

# Measure M 2 Environmental Cleanup Allocation Committee

**August 8, 2013**  
**Meeting Minutes**

## **Committee Members Present:**

Chair Mary Anne Skorpanich, O.C. Watersheds  
Vice Chair Garry Brown, Orange County Coastkeeper  
John Bahorski, City of Cypress  
Scott Carroll, Costa Mesa Sanitary District  
Gene Estrada, City of Orange  
Mark Tettermer, Irvine Ranch Water District  
Dennis Wilberg, City of Mission Viejo  
Dick Wilson, City of Anaheim

## **Committee Members Absent:**

Mark Adelson, Santa Ana Regional Water Quality Control Board  
Chad Loflen, San Diego Water Quality Control Board  
Hector B. Salas, Caltrans  
Jean Daniel Saphores, UCI  
Sat Tamaribuchi, Environmental Consultant  
Marwan Youssef, City of Westminster

## **Orange County Transportation Authority Staff Present:**

Alison Army, Senior Transportation Analyst  
Marissa Espino, Senior Strategic Communications Officer  
Janice Kadlec, Public Reporter  
Charlie Larwood, Manager of Planning and Analysis  
Roger Lopez, Senior Analyst, Programming  
Dan Phu, Project Development Strategic Planning Section Manager  
Monte Ward, Measure M Consultant

## **Guests**

Nancy Palmer, City of Laguna Niguel  
Ken Susilo, Geosyntec  
Moy Yahya, City of Aliso Viejo

### **1. Welcome**

Chair Mary Anne Skorpanich began the Environmental Cleanup Allocation Committee (ECAC) meeting at 10:05 a.m. and welcomed everyone.

### **2. Approval of the May 9, 2013 Meeting Minutes**

A motion was made, seconded, and carried unanimously to approve the ECAC May 9, 2013 meeting minutes as presented. Garry Brown, Gene Estrada, and Mark

Tettermer abstained from voting on the minutes as they were not at the May 9, 2013 ECAC meeting.

### **3. New Member**

Chair Mary Anne Skorpanich introduced new ECAC member Mark Tettermer from the Irvine Ranch Water District.

### **4. Tier 1 Call for Projects Recommendations**

Dan Phu gave an overview of the Tier 1 third round project recommendations. Fewer projects were recommended for funding in the third round primarily because the project limit was increased from \$100,000 to \$200,000. Dan Phu also observed the matching funds from the local agencies increased in this round of funding.

John Bahorski asked how many cities had yet to receive any funding for Tier 1 projects. Dan Phu said previous to this round of funding, five cities had not received Tier 1 funding. Of those five, the cities of Stanton and Rancho Santa Margarita have been recommended for funding. The remaining cities include La Habra, Los Alamitos, and Placentia.

Garry Brown said the two things that stick out in his mind preventing projects from being funded is 1) geographic location – if the city is not upstream from a 303(d) listed stream; and 2) the effectiveness of the answers to the questions.

John Bahorski said he just wanted to make sure every effort was made to help some of the cities who have not received funding. Garry Brown said in Tier 1 the original goal was to make it as easy as possible and to give as much latitude as possible. This being said there was a great deal of discrepancy in the level of quality of the applications.

Scott Carroll asked if staff met with the cities of Los Alamitos and Placentia about their applications. Alison Army said yes. Scott Carroll said his concern is OCTA went to the effort to get these cities on board and, in the end, they did not get funded. His feeling is they should get something so they do not get discouraged. Garry Brown said when the evaluation committee receives the applications no preference is given to previous funding. It is up to the ECAC as to whether or not points should be given to cities who have not been previously funded.

Chair Mary Anne Skorpanich said the scoring system was built in such a way as to try and make sure everybody got something, although, the bond measure requires the program to be competitive.

Scott Carroll asked which cities on the list of cities being recommended for funding had received funds before. Alison Army said all but two have received funding before. Scott Carroll said this goes to his point – he believes there should be a way

to get money to cities like Los Alamitos, who is not asking for a great deal of money, onto the list of approved applicants.

Gene Estrada agreed with Scott Carroll's point, but he does not want to change the process at this point. The time to make changes would be in the next round of funding. All the projects the applicants turned in were worthy projects but in looking through the applications some people did not show a great deal of effort in filling out the applications. He recommended concentrating on these cities in the next round of funding and giving them more incentives to receive funding.

Scott Carroll said he believed some of these cities have very little resources to do a Tier 1 project. John Bahorski said the other issue is these cities probably will not have the bigger Tier 2 project either and if they do not get M2 funding for their Tier 1 project they will not get any funding at all.

