

Environmental Cleanup Allocation Committee

January 7, 2010 Meeting Minutes

Committee Members Present:

Chairperson, Garry Brown, Orange County Coastkeeper
Vice-Chair Mary Anne Skorpanich, County of Orange-Watershed and Coastal Resources Program
Tim Casey, City of Laguna Niguel
Gene Estrada, City of Orange
Paul D. Jones, Irvine Ranch Water District
Chad Loften for James Smith, San Diego Water Quality Control Board
Tom Rosales, Manager of the Southern California Waste Water Authority
Hector B. Salas, Caltrans
Sat Tamaribuchi, Environmental Consultant

Committee Members Absent:

Mark Adelson, Santa Ana Regional Water Quality Control Board
John Bahorski, City of Cypress
William Cooper, UCI
Joe Parco, City of Santa Ana
Dick Wilson, City of Anaheim

Orange County Transportation Authority Staff Present:

Kurt Brotcke, Director of Strategic Planning
Marissa Espino, Senior Community Relations Specialist
Rodney Johnson, Deputy Treasurer
Janice Kadlec, Public Reporter
Hal McCutchan, Environmental Programs Manager
Monte Ward, Measure M Consultant

1. Welcome

Chairperson Garry Brown welcomed everyone and began the meeting at 1:35 p.m.

2. New ECAC Member Introduction

Chairperson Garry Brown introduced Tom Rosales, Manager of the Southern California Waste Water Authority, as a new member to the ECAC.

3. Approval of the December 2009 Minutes

Chairperson Garry Brown asked if there were any corrections to the December 10, 2009 meeting minutes. No corrections were suggested. A motion was made by Committee member Tim Casey and seconded by Committee member Gene Estrada to approve the December 10 2009 meeting minutes. The motion passed with the following abstentions: Vice-Chair Mary Anne Skorpanich abstained as she did not attend the entire December 10th meeting. Committee Member Tom Rosales chose to abstain as he was not present at the December 10th meeting.

4. ECAP Funding and Financing Evaluation

Monte Ward, OCTA's Measure M Consultant, provided an overview of the previous meeting's discussion on financing Tier 2 Grant projects. The ECAC had questions regarding the potential of financing and requested more details regarding the availability of money and funding restrictions.

Rodney Johnson, OCTA's Deputy Treasurer, provided with new Measure M Sales Tax Extension Forecast figures and presented two funding scenarios (non-financing and financing)

Committee member Paul Jones observed in Scenario 2 (financing), a \$39,000,000 bond sale in 2012 and asked if reduced interest costs can be assumed if the bonding was done in smaller tranches. Rodney Johnson indicated that was correct and OCTA would likely use the Commercial Paper Program until a larger debt issuance is needed. Committee member Paul Jones inquired about the interest rate for the investments and was told in 2011 the interest rate is 3%, and in 2012 and beyond the interest rate is 4%.

Monte Ward said the T2020 Committee was concerned there should be funding available for Tier 2 projects before the program funding date of year 2015. They wanted opportunities for projects to go forward prior to this time. The question is the amount made available depends on the parameters for funding. Are funds going to be available for preliminary project development or funding implementation?

Kurt Brotcke, OCTA's Director of Strategic Planning, reviewed the six points on the ECAP Proposed Funding Design and offered some contrasting alternatives to help the Committee understand the policy implications as the process moves forward.

Vice-Chair Mary Anne Skorpanich asked if point four excluded any design work from being funded by the Tier 2 program. Kurt Brotcke indicated that any design work for an environmental document would be included, which is typically 10% - 30% of the plan. Vice-Chair Mary Anne Skorpanich said jurisdictions would need to use their own funds to design the project to the environmental stage and once the environmental approval is obtained they could apply for M2 funds. Monte Ward said these connectional or early planning costs would be considered as part of the

required matching costs. Monte asked Kurt if this is typical. Kurt said that prior expenditures cannot be used as a match for the Roads Program.

Kurt Brotcke said the Committee could allow environmental and planning work as part of the complete project and be eligible for funds. The projects would need to be evaluated in its entirety, but would still need to have cost estimates all the way to completion. The risk is that multimillion dollar projects are proposed that are not ready for right-of-way construction money. Money will be tied up for a long period of time and after the planning and design phase is completed, the cost estimates could increase. Another option would allow agencies to ask for environmental funds only.

Committee member Gene Estrada asked if the ECAC allows credit for the match for planning, wouldn't it alleviate the problem of money being tied up. Kurt said yes.

Committee member Tim Casey asked what was the CTFP equivalent of a funding match? Kurt said it is 50%, however, there are provisions to lower the match rate if the cities meet specific targets on other road items. This can lead to a match reduction of as much as 25%.

Monte Ward said another possible way to mitigate the risk when funding the entire project is to not pay for any cost overruns. Cost overruns would be the agency's responsibility.

Committee member Tim Casey said he was comfortable using Scenario 1: No Debt (pay-as-you-go) for the Tier 1 program. Committee member Paul Jones agreed. Tim Casey said it will be difficult to come up with a bonding number until a list of projects is seen for the Tier 2 program. Hal McCutchan, OCTA's Environmental Program Manager indicated that there is a survey being circulated to the cities asking for any possible projects for both environmental grant programs. It is due back to OCTA by January 20, 2010.

Committee member Gene Estrada said he thought the requirement for a 50% match was extremely high, but if incentives will drive the match down it would make it attainable. Chairperson Garry Brown said the intent of multiple jurisdiction projects in Tier 2 will also benefit the 50% match requirement.

