr. Frazier inquired if the motion could also include engaging in discussion with all landowners and businesses along the Conservancy's area.

Ms. Morkner Brown stated that the issue there is that it is a little broader than what was put on the agenda, and it would have had to been noticed differently. She stated that could be part of a broader delegation to the Executive Officer, in which the Board authorizes him or her to engage in those types of negotiations. She thinks that would be more appropriate as a separate item.

Mr. Karbassi asked legal counsel if Mr. Frazier wished to remove his motion to approve the action item in favor of an information item, then would it be possible to make that addition to include other interested parties, such as businesses and landowners.

Ms. Morkner Brown reiterated this is just a very specific item. She stated that if Mr. Karbassi was indicating that we take this off as an action item, and instead, make this an informational item to give direction to the Executive Officer to be able to continue in discussions and keep the Board updated. Then, when there is a specific proposal, it will be brought back to the Board. She agreed that would be appropriate. In terms of other discussions with other interested parties, it would be clearer if the Board asked the Executive Officer to work with legal counsel to update the Delegation of Authority to ensure that he does have authority to engage in these types of discussion with any landowners within Conservancy's authorizing statutes.

Mr. Garcia stated that he supports removing this an action item and having it be an informational item. He stated the City of Madera frequently provides informational items, and it gives them much more leeway to broaden the spectrum of their discussion. This would allow the Board to do that here.

Mr. Karbassi asked if any other board members wished to comment. With none given, he moved to public comment.

#### PUBLIC COMMENT:

Ms. Clare Statham expressed relief that this was removed as an action item. As a member of the public interested in the development of the trails, she found this item very confusing. If CEMEX is in favor of this trail development, regardless of what happens with the mining project, then it would certainly be within their ability and interest to put forward specific proposals of what it is that they are interested in and willing to do. She urged that they put forward this proposal, and that they consult with the Conservancy. Then, it can be brought back at a time when it is clear what exactly is being proposed.

Mr. Gary Bowser stated it is unfortunate to see that this has been removed as an action item today. He feels this is going to lengthen the amount of time to accomplish the trail system. He believes the Board should pass the recommendation to allow Mr. Shelton to have those discussions, which would have no impact on anything until it was brought back as a proposal to be voted on.

Mr. Tom Bohigian believes this project to be one of the largest impactful projects that have been proposed in a while. The goal of the Conservancy is not just to build trails; it is to protect, enhance and restore the resource. He thinks the Executive Officer and the Board should move very cautiously on this because the project has not even been finalized to the County, and there is too much unknown regarding the project.

Ms. Sharon Weaver stated that she appreciates that this was taken off the agenda as a formal action item. CEMEX had previously met with her to discuss their project proposal for extending their mining permit, and the trail is not included in their mining permit EIR. If the trail is not included in CEMEX's EIR it will not happen because nobody is going to permit a recreational trail next to a 600-foot hard rock mine after the fact. It has to be included in the EIR, or it is just a situation where they are trying to do good public relations in order to undermine people that will potentially oppose their project before it comes to the County, she encouraged CEMEX to put this in their EIR.

Mr. Radley Reep acknowledged that the Board is taking the right action by not having a formal action item today on this matter. He encouraged the Board to let the EIR play out fully before negotiating with CEMEX. In the EIR, they will have to evaluate the Parkway, which will bring up the issue of trails. Also, the EIR is going to tell us where the trails can go based on the mining that is going to take place. We do not know that yet. It will also tell us what the effect of the blasting is going to be on trail use. This is all very important to know before we start negotiating with CEMEX on where we are going to put trails. He said that if the project is denied by Fresno County and there is no new mining permit, then mining will cease on that property. Possibly, these might be able to be acquired by the Conservancy, in which case there may be an entirely different look at trails.

Ms. Sarah Parkes mentioned that she took a quick look at the documents available on the Fresno County website regarding the permit extension project. In the sections regarding reclamation plans, the documents do reference the Parkway Master plan. Without knowing today if CEMEX is going to have to cease operations in 2023 or will receive that permit extension, it is premature to begin planning for specific trails. The project might look different if the permit extension is denied. She asked the Board to request a formal proposal from CEMEX and believes we should hold off and let the Fresno County process play out.

Mr. Karbassi inquired if there were any more questions from the public. With none given, he asked the Board if they had any more comments or questions before the vote.

