



Mitigation and Resource Protection Program Oversight Committee

Environmental Oversight Committee

Orange County Transportation Authority

600 S. Main Street, Orange CA

Sept. 3, 2008

10 – 11:30 a.m.

AGENDA

- 1. Welcome**
- 2. Approval of July 2008 Minutes**
- 3. 2020 Committee/OCTA Board Status Report**
Monte Ward, OCTA Director of Special Projects
- 4. Restoration and Acquisition Criteria Approval**
Melanie Schlotterbeck, EOC Vice Chair
 - A. Recommendation: Approve criteria and public outreach plan for Transportation 2020 recommendation and OCTA Board approval
- 5. Master Agreement/Analysis and Documentation Update**
Monte Ward, OCTA Director of Special Projects
- 6. Public Comments**
- 7. Next Meeting – Oct. 1, 2008**
- 8. Committee Member Reports**
- 9. Adjournment**

Public Comments: The Agenda descriptions are intended to give notice to members of the public of a general summary of items of business to be transacted or discussed. Members from the public wishing to address the Committee will be recognized by the Chairman at the time the Agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes. Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA at (714) 560-5725, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Environmental Oversight Committee

July 2, 2008
Meeting Minutes

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Matthew Chirdon, CA Department of Fish and Game
Cathy Green, OCTA Board of Directors
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services
Judy McKeehan, SWCA Environmental Consultants
Adam Probolsky, Probolsky Research
Debbie Townsend, California Wildlife Conservation Board

Committee Members Absent:

Stephanie Hall, US Army Corps of Engineers
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Orange County Transportation Authority Staff Present:

Monte Ward
Ellen Burton
Marissa Espino
Ryan Maloney
Sean Skaggs, Ebbin, Moser & Skaggs, LLP

Members of the Public Present:

None

1. Welcome

Chair Patricia Bates began the meeting by welcoming the members and leading a flag salute at 10:05 a.m.

2. Minutes

Melanie Schlotterbeck commented that her comment on page three of June's minutes should reflect that program needs are comprehensive in nature, and are not determined on a project by project basis. Chair Bates requested the California Coastal Commission be changed to Orange County Coastal Coalition.

The minutes were approved with corrections.

3. Restoration and Acquisition Criteria

Monte Ward presented the committee with the restoration and acquisition criteria that was developed in cooperation with the resource agencies. Monte explained that

the focus of the committee should be to get the criteria out for review. Melanie explained that she worked with Mike White to generate draft criteria and guidelines for land acquisition. The draft criteria have been discussed with several resource agencies. The focus of the criteria is to guide acquisition based on habitat and species impact, connectivity, as well as conflicting uses of land, neighbors and agencies support, priority of acquisition, property constraints, co-benefits (watersheds, cultural value) as well as what resource agencies felt could be added.

Jonathan Snyder said that the draft included two sets of criteria, with two initial tiers of benefits.

Monte commented that the draft criteria has two purposes to serve, one is general outreach and discussion about potential properties to those that may have an interest in suggesting property for acquisition. Secondly, the criteria will serve to align databases of available properties with freeway impacts and create a matrix that will allow the committee to evaluate properties in an orderly fashion. The working group will evaluate available tools for evaluating properties and specific areas of properties. Monte suggested the committee evaluate the criteria and then consider adopting the criteria at the next meeting.

Chair Bates commented that the criteria could serve as a prioritization system and asked if some properties would not be included based on the criteria.

Monte said that it was likely that a decision making process would come out of the agreement.

Jonathan Snyder asked the committee to review the draft criteria. He also said that the committee needed to address the potential allocation of funds for property management and suggested that a second document be drafted to handle that issue. The same group that worked on the draft criteria could draft a policy for property management.

Chair Bates commented that the full OCTA Board will review the criteria before it is finalized.

Judy Mckeehan commented on the importance of clear and unambiguous definitions in the draft criteria.

