Eco-Logical
Community of Practice

Innovative Mitigation Contracting & Financing

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(Learn more about Eco-Logical at the FHWA website)

American Association of State Highway and Transportation Officials
AASHTO

SHRP2 SOLUTIONS
TOOLS FOR THE ROAD AHEAD

U.S. Department of Transportation
Federal Highway Administration

SHRP2 & Its Focus Areas
(Second Strategic Highway Research Program)

Safety: Fostering safer driving through analysis of driver, roadway and vehicle factors in crashes, near crashes, and ordinary driving.

Renewal: Rapid maintenance and repair of the deteriorating infrastructure using already-available resources, innovations, and technologies.

Capacity: Planning and designing a highway system that offers minimum disruption and meets the environmental, and economic needs of the community.

Reliability: Reducing congestion and creating more predictable travel times through better operations.

Eco-Logical: Community of Practice

Purpose:

- To continue the exchange of information after SHRP2 activities have concluded.

Goals :

- To create a self-sustaining network of practitioners to share knowledge, best practices, ideas, and facilitate technical assistance amongst members.

Implementing Eco-Logical

- Landscape-scale approach to transportation project development.
- Transportation agencies collaborate during the planning process.
- Lead to agreed-upon mitigation strategies and timely permit decisions.
- Linking Planning and Environment
- Programmatic Mitigation Plans

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FHWA | PEL

Planning & Environment Linkages

Overview

- Planning and Environmental Linkages (PEL)
- Programmatic Mitigation Plans
- Highlights of MAP-21 and FAST Act

Planning & Environment Linkages (PEL)

PEL represents a collaborative and integrated approach to transportation decision-making that:

1. **Considers environmental, community, and economic goals early in the transportation planning process.**

2. **Uses the information, analysis, and products developed during planning to inform the environmental review process.**

3. **Helps states and MPOs save time and money in the environmental review and permitting phases of transportation projects.**

Programmatic Mitigation Plans in PEL

- **States and MPOs may develop programmatic mitigation plans as part of the statewide and the metropolitan transportation planning processes.**
  (23 U.S.C. 169 as amended by MAP-21 and FAST Act)
  ("Final rule" language is in 23 C.F.R. 450.214 and 450.320)

- **States and MPOs anticipate the potential environmental impacts of future transportation projects (such as those listed in their long-range plans) and create, or use existing, programmatic mitigation plans to help mitigate those future impacts.**

- **Programmatic mitigation plans depend on close coordination between State DOTs/MPOs and relevant Resource Agencies**

Programmatic Mitigation Plans - Scope

- **The programmatic mitigation plan may include:**
  - **An assessment of the existing condition, historic and recent trends and/or any potential threats to those resources.**
  - **Identification of economic, social, and natural and human environmental resources, including:**
    - **wetlands**
    - **streams**
    - **rivers**
    - **stormwater**
    - **parklands**
    - **cultural resources**
    - **historic resources**
    - **farmlands**
    - **archeological resources**
    - **threatened or endangered species**
    - **critical habitat**

Programmatic Mitigation Plans - Flexibility

- **Integration into/from other plans**
  - **Programmatic mitigation plan can be integrated with other resource plans including, but not limited to:**
    - **watershed plans**
    - **ecosystem plans**
    - **species recovery plans**
    - **growth management plans**
    - **state wildlife plans**
    - **climate change action plans**
    - **land use plans**
  - **States and MPOs can adopt programmatic mitigation plans developed under another authority**
  - **Includes the use of mitigation and conservation banks**

Programmatic Mitigation Plans - Funding

- **State Planning and Research & Metropolitan Planning Funds**
  - **Eligibility will be evaluated on a case-by-case basis** (Contact your FHWA Division Office or FTA Regional Office.)
  - **In general, transportation planning activities undertaken as part of the planning process prior to the initiation of NEPA are eligible**
  - **NEPA development: in consultation with the relevant agency, the project sponsor is encouraged to consider adoption or incorporation by reference of the relevant components to advance environmental activities for a project eligible for federal funds**

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Eco-Logical CoP Webinar – Innovative Mitigation Contracting/Financing – October 5, 2016