Mr. Frazier asked for clarification on the motion.

Ms. Morkner Brown believes the motion would be cleaner if the Board declined the recommendation of staff by voting no on the action item, and instead, receiving this as an informational item. The discussion that was had during this item will serve as the direction given to the Executive Officer, with the condition of receiving any additional direction.

**Mr. Frazier made a motion to accept staff's recommendation to direct the Executive Officer to engage in discussion with CEMEX regarding a potential public-private**

partnership to develop and maintain public trails, river access in the vicinity of Ball Ranch, Ledger Island, and Lost Lake Park. The motion was seconded by Ms. Auston.

**Roll Call Vote:**

Name	YES	NO	ABSTAIN
Mr. Karbassi	X		
Mr. Brandau		X	
Mr. Frazier	X		
Mr. Garcia		X	
Ms. Auston		X	
Mr. Janzen		X	
Ms. Vance		X	
Mr. Gresham		X	
Mr. Donnelly		X	
Ms. Scharffer		X	
Ms. Lucchesi		X	
Ms. Lukenbill		X	
Ms. Forhan		X	
Mr. Gibson		X	

The motion did not pass.

The Board requested to modify staff's recommendation to be received as an informational item to direct the Executive Officer to engage in discussion with CEMEX, with the condition of receiving additional direction from the Board and providing regular updates.

**F-2 ACTION ITEM:** Authorize Bond Funds and Grant to River Partners for the Ball Ranch Managed Aquifer Recharge Planning and Analysis Project

Staff Recommendation: It is recommended the Board approve \$324,317 in Prop 84 bond funds and a grant agreement with the River Partners for the Ball Ranch Managed Aquifer Recharge Planning and Analysis Project on 360 acres of Conservancy property within Ball Ranch. Wildlife Conservation Board (WCB) authorization would be requested at their May 2021 meeting.

Mr. Shelton mentioned River Partners has had a couple of projects with the Conservancy, and they are currently doing a restoration plan for Ball Ranch. He shared some ideas about how the Conservancy may be able to help with groundwater recharge. The idea is to explore what we can do in our old gravel pits that are out there in addition to the Main Pond. Little Dry creek forks at the Main Pond, and part of the water goes into the Main Pond, and part of the water continues to go downstream. The main pond fluctuates quite a bit. It still has water in it this year, and it is usually able to maintain water year-round. It has not had any flows since a year ago, so it is well connected to the groundwater table. Potentially, in a flood capture, there might be some sort of way to be able to increase the

storage in there, maybe even beyond what Little Dry Creek can provide. This is all to be determined. This is a planning process, and it is also to try to figure out who potential partners would be. Mr. Shelton showed a map indicating where the existing gravel pits are. Most of these have some good wetland vegetation and active bird use. There is the ability to make the wetland habitat values better by applying floodwaters. Part of the discussion has been what we can do for the ecosystem values, groundwater recharge, and Flood-Managed Aquifer Recharge (Flood MAR). The idea behind Flood MAR is that the excess water that is available in flood years can be managed for recharge. Floodwaters could probably be taken out of Little Dry Creek. There have not been any formal discussions with the Fresno Metropolitan Flood Control District (Flood District); although, he has had some very initial discussions regarding some of these concepts with the Department of Water Resources (DWR). Since the Big Dry Creek reservoir captures floodwater out of Dry Creek, and there is a connection to Little Dry Creek, the Flood District could use Ball Ranch to recharge Big Dry Creek flood water. Their Flood Control Plan require moving stored water out of the reservoir and into Little Dry Creek if they have excess water in their reservoir. Since there is the ability to connect, not just the Little Dry Creek watershed, but also the Big Dry Creek watershed, this could be a viable system for recharge. If we go forward on this, River Partners and DWR would be some of the main partners. The Conservancy would also be talking to the Fresno Metropolitan Flood Control District. From River Partners' proposal, DWR is already very interested in working with us on this, and they are going to give some technical input as in-kind services.