Chair Bates thanked the subcommittee for their work on the draft criteria and guidelines. Monte asked that any comments or suggestions on the criteria be directed to Marissa Espino. Monte said the subcommittee will come back with a recommendation at the next meeting.

Analysis and Documentation

Monte introduced Sean Skaggs, a conservation specialist retained by OCTA, to the committee members. Sean will assist in conversations with the committee working

groups and work on developing analysis and a framework that allows mitigation to be matched with Renewed Measure M projects.

Monte said that two documents were presented to the working group for their consideration. It was recommended that OCTA and the resource agencies need to get on the same page in terms of approach. Monte said that Sean wanted to share some information with the full committee regarding the approach

Sean presented some information on options under consideration for meeting mitigation requirements and ensuring project approval. San Diego's master agreement establishes the rules of the agreement, but does not include a compliance or permitting process. Shaun explained the best option for permits and compliance was with the state, and explained the differences between the state section 7 and section 10 approvals.

Monte said the working group had recommended that draft principles should be discussed between the three principal entities to consider time, resources and complexities. The process takes resources that may not be available. This discussion could lead to a range of options for consideration. Monte said that the working group would come back with a recommendation from all three agencies and see if we can go forward.

Chair Bates said that the committee should consider properties that are the most attractive to mitigate project needs.

Dan Silver asked to what extent freeway projects affect impacted species. Monte said that some freeways have minimal impact, while others may have more effect on critical species.

Dan asked if a section 7 or section 10 permit was needed, since OCTA can rely on a programmatic EIR and continue the process under CEQA.

Monte asked the committee if a programmatic EIR would be sufficient to begin the process.

Cathy Green asked if there were unlisted endangered species that might be listed and affect the freeway program. Jonathan said that there was nothing immediate, but that anything could happen with listing species.

Dan said that if the committee was concerned about species that aren't yet listed, and need future assurances, then a NCCP was needed. Jonathan said that a section 7 could be amended for newly listed species.

Dan said the NCCP approach may want to provide a regional approach. NCCP is well suited for the projects, but Dan questioned if the NCCP was overkill. Dan said that the time, cost and necessity of a NCCP should be considered.

Cathy Green said that she concerned that delaying land acquisitions may make the process more problematic. Dan said that any acquisition after a planning date counted as acquiring land, and seems to work based on San Diego's experience.

Jonathan asked if NCCP would be a viable starting framework. Matt Chirdon said that the NCCP was designed to handle the break up of a large block of territories when the ultimate designations of those territories is unknown. He said that the programmatic EIR might be a better alternative.

Matt said that the master agreement and acquisition plans would have to be kept separate. Cathy asked why they needed to be separated. Matt said that the master agreement would be a process, but the department couldn't agree to a program since it would ask the department to approve a process, and make the department subject to CEQA.

Jonathan asked if the direction taken by the committee would determine how the document is written. Monte said that the proposed master agreement did not call for specific subsequent steps. While San Diego agreed on a single process, the proposed master agreement provides a variety of processes. The final master agreement will layout the approved process, but the master agreement is not the only legal requirement.

Monte said that a meeting was set for July 16, and the working group's objective was to bring the item back in August, to identify options and to get the committee's recommendation. At that time the committee will be able to discuss a schedule and plan an update to the 2020 committee and the OCTA Board. Chair Bates said it would be helpful to see a chart of how the working group sees this process moving forward so that it can be given to External Affairs for outreach.

Monte said that the working groups would create a schedule including required functional elements, policy reports, revenue reports and a timetable to aim for in terms of a master agreement. The schedule can be updated as the committee moves forward.

Chair Bates asked about required revenue reports. Monte said that OCTA uses three universities to develop an economic forecast. The current forecast shows a downturn in sales tax revenue for a period and then anticipates a slow recovery. At the end of July, revenue figures will be available in addition to the forecast. Monte said the budget would be conservative to ensure that any acquisition could be supported.

