



December 2, 2024

To: Regional Transportation Planning Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Measure M2 Environmental Mitigation Program Update

Overview

Measure M2 includes a program to deliver comprehensive mitigations for the biological impacts of 13 freeway projects in exchange for streamlined project approvals from state and federal resource agencies. The Environmental Mitigation Program has acquired conservation properties and provided funding for habitat restoration projects as part of the Natural Community Conservation Plan/Habitat Conservation Plan. A summary of recent Environmental Mitigation Program activities is provided for informational purposes.

Recommendation

Receive and file as an information item.

Background

Measure M2 (M2) includes the Environmental Mitigation Program (EMP), intended to mitigate the biological resource impacts of 13 M2 freeway projects and streamline approval processes 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 the Wildlife Agencies). Consistent with the Conservation Plan, the Orange County Transportation Authority (OCTA) has acquired seven conservation properties (Preserves) and funded 13 habitat restoration projects, depicted in Attachment A. To date, eight of the restoration projects have been completed and met the requirements of the Wildlife Agencies. Four additional OCTA-funded restoration projects are anticipated to be completed by the end of 2025.

In addition, an endowment is being established to fund 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 have also established a framework to expedite the permitting process for the Clean Water Act permits. A subset of the Conservation Plan mitigation was utilized to streamline the process for these additional permits.

The EMP accomplishments have largely met the intent of the program. These efforts are the result of years of collaboration between OCTA and the aforementioned agencies, stakeholders, and the public. The success of the EMP has been recognized at the regional and national level. Through these efforts, pre-negotiated permit terms have helped 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.

Discussion

2023 Conservation Plan Annual Report

As a commitment of the Conservation Plan, OCTA is required to prepare an annual report on the implementation processes. The annual report integrates reports from OCTA consultants, contractors, and restoration project managers. The data is collected for the calendar year and then summarized in individual reports published early the following year. OCTA then synthesizes these reports. The annual report is not deemed final until the Wildlife Agencies have completed their review. This process typically extends until the middle of the following year. The executive summary for the 2023 Conservation Plan Annual Report is included as Attachment B. The complete annual report is available on the OCTA website.

This annual report documents OCTA's activities between January 1, 2023, and December 31, 2023. The annual report indicates that OCTA's efforts for this program are maintaining commitments made through M2. This report includes tracking biological impacts associated with covered freeway improvement projects, plan administration, and public outreach activities. In addition, various OCTA consultants provide reports that document the maintenance and monitoring conducted on the Preserves through December 31. Once that information is synthesized by the consultants, recommendations for next year's activities are included in these reports. This same process is followed for the restoration projects (separate reports completed). Once OCTA staff receives all the reports (typically by late spring), they are folded into the comprehensive OCTA annual report. This consolidated report has further staff recommendations and is provided to the Wildlife Agencies for review. Approval is typically provided by early summer. That final approved report is then provided to the Environmental Oversight Committee (EOC) and is made available for public review. The annual report

documenting the 2024 calendar year activities is anticipated to be shared with the EOC and Board of Directors (Board) in late 2025.

West Loma Restoration Project Completion

In July 2024, the Wildlife Agencies provided their sign-off on the OCTA-funded West Loma Restoration Project (approximately 62.4 acres near the City of Irvine [Attachments A and C]). The project site is within lands owned by Orange County Parks and was planned and implemented by the Irvine Ranch Conservancy. The degraded habitat that has been restored lies within an area containing patches of intact habitat. Restoring these degraded patches has improved contiguity which further benefits habitat quality of both restored and intact components. Additionally, this project capitalizes on a large-scale restoration project that is currently taking place within the same watershed. Bird surveys in 2023 documented 22 nesting locations, including three Conservation Plan-covered bird species (least Bell's vireo, coastal California gnatcatcher, and the coastal cactus wren). The projects' 2023 annual status report documented that all success criteria had been met. This is the eighth OCTA funded restoration project to meet its success criteria.

