




**December 3, 2018**

**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 the environmental impacts of 13 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 as part of the Natural Community Conservation Plan/Habitat Conservation Plan. On a parallel path, a similar approach was developed to obtain state and federal clean water permits to facilitate the implementation of the Measure M2 freeway projects. A biannual status report of these efforts and program update is presented.

### **Recommendation**

Receive and file as an information item.

### **Background**

Measure M2 (M2) includes an innovative Environmental Mitigation Program (EMP) to address certain impacts as well as streamline the M2 freeway projects. This was achieved through 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 (Wildlife Agencies). An endowment was also established for the long-term management of the conservation properties (Preserves).

In a parallel process, the United States Army Corps of Engineers (Corps) and the State Water Resources Control Board (SWRCB) have also established a framework to expedite the regulatory permitting process. The EMP delivers more effective mitigation while supporting faster delivery of M2 freeway improvements.

The acquisition of seven conservation properties, as well as the funding of 12 habitat restoration projects, have largely met the mitigation needs for the M2 freeway projects. These Preserves and projects are depicted in Attachment A. Through the Conservation Plan, the Orange County Transportation Authority (OCTA) is well underway to satisfying these obligations. Many of the restoration projects are close to or have obtained approvals from the Wildlife Agencies. These projects are listed in Attachment B.

### ***Discussion***

#### **Conservation Plan Update**

A Conservation Plan permit was issued by the Wildlife Agencies in mid-2017. As a result, the M2 environmental process has been streamlined allowing OCTA to move forward more expeditiously with the M2 freeway projects. The Conservation Plan approval by the Wildlife Agencies requires the establishment of a \$34.5 million endowment to fund the long-term management of the Preserves. The first endowment deposit was made in early 2017. The third and most recent deposit was made in August 2018. Quarterly investment reports are provided to the Board of Directors (Board), with the most recent one given in September 2018. Staff will continue to oversee and provide regular endowment updates to the Finance and Administration Committee and the Environmental Oversight Committee (EOC).

In compliance with the Conservation Plan, resource management plans (RMPs) have been developed for each Preserve. The RMPs provide guidelines for the management and monitoring of each Preserve in accordance with the goals and objectives outlined in the Conservation Plan. Key components of the RMPs include guidance for ongoing protection, preservation, and adaptive management of the natural resources found within each Preserve.

OCTA released the two remaining RMPs (Eagle Ridge and Pacific Horizon) for a 90-day review and comment period in 2017. Public meetings and workshops were also held to solicit input. Staff will continue to oversee and manage the Preserves until a long-term manager(s) is established. These two remaining RMPs were finalized in September 2018.

In consultation with the local fire authority, OCTA began developing fire management plans (Plans) for the Preserves in September 2018. The 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. These Plans are a requirement of the Conservation Plan and will be approved by the Wildlife Agencies.

### Restoration Project Updates

The North Coal Canyon and Chino Hills State Park (CHSP) restoration projects were approved by the EOC and OCTA Board as part of the EMP's second round of restoration funding in 2012, and were incorporated into the OCTA Conservation Plan. Due to limitations on the California Department of Parks and Recreation contracting process, CHSP was unable to implement these two restoration projects. At the direction of the EOC, staff is utilizing the Board-approved procurement procedures to identify qualified entity(ies) to implement these projects. It is anticipated the work will begin in early 2019.

In June 2018, the 155-acre Santiago wildfire impacted the OCTA-funded West Loma Restoration Project. This restoration project is being implemented by the Irvine Ranch Conservancy and is within unincorporated Orange County (Attachment A). The Santiago wildfire resulted in damage to restored habitat, estimated at \$12,500, and the damaged areas will be replanted this winter. Since the project had not received final sign off from the Wildlife Agencies, OCTA was required to restore the fire-damaged area. Once the restoration projects are signed off by the Wildlife Agencies, OCTA will no longer be responsible for the costs or management of these projects.

In October 2018, the Wildlife Agencies provided sign off on the 53-acre OCTA "City Parcel/2C Ranch" Restoration Project that began in April 2011. This project is within and sponsored by the City of San Juan Capistrano. Wildlife surveys have documented that both the coastal California gnatcatcher and the least Bell's vireo (Conservation Plan covered species) are utilizing the restored areas. This is the second OCTA restoration project to meet its success criteria, following the completion of the Big Bend Restoration Project.

### Clean Water Act Permits Update

The M2 freeway projects are anticipated to impact jurisdictional waters, which will require mitigation. As a result, before construction activities can occur within jurisdictional waters, OCTA must obtain Sections 401 and 404 Clean Water Act permits from the Corps and SWRCB (regulatory agencies). To maximize the benefits of the investments on the Conservation Plan, OCTA was able to utilize some of the same mitigation to obtain programmatic 401 and 404 permits. These programmatic permits were issued in late 2017 and early 2018 and have reduced the time needed in obtaining project level sections 401 and 404 permits. These efforts are the result of years of collaboration between OCTA, the Corps, and the SWRCB, and constitute another groundbreaking milestone for the M2 EMP.

### Freeway Projects Update

To date, multiple freeway projects have utilized the EMP streamlining mechanisms. The following projects are either in or near construction and were able to benefit from the EMP:

- Project C (Interstate 5 Improvement Project from State Route 73 [SR-73] to El Toro Road);
- Project K (Interstate 405 Improvement Project from SR-73 to the Los Angeles County line); and
- Project M (Interstate 605 and Katella Interchange Project).

Without the EMP's established process, these projects could have incurred additional mitigation-related costs, resulting in project schedule risks. A strong partnership has been forged through collaboration with the environmental community as exemplified by their participation on the EOC. Furthermore, there has been substantial reduction in risk from the threat of potential lawsuits because of these partnerships.

### ***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 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. A status report on the program is presented.

***Attachments***

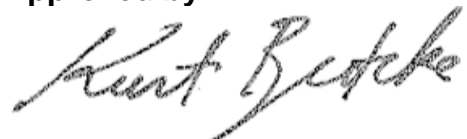
- A. OCTA Preserves and Funded Restoration Projects
- B. OCTA M2 EMP-Funded Restoration Projects Summary

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