4. Master Agreement Working Group

Monte said the master agreement working group went to San Diego to meet with representatives from SANDAG and discuss the differences between San Diego and Orange counties' programs. San Diego's program is built around roads and

freeways, and their conservation program is has different stages of progress. A lot is about relationships based on putting the agreement together between agencies that have not usually had a collaborative approach.

5. Impact and Mitigation Working Group

Chair Bates asked to include meeting notes from work group meetings in committee agenda packets.

Dan Phu said that the working group was setting up a meeting with the Santa Monica Conservancy and National Forest, who already has an acquisition program. Since they already have a process in action, the working group was to use Santa Monica's program as a model along with the NCCP and HCP processes.

6. Public Comments

There were no public comments.

7. Next Meeting – August 6, 2008

Chair Bates commented that the next meeting would be particularly important and reminded committee members to attend or call in to ensure quorum.

8. Committee Member Reports

There were no committee member reports.

9. Adjournment

The meeting was adjourned at 10:47 a.m.



August 18, 2008

To: Transportation 2020 Committee

From: Arthur T. Leahy, Chief Executive Officer

Subject: Status Report on Renewed Measure M Environmental Programs

Overview

Renewed Measure M authorized two environmental programs. Approximately \$240 million is available for program-level mitigation for the 13 freeway projects (Projects A – M), subject to an agreement between the Orange County Transportation Authority and state and federal resource agencies. A similar amount of funding is available under Project X for water quality improvements related to the runoff from roads and freeways. The Board of Directors included both of these programs in the five-year Renewed Measure M Early Action Plan.

Recommendation

Receive and file as an information item.

Background

Since the Orange County Transportation Authority (Authority) Board of Directors (Board) approved the Renewed Measure M (M2) Early Action Plan (EAP) on August 13, 2008, work has proceeded on implementation of the authorized environmental programs. These are both new programs, not included in the first Measure M (M1). As such the programs will require significant effort on the front end for program definition and design and the appropriate framing of policy and priority choices for the Transportation 2020 Committee and the Board of Directors to consider.

On October 22, 2007, the Board approved the membership for the two environmental program advisory committees (one for each program) authorized by the M2 Ordinance to advise on program design and funding recommendations. The Environmental Oversight Committee (EOC) is chaired by Director Patricia Bates and deals with the freeway mitigation program. The Environmental Cleanup Allocation Committee (Allocation Committee) is chaired by Garry Brown, president and chief executive officer of the Orange County

Coast Keeper, and is working on the water quality funding program. The charters and memberships for the EOC and the Allocation Committee are shown in Attachment A and B respectively. The Transportation 2020 Committee and the full Board must consider and approve any program, policy or funding recommendation developed by the committees. Staff provides committee support.

Neither committee recommends policy or program actions at this time, but both have made considerable progress on program definition and basic groundwork for program design. A status report on current progress and pending issues is presented.

Discussion

Program-Level Freeway Mitigation

Significant progress has been made on the precursors for a master agreement among the Authority, the United States Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG) to mitigate the potential biological impacts of all 13 freeway projects in Renewed Measure M and enable a streamlined project approval and permitting process. The EOC has provided a public forum for development of these building blocks and the overall program framework. The EOC has also formed two ad-hoc working groups – one dealing with how to inventory and document freeway impacts and mitigation opportunities; the other researching how to structure a draft agreement. The ad-hoc working groups' participants consist of staff from the state and federal resources agencies, non-profit environmental organizations, and the Authority.