City of Costa Mesa (City) Fairview Park Restoration Project

In February 2011, OCTA awarded the City \$2 million for a 23-acre habitat restoration project within the City's Fairview Regional Park. This project is depicted in Attachment A and described in Attachment D. Approximately 13 acres of the proposed project have been implemented. Once the restoration is approved by the Wildlife Agencies and permanently protected, OCTA can utilize the restored habitat for mitigation as part of the Conservation Plan. As shared in the July 2024 staff report, various project concerns have been discussed among the City, OCTA, and Wildlife Agencies. The project is deficient of approximately ten acres of the committed restoration habitat types. In addition, the City has yet to record a required conservation easement over the project area. If these project requirements are not completed, OCTA would be out of compliance with the Conservation Plan provisions and the City would be out of compliance with their contractual obligations with OCTA.

The City has continued to work with the Wildlife Agencies, OCTA, and their consultant to identify a project area and develop a restoration plan for the outstanding remaining acreage. The proposed project area is adjacent to the existing OCTA-funded project area within Fairview Park, as shown in Attachment D. The amended restoration plan inclusive of the new project area was approved by the Wildlife Agencies and shared with the EOC. The City completed the necessary biological site surveys in summer 2024. Site implementation is anticipated to begin in late 2024/early 2025 and potentially continue through 2027-2032. Due to the presence of rare species and cultural resources, it is

possible that site implementation could be delayed until late 2025. Updates will continue to be provided to the Board and EOC.

Southern California Edison (SCE) Infrastructure Access Agreement/Easement

As previously shared with the Board, biological impacts occurred at the Pacific Horizon (in the City of Laguna Beach) and Silverado Chaparral (in Silverado Canyon) Preserves as a result of SCE utility powerline maintenance work (Attachment E). This maintenance included creating multiple access trails and clearing native vegetation around the utility poles. OCTA's goal is to ensure that the necessary 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. Agreements have been jointly developed to define utility access to all the Preserves and to identify expected procedures and information requirements related to any future SCE activities.

SCE does not have easements for the power poles or facilities at either of these Preserves. Subsequently, surveys for the utility poles and facilities were completed. The surveys conducted on these two Preserves determined that while most of the poles are located on adjacent County-owned land, with one occurring on City of Laguna Beach property, the related access involves the Preserves. Survey information was necessary to develop easements and agreements for the poles and affiliated work areas near and within all the Preserves. In early 2024, OCTA completed the legal description and depiction of all Preserve property lines and adjacent utilities. The agreement language has been finalized and outlines the expected procedures and information needs for future SCE activity. The easements are currently being recorded.

EMP Endowment Fund Investment Report

The Conservation Plan requires the establishment of an endowment to fund the long-term management of the Preserves. A separate quarterly investment report summarizing the status of the endowment will be provided to the Finance and Administration (F&A) Committee and Board in December 2024. As of September 30, 2024, the endowment balance was \$32,759,657, which is above the target of \$31,393,728 for the first quarter fiscal year (FY) 2024-25. Based on the performance to date, current projections indicate that OCTA remains on track to meet the endowment target of \$46.2 million (including interest earnings) in FY 2027-28; however, future performance of the endowment fund may affect the timeframe. Staff will continue to assess market conditions and provide regular endowment updates to the Board, the F&A Committee, and the EOC.

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, which was approved by the Wildlife Agencies in mid-2017. To maximize the benefits of the investments, OCTA has utilized some of those same mitigation assets to obtain Clean Water Act permits. Assessment of activities to date indicates the program is achieving its goals.

Attachments

- A. OCTA Preserves and Funded Restoration Projects
- B. M2 Natural Community Conservation Plan/Habitat Conservation Plan – 2023 Annual Report Executive Summary
- C. OCTA M2 EMP Funded Restoration Projects Status Table
- D. OCTA Existing and Proposed Restoration Areas at Fairview Park
- E. Pacific Horizon/Southern California Edison Poles and Impacts

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