Monte Ward said significant measures have been made to address the issue in this round of funding. They just were not able to catch all the unfunded cities this time around. He agreed with Gene Estrada that now is not the time to give points or money to cities just because they were not funded previously. This would undercut the Measure M2 Ordinance language and it would undercut the previous work done on the applications. It is a different matter to say there is more that can be done in order for every city to participate.

Dennis Wilberg said a great deal of time has gone into studying criteria, the competitive process was established, and all the criteria was known. You can go back and help some cities for the next round of funding but cannot change this at the last minute.

Garry Brown said the ECAC has modified the funding rules for Tier 1 after the previous two rounds of funding. This program is going to last for 30 years. It is important the ECAC thoroughly discusses the program and identifies problems after each round of funding.

Charlie Larwood reminded the ECAC that the Water Quality Program has to be consistent with the M2 Ordinance and the Comprehensive Transportation Funding Program (CTFP). Roger Lopez said after each CTFP call for projects staff evaluates the Program to see where changes can be made to make it better. He reminded the ECAC that the Water Quality Program is a competitive program, not an equity program. The M2 Ordinance has an equity program called "Fair Share." After this call for project it would be appropriate to look at who was funded and who was not and how changes can be made.

John Bahorski asked if, since the economy is improving, would there be any way to increase the predicted amount of money coming in for the Program. Dan Phu said yes there is a chance the money would be increased but this would be a Board

decision. Dan Phu also said since the Water Quality Program is a sales tax revenue generated program, a decision would need to be made when to have a call for projects.

A motion was made, seconded, and carried unanimously to: Endorse the ranking of the 46 Tier 1 applications to be considered for approval by OCTA's Executive Committee and Board of Directors in September.

Dan Phu said the recommendation will go to the Board Highways Committee in September and to the Board of Directors on September 23<sup>rd</sup>. The ECAC will potentially meet in October to have a "Lessons Learned" session to go over the application.

**5. Tier 2 Call for Projects Status Update**

Dan Phu gave a status update and recap of the Tier 2 Call for Projects. Marissa Espino gave an update on the outreach efforts for Tier 2.

**6. Trash/Debris TMDL Legislative Update/Discussion**

Dan Phu reported the State of California is proposing to have a 100 percent capture on trash/debris TMDL. This will be a challenge for the two regional water boards in Orange County. It is still in the beginning stages of discussion but the language in the M2 Ordinance is very specific about supplanting money. If there are any changes in the laws or regulations, OCTA and the ECAC will need to revisit this from a consistency stand point with the M2 Ordinance.

Scott Carroll asked if OCTA was taking a position on this. Dan Phu said OCTA is just monitoring this currently. The OCTA Government Relations Department needs to get involved in the discussions. He believes any policy decisions will be handed down from the regional water boards.

Charlie Larwood said if the 100 percent capture of trash and debris becomes a requirement, the M2 Ordinance says if something is required by law you cannot use M2 money for something required by another agency. If a new regulation comes out that requires the city to do something does this mean M2 funds are ineligible?

Chair Mary Anne Skorpanich said she believed M2 funds would be eligible because each of the regional boards currently has a plan that contains some standards for trash. Different regional boards around the State starting with the Los Angeles River TMDL started adopting regulatory programs to direct certain parties to reduce the amount of trash and set certain standards. The State water board is attempting to write a standard on how to define trash that would be uniform statewide. She said this would just redefine trash standards and should not have any implications on projects funded by M2. Chair Skorpanich suggested taking a look at the language in the M2 Ordinance about supplanting.

Monte Ward said it would be difficult to support a position because a regulatory standard has been changed or upgraded sales tax money will no longer be used to correct the problem.

A motion was made, seconded, and carried unanimously to: Direct staff to monitor and assess changes that may affect the Environmental Cleanup Program.

#### **7. New Data Potentially Affecting Structural BMP Prioritization and Analysis Tool (SBPAT)/Discussion**

Chair Mary Anne Skorpanich said the SBPAT is a computer model based on GIS that was developed by Geosyntec and put together as a mechanism for scoring the Tier 2 projects. When created, the existing data was loaded onto it. Since then new data has become available. Dan Phu said the SBPAT information may have an impact on the current Tier 2 Call for Projects. The ECAC needs to determine if the new data is going to make a significant difference.

Ken Susilo of Geosyntec walked the ECAC through the SBPAT development and what it does.