Progress has been made as follows:

- A comprehensive countywide database of biological resources has been assembled in a digital format. Using the Authority's geographic information systems (GIS), the information can be mapped and displayed in relation to the 13 M2 freeway projects. The boundaries of the projects' impacts can be easily adjusted to accommodate different potential scenarios and designs and assess its impacts. The County of Orange, state and federal resource agencies, non-governmental environmental organizations, and other public agencies that have gathered or studied biological resources in Orange County have contributed to the development of this crucial tool.
- Draft criteria to assist in the evaluation of potential mitigation opportunities are nearing completion. These criteria are based on input from the resource agencies and members of the EOC. The criteria is intended to provide guidance to property owners and conservation organizations to help

evaluate the potential resource and conservation value of properties that might be available for acquisition or restoration. These criteria will be submitted for approval by the EOC in September and recommended to the Transportation 2020 Committee and the Board of Directors shortly thereafter.

- The EOC began developing an inventory of potential conservation sites for acquisition or restoration in order to provide for program-level mitigation of the freeway projects. The baseline for the inventory is formed by the Green Vision Plan, a comprehensive listing of potential conservation opportunities in Orange County developed by a consortium of non-governmental environmental groups. An informational and outreach process is under development to solicit additional suggestions from landowners, local governments, conservation organizations, and community groups. In addition, these interests have had the opportunity to make presentations to the EOC regarding conservation opportunities. To date, representatives from the County of Orange and the City of San Juan Capistrano have made presentations, and the City of Brea is scheduled to do so in September.
- Staff and legal counsel from the Authority, USFWS, and CDFG began discussions on how to structure an agreement and provide the necessary analysis and documentation to support it. These discussions have focused on balancing four key factors – early action on conservation opportunities; strong assurances regarding processing and permitting of projects; and timeliness and cost. Several options are being vetted for consideration by the EOC and ultimately by the resource agencies and the Authority. These include development of a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). A recommendation on a framework and approach is expected to go to the Board of Directors this fall, with a goal to present a draft agreement for approval by the Authority and the resource agencies in mid-2009.

Looking ahead, there are several additional key issues that are anticipated to come to the EOC, the Transportation 2020 Committee and the Board of Directors in future months. These include:

- Participation in the agreement by the Army Corps of Engineers and the regional water quality control boards, agencies that also have potential permitting authority for the 13 M2 freeway projects.
- Risk and potential costs for analysis and documentation to support, for example, an HCP/NCCP process, and whether the costs would be paid from mitigation funds or the M2 freeway program as a whole.

- The staffing capacity of the resource agencies to participate as needed in the analysis and documentation efforts.
- The nature and type of environmental review that may be required under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) and any risks these processes may represent to timely implementation of the M2 Early Action Plan.
- The eventual need, if an agreement is reached, to support assessment, valuation, acquisition and management or restoration of conservation properties

Water Quality

Significant progress has also been made on the M2 water quality program under the leadership of the Allocation Committee. This technical working committee was formed to make recommendations on a competitive funding process to implement road-related and highway-related water quality improvement projects. In that regard, it functions much like the Authority Technical Advisory Committee (TAC) that performs the same roles for Measure M with respect to road capacity and maintenance allocations.

The Allocation Committee is working toward making recommendations to the Authority Board on water quality program guidelines by mid-2009 and recommending an initial funding call for projects in late 2009 or early 2010. The discussion of early funding priorities has focused on:

- A catch basin system funding program, which encompasses screens, filters, inserts, and in-line deflection separator units such as continuous deflective separation units; and
- New capital and operation projects identified in a watershed management area plan or proposed by a Measure M eligible jurisdiction (city or the County of Orange).

A request for proposals seeking consultant assistance to prepare the program funding guidelines was issued on August 1, 2008. The consultant will work with the Allocation Committee in developing program guidelines. These guidelines will be used by eligible local agencies to submit project applications and funding requests starting fiscal year (FY) 2009-10. The funding guidelines are expected to be complete, including Board adoption, by summer 2009.