ODOT Full Delivery Process for Natural Resource Mitigation

Mike Pettegrew
ODOT Office of Environmental Services
Ecological Program Manager

ODOT Full Delivery Process for Natural Resource Mitigation

- Why did the process develop?
  - Reduction in staffing, reorganization, etc.
  - Elimination of dedicated real estate staff for mitigation
  - Mitigation regulations became more stringent
  - Difficulties with incorporating mitigation with regular construction contracts
  - Need to maintain competitive pricing
  - Need for programmatic/landscape scale mitigation in certain circumstances

ODOT Full Delivery Process for Natural Resource Mitigation

- How is the full delivery model different than previous methods for ODOT to accomplish mitigation?
  - "Old ways"
    - In house
      - Performed with dedicated real estate mitigation staff in conjunction with environmental staff and district staff
      - Mitigation sites requiring construction were incorporated into the transportation project contract
    - Utilizing consultants to assist or completely conduct work through a "professional services" contract
      - Can only do professional services and not construction
      - Cannot include price as a consideration in selection
      - Required controlling board approval
      - Typically 2 year contracts, limits on spending authority
    - Banks
      - Wetland only, limited coverage
      - ILF options recent to Ohio
      - Purchases require controlling board approval

ODOT Full Delivery Process for Natural Resource Mitigation

- New Full Delivery Natural Resource Mitigation Process
  - Selection is competitively bid, but controlling board approval not required
  - Can consider all services related to mitigation (e.g. environmental, real estate acquisition, construction, long term management, etc.)
  - Contract length can be multiple years
  - No predefined limits on spending authority
  - Selection criteria can be customized and pricing can be considered as a selection criteria
  - Cost proposals and invoices are simplified
  - Contracts are written where no properties are purchased in ODOT's name

ODOT Full Delivery Process for Natural Resource Mitigation

- New Full Delivery Natural Resource Mitigation Process
  - Advantages of Full Delivery Process
    - Allows us to select highly qualified mitigation teams that have extensive mitigation experience. We don't get stuck with a contractor that has no mitigation experience and is not focused on the mitigation project.
    - Consideration of pricing results in interested parties seeking to be more efficient. This saves the department money and results in additional mitigation opportunities.
    - Since properties are not purchased in ODOT's name, this results in less future land management headaches
    - Maintains a competitive pricing between permittee responsible mitigation vs banks/ILFs
    - In general, the process is very flexible and efficient, thus resulting in a good tool to deal with decreased staffing/resources, helps manage complexity of mitigation regulations, etc.

ODOT Full Delivery Process for Natural Resource Mitigation

- New Full Delivery Natural Resource Mitigation Process
  - Application of Full Delivery Mitigation Contracts
    - If there is a large project requiring extensive amounts of mitigation, ODOT creates a separate RFP/selection/agreement specific to the particular project and its mitigation needs
    - 2 Statewide Full Delivery Mitigation Contracts in place (5 year contracts) to cover smaller mitigation projects, non-compliance/violations, adaptive management/maintenance on older mitigation sites
    - Can also utilize for statewide mitigation efforts
      - Statewide bat conservation efforts for ODOT's PBO for federally listed bat species
      - Strategic stream and wetland mitigation regional or district approaches

Bat Mini-Condo – TNC
Cornuelle Property

ODOT Full Delivery Process for Natural Resource Mitigation

- New Full Delivery Natural Resource Mitigation Process
  - General Process for Full Delivery contracting
    - Request for proposal issued to interested parties
      - Evaluation criteria is listed in RFP
      - Project approach, project manager, experience/organization structure, cost approach, overall value to ODOT
        - These can be changed as needed and percentages can be adjusted
      - Evaluation/selection by committee
      - Selected mitigation team notified
      - A formal contract is developed with formal cost proposal as applicable
      - Regular status meetings
        - ODOT provides oversight and project management/coordination as necessary

ODOT Full Delivery Process for Natural Resource Mitigation

- How is the Full Delivery process working for ODOT?
  - So far so good, but experience is limited
    - Since we have been through the process a few times we are getting a better feel/understanding and constantly improving
  - As mentioned earlier
    - Competitive pricing, flexible, accomplishes mitigation with less ODOT staff/involvement, allows us to achieve additional mitigation/conservation, more qualified mitigation teams
  - Only downside is the length of time to get a contract up and running
    - First few projects have been 8-12 months to get started
    - Statewide contracts will handle the smaller work so this helps this situation out

ODOT Full Delivery Process for Natural Resource Mitigation

- Practical tips?
  - Each state is likely unique to their own state rules/policies/procedures
  - Talk to your contracting offices and see what options exist to implement a full delivery mitigation process
  - Keep in touch with the mitigation community and exchange ideas/information

