

Measure M2 Environmental Oversight Committee

**March 21, 2012
Meeting Minutes**

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Veronica Chan, US Army Corps of Engineers
Nancy Jimeno, California State University, Fullerton
James Kelly, Measure M2 Taxpayers Oversight Committee
Cara Allen for David Mayer, CA Department of Fish and Game
Dave Means, California Wildlife Conservation Board
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Hector Salas for Sylvia Vega, Caltrans
Jonathan Snyder, US Fish and Wildlife Services
Greg Winterbottom, OCTA Board of Directors

Committee Members Absent:

None

Orange County Transportation Authority Staff Present:

Ellen Burton, Executive Director of External Affairs
Marissa Espino, Strategic Communications Officer
Lesley Hill, Planning Department Project Manager
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager
Monte Ward, Consultant

Guests

Kelly Elliot, Superintendent, Chino Hills State Park
Ken Kietzer, Environmental Scientist – Chino Hills State Park

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10:05 a.m. and asked James Kelly to lead the Pledge of Allegiance.

2. Approval of February 15, 2012 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the February 15, 2012 Environmental Oversight Committee (EOC) meeting minutes.

Vice-Chair Melanie Schlotterbeck requested the following change to the second sentence on the first page under item three - **Acquisition Properties:** *He notified*

the EOC that the Shell-Aera property is no longer under consideration for acquisition for this round of funding.

Adam Probolsky asked if the Shell-Aera property was taken out of consideration by the property owner or by OCTA. Monte Ward said the property owner withdrew the property from this round of funding but may come back at a later date.

Marissa Espino requested the following correction on page four, under item five - **Spring Tours**, third sentence: *The Tour will be taking place on April 12-21, 2012 from 8:00 a.m. to 12:00 noon.*

A motion was made by Melanie Schlotterbeck, seconded by Adam Probolsky and passed unanimously to approve the February, 2012 EOC meeting minutes as corrected. The motion was carried unanimously.

3. Restoration Projects

Lesley Hill reviewed the status of the round two Restoration evaluations. She reviewed the six recommended projects and discussed the factors that went into the decision making process in choosing these projects for consideration. The six recommended properties are:

Aliso Creek – \$1,105,000
Chino Hills State Park – \$193,000
Harriett Weider Regional Park – \$475,000
Lower Silverado Canyon – \$1,399,580
North Coal Canyon – \$247,500
West Loma – \$1,296,000

TOTAL – \$4,716,080

Adam Probolsky asked if part of the cost of the West Loma restoration included realigning the existing wildlife fencing. Lesley Hill said yes.

Greg Winterbottom asked what the timeframe was for starting the restoration projects. Lesley Hill said the EOC recommendation will be brought to the Executive Committee and Board of Directors in May 2012, if approved contracts should be executed in three to six months after approval. Dan Phu said the first round of funding took a little longer because it was new but for the second round of funding the project sponsors have already started work on getting things like the Habitat Mitigation Monitoring Plan (HMMP) in place which will be part of the contract OCTA will execute with each of the project sponsors.

Greg Winterbottom asked if the projects would be started in 2012. Dan Phu said he expected they would be started by early 2013. Monte Ward said some of the work on

the properties needed to be done seasonally and will have to be guided by seasonal requirements.

James Kelly asked who will be doing the work and does it go through the normal OCTA bid process. Lesley Hill explained the process will be handled as a grant. OCTA will provide the funds to the project sponsors and the project sponsors will either do the work themselves or they will go through their own bidding process and contract out for the work.

James Kelly asked if OCTA provided any oversight on the work being done. Dan Phu said no, the relationship is the normal grantee/grantor relationship. James Kelly asked if the project manager has put together a budget and this is how the amount of the project is arrived at. Lesley Hill said correct. James Kelly asked if OCTA has done anything to evaluate the budget in terms of its reasonableness. Dan Phu said yes, this is part of the evaluation process between OCTA, the wildlife agencies, and the Army Corps of Engineers.

James Kelly asked if this was part of the OCTA Board process to review the budget for the project. Monte Ward said the project budget is part of the material going forward to document the evaluation. He said OCTA can audit the contract if it seems reasonable to do so and in the future there may be a sampling of the finished projects done for audit purposes.

