



February 5, 2016

Dan Phu, Section Manager  
ATTN: M2 EMP RMP Comments  
Orange County Transportation Authority  
550 Main Street  
Orange, CA 92863

RE: Comments on the Foothill Resource Management Plans

Dear Dan Phu,

I am writing on behalf of the Safe Trails Coalition regarding the draft Resource Management Plans (RMPs) released by the Orange County Transportation Authority (OCTA) for its Environmental Mitigation Program (EMP). These comments specifically pertain to the Trabuco and Silverado Canyon RMPs. We anxiously await the release of the Aliso Canyon and Hayashi RMPs in the future and will provide additional comments at that time.

By way of background, the Safe Trails Coalition was formed three years ago by Audubon California, Friends of Harbors, Beaches and Parks, Laguna Canyon Foundation, Sea and Sage Audubon, and Sierra Club. Collectively and along with our more than 30 supporting organizations, our focus is to find the balance between recreational needs and resource protection in our parks, preserves, and natural lands.

Meeting the requirements of the OCTA Natural Communities Conservation Plan and Habitat Conservation Plan (NCCP/HCP) is essential as this program has offered an innovative way to protect natural resources and provide balanced and managed recreational opportunities for the public. Thank you for the opportunity to provide input, our comments are as follows:

**Conservation-Focused Acquisition**

We are pleased OCTA acquired the Ferber Ranch, O'Neill Oaks, Hafen, Saddle Creek South and MacPherson as part of the Measure M Environmental Mitigation Program which was approved by voters in November 2006. We realize these acquisitions help offset the habitat and species loss due to various freeway projects.

We also understand this program must comply with specific restrictions and legal agreements. As such, OCTA and the permitting agencies are required to reduce or limit the allowed access and recreational use of these lands. We have been involved with numerous other lands within the County that also have these same types of restrictions where the primary focus is on the conservation benefits. We are strong advocates of recreational opportunities where



appropriate and understand when open public access simply cannot be allowed and still maintain the level of stewardship required.

Therefore, the Coalition supports the findings in the RMPs that outline the management of public access for each of the Preserves to:

- Saddle Creek South – public access will not be allowed
- Hafen – public access will not be allowed
- MacPherson – 0.62 mile trail used through managed public access
- O’Neill Oaks – 0.73 mile trail used through managed public access
- Ferber Ranch – 2.1 mile trail used through managed public access

### **Easements on the OCTA Preserves**

Easements run with the land and are important to connecting trails and trail networks. Prior usage arrangements by previous landowners are invalid unless recorded by easement. To our knowledge there were no public (or other) trail easements on record for the Foothill properties. We support OCTA’s position that managed public access is the most appropriate approach for the Preserves.

### **OCTA’s Relationship to Existing Trail Networks**

The Foothill-Trabuco Specific Plan and the Master Plan of Regional Trails outline a conceptual trail system in Trabuco Canyon. That said, the trails drawn on the map often do not align with the trails on the ground. This is where the “conceptual approach” works best. OCTA cannot be required to realign or add Preserve trails to fit trail locations based on these maps or other conceptual plans.

We support improvements to trail systems and connections where they are appropriate; however, based on the maps in the RMPs it appears the majority of the Preserve boundaries abut private property or lands with restricted access. Without permission from adjacent landowners the public cannot access those properties legally. The Coalition does not support trespassing on adjacent lands where public access is not allowed.

Instead, we believe the advocates for the local trail network should work to gain trail easements on neighboring properties and then seek possible alignments with OCTA’s trail system. Based on the language of the RMP, we believe if this is achieved, OCTA can consider expanding access in the future. It is not the mission or purpose of OCTA to secure easement rights on other lands.



### **Indemnification, Liability and Management**

The purpose of the EMP is to mitigate the impacts of the freeway projects. Allowing access on the land increases OCTA's liability and as a public agency, we believe OCTA should consider indemnification to protect the agency.

Our knowledge of trails on public and private preserves indicates that the more trails the land has, the higher the management, maintenance, and enforcement costs will be. To ensure the program stays within its long-term management costs/budget, not to mention minimizing impacts to the species and habitats, the Coalition supports maintaining a small network of trails within the Preserves.

The Environmental Oversight Committee has reported that several preserves, most specifically the Ferber Ranch Preserve, have faced irresponsible and illegal use of the property and trail system. Neighboring public property owners (i.e., the Joplin Facility) simply cite Penal Code 602 (which prohibits the crime known as criminal trespass). OCTA may want to consider invoking this Penal Code if illegal trespassing persists or other enforcement mechanisms do not work.

Thank you for allowing the Safe Trails Coalition to provide substantive comments on the Foothill RMPs. Should you have any questions, please contact me directly at 714-928-8689.

Sincerely,

*Michael Wellborn*

Michael Wellborn  
Core Team Member