Brandenbark – Candy Run East

ODOT Full Delivery Process for Natural Resource Mitigation

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October 2016

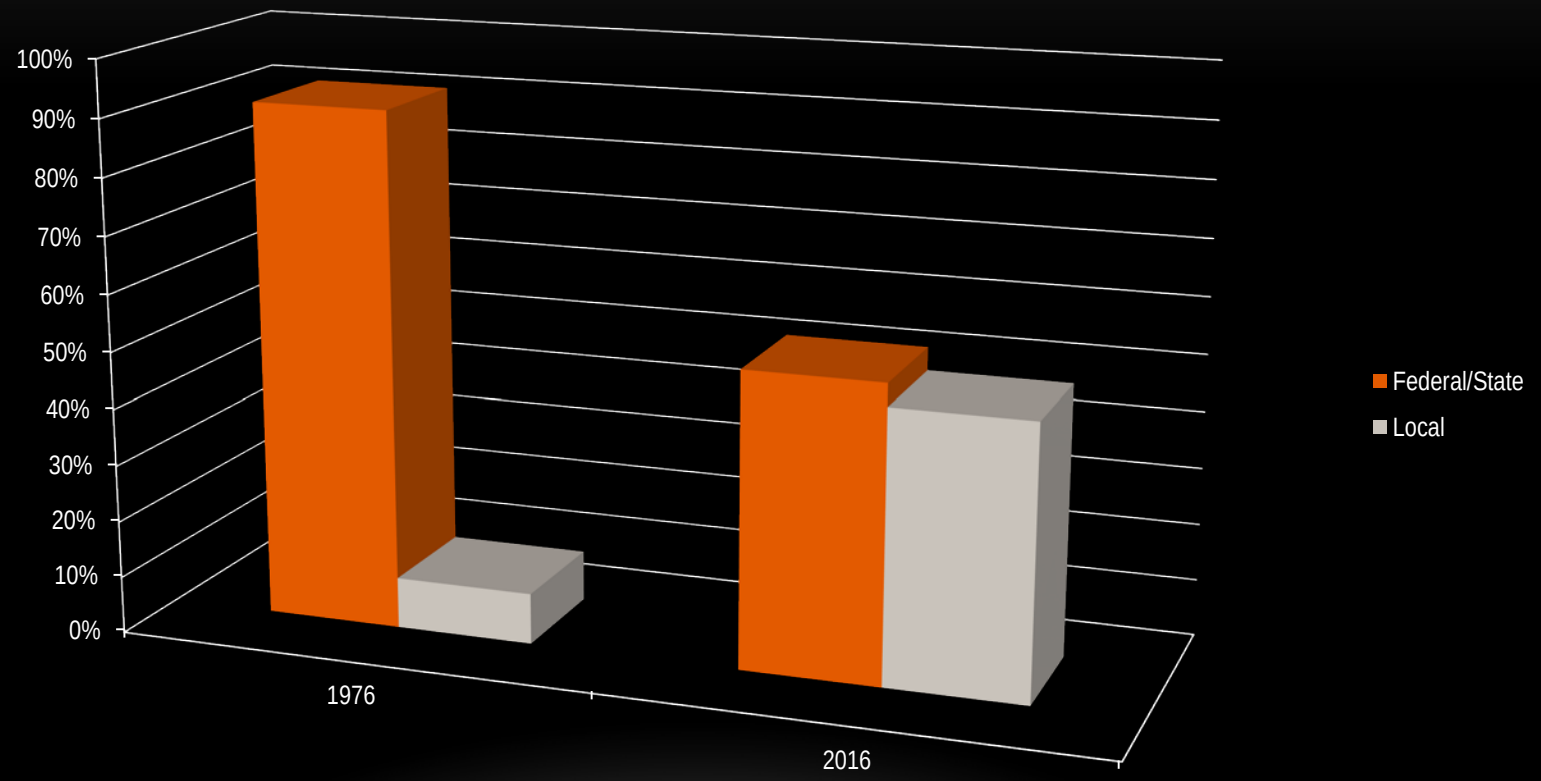
ECO-LOGICAL WEBINAR: INNOVATIVE MITIGATION CONTRACTING & FINANCING

Implementing Advance Mitigation

WHAT IS SANDAG?

