



## ***Minutes***

### **Measure M2 Environmental Oversight Committee**

#### **Committee Members**

*Lisa Bartlett, Chairman*  
*Melanie Schlotterbeck, Vice Chair*  
*Dr. David Chapel, Grand Jury Assoc. of O.C.*  
*Laurie Davies, Board of Directors*  
*Veronica Li, US Army Corp of Engineers*  
*David Mayer, CA Dept. of Fish & Wildlife*  
*Derek McGregor, DMc Engineering*  
*Dr. Pauline Merry, Taxpayers Oversight Comm.*  
*Dan Silver, Endangered Habitats League*  
*Jonathan Snyder, US Fish & Wildlife*

*Orange County Transportation Authority*  
*550 South Main Street, Room 07*  
*Orange, California*

**Wednesday, July 10, 2019 at 2:30p**

#### **Member(s) Absent**

*Chris Flynn, Caltrans District 12*  
*John Walsh, CA Wildlife Conserv. Board*

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

#### **1. Welcome**

Chairman Lisa Bartlett called the Environmental Oversight Committee (EOC) meeting to order at 2:30 p.m. Chair Bartlett introduced new member Dr. Pauline Merry of the Measure M Taxpayers Oversight Committee. Chairman Bartlett asked everyone to introduce themselves.

#### **2. Pledge of Allegiance**

Vice Chairman Melanie Schlotterbeck led the Pledge of Allegiance.

#### **3. Approval of February 6, 2019 Minutes**

Chairman Lisa Bartlett asked if there are any additions or corrections to the February 6, 2019 EOC minutes.

A motion was made by Laurie Davis, seconded by Derek McGregor and passed unanimously to approve the February 6, 2019 EOC meeting minutes.

#### **4. OCTA Conservation Plan Annual Report**

Lesley Hill provided background on the Conservation Plan. She said this is the first Annual Report on the Plan and OCTA is complying and on target. This report covers all activities up to December 2018. Lesley talked about freeway project environmental reviews and mitigation on those projects and reviewed the status of the restoration projects. Lesley talked about projects needing land protection documents to protect them and OCTA is working to get those completed. She went over each preserve and talked about invasive species removal/management plan, monitoring of covered birds, encroachment issues, wildlife camera installation, etc. Lesley talked about public outreach and the mitigation website. She said the Annual Report includes a summary of the endowment. Lesley Hill said there are some modifications to the Conservation Plan and they are outlined in the Annual Report.

The committee asked how the net positive is rated when monitoring the covered plants. Lesley Hill said biological monitors go out on the properties and they are required to estimate and in some cases actually count the individual flowers/plants. The committee asked what percentage over the required percentage the OCTA programs are at. Lesley said these projects are looking really good and there has not been any take for the freeway projects yet. She said there is a positive of 963 for the lily, 60 for the many-stemmed Dudleya and 1,500 for the southern tar plant. These are documented on the preserves and restoration projects. She said the southern tar plant has not been documented on the preserves yet.

The committee asked about funding. Lesley Hill said funding for restoration projects comes from OCTA through Measure M2.

The committee asked what kinds of trespassing happens on the preserves. Lesley Hill said it is mainly mountain biking, hiking – no motorized vehicles.

The committee asked if all the rain this year enhanced the properties. Lesley Hill said everything was enhanced, good and bad. She said there were some minor erosion issues as well. The cactus wrens have been helped by the recent rains – the drought seemed to be really affecting this species.

The committee asked about dam removal done by OCTA, the County of Orange and Caltrans and if it is in contrast to what Rancho Santa Margarita Water District is doing. Lesley Hill said this is a hot discussion. She said it could be a benefit, but OCTA is worried about impacts caused by the new water diversions.

#### Public Comment

Penny Elia, Sierra Club, said she is delivering a message from the California Coast Conservancy and the Coastal Commission. She said they are struggling with a piece

of property adjacent to the Pacific Horizon property – Aliso Ridge. Penny said they would like to give OCTA 75 acres at no purchase price and there are two major restoration projects being done through violation remediation. She said the California Coastal Conservancy is considering a \$30,000 PAR analysis of the property to give OCTA an idea of what would be given to OCTA. This money comes from a violation collections account from the Coastal Commission. She said this property has a lot of Crown Beard to offer for credits.

Chairman Lisa Bartlett asked her to submit her proposal in writing so the committee can consider the proposal at a future date.

#### **5. Environmental Mitigation Program Endowment Fund Investment Report**

Sean Murdock provided background on the endowment fund, saying OCTA approved approximate \$34.5 million for this fund. The California Community Foundation manages the fund and provides quarterly reports to OCTA. Currently the endowment has about \$9.263 million and that is a bit higher than expected. Sean said as of now the endowment is on track and is expected to end the fiscal year on a positive note.

