



December 6, 2021

To: Regional Highways and 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 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 the Environmental Mitigation Program activities throughout 2021 is provided.

Recommendation

Receive and file as an information item.

Background

Measure M2 (M2) includes the Environmental Mitigation Program (EMP) intended to mitigate biological resource impacts of 13 M2 freeway projects and streamline the approval process through 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) in 2017. Consistent with the Conservation Plan, the Orange County Transportation Authority (OCTA) purchased seven conservation properties (Preserves) and funded 12 habitat restoration projects (Attachment A). In addition, OCTA established an endowment for the long-term management of the Preserves. In a parallel process, OCTA worked with the United States Army Corps of Engineers (ACOE) and the State Water Resources Control Board (SWRCB), commonly referred to as the Regulatory Agencies, to establish a framework to expedite the permitting process for those agencies.

The development of the Conservation Plan, the subsequent purchase of these Preserves, and the funding of the restoration projects have largely met the intent of the EMP. Many of the restoration projects are close to or have obtained approvals from the Wildlife Agencies.

Discussion

2020 Conservation Plan Annual Report

As a commitment of the Conservation Plan, OCTA is required to prepare an annual report on the implementation processes. The executive summary for the 2020 Conservation Plan Annual Report is included as Attachment B. The complete report is available on the OCTA website at [http://www.octa.net/Projects-and-Programs/OC-Go/OC-Go-\(2011-2041\)/Freeway-Mitigation/Conservation-Plan/](http://www.octa.net/Projects-and-Programs/OC-Go/OC-Go-(2011-2041)/Freeway-Mitigation/Conservation-Plan/). This report includes the tracking of biological impacts associated with covered freeway improvement projects, management, monitoring, status and activities on the Preserves, progress of the restoration projects, as well as additional plan administration and public outreach activities. This annual report documents that OCTA's activities between January 1, 2020 and December 31, 2020, comply with and are on target with the Conservation Plan commitments. The annual report was reviewed and approved by the Wildlife Agencies, provided to the Environmental Oversight Committee (EOC), and is available for public review. The annual report documenting the 2021 calendar year activities is anticipated to be shared with the EOC and Board of Directors (Board) in mid-2022.

OCTA Preserves' Fire Management Plans Update

As required by the Conservation Plan, OCTA is developing fire management plans (Plan) for the Preserves. Each Preserve will have its own separate Plan. These Plans will provide guidelines for decision-making at all stages, including fire prevention, pre-fire vegetation management, suppression activities, and post-fire responses that are compatible with conservation and stewardship responsibilities. It was anticipated that these Plans would be completed in 2021. However, due to delays related to easement information, external Wildlife Agencies staff turnover, and the inclusion of new 2021 species data, these Plans are now anticipated to be completed in 2022. The delay of completing these Plans does not negatively impact the Conservation Plan or associated permits. Once complete, they will be posted on OCTA's website.

Federal Highway Administration Case Study

In May 2021, the Federal Highway Administration (FHWA) released a case study featuring the OCTA EMP as an industry model for advanced compensatory mitigation. This study highlights the EMP as an example of how transportation and environmental goals can be mutually accomplished through successful partnerships. The OCTA case study is one in a series of case studies emphasizing

how transportation agencies around the country are implementing a nine-step process called Eco-Logical. This study walks through the Eco-Logical framework and details how elements of the EMP align with each of the steps of the Eco-Logical approach. The case study is included as Attachment C.

Clean Water Act Permits Update

The M2 freeway projects are anticipated to impact waters of the state or jurisdictional waters that are subject to regulation by the ACOE, the SWRCB, and the CDFW, and will require mitigation. Before construction activities can occur, OCTA must obtain sections 401 and 404 Clean Water Act permits from the aforementioned Regulatory Agencies. The Conservation Plan mitigation was utilized to help obtain Clean Water Act permits. This has streamlined the project-level permitting processes. These efforts are the result of years of collaboration between OCTA and the Regulatory Agencies and constitute another groundbreaking milestone for the M2 EMP. The success of the partnership this program has garnered is evident with the FHWA recognition as previously mentioned, as well as the ACOE swift response on three OCTA emergency projects this past year.

Freeway Projects Update

The following construction projects have benefited from the EMP. Without the EMP's established process, additional mitigation-related requirements and unknown costs could have been incurred, resulting in increased project cost and schedule risks.

- Project C (Interstate 5 Improvement Project from State Route 73 [SR-73] to El Toro Road); and
- Project F (State Route 55 Improvement Project between Interstate 405 [I-405] and Interstate 5); and
- Project K (I-405 Improvement Project from SR-73 to the Los Angeles County Line).

A strong partnership has been forged through collaboration with the environmental community as exemplified by their participation on the EOC. Furthermore, substantial risk minimization from public controversies for the freeway program has occurred as a result of these partnerships.

Endowment Fund

Conservation Plan permits were issued by the Wildlife Agencies in mid-2017 streamlining the M2 environmental process. This allowed OCTA to expedite the M2 freeway projects. The Conservation Plan requires the establishment of a \$34.5 million endowment fund for long-term management of the Preserves. It is anticipated the endowment would be established in a ten to 12-year period.

To date, OCTA has made six endowment deposits. Quarterly investment reports are provided to the Board with the most recent report presented in December 2021. As of September 30, 2021, the balance was \$22,075,031. The balance is above the fiscal year 2022 target of \$20,076,431. Staff will continue to provide regular endowment updates to the Board, Finance and Administration Committee, and the EOC.

Hikes and Equestrian Rides

The docent-led hike and equestrian ride events resumed in September after a postponement for more than a year due to the impacts of the coronavirus (COVID-19) pandemic. Two hikes and three equestrian riding events were held on the Preserves in 2021. Staff will continue to monitor the impacts of COVID-19 and determine if there is any new health agency guidance on public gatherings in the future. OCTA will release the 2022 Wilderness Preserve Hiking and Equestrian Riding Tour calendar early next year.

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 to obtain Clean Water Act permits.

Attachments

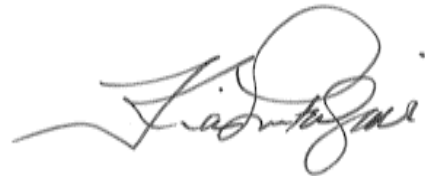
- A. OCTA Preserves and Funded Restoration Projects
- B. Measure M2 Natural Community Conservation Plan/Habitat Conservation Plan - 2020 Annual Report - Executive Summary
- C. FHWA Eco-Logical Case Studies Series, Example of Implementing Eco-Logical, A Novel Approach to Establish Programmatic Advance Mitigation for the M2 Program Transportation Projects

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