- MPO (original established in 1966). SANDAG is made up of the 18 cities and county government in San Diego and serves as the forum for regional decision-making.
- RTA (1971). State designates SANDAG as the Regional Transportation Agency
- State law (2002) consolidates financial programming, project design and development under SANDAG for transit development.
- *TransNet* (1/2 cent local sale tax) to promote highways, transit, local roads and bicycles. First adopted in 1987 and reauthorized in 2004 by voters
- Environmental Mitigation Program (2004) established for the advanced mitigation of regional transportation projects and local streets and roads.
    - $850 million dollars of $14 billion dollar *TransNet* program ($2002)

CHANGE IN TRANSPORTATION FUNDING:
SAN DIEGO COUNTY 1976-2016

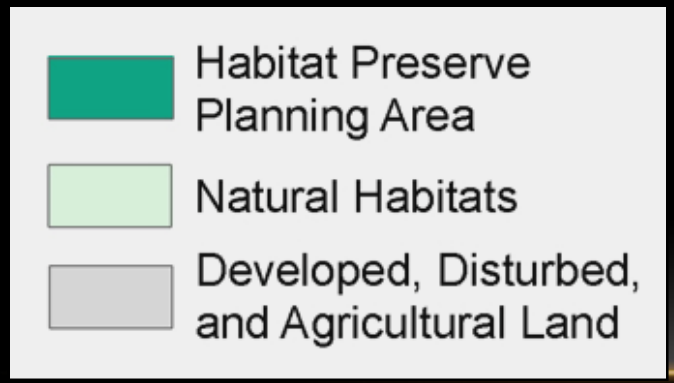


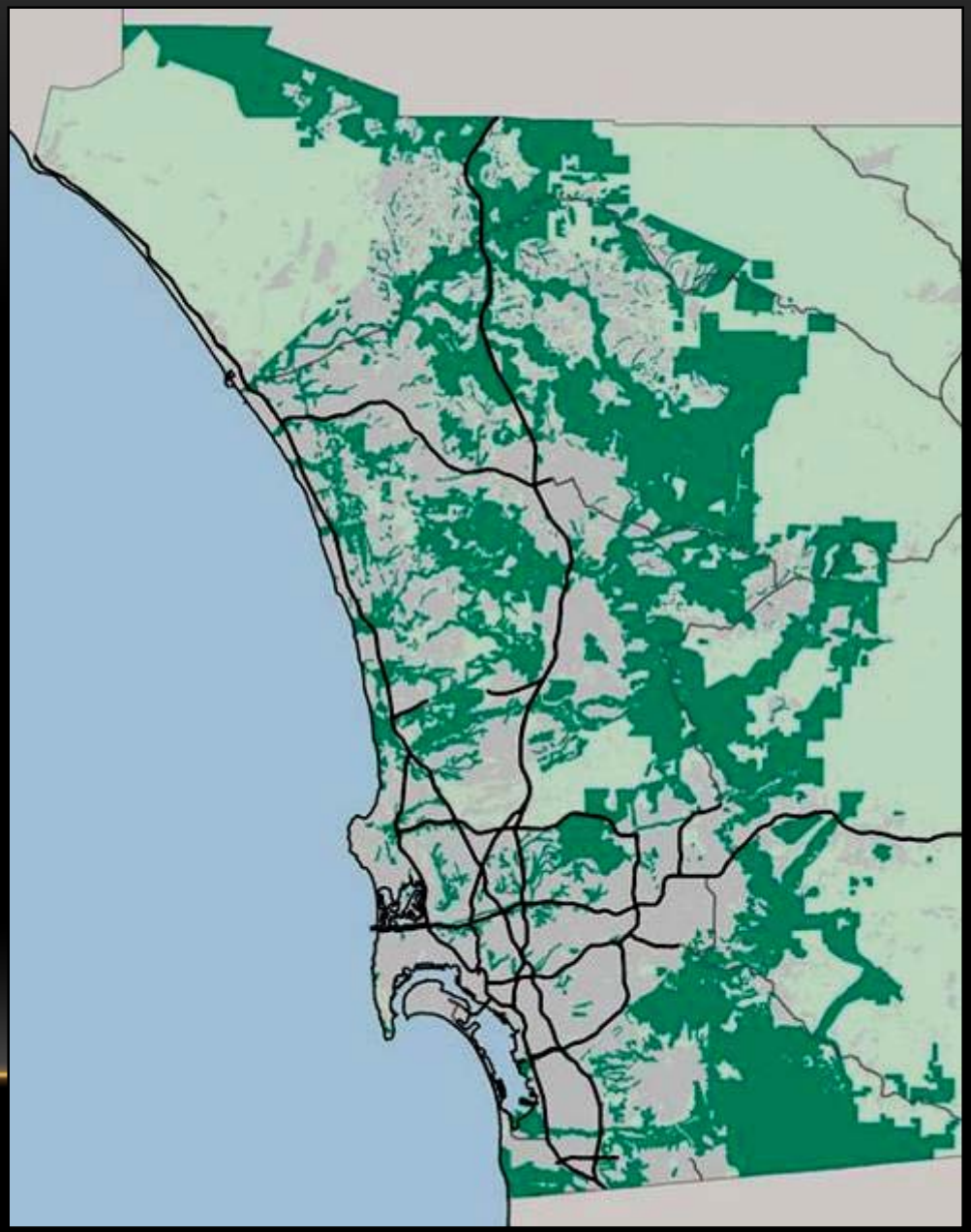
BACKGROUND

- San Diego County's endangered species "problem"
- Perception that environmental mitigation is delaying infrastructure development
- Securing biological mitigation sites case-by-case basis – costly and ineffective
- San Diego long history of habitat conservation planning

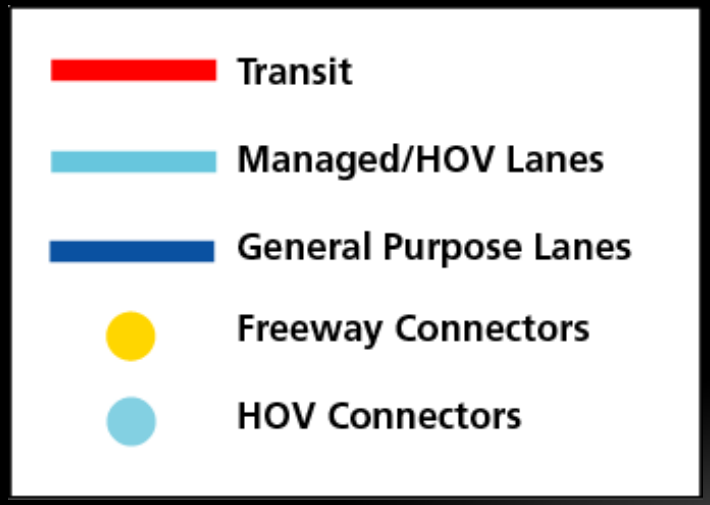
NATURAL COMMUNITIES CONSERVATION PLANNING ACT (1991)

