



U.S. FISH AND WILDLIFE SERVICE  
Carlsbad Fish and Wildlife Office  
2177 Salk Avenue, Suite 250  
Carlsbad, California 92008



CALIFORNIA DEPARTMENT OF  
FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, California 92123

In Reply Refer to:  
FWS/CDFW-OR-2022-0081673

September 08, 2022  
*Sent Electronically*

Ms. Lori Ann Farrell Harrison  
City Manager  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
[citymanager@costamesaca.gov](mailto:citymanager@costamesaca.gov)

**Subject:** Orange County Transportation Authority Measure M2 funded Fairview Park  
Restoration Project, City of Costa Mesa, California

Dear Lori Ann Farrell Harrison:

In 2010, the City of Costa Mesa (City) nominated the subject 23-acre Fairview Park Restoration Project (Project) for funding consideration to the Orange County Transportation Authority (OCTA). The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Wildlife (Department), hereafter collectively referred to as the Wildlife Agencies, supported the recommendation for OCTA to fund the Project within the City's Fairview Park. This project was planned to be integrated into the OCTA Measure 2 (M2) Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) as it has high potential to support similar vegetation communities to mitigate for identified M2 freeway construction activities; restores sensitive species listed under the California Natural Diversity Database; and should result in ecological benefits to the NCCP/HCP Covered Species. Once the project is completed and approved by the Wildlife Agencies, OCTA will be able to use the restored habitat for mitigation as part of the OCTA M2 NCCP/HCP.

The mission of the Service is the protection of public fish and wildlife resources and their habitat. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act, Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the State's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act, and it also administers the Natural Community Conservation Program. Accordingly, the Wildlife Agencies have worked closely with OCTA over the last 15 years in the development of the OCTA M2 NCCP/HCP to protect state and federally listed plant and animal species.

The Wildlife Agencies would like to express our concerns with implementation of the Project, as issues have developed over the years that remain unresolved. The *City of Costa Mesa Fairview Park Wetlands and Riparian Habitat Project Restoration Plan* (Plan) was developed by the City, approved by the Wildlife Agencies, and the Project acreage incorporated by OCTA as part of the M2 NCCP/HCP conservation strategy. In addition to performing the habitat restoration identified in the Plan, the City agreed to ensure the long-term conservation of the natural resources at Fairview Park through verification of a conservation easement or other approved conservation mechanism.

Below are the outstanding concerns pertaining to the Project that we have communicated to the City during meetings and phone calls over the past several years:

- failure to restore the agreed upon habitat restoration acreage and implement a solution to resolve this shortcoming;
- lack of documentation to demonstrate that adjacent mitigation for other projects does not overlap with the Project;
- lack of progress on developing and recording a conservation easement or other approved conservation mechanism over the entire project area; and
- lack of Lake and Streambed Alteration Notification for one-time work and ongoing maintenance of the Fairview Park ponds subject to Fish and Game Code section 1600 *et seq.*

The Wildlife Agencies recognize the City has had staff turnover, and we understand the City recently undertook a comprehensive study of the wetlands to help inform a new management plan. Nevertheless, the lack of attention and responsiveness to resolve these issues remains of concern and could lead to non-compliance of OCTA with its M2 NCCP/HCP provisions. It could also result in a Notice of Violation of California Fish and Game Code section 1602.

Therefore, we strongly urge the City to work with OCTA and our staff to resolve these issues. We appreciate the City's attention to this matter and dedication to fulfilling the objectives of the Fairview Park restoration plan. Should you have questions or wish to discuss any of the above, please contact [Emily Gray](#) of the Department or [William Miller](#) of the Service.

Sincerely,

**JONATHAN  
SNYDER**  
Jonathan D. Snyder  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

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*David Mayer*  
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David A. Mayer  
Environmental Program Manager  
California Department of Fish and Wildlife

cc:

Jason Minter, City of Costa Mesa  
Kelly Dalton, City of Costa Mesa  
Dan Phu, OCTA  
Lesley Hill, OCTA