Ms. Julie Rentner, President of River Partners, spoke about the proposed planning project and how the land's management in the Parkway can contribute to groundwater sustainability. She is excited to be able to advance partnerships that will help the Conservancy understand more what can be done to manage those parkway lands in the most beneficial ways for water. If approved, they are thinking that this project timeline will run from around July 2021 through June of 2023. The project team, as described right now includes River Partners and Flow West, which is a consulting engineering firm that specializes in this type of river work and hydrology. Other key partners for the project for the plan include DWR's Flood Mar program, which is a program DWR dedicated to finding, piloting, and studying opportunities to do managed aquifer recharge across the state of California. Fresno County and the San Joaquin River are ground zero for their work. They want to find opportunities to get floodwaters and nuisance waters into the ground in the San Joaquin Valley. It is very important to them. DWR's "Central Valley Flood Protection Plan Conservation Strategy" also supports the idea of finding these strategic ways to use floodwater in a way that can benefit groundwater-dependent ecosystems and people who depend on groundwater. The planning project has three tasks. The first one is the partnership work. They are convening experts to identify opportunities, constraints, and information needs for a managed aquifer recharge project. The second task is to collect the technical information that is necessary to analyze the project, including how to integrate the idea of Flood MAR in the Ball Ranch property with other regional plans. Task three is to develop the project implementation strategy, so consolidate all their work, as well as technical information that the team would put together into a project implementation strategy. That would then be presented back to the partners and the integrated plans to support the delivery of a project that allows them to put some of that nuisance floodwater to beneficial use at Ball Ranch. The outcomes of the study would

simply be a summary memo, a site report, and a summary of existing data and analysis, then a final project implementation strategy for everybody. The budget to put this plan together really does include a lot of time and energy to cultivating the partnerships that are going to be required to bring this project into reality. Regarding the budget, DWR has offered \$300,000 of in-kind support from the Flood Mar team. This consists of technical experts who have already developed integrated modeling tools that look at the river flows, flood flows, groundwater dynamics, as well as groundwater supportive/dependent ecosystems. The contribution from DWR of in-kind support allows this study to go a lot further in terms of integration with other programs, as well as just technical information, in-kind support from River Partners in terms of indirect costs. River Partners is requesting \$324,000 from the Conservancy, for a total cost of \$630,000 for the study.

Mr. Shelton stated there is a staff recommendation to approve this request of \$324,317 in Prop 84 funds. If this Board approves it, would still need to go to the Wildlife Conservation Board's May 2021 meeting for their authorization. He believes there are other potential opportunities along the Parkway to do something similar, but the Ball Ranch area is probably the best way to start.

Mr. Brandau left at 11:50 a.m.

Mr. Karbassi turned it over for board comment.

Ms. Vance asked if this is a proposal to evaluate alternatives for when there is excess flow going down Dry Creek to enhance the aquifer, or if this is to consider other waters be artificially put in the creek.

Mr. Shelton stated it is both of those. It is to explore what is possible, but even beyond that, it is what is practical. Water issues can be very challenging, and we do not want to get crossways with water-rights holders or others, so the idea is only to explore.

Ms. Vance clarified that he is then not thinking of water banking, but rather, enhancing the way it already works.

Mr. Shelton agreed that he is not thinking of water banking. He said the Conservancy would not be recharging our water or be able to draw out for our use any water under this project. As we look at this, there may be the potential that somebody else may be able to use this as a water bank, but then our push would be for the Conservancy to receive funding to manage the water bank for those using it. That is all to be explored. There would need to be a lot of clarification including some of the legal issues on what we would be doing. We do not have the opportunity similar to having Little Dry Creek going through our properties on the Madera side of the river, but we do have some gravel pits on the Madera side. It may be possible that an organization can put water in those pits and get credit within a Groundwater Service Area (GSA). If something could be developed in this manner, it would likely not be a "water bank" as much as it is counted as a credit for their GSA.

Ms. Vance asked if the State Water Resources Control Board would be necessary, even for the simplest option, which is an enhancement.

Mr. Shelton responded that he did have some ideas, but DWR's Flood Mar staff will be able to clarify that in the project. In his discussion with some of the other landowners, there

are water rights that go with the land, and the Conservancy has their exchange rights, just like they do downstream. However, we are not looking at using Conservancy water to do this. However, this may be something that just by us having those exchange rights might give us a path forward. We are looking at other sources for water.

Ms. Vance inquired if the Conservancy would have the riparian rights to the Dry Creek water.