James Kelly asked if there were other programs done like this at OCTA. Monte Ward said this is a little different because the projects are being evaluated on criteria other than cost – it has to fit the habitat types, the watersheds, freeway impacts, etc.

Chair Patricia Bates said the foundation can be found in the Early Action Plan to develop freeways as quickly as possible. In so doing, there is a need to establish an environmental mitigation bank.

James Kelly asked if the money was released based on deliverables. Monte Ward said yes.

Dan Phu said this is why the HMMP is so important. The HMMP lays out what work will be done in year one, year two, etc. It is treated as vendor contract would be treated – they submit an invoice on the work which has been done. The HMMP actually has a safety net that determines what will happen if the project fails.

Dan Silver said he was impressed with the matching funds on almost all the projects proposed. He said it was a strong list of projects, but not the only strong list. This list was driven by the wetlands and riparian. Will the projects that did not make the list be informed of why they did not make the list and encouraged to try again at the next round of funding? Dan Phu said there will be continuous communication with those

who did not receive funding and it will be explained to them why they were not funded this time.

Monte Ward noted there will be a Recommendation B which notes the current list of projects does not expend all the available money. Recommendation B discusses what to do about this.

Lesley Hill said one or more of the following reasons were factors in why some projects did not make the list:

- The projects would not be ready by 2013
- The project scope may not have been clearly defined
- The project requires further planning, development, and engineering
- The project did not cover the proposed watershed needs
- The proposed restoration components are not considered as high a priority as others

Nancy Jimeno asked if the mitigation toward the NCCP/HCP is by percentage or by points. Where does OCTA stand on this currently? Jonathan Snyder said the general approach toward the NCCP/HCP is there is a preliminary assessment of what the impacts are and a sense of what is adequate to off-set the project related impacts. The suite of restoration and conservation projects funded are going to be adequate to off-set these impacts. It will not be worth the time to try and assign a particular number of credits to each individual project. They will look at the overall suite of impacts and they will look at all restoration and conservation work that will be done and do some analysis to show the impacts are being off-set.

Nancy Jimeno asked if the EOC will know at some point that the mitigation has been fulfilled for the 13 freeway projects. Jonathan Snyder said yes, this will be documented as part of the NCCP/HCP. Monte Ward said the result will be an acceptance of this document by OCTA, Caltrans, and the resource agencies. There is also a documentation and monitoring process that goes along with this and the long term obligations still need to be met under the conservation plan.

Monte Ward said there are now preliminary tools and versions of some of the chapters of the NCCP/HCP which are helpful in terms of narrowing down and looking at where the requirements are clearly being fulfilled and where there are needs. This is where Recommendation B comes in. There is about \$400,000 unallocated from this round of funding. There are several things that could be done with this money – award the funds to another project(s), roll the funds over into the next round of restoration funding, or issue a new call focusing in areas where there are some deficiencies specifically having to do with riparian and wetlands types of projects. He suggested the EOC should, after discussion, word Recommendation B with directions to go back to the evaluators to issue a second call for projects in this round of funding with a narrow focus on identified specific watersheds and do the outreach necessary

to generate interest in the projects in the specifically identified watersheds. This can be done this year in a fairly short turn around but it would be much more closely tied to the existing needs.

Chair Patricia Bates asked if any review has been done on what areas require more focus. Monte Ward said yes, there are four watersheds that need more focus – the Bolsa Chica Channel-Frontal Huntington Harbor Watershed, the Lower Santa Ana River Watershed, the San Diego Creek Watershed, and the San Juan Creek Watershed.

Dan Silver said one benefit of this is they do not want applicants to waste their time. He asked if they had taken this more focused approach would any of the Round 1 or 2 projects previously funded or currently recommended to fund have fallen outside the focus. Lesley Hill said they will receive credit for all the previously funded projects and the newly recommended projects. This new focus on the permitting process projects does not detract from other efforts by the wildlife agencies. Monte Ward explained that, so far, they have been satisfying the requirements of the wildlife agencies and now the focus is shifting to look at what the Army Corps of Engineers (Corps) and the Regional State Board (State Board) are looking for.

