




**August 5, 2019**

**To:** Regional Highways and Planning Committee  
**From:** Darrell E. Johnson, Chief Executive Officer   
**Subject:** Measure M2 Environmental Mitigation Program Update and Annual Report

### **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 summary of the first Annual Report for the Orange County Transportation Authority M2 Natural Community Conservation Plan/Habitat Conservation Plan covering all activities up to December 31, 2018, is provided. Additional Environmental Mitigation Program activities post 2018 are also provided in this report.

### **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. As a commitment of the Conservation Plan, OCTA is required to prepare an annual report on the implementation processes. The executive summary for the First 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/).

### ***Discussion***

#### **Conservation Plan Update**

The 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 expedite 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 most recent deposit was made in August 2018. The next deposit is scheduled for July 2019. Quarterly investment reports are provided to the Board of Directors (Board), with the most recent one given in June 2019. As of March 31, 2019, the endowment balance is \$9,263,521.79. 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. The seven Preserve RMPs were released for a 90-day public review and comment period, with the final RMPs completed 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 must be approved by the Wildlife Agencies. An overview of the proposed content Fire Management Plan development process was provided to the EOC in February and July 2019.

#### Conservation Plan First Annual Report

The executive summary for the First Annual Report is included as Attachment B. This includes the tracking of impacts associated with covered freeway improvement projects, other management and monitoring activities on Preserves, status and activities, progress of the restoration projects, plan administration, and public outreach activities. In summary, the First Annual Report documents that OCTA's activities through 2018 are in compliance and on target with the Conservation Plan commitments. OCTA will continue with its efforts to complete the required objectives in a timely manner. This First Annual Report has been reviewed and approved by the Wildlife Agencies. In addition, it has been presented to the OCTA EOC and will be available for a public review.

#### 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 utilized the Board-approved procurement procedures to solicit qualified entity(ies) to implement these projects. These projects were awarded to RECON Environmental, Inc., and Habitat Restoration Services, Inc., in early 2019. Both contractors have taken the necessary steps to begin the implementation of these projects.

#### Clean Water Act Permits Update

The M2 freeway projects are anticipated to impact jurisdictional waters, which will require mitigation. Before construction activities can occur, OCTA must obtain Sections 401 and 404 Clean Water Act permits from the Corps and SWRCB (regulatory agencies). To maximize the benefits of OCTAs' investments,

Conservation Plan mitigation was able to be utilized to help obtain programmatic 401 and 404 permits. These permits were issued in late 2017 and early 2018, and have 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.

#### **Freeway Projects Update**

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 Avenue Interchange Project).

The California Department of Fish and Wildlife (CDFW) streambed alteration agreement (permit) for Project C (Segment 3) is pending. Based on recent coordination, it is anticipated that a path forward will be determined that will allow permit issuance by CDFW which will avoid project delays.

Without the EMP's established process, these projects could have incurred mitigation-related requirements and cost, 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 individual freeway projects. To expedite the delivery of the 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. M2 Natural Community Conservation Plan/Habitat Conservation Plan - First Annual Report 2019

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