REGIONAL HABITAT PRESERVE PLANNING AREA





ADOPTED REGIONAL TRANSPORTATION NETWORK



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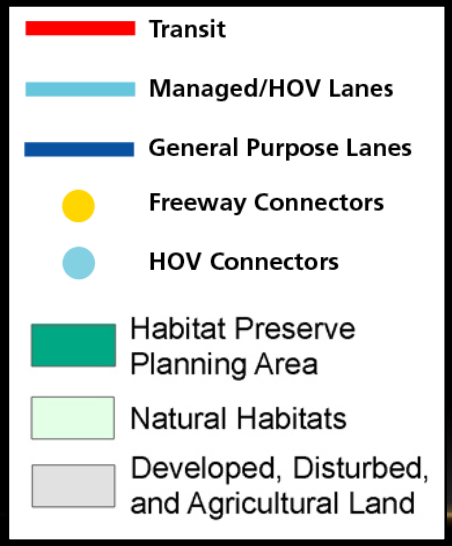
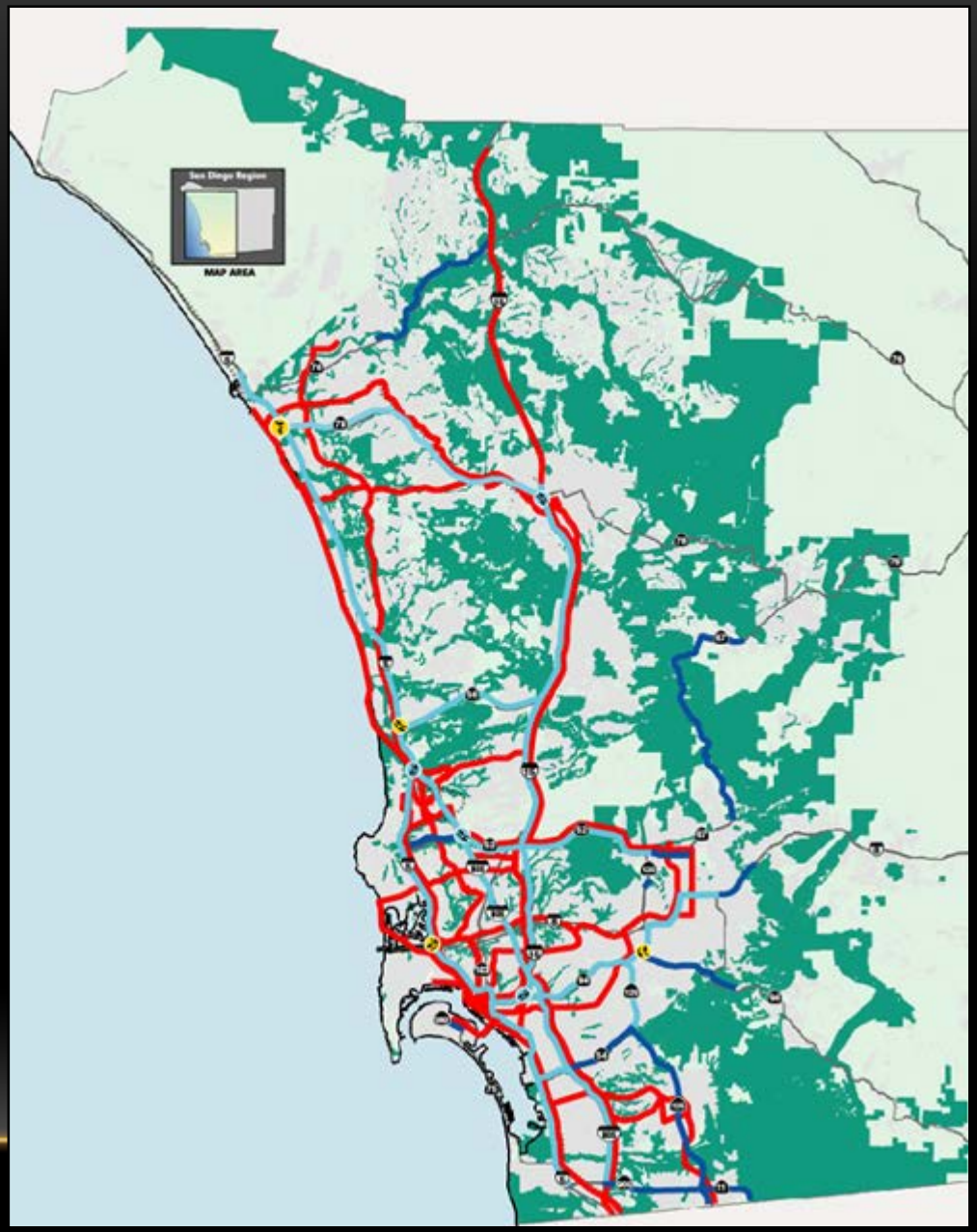
REGIONAL HABITAT PRESERVE PLANNING AREA WITH MOBILITY NETWORK