Nancy Palmer, Environmental Programs Manager, City of Laguna Niguel, said she is submitting a Tier 2 Grant application. She is concerned that the TMDL inputs data in the scoring algorithm and some of this information is obsolete. Nancy Palmer explained her problems she was having with the SBPAT.

Moy Yahya, City of Aliso Viejo, said he had problems with some of the wet weather data in SBPAT that needed to be updated. He believed the model should be updated and used for the scoring.

Chair Mary Anne Skorpanich said they intended to use the SBPAT model as is to score the applications coming in for the current round of Tier 2 funding. The data in the current model does not have the TMDL information for South County nor the latest 303(d) listings. The question on the table is: can something be done for this round of funding or does it have to wait for the next round.

Ken Susilo asked to clarify some points. Nancy Palmer mentioned the multiplier factor. The way the multiplier factor works is it is a multiplier on the anticipated load being generated from the watershed. If there was a high loading code from the watershed, the multiplier would elevate it. Very low loading codes would just be multiplied similarly, resulting in low points even with the new multiplier factor. He would not want to set an expectation that scores and rankings would necessarily change.

Monte Ward asked what would need to be done process-wise to change the model. Dan Phu said in 2012, when the Tier 2 first Call for Projects went to the Board, it included the Tier 2 Planning Study which included the SBPAT model. When the

second Tier 2 Call for Projects went to the Board, the assumptions and communications to the Board was the documents in the first Tier 2 Call for Projects would be the same in the second call for projects. If changes are made to the SBPAT model which is tied to the planning study it would require going to the Board to let them know the assumptions in the planning study have changed and identify the changes. This would delay the awarding of the current round of Tier 2 projects by approximately three to five months.

Dennis Wilberg asked if the TMDLs were approved in 2010 and the EPA approved it in 2011, why did nobody bring this question forward until now. Chair Mary Anne Skorpanich said she imagines the reason is this is the first time it has been brought to anyone's attention. The applicants realized this problem and brought it to staff's attention. Dennis Wilberg said his first reaction is if there is updated data it should be used. How difficult is it to take the updated TMDLs and put them in the model. Chair Mary Anne Skorpanich said logistically it is not difficult but on a technical level the OCTA Board approved the model with its existing data and did not have a proviso for ongoing updates to the data.

Chair Mary Anne Skorpanich said her first reaction was, for fairness, they should be using the updated data. She asked if they could go to the Board on September 23 as planned and asked to use the updated model to score this round of projects. Dan Phu said this may be possible, but there could be applicants who may say if this updated data was going to be used they would have proposed a different set of BMPs and their project would have scored higher.

Ken Susilo gave an update on a sensitivity analysis looking at all the watersheds and what this means with respect to the new TMDL.

Dennis Wilberg said if he was on the Board and found outdated data was being used he would be nervous. He would be much more comfortable saying, "Since the model was approved, the Federal government came up with additional data and it will be incorporated into the model." This seems much more logical, but he does not understand the potential disturbance to the process. Chair Mary Anne Skorpanich said the potential disturbance is from applicants who claim they would have applied if they had known updated data would be used.

Chair Mary Anne Skorpanich said the question before the ECAC is would they like to ask the OCTA Board on September 23 to incorporate the data or not.

Garry Brown said he does not believe they have a choice. He believes the ECAC has always been transparent in its approach and it should continue to do so. He is not comfortable with a sensitivity analysis based on not having the true information. He believes they should go to the Board and ask to be able to update the data yearly without going to the Board.

Scott Carroll asked if applicants could be contacted immediately if the ECAC agrees with going to the Board and requesting the new data be incorporated. Garry Brown suggested telling them if they think this would change their application call OCTA.

The ECAC agreed with the need to go before the OCTA Board and request to incorporate the new data into the SBPAT model. The ECAC also agreed there should be a communication to all eligible applicants notifying them of the potential updates and surveying the applicants regarding if the updates would impact their approach to the project and if the new data would affect the ability to award a construction contract by either June 2014 or June 2015.

A motion was made, seconded, and carried unanimously to:

- A. Recommend the scoring model for Tier 2 be updated with current TMDL data.
- B. Authorize staff to update data in the model annually.
- C. Recommend extending the application period if sufficient feedback from applicants is received.

**8. Public Comments**

Nancy Palmer, City of Laguna Niguel, and Moy Yahya, City of Aliso Viejo spoke during agenda item number 7.

**9. Committee Member Reports**

There were no committee member reports.

**10. Next Meeting – Sept. 12, 2013**

The next regular scheduled meeting of the ECAC will be September 12, 2013 at the OCTA offices.

**11. Adjournment**

The meeting adjourned at 12:00 p.m.