




December 2, 2019

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. 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 (CDFW) and the United States Fish and Wildlife Service (Wildlife Agencies) in mid-2017. 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 streamlined 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 signoff from the Wildlife Agencies that the work has met the success criteria.

Discussion

Conservation Plan Update

As a commitment of the Conservation Plan, OCTA is required to prepare an annual report on the implementation processes. The First Annual Report was completed and provided to the OCTA Board of Directors (Board) in August 2019. The report is available on the OCTA website at [http://www.octa.net/Projects-and-Programs/OC-Go/OC-Go-\(2011-041\)/Freeway-Mitigation/Conservation-Plan/](http://www.octa.net/Projects-and-Programs/OC-Go/OC-Go-(2011-041)/Freeway-Mitigation/Conservation-Plan/). OCTA will continue with its efforts to complete the required objectives in a timely manner. The next Conservation Plan Annual Report is anticipated to be completed in early 2020 and will be provided to the Board in the next EMP update.

The Conservation Plan requires the establishment of a \$34.5 million endowment to fund the long-term management of the Preserves. It is estimated this will take between 12 to 15 years, dependent on financial market conditions. To date, OCTA has made four endowment deposits. Quarterly investment reports are provided to the Board, with the most recent one in November 2019. As of September 30, 2019, the endowment balance is \$12,393,157, and on par with baseline assumptions with respect to interest earnings. The goal for this fiscal year is to reach a minimum of \$12,440,408 by June 30, 2020. Staff will continue to oversee and provide regular endowment updates to the Finance and Administration Committee and the Environmental Oversight Committee (EOC).

Preserve Management Update

OCTA began acquiring the seven Preserves in mid-2011 as part of the commitment of the EMP. The seventh Preserve was acquired in mid-2015. Resource management plans (RMPs) were developed for each Preserve, which 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 protected natural resources found within each Preserve. Each of the seven Preserve RMPs were released for a 90-day public review and comment period, with the final RMP completed in September 2018.

OCTA is currently managing these Preserves, consistent with the commitments within the Conservation Plan and associated approved RMPs. OCTA will continue with this management until a long-term land manager has been identified and the Preserve ownership and management responsibilities are transferred. Staff is developing a process to transfer these lands while taking into consideration many variables for the long-term management and disposition of each Preserve. A schedule, applicable contracting process, and outreach efforts to potential long-term land managers are currently being developed. Staff will continue to work with the EOC for guidance on this process.

Fire Management Plans Update

In consultation with the local fire authority, OCTA began developing fire management plans (Plans) for the Preserves in 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 for the Plan and the development process was provided to the EOC in July 2019. OCTA staff, the consultant, and the responsible fire entity for each Preserve have had multiple meetings and site visits to the Preserves while developing the Plans, which are anticipated to be completed in late 2020.

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 OCTA's 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 [I-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).

Without the EMP's established process, these projects could have incurred costly mitigation-related requirements, 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.

I-5 Improvement Project Update

At the July 2019 EOC meeting, unforeseen complications with the CDFW Streambed Alteration Agreement (1602) permit for the I-5 Widening Project were discussed. These complications were a result of the implementation of SB 857 (Chapter 589, Statutes of 2005), which requires steelhead trout fish passage to be assessed for federally funded transportation projects. The CDFW, OCTA, and the California Department of Transportation staff were able to develop multiple options that would satisfy the requirements of SB 857 while minimizing schedule delays and cost increases to the I-5 Widening Project. On September 18, 2019, the I-5 Widening Project 1602 permit was issued by CDFW. Attachment B provides more information pertaining to this outcome.

Summary

M2 includes an EMP that provides funding for programmatic mitigation to offset 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. Interstate 5 Improvement Project Update

Prepared by:



Lesley Hill
Project Manager
(714) 560-5759

Approved by:



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