Dan Silver said he had always looked at the Environmental Program as a large ecosystem approach where everything is connected. Although a lot of the impacts are riparian or wetlands he looked at the Environmental Program as tying all the other pieces together. He would not like to see an over shift to the Corps and the State Board. Monte Ward said he agreed. What they are trying to deal with is the whole suite of projects and by having the Corps and the State Board along with the wildlife agencies and the EOC stakeholders at the table they can maintain the approach agreed to when the Environmental Program was put together.

Vice-Chair Melanie Schlotterbeck said she agreed with Dan Silver she also does not want to get to the project by project level, but she also recognizes the importance to meet the regulatory requirements and work within the framework of the people providing the permits.

Vice-Chair Melanie Schlotterbeck also commented on the previous discussion of the allocation of money for the projects by James Kelly. She had questions about this on the first round of projects. She found out what has been designed is very close to how the Coastal Conservancy handles their projects so this is not new ground. It has been done at the statewide level and is just a first for OCTA. She complimented OCTA on their work to find cuts in project costs on behalf of Orange County taxpayers. What has resulted is balanced and meets the needs of the entities sitting at the table. She is comfortable where they are going, it is focused on a comprehensive nature but attention still needs to be focused on deficiencies.

Dan Phu pointed out in Attachment A the correlation of the four major watersheds where there is a need and the OCTA Freeway Program at large. The four watersheds are in close proximity to the I-405, the I-5, and SR-91. Mitigation is needed to off-set the impacts in these areas.

Vice-Chair Melanie Schlotterbeck asked if approval of the Harriet Weider State Park property restoration project would remove the deficiencies from that watershed. Monte Ward said it did not.

Public Comments

Kelly Elliot thanked the EOC and gave their backing of the projects proposed for Chino Hills State Park.

Ken Kietzer said Chino Hills State Park has been expanding over the years in conservation of wildlife management. Any projects like the EOC project will aid them in reaching their wildlife management goals.

The following recommendations were proposed:

- A. Action Recommendation: Endorse staff's recommendation to fund the restoration projects, the Executive Committee, and OCTA Board for the Round 2 restoration projects based on the Board-approved Acquisition/Restoration/Management Criteria and M2 program needs.
- B. Action Recommendation: Endorse staff's recommendation to issue a revised call for projects for the remaining \$400,000 in restoration funds from Round 2 with a focus on watersheds affected by the early action M2 freeway projects, specifically:
 - Bolsa Chica Channel-Frontal Huntington Harbor
 - Lower Santa Ana River
 - San Diego Creek
 - San Juan Creek

Conduct outreach to seek and inform landowners/sponsors for restoration projects within these watershed areas.

A motion was made by Vice-Chair Melanie Schlotterbeck, seconded by Nancy Jimeno and passed unanimously to approve staff's recommendations A and B.

4. Public Comments

There were no further public comments.

5. Committee Member Reports

Chair Patricia Bates introduced two alternate members to the EOC – Cara Allen who was attending for David Mayer, Dept. of Fish, Game and Hector Salas, replacing Chris Flynn, Caltrans.

Monte Ward said this raises a point for discussion. The charter for the EOC and the Environmental Cleanup Allocation Committee (ECAC) states there should not be any substitutes for members. This makes sense for some appointees but when it comes to the agencies it begins to make less sense because of staff changes and turnovers. At some future point the charter for the two environmental committees needs to be changed to permit substitution because of staffing changes. Chair Patricia Bates asked if this will need Board approval. Monte Ward said yes, they will bring the item to the next EOC meeting for approval before sending it to the Board.

Adam Probolsky said he agreed with the recommendation with one caveat – the name of the agency person should be designated and known whether it is one, two, or three people. Monte Ward agreed.

Dan Silver applauded staff on the good job they did on the Round Two Restoration funding. Staff has been very accountable and analytical and it clearly meets his expectations and hopes he is speaking for the entire Committee. Chair Patricia Bates heartily agreed.

Vice-Chair Melanie Schlotterbeck said Cara Allen was attending the meeting for David Mayer whose mother passed away. She would like the EOC to adjourn in her name.

6. Next Meeting

The EOC will not meet in April 2012. The next meeting will be May 2, 2012.

7. Closed Session

The regular meeting of the EOC was adjourned at 10:40 a.m. and the EOC went into Closed Session.

8. Adjournment

There were no further actions reported in public session. The meeting adjourned at approximately noon.