Mr. Shelton stated he assumes, yes. A few years ago, during the last decent water year, there were flows in Little Dry Creek that went way beyond what Big Dry Creek watershed was supplying. He stated that water could belong to the Fresno Metropolitan Flood Control District, or to the Fresno Irrigation District. This would be part of the discourse to figure out what that would mean. There might be the ability to draw some water from Little Dry Creek, if we can show that this is Little Dry Creek water and not Big Dry Creek water.

Mr. Janzen expressed that he wished it did not say aquifer recharge, but rather, a riparian and wetlands restoration project. It seems to suggest that we want to revisit pre-dam aesthetics along the river. It is not going to happen. We need to look at what the conditions are today, and what is going forward. We should not be talking about recharge; we should talk about restoration.

Mr. Karbassi asked if any other Board members were wishing to comment, with none, he commenced public comment.

**PUBLIC COMMENT:**

Ms. Sharon Weaver offered her support for this item. She is excited that this is a project that is moving forward. Different people have been talking about doing this type of thing along the river for several years, but this is the first real project that she has seen moving forward. River Partners is an organization that they have worked with for many years, and they have been one of their key partners on the river.

Mr. Karbassi asked if there were any more comments from the public, and with none, he brought it back to the Board.

Mr. Gibson requested clarification on Mr. Janzen's comments. He could not quite tell if they were missing the mark on this proposal or just have it mislabeled.

Mr. Janzen replied that he believes it to be mislabeled.

Mr. Shelton weighed in, saying Flood MAR is a program that DWR has, so the name comes from that. Mr. Janzen's comments are very appropriate. We do have at Ball Ranch monitoring wells that are already installed, so if we do a demonstration, we will be able to see what sort of recharge is occurring. It is also going to do great things for ecosystem services. However, even if this water is recharged into the ground and then it comes back out in the river; the way the San Joaquin River operates now, it will go downstream and at some point, it will probably still be sucked into the ground and into the Fresno County and Madera County groundwater basins. There is a chance for recharge, but it might not be recharging into North Fresno and Clovis area basins.

Mr. Gibson asked to be reminded of what Prop 84 funds are for, and how much we have.



Mr. Donnelly added that Prop 84 allows for scientific study and work to complete restoration, acquisition, and conservation projects on the ground. Currently, in the San Joaquin River Conservancy's budget, there is a balance of 3.2 million. There are a couple of projects lined up for some of that funding, and they have an unallocated amount of 1.2 million. For the fiscal year 2021/22 budget, he believes there is an additional allocation of Prop 84 funds. There is also a request for an appropriation of the remaining prop 84 funds available for next year, so there are plenty of funds and Prop 84. The current funding would be consistent with this kind of request.

With no more Board comments, it was moved to a motion.

**Ms. Forhan moved to approve the item; the motion was seconded by Mr. Gibson. The motion passed as follows:**

**Roll Call Vote:**

Name	YES	NO	ABSTAIN
Mr. Karbassi	X		
Mr. Frazier	X		
Mr. Garcia	X		
Ms. Auston	X		
Mr. Janzen	X		
Ms. Vance	X		
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Scharffer	X		
Ms. Lucchesi	X		
Ms. Lukenbill	X		
Ms. Forhan	X		
Mr. Gibson	X		

**G. ADMINISTRATIVE AND COMMITTEE REPORTS**

Information Items. No action of the Board is recommended.

**G-1 Organizations' Reports:** 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**

Ms. Sharon Weaver gave an update that last week during spring break, they held their first ever spring break river camp. This is something they have wanted to do for several years, but it had never quite come together. They were able to pull it off this year with the appropriate pandemic protocols. The day that she went out and visited the campers, she saw that everybody was dutifully wearing their masks and doing all the appropriate things that they needed to be safe while they were outdoors and doing team-building exercises on the San Joaquin River Parkway. They were

excited to make that happen. It took place at Owl Hollow. She thanked the Board and let them know they are putting those improvements to use.

**G-1b.** River Tree Volunteers.

Mr. Gibson mentioned that Mr. Richard Sloan recently conducted a clean-up at the bottom of the Gravel Haul Road near the River West property. He was fully engaged with the City of Fresno's graffiti paint removal team, which was getting rid of the graffiti. He noted was beautifully painted over as of this morning.

**G-1c.** Central California Off Road Cyclist (CCORC)

A representative was not present for this meeting.

**G-1d.** San Joaquin River Access Corporation (SJRAC)

A representative was not present for this meeting.

