



February 6, 2023

To: Regional Transportation Planning Committee

From: Darrell E. Johnson, Chief Executive Officer

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Subject: Measure M2 Environmental Mitigation Program Southern California Edison Coordination Update

Overview

Measure M2 includes a program to deliver comprehensive mitigation for biological impacts of 13 freeway projects in exchange for streamlined project approvals from state and federal resource agencies. Through the Environmental Mitigation Program, the Orange County Transportation Authority has acquired conservation properties and provided habitat restoration projects funding as part of the Natural Community Conservation Plan/Habitat Conservation Plan. This report provides an update on coordination efforts with Southern California Edison related to the Orange County Transportation Authority's conservation properties.

Recommendation

Receive and file as an information item.

Background

Measure M2 (M2) includes the Environmental Mitigation Program (EMP), which is intended to mitigate biological resource impacts of 13 M2 freeway projects and streamline the approval process with state and federal resource agencies. This was achieved through the development of a Natural Community Conservation Plan/Habitat Conservation Plan (Conservation Plan), approved by the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service (collectively referred to as Wildlife Agencies). Consistent with the Conservation Plan, the Orange County Transportation Authority (OCTA) has acquired seven conservation properties (Preserves) and funded 12 habitat restoration projects, depicted in Attachment A. Many of the restoration projects are close to, or have fulfilled, the requirements of the Wildlife Agencies.

In addition, an endowment has been established and is being funded for the long-term management of the Preserves as a provision of the Conservation Plan. On a parallel path, the United States Army Corps of Engineers and the State Water Resources Control Board, commonly referred to as the Regulatory Agencies, have also established a framework to expedite the permitting process.

The EMP accomplishments have largely met the intent of the program. These efforts are the result of years of positive collaboration between OCTA and the aforementioned agencies, stakeholders, and the public. The success of the partnerships that this program has garnered is evident with the recent recognition from the Federal Highway Administration and the Southern California Association of Governments 2022 Green Initiative Award. This success has encouraged many state and local agencies nationwide to emulate the program. Through these efforts, pre-negotiated permit terms have helped to streamline project implementation and reduce the required mitigation needs. Without the EMP's established process, additional mitigation-related requirements could have been incurred, resulting in increased project costs and schedule risks. The established permits and partnerships have also enabled swift response to other OCTA project needs.

At the Regional Planning and Highways (RPH) Committee meeting on December 5, 2022, an update was presented on the EMP. The update noted recent Southern California Edison (SCE) activities that have been documented on the OCTA Preserves. The RPH committee requested that staff return with a progress report on efforts related to the SCE impacts to the OCTA Preserves. OCTA's goal is to ensure that the necessary powerline maintenance needs of SCE are coordinated and completed, while also minimizing impacts to protected Preserve habitat. OCTA and SCE are working cooperatively toward these goals and a status update is presented.

Discussion

Pursuant to the OCTA Conservation Plan, OCTA is responsible to conserve and protect the native habitat and wildlife species on the Preserves and as such, OCTA is expected to preserve the integrity of the Preserves. However, beginning in 2020, trail cuts were discovered at the OCTA-owned Pacific Horizon (in the City of Laguna Beach) and Silverado Chaparral (in Silverado Canyon) Preserves (Attachment B and Attachment C). In addition to the newly cut trails, OCTA also discovered severed fence lines and damage to native vegetation on the Preserves. These were all associated with work on the power lines. SCE did not seek OCTA's permission prior to getting onto OCTA properties for creating new trails or damaging the fence lines or vegetation.

Staff notified SCE of the damage to the Preserves. SCE responded quickly and confirmed that damage to the fence lines and the cutting of several trails were caused by their contractors in the performance of maintenance on SCE facilities pursuant to California Public Resources Code 4292. This statute requires utility agencies to “maintain a firebreak of at least ten feet around the radius of a utility pole, with tree limbs within the ten-foot radius of the pole being removed up to eight feet above ground.” Prior to 2020, there was no evidence of any previous clearing for this maintenance work on the Preserves. However, SCE recently communicated that this work will now be conducted annually.

While OCTA recognizes SCE’s obligations under state law, OCTA seeks to ensure that the Preserves are not damaged during SCE’s performance of its maintenance activities. At the request of OCTA, SCE repaired the fencing and performed monitoring and weeding of the SCE cut access trails created at the Pacific Horizon Preserve. The repair of the fence lines and trail entrances are important, because if left unrepaired, this could attract undesired and incompatible recreational use on the trails and lead to further damage and impacts to the Preserves. OCTA and SCE staff and legal counsels have been discussing potential easements and agreements to define utility access to all OCTA Preserves and lay out the expected procedures and information needs related to any future SCE activities.

In addition, OCTA is developing standard coordination procedures for entities that include an access/work request for the Preserves. The procedures will evaluate when a fee may apply to an entity for Preserve access. This fee would be based on the type of agency and services the work would support, protection or enhancement of OCTA’s investment in the Preserves.

Professional surveys for all utility poles and facilities within the Preserve boundaries are currently being conducted. OCTA’s previously conducted surveys were focused on establishing boundary lines for property documentation and did not include utilities. SCE had previously communicated that no easements for utilities existed on the Preserves. OCTA has since verified that easements do not currently exist for the SCE poles at the Pacific Horizon or the Silverado Chaparral Preserves. Currently, 26 wooden poles occur on or directly adjacent to the OCTA Pacific Horizon Preserve boundary. Based on the recent surveys, seven of those poles exist within the OCTA Preserve. Eighteen poles occur on the adjacent County of Orange lands managed by OC Parks. One pole is located within adjacent property owned by the City of Laguna Beach. Due to topography constraints, SCE has communicated the need to access the adjacent County poles through the Preserve, which is being discussed as part of the potential agreements. This is a similar scenario for the Silverado Chaparral Preserve (Attachment B) where one pole is part of the Preserve. This level of information is necessary as SCE and OCTA work toward recording easements for the poles and affiliated work areas for the Preserves. The agreement is expected to be completed in early 2023, if a timely response occurs from both agencies.

An update on this coordination will be included in the biannual EMP staff report that is scheduled to be provided to the RPH committee and the OCTA Board of Directors (Board) in June 2023.

Summary

M2 includes an EMP that provides funding for programmatic mitigation to offset certain impacts of the 13 M2 freeway projects. To expedite the delivery of the M2 freeway projects, this program was initiated to implement early project mitigation through preservation and habitat restoration. This program is administered through a Conservation Plan. A program fact sheet is also provided as Attachment D. OCTA and SCE are partnering to ensure that necessary SCE powerline maintenance activities can occur while also protecting OCTA's investment in the Preserves. An update on this process will be provided to the RPH Committee and Board in June as part of the EMP update.

Attachments

- A. OCTA Preserves and Funded Restoration Projects
- B. Pacific Horizon Preserve/Southern California Edison (SCE) Poles and Impacts
- C. Silverado Chaparral Preserve/Southern California Edison (SCE) Poles and Impacts
- D. OCTA Freeway Environmental Mitigation Program Fact Sheet

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