A presentation on the program was made to the Authority TAC in June 2008. The program was described and the TAC was made aware that its input was needed on a possible initial prioritization for funding in scaling and scoping a

potential catch basin funding program. A questionnaire was disseminated in July to all cities within Orange County soliciting the number and type of catch basins in each jurisdiction, the extent of screens/filters already installed, any existing experience with equipment life cycles and maintenance intervals, and costs, as well as a sense of the level of interest and priority a catch basin system funding program would have for each jurisdiction. At a later time, a similar questionnaire will be disseminated for new capital and operation projects involving water quality improvements to determine a countywide interest.

Based on the questionnaire for the potential catch basin system-funding program, more than 90 percent of the cities indicated interest in applying for funds. Another key finding is that less than 10 percent of catch basins in the County have some type of device to screen trash and debris. This suggests that significant benefits could accrue in the short term with a focus on these improvements. Staff is currently utilizing the data collected from the questionnaire to formulate a cost analysis, targeting the number and type of catch basin storm water mitigation devices that may be eligible. Results of this process will provide input into the funding program guidelines and a potential future call for projects.

Looking ahead, there are several other key issues pending that will be under consideration by the Allocation Committee and may be recommended for policy direction by the Transportation 2020 Committee and the Board of Directors. These include:

- The timing and scope for a major capital improvements program. The Allocation Committee supports an initial focus on a catch basin program to provide early results, and because screening trash and debris is a necessary precursor to effective treatment for other more difficult to treat pollutants, such as heavy metals, hydrocarbons, and organic material. Efforts are underway by the Allocation Committee to consider how a major capital program could be structured, recognizing existing countywide efforts to establish watershed management areas and capital improvement programs aimed to attract state grant funding.
- Whether, and under what circumstances, funding should be made available for operations and maintenance costs. The M2 Ordinance indicates a preference for funding of capital improvements, but does not specifically prohibit expenditures for maintenance and operations. A policy recommendation is likely as part of the funding program guidelines development.
- Opportunities for pooled purchasing and maintenance of improvements such as catch basin screens and filters. It is possible that administrative and

per unit cost savings could result from countywide or regional pooling of efforts.

Summary

Program development efforts are in progress for both of the environmental programs under Renewed Measure M – program-level mitigation of freeway projects and water quality improvements related to roads and freeways. A report on progress made to date is presented.

Attachments

- A. Mitigation and Resource Protection Program Oversight Committee
Environmental Oversight Committee Charter and Roster
- B. Environmental Cleanup Allocation Committee (Allocation Committee)
Charter and Roster

Prepared by:

Hal McCutchan
Environmental Program Manager
(714) 560-5759

Approved by:

Monte Ward
Director of Special Projects
(714) 560-5582



September 15, 2008

To: Transportation 2020 Committee

From: Arthur T. Leahy, Chief Executive Officer

Subject: Preliminary Criteria for Property Acquisition and Restoration for Renewed Measure M Program-Level Freeway Mitigation

Overview

Renewed Measure M provides for program-level biological mitigation, through acquisition or restoration of habitat, for 13 freeway projects subject to agreement between the Authority and state and federal resource agencies. The Environmental Oversight Committee, appointed by the Board of Directors to provide guidance on developing and implementing such an agreement, is recommending preliminary criteria for evaluating the biological mitigation potential of properties that may be acquired or restored. The criteria will help direct outreach efforts and guide property owners and managers who may be interested in participation.

Recommendations

- A. Adopt the preliminary criteria for evaluating the biological mitigation potential of properties that may be acquired or restored, which will help guide outreach efforts.
- B. Direct staff to implement a public outreach plan to build an inventory of potential conservation sites.

Background

Since the Orange County Transportation Authority (Authority) Board of Directors (Board) approved the Renewed Measure M (M2) Early Action Plan (EAP) on August 13, 2008, work has proceeded on implementation of the authorized Freeway Mitigation and Resource Protection Program. Because this is a new program, not included in the first Measure M (M1), the program will require significant effort on the front end for program definition and design and the appropriate framing of policy and priority choices for the Transportation 2020 Committee and the Board of Directors to consider.