#### Public Comment

Penny Elia, Sierra Club, said the California Coastal Conservancy and the Coastal Commission are looking at Center for Natural Lands Management for the PAR Analysis. She asked at what point OCTA will release these excess funds. In her opinion, 10-12 years is not the near future. Penny asked if the Center for Natural Lands Management could present to this committee, talk to staff or the OCTA Board about taking on a partner to release some of this land. The Center for Natural Lands Management is very interested in the Pacific Horizon land as well as the land adjacent to it. She asked if OCTA is definitely waiting 10-12 years or could there be a phasing. Penny asked if near future can be defined. She asked if OCTA is allowed to take additional money if it is offered. Penny said she will come up with a proposal.

Sean Murdock said 10-12 years is needed to generate the investment earnings. Sean said he is unsure if the endowment can take in money from outside sources, but it is something staff could look into.

The committee asked about the performance history on the one-year graph. Sean Murdock said the big dip happened in the fourth quarter of 2018 when equities took a big hit due to market fluctuation.

#### **6. Update of the OCTA Preserves Fire Management Plans**

Lesley Hill provided an update on the Fire Management Plans. She said the consultant has been busy working on the plan and has the technical plan drafted. OCTA is now taking the information to the appropriate agencies to review all the details and solicit recommendations. Lesley said when there is more information staff will come back to the committee.

The committee asked who the consultant is for developing the plan. Lesley Hill said Wildland Res Mgt is the consultant and they are familiar with Orange County.

The committee asked if staff anticipates any additional costs to come out of implementing these plans. Lesley Hill said it's too soon to tell but she does not think so. She said the maintenance we have been doing may continue.

The committee asked if they are looking at adjacent lands and talking with neighbors. Lesley Hill said yes adjacent lands are being looked at and OCTA is communicating with neighbors and will be doing outreach once the plans are finalized.

The committee asked about the pre-fire vegetation aspect of the Fire Management Plan and would like to hear more about it. Lesley explained that many of those areas had already been coordinated with OCFA and were part of the Preserve specific Resource Management Plans.

The committee talked about the OCTA preserves as an asset, but fire agencies may see it as a fire threat.

The committee congratulated OCTA for doing all the outreach on fire safety in the area of the preserves.

Melanie Schlotterbeck said Hills for Everyone is finishing its fire study for the Chino State Park. She said there have been more than 35 fire ignitions in the last six years and more than 13 fire parameters were added. Melanie said this is very dangerous for the habitat.

#### Public Comment

Penny Elia, Sierra Club, said one adjacent property is the Aliso Ridge property that she has been talking about. She said the City of Laguna Beach is looking at 16 fuel modification zones and historically the city has only done fuel modifications adjacent to the OCTA property under an emergency permit. The Coastal Commission has told the City of Laguna Beach they can no longer have an emergency permit. The city needs to prepare for fuel modification ahead of time with a plan. Penny said in a report from the fire department, they talk about co-application and addressed OCTA saying they have declined direct participation, but have concurred with the project. OCTA will send a letter of support to the commission. Penny said she would caution sending any formal support to the City of Laguna Beach given the incomplete and inadequate form that it is in right now. She said they have used goats in the past and there are seeds in their feces that can cause invasive plants to grow in the area adjacent to OCTA's property. Penny said OCTA should take caution supporting any fuel modifications not reviewed/accepted by the Coastal Commission.

## **7. Interstate - 5 Widening Project Overview**

Lesley Hill said this item is an informational item and staff is not asking for a recommendation at this point. Lesley provided a high level overview of the project. She said in segment 3 of the project there is an issue with the streambed alteration agreement in Aliso Creek. This project has been designed and now permits (streambed alteration agreement) are needed from the California Department of Fish and Wildlife (CDFW) agency. Lesley said permits need to be attained by mid-August in order to keep the project on track. The CDFW deemed the permit application incomplete. CDFW requested a redesign of the project to facilitate passage of potential southern steelhead. The redesign request is the result of Senate Bill (SB) 857 requirements. She said this redesign requirement could cause a delay of up to a year and \$10 million to this project. OCTA and Caltrans have been working with CDFW on the design. Caltrans is tasked with this coordination. OCTA was not aware of SB 857, which applies to transportation projects that occur on structures where there is current or historic records of salmon and/or steelhead. Lesley said OCTA was not aware this species was in this creek and there is no documentation stating the species is there now. She said the senate bill uses a different set of parameters and was looking through a different lens.

The committee asked if CDFW determined if there is steelhead trout in this area and that OCTA has to comply with SB 857. David Mayer said there are real issues to address and some perceived issues as it relates to the NCCP. He said steelhead is not known to be present and is not expected to be impacted by any of the activities. He said SB 857 was not on the radar regarding potential effects. This project had even gone through CEQA without comments. Caltrans had not sent the assessment through the fisheries people either. By the time CDFW saw the design, it was unfortunately brought to attention during the streambed assessment phase. Management is trying to expedite the 1600 permit to not cause further delay. The CDFW is truly sorry for the oversight on the legislation and the delay. He said the CDFW does not want to see a permanent barrier in the event steelhead start moving back through this area and passage would be allowed. CDFW is looking for an agreement with Caltrans so that in the event the CDFW is getting things under control for getting steelhead moving back through, Caltrans will allow passage underneath. The funding would have to be determined during that point in time. And/or looking at something that would benefit the watershed downstream, helping the steelhead that are considerably downstream. Chairman Lisa Bartlett said she can appreciate the environmental aspect and protecting the species. She said we will have substantial costs escalation associated with the delay. David said the CDFW is not asking for a redesign at this point, but the 1600 agreement needs to identify some measures and additional coordination that would be occurring as the processing goes forward on how we could do the offset or at least not preclude a future resolution.