**G-1e.** San Joaquin River Socials

A representative was not present at the meeting.

**G-1f.** River Partners

No report was given by River Partners

**G-2** Deputy Attorney General Report

Ms. Christina Morkner Brown updated the Board on some legislation regarding AB 559. From her understanding, AB 559 was initially introduced last year. It did go through as part of the trailer bill process, so it was reintroduced this year with some modifications. The modification the Board was previously aware of was that it was changing the restriction that required a resident from either Fresno County or Madera to be a Riverbottom landowner. It removed that restriction and broadened what county residents could be considered as part of the list recommendation from the County Board of Supervisors. That language is in there now and it says the River Bottom landowner requirement was removed. It is now one resident from both Fresno and Madera County that is appointed by the governor from a list of candidates provided by the Board of Supervisors from Fresno and Madera County. There is no longer switching back and forth between Riverbottom owners between the two counties. Another modification that was made most recently with this bill was the addition of two new board members. There would be a total of 17 board members. One would be a member of a local tribal organization, and they would be appointed by the Governor from a list submitted by a local tribal organization. The 17<sup>th</sup> member would be a member of the public appointed by the Governor, who is not an elected official to represent statewide interests. Ms. Morkner Brown stated the other thing she would like to mention is that the language of the revised bill also changes the open meeting law to the Bagley-Keen Meeting Act which applies to other state Conservancies, rather than the Brown Act. She noted there are some differences, but it would not substantially change how the Board runs.

Mr. Karbassi asked if changing the open meeting law, do we know the history of why we are only under the Brown Act, and why was this not done before, and what exactly will this change?

Ms. Morkner Brown stated that when she looked back at the legislative history when the Conservancy was first set up, it was a majority of local members, and the State members were primarily ex officio. She believes the thinking then was since a majority of the voting members were local members from local agencies, they were accustomed to working under the Brown Act. However, the makeup of the Board has changed through legislation over the years. There have been state members that were ex officio that have been changed to full voting members, and then additional state agency state members added. She believes the thinking now is that it makes more sense to be the same as other state Conservancies. Switching to Bagley-Keen from the Brown Act, there are not a lot of changes, but might be a few more restrictions. For example, under the Brown Act, the requirement is only 72 hours to post the agenda. Under the Bagley-Keen Act, the requirement is 10 days, so there are a few, minor changes. However, it will still be very similar overall. Conduct of our Board Meetings will very similar, in terms of the public, with similar open transparency requirements.

Mr. Karbassi stated that he heard when this item was introduced in Sacramento, the Executive Officer Shelton was present to endorse the item, which he has spoken to him and knows that not to be the case. He allowed Mr. Shelton to clarify that for the public.

Mr. Shelton answered that Mr. Karbassi might be referring to the article in the Central Valley Wire that was published. He stated that they had an update to their original story that talked about the bill. In that update, it indicated that the Parkway Trust and the Conservancy were there in support of the bill. However, he made it very clear at the hearing that he was attending to answer any questions; and that as a state employee, the support or nonsupport of legislation needs to come out of the Governor's office because he does not have the authority to make that determination. He was not asked any questions other than to confirm he was there, and he was there to answer any questions.

Mr. Karbassi thanked Mr. Shelton for the clarification and asked if any other board members had any questions.

Ms. Vance reiterated Mr. Shelton's point. No state agency staff will be weighing in on this because they are not authorized to take positions on legislation. That does have to come from the Governor's office. She emphasized not to take the silence as anything other than not being authorized to weigh in.

Mr. Karbassi asked before moving forward if there was any additional information for the report.

Ms. Morkner Brown indicated that there are three other bills to briefly discuss. Two of them are general obligation bonds that would provide some money to the Conservancy, with approval first by the legislature, which would be put on the ballot in 2022. They are climate resiliency bond investments, and some amount will be allocated to the San Joaquin River Conservancy among other conservancies. There is also another bill, SB 604, which would establish a grant program between the state conservancies and the Wildlife Conservation Board. Again, that would be climate mitigation out of tax adaption resiliency. If approved, that money would

have to be allocated every year through the annual budget and upon appropriation. The conservancies and WCB can allocate those as grants.

