




August 7, 2017

To: Executive Committee

From: Darrell Johnson, Chief Executive Officer 

Subject: Measure M2 Environmental Mitigation Program Update

Overview

Measure M2 includes a program to deliver comprehensive mitigation for the environmental impacts of freeway projects in exchange for streamlined project approvals from the state and federal resources agencies. To date, the Environmental Mitigation Program has acquired conservation properties and provided funding for habitat restoration projects. A status report on the draft Natural Community Conservation Plan/Habitat Conservation Plan and accompanying environmental impact report/environmental impact statement is presented.

Recommendation

Receive and file as an information item.

Background

Measure M2 (M2) includes an innovative comprehensive Environmental Mitigation Program (EMP) to address the biological impacts of M2 freeway projects. This is achieved through a Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), approved by the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service (USFWS) (Wildlife Agencies). These documents demonstrate that the conservation properties (Preserves) and habitat restoration projects have largely met the mitigation needs for the M2 Freeway Program. The NCCP/HCP and associated environmental impact report/environmental impact statement (EIR/EIS) were approved by the Orange County Transportation Authority (OCTA) Board of Directors (Board) in November 2016. The final permits were approved by the Wildlife Agencies in June 2017. A status report on the program is presented.

Discussion**NCCP/HCP and Associated EIR/EIS Update**

On November 28, 2016, the Board approved the NCCP/HCP, certified the final EIR/EIS, and authorized the Chief Executive Officer to negotiate and execute the implementing agreement (IA) between OCTA and the resources agencies. The IA signifies that the state and federal Wildlife Agencies formally accept that OCTA has implemented a mechanism to ensure successful implementation of the NCCP/HCP.

On March 31, 2017, the USFWS issued a 30-day notice of availability in the Federal Register that the final EIR/EIS had been completed, and also announced receipt of a final NCCP/HCP from the applicant, OCTA. The M2 NCCP/HCP, final EIR/EIS, and IA were available for public review per the requirements of the National Environmental Policy Act. At the close of the public review period on May 1, 2017, USFWS received two comment letters. Both comment letters were in support of the NCCP/HCP and were submitted by the United States Environmental Protection Agency, as well as the Environmental Coalition. This coalition is comprised of environmental and community groups that supported the Renewed M2 in 2006 because of its inclusion of a programmatic mitigation component.

On June 19, 2017, the Wildlife Agencies finalized the issuance of their respective biological opinion, findings, and associated permits, as well as signed the NCCP/HCP IA. As a result, the M2 environmental process will be streamlined allowing OCTA to move forward with the M2 freeway projects (as described in the NCCP/HCP).

As part of the NCCP/HCP process, an endowment is required to be established to fund the long-term management of the Preserves. In November 2016, the Board approved the plan for establishment of the fund. It is estimated that it will take up to ten to 12 years to fully fund the endowment. On March 17, the first deposit into the endowment was made, and the first quarterly investment report for the endowment was provided to the Finance and Administration Committee (F&A) in June. The report was found to be consistent with the endowment pool objectives. Staff will continue to oversee and provide endowment updates to the F&A and Environmental Oversight Committee (EOC) on a regular basis.

To date, five of the seven Preserve resource management plans (RMPs) have been completed. These RMPs guide the management of the Preserves as required under the NCCP/HCP. OCTA anticipates the release of the remaining two RMPs to the public by the end of summer 2017. The five previously released RMPs are being finalized and expected to be completed on a similar time line.

Next Steps

Staff will focus on the following key actions for the remainder of 2017 and beyond:

- Implement the process to utilize the NCCP/HCP mitigation for the M2 freeway projects during construction;
- Release and finalize the Aliso Canyon and Hayashi RMPs;
- Finalize the five RMPs (Trabuco and Silverado Canyon properties);
- Execute conservation easements, seek appropriate long-term land managers, and identify entities to assume the title for the Preserves;
- Continue to coordinate with the endowment fund manager and provide updates to the F&A and EOC;
- Develop annual reports to document environmental permitting for the M2 freeway projects, preserve activities, restoration status, and endowment funds;
- Identify and fund new restoration projects to satisfy remaining mitigation requirements of NCCP/HCP;
- Continue to coordinate with the Army Corps of Engineers and the State Water Resources Control Board to identify additional funding needed in order to obtain the programmatic Clean Water Act Section 401 and 404 permits for the freeway projects;
- Work with the environmental community and interested parties on public access opportunities.

OCTA will continue to manage the Preserves until a long-term manager(s) is established. Additionally, staff will monitor the progress of all restoration projects and provide status updates to the EOC until each project is implemented.

Summary

M2 includes an EMP that provides funding for programmatic mitigation to off-set impacts of the 13 freeway projects. To expedite the delivery of the freeway projects, this program was initiated to implement early project mitigation through property acquisition and habitat restoration. This program is administered through a NCCP/HCCP, which was completed and approved by the Board in November 2016. A status report on the program is presented.

Attachment


A. Acquisition Properties and Funded Restoration Projects

Prepared by:

A handwritten signature in cursive script, reading "Lesley Hill".

Lesley Hill
Project Manager, Environmental
Mitigation Program
(714) 560-5759

Approved by:

A handwritten signature in cursive script, reading "Kia Mortazavi".

Kia Mortazavi
Executive Director, Planning
(714) 560-5741