Vice-Chair Mary Anne Skorpanich said she was concerned about the requirement of CEQA clearance before a project is eligible for M2 funding due to the length of time. Kurt Brotcke said using the Road Program as an example, typically from the time the application comes in until it goes to the Board for approval; is usually three to four months.

Monte Ward asked about the availability of capacity in the Commercial Paper program. Rodney Johnson said there is plenty of capacity; OCTA's authorized capacity is \$400 million with a single issue capacity of \$75 million. Monte asked how it would be determined to use Commercial Paper versus doing a bond issuance.

Rodney said Commercial Paper would be used on a small and short term projects, regular debt would be used for larger projects and as part of a greater M2 debt issuance.

A motion was made by Committee member Tim Casey and seconded by Committee member Paul Jones to adopt the following recommended Proposed Funding Design:

- The Tier 1 Grant Program will begin in FY 2011-12 on a pay-as-you-go basis with up to \$18.0 million allocated through FY 2014-15 (up to \$4.5 million/year).
- The Tier 2 Grant Program will begin in FY 2011-12 via bonding with up to \$38.0 million allocated through FY 2014-15 (up to \$9.5 million/year).

The motion passed unanimously.

Vice-Chair Mary Anne Skorpanich asked Kurt Brotcke to discuss the 50% match requirement for the Tier 2 Grant Program. Kurt said the 50% match will apply to the project cost; M2 would pay for half the project cost.

Committee member Paul Jones suggested making project development costs eligible for reimbursement and with consideration as a local match. He also suggested setting the Tier 2 program as a 50% match to begin with and reconsider or re-evaluate if no projects come in. Committee member Gene Estrada agreed with Paul Jones about making the project development cost eligible for reimbursement as part of the local match.

Kurt Brotcke said the Proposed Funding Design does not say the project development cost will be reimbursable, but the 50% match requirement will be reduced by the amount of the project development costs.

Vice-Chair Mary Anne Skorpanich asked why the match requirement for Tier 2 projects was different from the Road Program. Kurt said OCTA has a great deal of experience with Road Program and keeping projects on track. The ECAP is new program with potentially higher risk. OCTA is responding to this by asking that projects have environmental clearance done. These activities can be funded by other sources, but these expenses can be used as match reduction.

Vice-Chair Mary Anne Skorpanich suggested there should be incremental payment up front for design costs or allow cities to apply for the project development fund through the grant program. Monte Ward said in order for this to happen, the match requirement would need to be revisited. This would take out softening the match requirement.

Monte Ward said from the discussion going on there were two ways being suggested to come into the program:

1. Ask for a commitment to the project right from the start, or
2. Front the money for the project with the understanding credit will be given toward the expenditures when it is time for the local match.

Monte Ward said the two different approaches may impact how the projects are evaluated.

Committee member Sat Tamaribuchi said in this program it is more important to fund the entire project as opposed to the Road projects that are funded year after year, these project are new and may require a great deal of effort on the front end to develop the project.

A motion was made by Committee member Paul Jones, seconded by Committee member Sat Tamaribuchi, and passed unanimously to accept the following options:

The lead agency will have two options to meet the minimum 50% funding match option for the Tier 2 Grant Program. For option 1, a lead agency can apply for full funding from the onset of project design to construction and the required match is 50%. For option 2, a lead agency can apply for funding for an environmentally cleared project and may utilize the project development costs up to environmental clearance as credit against the 50% match.

5. Three Month ECAP Work Plan (January –March 2010)

Hal McCutchan presented the M2 Environmental Cleanup Allocation Program three month work plan (January – March 2010)

6. Tier 1 Grant Program Funding Guidelines

Hal McCutchan discussed the changes made to the Tier 1 Grant Program Funding Guidelines per the last ECAC meeting. The Committee discussed the point value changes suggested at the last meeting and whether ancillary benefits belong in the *Project Benefits* category or the *Bonus Points* category.

A motion was made by Committee member Paul Jones and seconded by Committee member Tom Rosales to deduct five points from *Project Design* making that category now worth a maximum of 15 points, adding five points to *Project Benefits* making that category now worth a maximum of twenty points, and to leave the phrase “*Does the proposal have additional ancillary benefits?*” in the *Project Benefits* category, and approve the Tier 1 Grant Funding Guidelines as corrected. The motion passed unanimously.

7. Proposed Tier 2 Program Planning Study Update

A motion was made by Chairman Garry Brown and seconded by Committee member Gene Estrada to pursue the Tier 2 Program Planning Study and utilize the ECAC as

the technical committee for review of deliverables and interim/final recommendations. The motion passed unanimously.

8. 12.17.09 NPDES General Permittee Meeting

Hal McCutchan said on December 17th a presentation was made to the NPDES General Permittees on the ECAP. Interest survey forms on the Tier 1 and Tier 2 Grant Programs were distributed and will be returned by January 20th. Comments that were provided by the NPDES General Permittees included consideration of having ECAP grant applications on line and provide briefings on the ECAP at the monthly NPDES General Permittee meetings.

9. Next Meeting – February 11, 2010

The next meeting of the ECAC will be Thursday, February 11, 2010 at 10:00 a.m. at the Orange County Transportation Authority.

10. Committee Member Reports

There were no reports given by the Committee members.

11. Adjournment

The meeting was adjourned at 3:05 p.m.