**G-3** Executive Officer Report

Mr. Shelton gave an update on the River West Eaton Trail expansion. He had a meeting with Mayor Dyer, and his Chief of Public Works, Scott Mozier, Chairman Karbassi, and Supervisor Brandau. In that meeting, they did have a general agreement that the City is interested in applying. He believes Scott Mozier has the approval to go forward with an application. He let them know that we are beyond the timeframe to get it to WCB's May meeting, so we are possibly looking at WCB's August meeting. He told Mr. Mozier it would be better to have this as an item at the Conservancy's June meeting if they can get an application into us. Since we usually do not have a July meeting, we would have to schedule that and makes sure that we can get the application and other Board materials organized, so we are going to see how that happens. There were some changes to the timeline because we are delayed until this application is completed. If everything goes according to Mr. Shelton's very rough calculations, construction could be finished in March of 2024. Potentially, things can move quicker depending on how fast the City of Fresno can put together their application. Again, we are looking at an application that does the final design and the site-specific permits, which would allow for finalizing the bid packet. The next step, or second phase of the final design and construction is the construction. This phase will allow their engineers will give us an idea of what this is going to cost, even though the actual construction cost will depend on the bids received. It is important to estimate the cost during this phase so that the grant application for construction will need to be able to cover whatever the bid process results in.

Mr. Shelton gave a few updates on projects at the Liddell property. There is a public trust easement near the high-water mark area that is accessible to the public. Although most of our gates are closed, but we are working to try and figure out how to get the public there. The Conservancy has worked with groups at Liddell, such as River Tree Volunteers and the San Joaquin River Socials, to create volunteer events. Volunteers were able to remove all the nets and associated hardware that were a relic of the fishponds that were there when we first obtained the property. This was a large project, but we accomplished it with multiple events. Bluff Point Golf Course and Learning Center partnered with these groups and are potentially going to reusing some of that net for some of their driving range fencing.

Another notable project on the Liddell property was the tree planting event. A lot of the tree plantings were done by cub scouts, girl scouts, and boy scout troops. Mr. Karbassi came by and provided drinks and snacks for volunteers. Many of the shrubs that were planted were donated by Scout Island in Fresno County Office of Education. Paul Duckworth, an adjoining landowner who worked with us to plant some milkweeds and other pollinator plants on his property adjoining Parkway, donated some oak trees that he had sprouted.

**G-4 Board Members' Reports and Comments**

Ms. Vance had a question regarding the River West litigation. She stated that one of the conditions of the settlement agreement on the River West was that the individual lawsuits against named individuals be dropped. She asked legal counsel if that has occurred.

Ms. Morkner Brown stated that she did check with David Pai, Attorney General for the River West litigation, and he indicated that he did give an earlier update to the Board that the individuals were not dropped. She has not heard whether escrow has closed and believed that to be a condition for the final dismissal.

Ms. Vance queried if there was supposed to be something in writing provided because she has not seen that. Also, she did not recall escrow closing to be a condition for the individual suits being dismissed.

Ms. Morkner Brown stated that the individuals have since been dismissed.

Ms. Vance asked if documentation can be tracked down stating that the individuals were dismissed.

Ms. Morkner Brown stated that she will check with David Pai and would send that information out to the Board.

Mr. Donnelly added that the escrow for the public access easement with the San Joaquin River Access Corporation closed on March 4, 2021, so that portion of the project has been completed.

**H. CLOSED SESSION**

Before convening in closed session, members of the public will be provided the opportunity to comment on Executive Session agenda items.

None.

**I. NOTICE OF ADVISORY AND BOARD COMMITTEE MEETINGS, OTHER PUBLIC MEETINGS RELATED TO CONSERVANCY MATTERS**

None.

**J. NEXT BOARD MEETING DATE**

The next Board meeting is scheduled for 10:00 a.m. Wednesday, May 5, 2021, location to be determined.

**K. ADJOURN**

Board meeting notices, agendas, staff reports, and approved minutes are posted on the Conservancy's website, [www.sjrc.ca.gov](http://www.sjrc.ca.gov). For further information or if you need reasonable accommodation due to a disability, please contact the Conservancy at (559) 253-7324.

**Mr. Karbassi adjourned the meeting at 12:30 p.m.**

Respectfully Submitted,

DocuSigned by:  
*John M. Shelton*  
BD85257A1B334F2...

John M. Shelton  
Executive Officer- San Joaquin River Conservancy