



June 5, 2023

To: Regional Transportation Planning Committee *For*
From: Darrell E. Johnson, Chief Executive Officer *DEJ*
Subject: Measure M2 Environmental Mitigation Program 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. The Environmental Mitigation Program has acquired conservation properties and provided habitat restoration projects funding as part of the Natural Community Conservation Plan/Habitat Conservation Plan. A summary of recent Environmental Mitigation Program activities is provided for information purposes.

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 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 (CDFW) 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 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 (ACOE) and the State Water Resources Control Board (SWRCB), 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 this program has been recognized at the regional and national level. 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.

Discussion

Coastal Fire Update

In May 2022, the Coastal Fire impacted approximately 35 acres of the 151-acre, OCTA-owned, Pacific Horizon Preserve in the City of Laguna Beach. Two memos dated May 13, 2022 and June 22, 2022, were provided to the Board of Directors (Board) on the impacts of the fire (see Attachment B for the June memo). OCTA is not required by the Wildlife Agencies to restore the burned vegetation on the Preserve but will be responsible for monitoring and controlling invasive weeds that may grow in the area. The slopes of the Preserve held up well through the winter rains with minimal additional erosion. To date, monitoring has shown a healthy regrowth of the existing native vegetation as well as some invasive weeds. OCTA will continue to monitor and treat the invasive weeds and maintain fence lines to prohibit recreation through the burn area. Activities are coordinated with the Wildlife Agencies.

Trail to the Sea Alignment

Recent coordination has occurred concerning a proposed trail being contemplated within the City of Laguna Beach (City). The City is conducting a study for a possible coastal trail between Aliso and Woods Canyon and Aliso Beach (i.e., the "Trail to the Sea"). A trail assessment is being conducted by the Laguna Canyon Foundation for the City. The study will include multiple alignments, one of which could cross through the OCTA-owned Pacific Horizon Preserve via an existing trail. Concerns about this alignment have been voiced by local non-profit groups including the Friends of Harbors Beaches and Parks, and Endangered Habitats League (see letter Attachment C). Once the study or additional information is made available, this matter will be discussed with the Environmental Oversight Committee (EOC). Information will also be provided to the Board in the next EMP staff report scheduled for December 2023.

Southern California Edison (SCE) Coordination

As previously shared with the Board, biological impacts occurred at the Pacific Horizon (in Laguna Beach) and Silverado Chaparral Preserves (in Silverado Canyon) as a result of Southern California Edison (SCE) utility maintenance work (Attachment D). 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. Potential agreements are being collaboratively developed to define utility access to all OCTA Preserves and identify expected procedures and information needs related to any future SCE activities.

Pursuant to the OCTA Conservation Plan, OCTA is responsible to conserve and protect the native habitat and wildlife species on the Preserves. However, SCE power line maintenance activities have resulted in trail cuts, severed fence lines, and damage to native vegetation on these two Preserves. SCE did not seek permission to access the OCTA properties. At OCTA's request, 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. If left unrepaired, undesired, and incompatible, recreational use on the trails will lead to further damage to the Preserves. Prior to 2020, there was no evidence of any previous maintenance work on the Preserves. However, SCE recently communicated that this work will now be conducted annually.

SCE does not have easements for the power poles or facilities at either of these Preserves. As a result, surveys for the utility poles and facilities have recently been completed. The surveys determined that of the 26 wooden poles at the Pacific Horizon Preserve, 18 are located on adjacent County-owned land, one is within the City of Laguna Beach property, and seven are in the Preserve. This is a similar scenario for the Silverado Chaparral Preserve where eight poles are located on adjacent County-owned land and one is within the Preserve. Survey information is necessary to develop easements and agreements for the poles and affiliated work areas near and within the Preserves. These agreements will lay out expected procedures and information needs related to any future SCE activity. Substantial progress has been made on this agreement which is expected to be completed soon.