On October 22, 2007, the Board approved the membership for the Environmental Oversight Committee (EOC) authorized by the M2 Ordinance to advise on program design and funding recommendations. The EOC is chaired by Director Patricia Bates and oversees the freeway mitigation program. The Transportation 2020 Committee and the full Board must consider and approve any program, policy or funding recommendation developed by the committees. Staff provides committee support.

Discussion

Significant progress has been made on the precursors for a master agreement among the Authority, the United States Fish and Wildlife Service, and the California Department of Fish and Game to mitigate the potential biological impacts of all 13 freeway projects in M2 and enable a streamlined project approval and permitting process. The EOC has provided a public forum for development of these building blocks and the overall program framework. The EOC also has formed two ad-hoc working groups – one dealing with how to inventory and document freeway impacts and mitigation opportunities; the other researching how to structure a draft agreement. The ad-hoc working groups' participants consist of staff from the state and federal resources agencies, non-profit environmental organizations, and the Authority.

Draft criteria to assist in the evaluation of potential mitigation opportunities has been approved by the EOC and is being presented for approval by the Transportation 2020 Committee and the full Board (Attachments A, B, and C). These criteria are based on input from the resource agencies and EOC members. The criteria is intended to provide guidance to both the EOC and property owners and conservation organizations to help evaluate the potential resource and conservation value of properties that may be available for acquisition or restoration. At a future date, these criteria will include a mechanism for evaluating potential restoration projects that will ultimately lead to the selection of eligible properties.

At the same time the draft criteria was being developed, the EOC began creating an inventory of potential conservation sites for acquisition or restoration. The baseline for the inventory is formed by the Green Vision Plan, a comprehensive listing of potential conservation opportunities in Orange County developed by a consortium of non-governmental environmental groups. The Green Vision map (Attachment D) documents public and private protected lands and properties to purchase and restore in Orange County.

Public Outreach Plan

To build the inventory of potential conservation sites and share the preliminary criteria with potential property owners and conservation organizations, a general public outreach plan has been developed. The EOC is recommending a fair and open process that engages and solicits additional suggestions from the various target audiences, which include: landowners, local governments, conservation organizations, and community groups.

The primary goals of the communications plan are to increase awareness of the mitigation program and build an inventory of potential properties for mitigation with the use of the preliminary criteria as a guideline.

The strategy and tactics for implementing the public outreach program is as follows:

- Develop a database of key target audiences
- Identify distributors to help communicate the goals of the outreach program
- Coordinate with key environmental leaders to communicate with the environmental community
- Produce a web page under the M2 Environmental Programs page that allows target audiences to access information and enter their property information online
- Distribute a direct mail piece and an e-mail-based solicitation flyer that directs the target audiences to the web site and to key contacts for further information

Implementation of the public outreach plan would begin in fall 2008 with a goal of having inventory by early 2009. [Monte: Need your input here. Does this sound about right? What are the next steps?]

Summary

The Environmental Oversight Committee is recommending preliminary criteria for evaluating the biological mitigation potential of properties that may be acquired or restored. The criteria will help direct a public outreach plan and guide property owners and managers who may be interested in participation.

Attachments

- A. Renewed Measure M Restoration Criteria
- B. Renewed Measure M Property Acquisition Criteria
- C. Renewed Measure M Property and Habitat Management Criteria
- D. Orange County Green Vision Map

Prepared by:

Marissa Espino
Senior Community Relations Specialist
(714) 560-5607

Approved by:

Ellen Burton
Executive Director of External Affairs
(714) 560-5923

Minutes
Renewed Measure M (M2)
FREEWAY ENVIRONMENTAL MITIGATION PROGRAM
Impact and Mitigation Working Group

