



June 2, 2025

To: Regional Transportation 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 funding for habitat restoration projects as part of the Natural Community Conservation Plan/Habitat Conservation Plan. A summary of recent Environmental Mitigation Program activities is provided for informational purposes.

Recommendation

Receive and file as an information item.

Background

Measure M2 (M2) includes the Environmental Mitigation Program (EMP), which is intended to mitigate the biological resource impacts of 13 M2 freeway projects and streamline approval processes with 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 the Wildlife Agencies). Consistent with the Conservation Plan, the Orange County Transportation Authority (OCTA) has acquired seven conservation properties (Preserves) and funded 13 habitat restoration projects, depicted in Attachment A. To date, eight of the restoration projects have been completed and met the requirements of the Wildlife Agencies. Four additional OCTA-funded restoration projects are being reviewed for completeness this year.

In addition, an endowment is being established to support the long-term management of the Preserves, as outlined in the Conservation Plan. Concurrently, the United States Army Corps of Engineers (USACE) and the State Water Resources Control Board have developed a framework to streamline the permitting process.

The accomplishments of the EMP have largely fulfilled the program's intended goals. These achievements reflect years of collaboration among OCTA, partner agencies, stakeholders, and the public. The program's success has been recognized at both regional and national levels. As a result of these efforts, pre-negotiated permit terms have facilitated more efficient project implementation and reduced the scope of required mitigation. Absent the EMP's structured approach, additional mitigation obligations could have been imposed, leading to higher project costs and increased project schedule risks.

Discussion

Aliso Creek Restoration Project

The Aliso Creek Restoration Project, led by the Laguna Canyon Foundation (LCF), was approved for funding under the M2 Freeway EMP in 2012. The project location is depicted on Attachment A and a general fact sheet is included as Attachment B. This project restored 55 acres of riparian habitat within the Aliso and Wood Canyons Wilderness Park, removing over 1,000 tons of invasive *Arundo* and enhancing critical habitat for threatened and endangered species. The project was a catalyst and helped leverage more than \$7.6 million in additional third-party funds, supporting OCTA's conservation goals and serving as mitigation for seven M2 freeway projects and 19 related permits.

In order to secure a USACE Section 404 permit to initiate construction for the Interstate 405 (I-405) Improvement Project, OCTA was required to provide financial commitments in 2017 for two restoration projects and one Preserve. This was critical in enabling the I-405 Improvement Project to begin construction on schedule. Since then, OCTA, USACE, the Wildlife Agencies, and the County have finalized the required documents, including a restoration plan, restricted covenant, and a long-term funding agreement. This coordination process spanned several years, as the completion of each document was contingent upon the finalization of the preceding one, with all documents required to maintain consistency throughout. Document approval and recording by the County of Orange will allow OCTA to make the one-time endowment deposit into a USACE-approved account, where the funds will not be used for a period of years, as required by the USACE.

The latest annual report confirms all success criteria have been met. OCTA is awaiting final concurrence from the USACE and Wildlife Agencies, with the LCF and OC Parks continuing interim management activities until the long-term management duties begin.

Fairview Park Restoration Project

In 2011, OCTA awarded the City of Costa Mesa (City) \$2 million for a 23-acre habitat restoration project within the City's Fairview Regional Park. Approximately 13 acres have been restored. Once the project receives final approval from the Wildlife Agencies and is permanently protected, OCTA will be able to use the restored habitat as mitigation under its M2 Conservation Plan. As noted in previous staff reports, the City, OCTA, and the Wildlife Agencies have worked to address various project-related issues. However, the project remains approximately ten acres short of the originally committed restoration and the required conservation easement for the project area has not yet been recorded. If these requirements are not fulfilled, OCTA would be in violation of the Conservation Plan and the City would be in breach of contract.

To address this, the City, in coordination with OCTA and the Wildlife Agencies, has identified a supplemental restoration area adjacent to the original site as shown in Attachment C. Funding has been secured through local and state sources, with restoration to continue through 2033.

The City will require assistance from a contractor to implement the restoration efforts. A procurement process to cover this work was initiated in late 2024, but CDFW recommended delaying the contract award and California Environmental Quality Act action until a CDFW Incidental Take Permit (ITP) is finalized. The ITP is needed before work can begin and will include specific measures to protect species including Crotch's bumblebee and the Western Burrowing Owl, both of which have been observed on the project site. The City is in final negotiations for the ITP and expects to award the contract by summer 2025, with work commencing in September following the avian nesting season. The delay is consistent with the scheduled pause in major site preparation activities during the avian nesting season, which generally extends from February through September. OCTA will continue working with the City and agencies to ensure all obligations are met.

EMP Endowment Fund Investment Report

The Conservation Plan requires the establishment of an endowment to fund the long-term management of the Preserves. A separate quarterly investment report summarizing the status of the endowment was provided to the Finance and Administration (F&A) Committee and OCTA Board of Directors (Board) in March 2025. As of December 31, 2024, the endowment balance was \$32,674,489, which is above the target of \$31,759,663 for the second quarter of

fiscal year (FY) 2024-25. Based on the performance to date, current projections indicate that OCTA remains on track to meet the endowment target of \$46.2 million (including interest earnings) in FY 2027-28; however, future performance of the endowment fund may affect the timeframe. Staff will continue to assess market conditions and provide regular endowment updates to the Board, the F&A Committee, and the Environmental Oversight Committee.

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 those same mitigation assets to obtain Clean Water Act permits.

Attachments

- A. OCTA Preserves and Funded Restoration Projects
- B. September 11, 2017 Measure M2 Environmental Mitigation Program Restoration Projects Additional Funding Request Staff Report
- C. OCTA Existing and Proposed Restoration Areas at Fairview Park

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