Chair Lisa Bartlett asked what staff is looking at when it is said a potential year delay and \$10 million could be added to the project. Lesley Hill said this is the impact if OCTA had to do a redesign. David Mayer said in the beginning there were letters back and forth suggesting a total redesign. Lesley said there have been recent positive talks,

but OCTA still does not have the 1600 permit and until the permit is received, there is still the risk of the delay/redesign. She said this is the last permit OCTA needs to move forward to list the project to construction.

Dan Silver said it is unfortunate that this wasn't discovered earlier and through the EIR process. He said he would like to get the facts straight and make sure that if there is an issue that it gets resolved and not just swept under the rug. Dan said it's important for the committee to understand what the CDFW is prepared to sign-off on. Chair Lisa Bartlett said OCTA needs clarity, and that this should be shared with the OCTA Board of Directors.

Melanie Schlotterbeck said there are a lot of other OCTA projects that could be impacted by this bill. Lesley Hill said this project has gotten a lot of attention due to this bill and all OCTA projects are being looked at in accordance with this bill. She said other projects are in the environmental phase or pre design phase at this point. If there is an issue with the senate bill, this is the time to address it. Melanie said according to OCTA this was not a covered species in our conservation plan and was specifically not included. But this bill, because it's applicable to Caltrans, got put back in the mix. She asked if there has been any indication of a historical presence or that the species exists in the area. David Mayer said the history indicates the species is known to be considerably downstream. He said there may be natural barriers that preclude the species from getting upstream, unnatural barriers could be eliminated and it needs to be determined if the steelhead could be in the area of construction on their natural path. David said CDFW needs to look at what is reasonable. Melanie said it may make more sense to look at something closer to the ocean versus this area that is significantly inland. She said globally how do we avoid this in the future and do we need to make an amendment to the conservation plan to include this species and prevent future problems and protect the species. David said he does not think the species lists needs to be changed, but the legislation will have to be dealt with on a segment by segment basis. He said the intent is not to waste money.

Chair Lisa Bartlett said we are still two months from advertising for segment 1. She asked how this impacts the plan. Niall Barrett said we can still advertise for segment 1, but segment 3 could effectively be delayed by up to 12 months and would impact traffic flow through the area. Chair Bartlett said we can advertise for segment 1, but not award until the issue is resolved. She said OCTA cannot get contractors lined-up without a clear timeline because they will have resources lined-up. Chair Bartlett said we need an immediate resolution.

Monte Ward said there have been a lot of questions about the facts. He said this presentation has come right at the beginning of the discussion, but this committee needed to be aware of what was going on. He said there are some remaining questions that have not been answered at this point. Monte said the agencies are looking at finding solutions that will not require a delay in the project. He said if indeed the fish are downstream and there are impacts there that are preventing the fish from doing

well, there are things that can be done. Senate Bill 857 was not a part of OCTA's comprehensive program. The issue was never raised in all the previous years. We need to find a solution and take into account all the good work the EOC/OCTA has done and determine how the bill should work in the future.

Chair Lisa Bartlett said this needs to be a top OCTA staff priority because the OCTA Board of Directors has approved the I-5 project and funding and this would cause significant impacts. She said this committee and the OCTA Board of Directors need to know quickly what is going to happen.

Melanie Schlotterbeck asked for an electronic update in one month.

#### **8. 2019 Hikes and Equestrian Rides**

Marissa Espino said an equestrian ride is scheduled for this weekend at Trabuco Rose (Sunday, July 14th). Next month, on August 17<sup>th</sup>, OCTA will host a docent led hike at the Pacific Horizon Preserve in Laguna Beach.

Marissa Espino said, in June, OCTA was invited by the Saddleback Canyon Riders Group to attend an emergency evacuation drill event. She said it she appreciated being invited and being given an opportunity to have a presence in the local community.

#### **Public Comments**

There were no further public comments.

#### **8. Committee Member Reports**

The committee asked if there has been anyone out to check on the properties after the recent earthquakes, to make sure there are not any significant changes. Lesley Hill said there are monitors that go out on a regular basis and there are patrols out on a regular basis – as far as she knows there have been no significant changes to the properties. She said there is a gully that needs some work due to changes over time, but it is not related to the recent earthquakes.

Laurie Davies said the Orange County Fire Authority implemented a pilot program funded by Southern California Edison for two helicopters used to look for downed power lines and one is able to go down to get water at night and it holds 275 gallons.

#### **9. Next Meeting – May 1, 2019**

Marissa Espino said the next meeting is scheduled for September, but we may need to schedule another meeting before then due to the I-5 permitting issue.

#### **15. Adjournment**

The meeting adjourned at 4:08 p.m.