August 6, 2008
10:00 – 11:30pm
600 South Main Street
Orange, CA 92868
Room 154

Attendees

Name	Affiliation	Email Address
Marissa Espino	OCTA	mespino@octa.net
Monte Ward	OCTA	mward@octa.net
Ellen Burton	OCTA	eburton@octa.net
Hal Mccutchan	OCTA	hmccutchan @octa.net
Dan Phu	OCTA	dphu@octa.net
Erinn Wilson	CDFG	ewilson@dfg.ca.gov
Matt Chirdon	CDFG	mchirdon@dfg.ca.gov
Melanie Schlotterbeck	Measure M Support Group	Melanie@schlotterbeck.net
Dan Silver	Endangered Habitat	dsilverla@earthlink.net

1. Introductions (Group)
2. Mitigation Opportunities
 - a. Revised Property Acquisition/Restoration Criteria
~~attached~~ (Group)

Acquisition Criteria and Restoration Criteria lists were provided to Melanie, CDFG (Matt/Erinn), and USFWA (Jonathan). Melanie and CDFG provided input on these two criteria lists. Jonathan from USFWS had not provided comments since he was on vacation. Group discussions ensued regarding components of the two lists.

3. Analysis and Documentation Discussions ~~attached~~
[MW/DP]

Monte provided a background of the conceptual approach to executing the M2 Mitigation Program. Numerous methodologies were outlined that range from processes that would not result in absolute assurances to those that would provide such assurance. These processes also range from 3-6 months to beyond 24 months to accomplish. In order to gain full permit streamlining assurance in exchange for releasing mitigation assets, a Natural Community Conservation Plan/Habitat Conservation Plan/Habitat

Conservation Plan (NCCP/HCP) was recommended. Group discussions ensued. Erinn suggested that the Master Streambed Alteration Agreement be included in the NCCP process to cover Sec 1602 impacts.

Discussions continued regarding the various CEQA environmental documents that would be required in support of the NCCP. OCTA will determine the appropriate CEQA document as well as the cost associated to implement an NCCP/HCP process. Upon approval by the OCTA Board of Directors, an OCTA funded or co-funded position may be possible to facilitate in the implementation of the NCCP process with CDFG.

- a. Recommendation: OCTA will recommend the NCCP/HCP process to the various approval bodies.
 - b. Next Steps: OCTA will continue discussions with CDFG regarding a staffing position to facilitate in the implementation of the NCCP. A scope of work, independent cost estimate, and schedule will need to be developed to proceed.
4. Next meeting scheduled for September 18~~July 17~~ at 10:00 a.m.

ACTION ITEMS

1. Jonathan (USFWS) to provide input on acquisition/restoration criteria lists.
2. Dan/Marissa (OCTA) to revise acquisition/restoration criteria lists and provide to group.
3. Monte (OCTA) to bring forth acquisition/restoration criteria lists to Environmental Oversight Committee, T2020 Committee, and OCTA Board of Directors.
4. OCTA to develop scope of work, independent cost estimate, and schedule for the NCCP process.



Renewed Measure M Property Acquisition Criteria

These acquisition criteria were prepared for discussion with members of the Environmental Oversight Committee of M2. The criteria are separated into four distinct categories.

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of sites for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential acquisitions.

- ☐ **Aligns with Impacted Habitats**
An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as: coastal sage scrub, riparian woodlands, grasslands, etc.
- ☐ **Conserves Sensitive Habitats**
The property's habitat includes the conservation and possible restoration of species, subspecies, and natural communities ranked as sensitive under California Natural Diversity Database (CNDDB).
- ☐ **Considers Property Acreage**
Generally larger properties are better.
- ☐ **Contains Target Species**
The potential property includes the presence of endangered, threatened, species of special concern, and other sensitive species impacted by freeway projects.
- ☐ **Considers the Threat of Development and Urgency**
The evaluation considers where the landowner is in CEQA and other permitting processes, quantifies the degree of the development threat, and determines if this acquisition creates an opportunity for leveraging expiring conservation funding.
- ☐ **Enhances Natural Lands Connectivity, including significant Wildlife Corridors**
Acquisition of this property would connect to existing protected areas, examine the effects on multiple taxa (such as birds, large mammals) and could be identified as an essential habitat linkage in regional or local plans.
- ☐ **Enhances Natural Lands Contiguity**
The property borders existing open spaces and acquisition increases the amount of core habitat or reduces edge effects.
- ☐ **Includes Species/Habitat Diversity**
The property includes a wide variety of habitat types and species (including subspecies, if known). Special emphasis would be provided for properties with examples of various stages of vegetative structural diversity and functional ecosystem diversity present (e.g., habitat with a natural flood regime).

