UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

May 1, 2017

Mr. Mendel Stewart
Field Supervisor
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

Subject: Final Environmental Impact Statement for the Orange County Transportation Authority M2 Natural Community Conservation Plan / Habitat Conservation Plan, California (EIS No. 20170049)

Dear Mr. Stewart:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document. Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA previously reviewed the Draft Environmental Impact Statement (EIS) and provided comments to the U.S. Fish and Wildlife Service (FWS) on February 5, 2015. We rated the Draft EIS as *Environmental Concerns – Insufficient Information* (EC-2) due to concerns regarding potential impacts to air, water, and biological resources from the covered activities. We appreciate the clarifications provided by the lead agencies in response to our comments.

EPA supports the development of the HCP and recognizes its potential to achieve more meaningful conservation outcomes and environmental protections than would project-by-project mitigation. To help achieve this goal, we continue to recommend that the lead agencies use this regional planning effort to identify up-to-date mitigation measures, commit to the use of the best available technology and emission controls, and ensure consistent implementation of these measures for all future covered activities.

Effective air pollutant emission controls are critical to protect the air quality within the plan area, which is classified as a federal nonattainment area with respect to ozone and fine particulate matter pollution. In response to our air quality concerns, the Final EIS clarifies that emission mitigation measures will be identified as the covered freeway projects undergo their respective environmental review processes in the future. We encourage FWS to include this commitment in the Record of Decision (ROD) and to consider adopting, in the ROD, the most protective mitigation measures from Appendix E as baseline Conditions of Approval (COA) for future projects, subject to updating, as appropriate, in response to future technical and regulatory developments. EPA requests the opportunity to review future project-specific analyses carried out under this EIS. Clifton Meek is the appropriate point of contact for such coordination. Mr. Meek can be reached at 415-972-3370 or meek.clifton@epa.gov.

We appreciate the more detailed description of the Letter of Permission (LOP) permitting process that the Orange County Transportation Authority (OCTA) has undertaken with the U.S. Army Corps of Engineers and the State Water Resources Control Board. We commend OCTA for its interest in commencing wetlands mitigation as soon as possible. We recommend that this commitment to proactive mitigation be included in the ROD, and encourage OCTA to coordinate with our Water Division early in the LOP process. Megan Fitzgerald is the appropriate point of contact for such coordination. Ms. Fitzgerald can be reached at 415-972-3669 or fitzgerald.megan@epa.gov.

We appreciate the opportunity to review this Final EIS and are available to discuss our comments. If you have any questions, please contact Morgan Capilla, the lead reviewer for this project, at 415-972-3504 or capilla.morgan@epa.gov.

Sincerely,

Kathleen Martyn Goforth, Manager
Environmental Review Section

Electronic copy:

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