Large scale acquisition and management

Reduced cost
Accelerated delivery
Implement habitat plans
↓ Listing of species

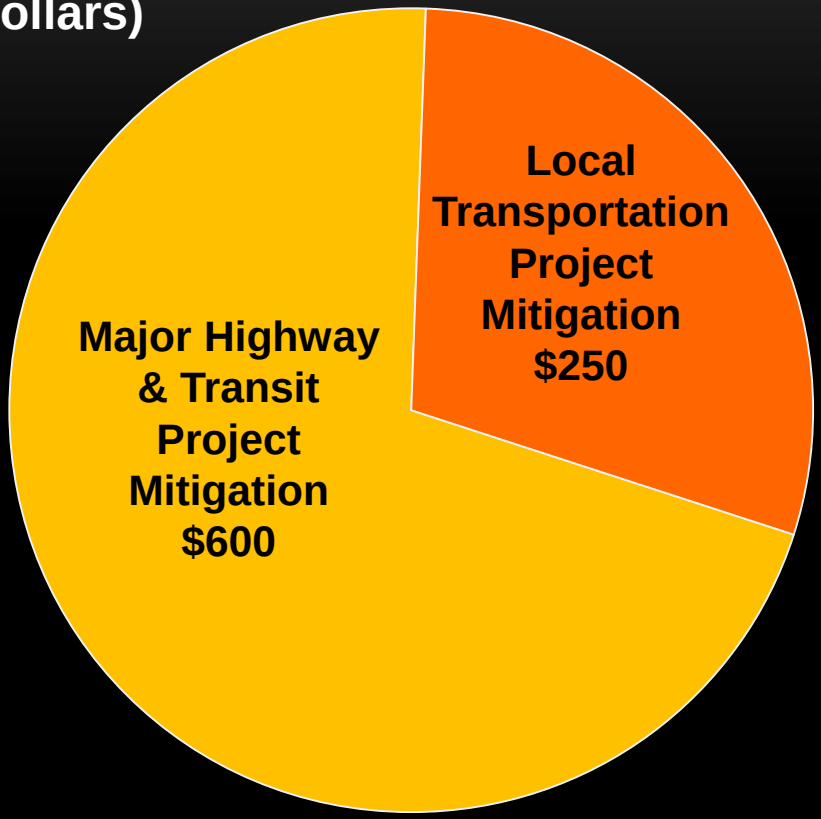
TransNet Extension EMP

"The intent is to establish a program to provide for large-scale acquisition and management of critical habitat areas and to create a reliable approach for funding required mitigation for future transportation improvements thereby reducing future costs and accelerating project delivery. This approach would be implemented by obtaining coverage for transportation projects through existing and proposed multiple species conservation plans. (Section D)"

Environmental Mitigation Program Costs

(In Millions, 2002 Dollars)

Total Program
$850 Million



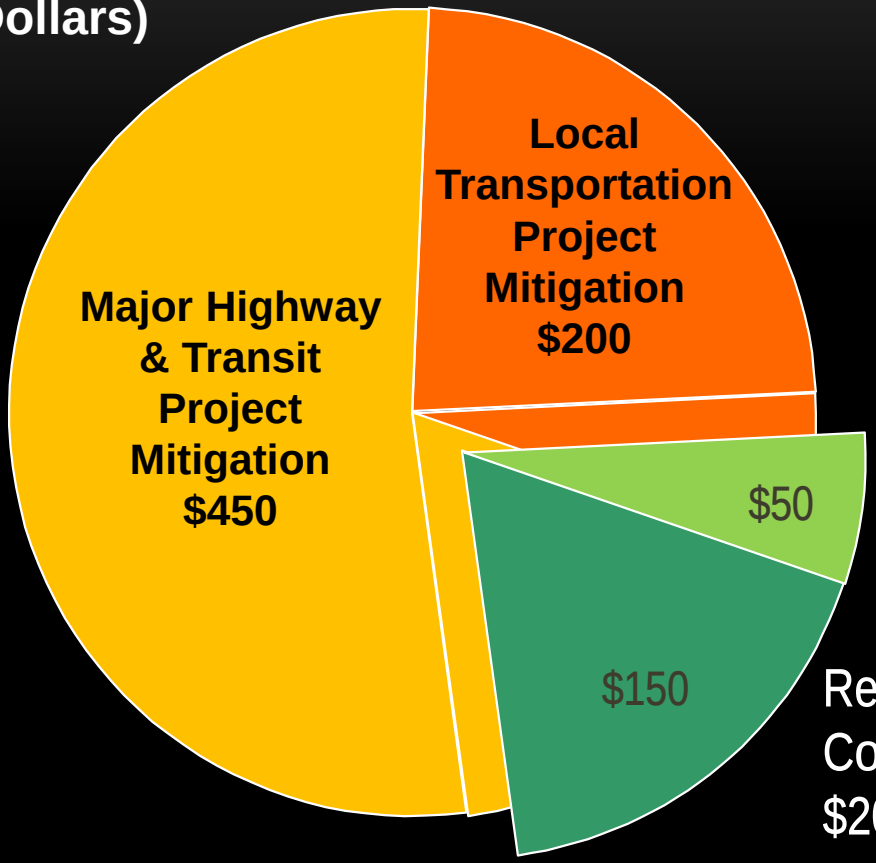
6.2% of TransNet Annual Net Revenue

Environmental Mitigation Program Costs

(In Millions, 2002 Dollars)