City of Costa Mesa Fairview Park Restoration Project

In February 2011, OCTA awarded the City of Costa Mesa (City) \$2 million for a 23-acre habitat restoration project within the City's Fairview Regional Park. Approximately 13 acres of the proposed project have been implemented. Once the restoration is completed and approved by the Wildlife Agencies, OCTA can utilize the restored habitat for mitigation as part of the OCTA M2 Conservation Plan. Various project concerns have been discussed between the City, OCTA, and

the 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. In September 2022, the Wildlife Agencies sent a letter (Attachment E) to the City pertaining to project concerns and requested collaboration between OCTA and the Wildlife Agencies to help resolve the issues. If these project requirements are not completed, OCTA would be out of compliance with the Conservation Plan provisions, and the City of Costa Mesa would be out of compliance with their contractual obligations. The City sent a letter (Attachment F) to OCTA in January stating that they will continue to work collaboratively to resolve the concerns. Ongoing monthly meetings are taking place. In addition, consistent with a request made through the Board, a site visit was held in April with the City and Orange County Parks to discuss project concerns and potential solutions. OCTA anticipates that the City will attend future EOC meetings and propose a resolution for the outstanding tasks.

United States Forest Service Trabuco District Dam Removal Project

In March 2023, the Wildlife Agencies provided their sign off on the OCTA-funded United States Forest Service (USFS) dam removal restoration project (Project). With the 2018 funding from OCTA, the USFS was able to remove 14 dams from San Juan Creek, plus additional dams and dam remnants in San Juan, Trabuco, and Holy Jim creeks. This is the fifth OCTA-funded restoration project to meet its success criteria.

The purpose of the Project was to enhance aquatic organism passage and stream habitat in these creeks. Removing human-made dams in these local creeks is essential to supporting native aquatic species (i.e., Arroyo Chub) and providing suitable habitat for potential re-establishment of species no longer found within the region, such as Southern California Steelhead Trout. These dams presented partial or complete barriers to native fish and other aquatic organisms, especially during periods of low flow. Arroyo Chub have moved upstream in San Juan Creek from where they were previously recorded thanks to this project.

EMP Endowment Fund Investment Report

The Conservation Plan requires the establishment of an endowment to fund the long-term management of the Preserves. OCTA is currently interviewing potential long-term land managers while navigating new Wildlife Agency regulations. In addition, OCTA is monitoring the endowment and has drafted land protection documents, which are currently under review by the Wildlife Agencies' legal counsel. A separate quarterly investment report summarizing the status of the endowment is being provided to the Finance and Administration Committee and Board in June 2023. As of March 31, 2023, the endowment balance was \$23,112,620.37, which is below the target of \$23,750,112 for the third quarter of fiscal year (FY) 2022-23. However, based on the California Community Foundation's performance to date, OCTA is on track to meet the endowment

target of \$46.2 million in FY 2027-28. To date, OCTA has made seven endowment deposits. OCTA will continue to assess market conditions and provide regular endowment updates to the Board, the Finance and Administration Committee, and the EOC.

Hikes and Equestrian Rides

The 2023 winter rains impacted the usual OCTA hikes and equestrian rides. To date, one hike and one equestrian ride have occurred on the OCTA Preserves. The next equestrian ride will take place on July 22nd at the Trabuco Rose Preserve and the next hike will occur on August 12th at the Pacific Horizon Preserve. More information on the Preserves and the OCTA hikes and rides are available at <http://preservingourlegacy.org/>.

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 that same mitigation assets to obtain Clean Water Act permits.

Attachments

- A. OCTA Preserves and Funded Restoration Projects
- B. Memo from Darrell E. Johnson, Chief Executive Officer, Orange County Transportation Authority, to Members of the Board of Directors, Dated June 22, 2022, Re: Environmental Mitigation Program Coastal Fire Impacts Status Update.
- C. Letter from Michael Wellborn, President, Friends of Harbor, Beaches and Parks and Dan Silver, MD, Executive Director, Endangered Habitats League, to Mayor Bob Whalen, Laguna Beach City Council and Dr. Katie Huckelbridge, California Coastal Commission, Dated January 18, 2023, RE: Trail to the Sea Planning
- D. Pacific Horizon Preserve/Southern California Edison (SCE) Poles and Impacts
- E. Letter from Jonathan D. Synder, Assistant Field Supervisor, U.S. Fish and Wildlife Service and David A. Mayer, Environmental Program Manager, California Department of Fish and Wildlife, to Lori Ann Farrell Harrison, City Manager, City of Costa Mesa, Dated September 8, 2022, RE: Orange County Transportation Authority Measure M2 funded Fairview Park Restoration Project, City of Costa Mesa, California.
- F. Letter from Lori Ann Farrell Harrison, City Manager of City of Costa Mesa, to Lesley Hill, Environmental Mitigation Program Project Manager, Orange County Transportation Authority, Dated January 19, 2023, RE: Fairview Park Wetland and Riparian Habitat Project

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