Total Program
$850 Million

Transportation Project Mitigation Fund $650 Million



Regional Habitat Conservation Fund $200 Million

= *Economic Benefit*

Plus up to $30 million in financing costs for advanced habitat acquisition and $82 million in intra-program borrowing

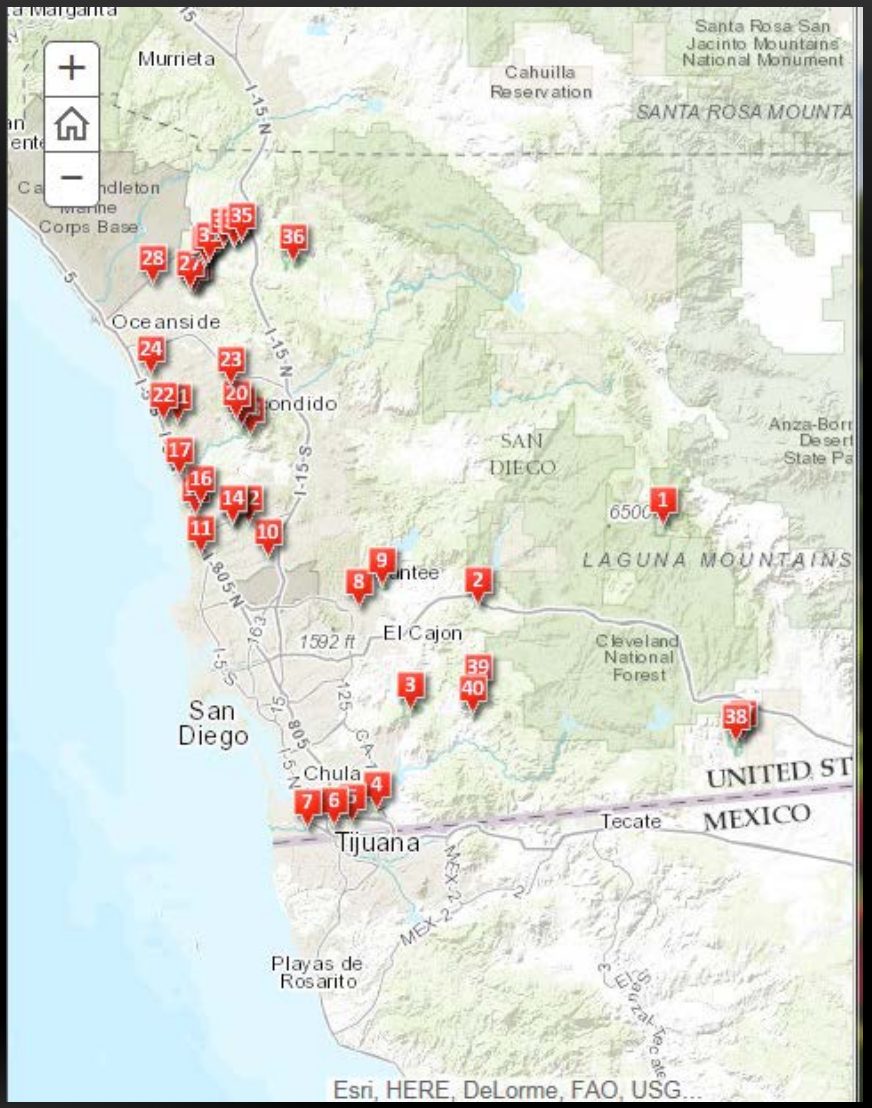
2005 2006 2012 2014

Promoting Advance Mitigation

STATUS OF EMP 2016

- 39 properties
- 8,669 acres
- Restoration
  400 acres
- $127 million *TransNet* funds
- $30.4 million matching funds
- More Information?

  Keepsandiegomoving.com



State Route 76

Rail Double Tracking

Tijuana River Valley Restoration

CONTRACTING OPTIONS FOR MITIGATION

- RFP/IFB (has not been utilized with advance mitigation)
- ON-CALL ENVIRONMENTAL SERVICES
  - Job Order Contracting (JOC)
- CALTRANS STAFF (Master Agreement)
  - Division of Procurement and Contracts (DPAC)
- CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC)

Complexity

CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC)

North Coast Corridor
A better environment for the future

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Questions?

Please remember to type in your questions to the question prompt.

Thank you for participating!

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