☐ **Provides for Quality Habitat or Potential for Quality Habitat**

The property includes mature habitats or property constraints are minimal and property has a high potential to support high-quality habitat after acquisition.

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

☐ **Aligns with Resource Agency Priorities**

The property is included on the DFG & USFWS's list of acquisition priorities.

☐ **Includes a Cooperative Landowner**

The landowner effectively coordinates with the entity responsible for acquisition to complete tasks required for acquisition.

☐ **Includes Support from Local and State Governments**

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

☐ **Includes Support from the Community**

This acquisition is supported by the public, environmental and community organizations.

☐ **Utilizes Partnership & Leveraging Opportunities**

Working on this acquisition would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

The following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Watershed Protection
- Proximity to Underserved Area
- Scenic/Viewshed
- Trail Connectors
- Economic Benefits (supports local businesses)

PROPERTY CONSTRAINTS

The following criteria are potential constraints to property acquisition, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

☐ **Considers Cost**

In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential acquisitions will be an important factor in selecting mitigation sites.

☐ **Consider Conflicting Easements or Inholdings**

The property may have restrictive deeds, easements, other agreements, and/or inholdings that would limit management/public use options.

☐ **Considers Neighboring Land Uses**

Neighboring land uses may decrease the habitat mitigation value of the mitigation property.

☐ **Considers Other Complications**

The property may have unidentified complications associated with acquisition and management including, vector control, vandalism, inadequate access, significant obstacles to restoring water quality (toxics, pesticides, salts), etc.

☐ **Considers the extent of Isolation or Habitat Fragmentation**

The property may be fragmented or isolated from other valuable habitats that may impede its long-term biological value. Fragmented or isolated habitats would make it challenging to have a variety of flora and fauna.

☐ **Determines Hazardous Conditions**

Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.

☐ **Understands Management Encroachments**

The property may have unauthorized users; there are adopted plans for future infrastructure that may be inconsistent with habitat mitigation; or the type and quantity of public use inside or adjacent to the property. (e.g. vegetative fuel modification zones are adjacent)

Renewed Measure M Restoration Criteria

These restoration criteria were prepared for discussion with members of the Environmental Oversight Committee. The criteria are separated into four distinct categories.

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of restoration for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential restoration projects.

☐ **Benefits Targeted Species**

The potential restoration site includes a net benefit (both immediate and long term) in the ecological value for target species through increased breeding/foraging habitat and increases connectivity between areas of suitable habitat.

☐ **Considers the Threat of Habitat Degradation and Urgency**

The threat of increasing the amount and coverage of non-native species determines restoration urgency, and there may be unique opportunities for restoration, such as burn areas.

☐ **Enhances Natural Lands Contiguity**

Restoration of this site will limit edge effect, supplement existing open space and improve the quantity and quality of core habitat.

☐ **Enhances of Already Conserved Lands for Habitat and Wildlife Connectivity**

Allows funding of restoration and management endowments on previously conserved lands to benefit species and wildlife connectivity in situations deemed appropriate by the permitting/resource agencies.

☐ **Evaluates Adequacy of Protection and Management**

The existing level of protection, anticipated public use inside and adjacent to the restoration site should be considered.

☐ **Restores Impacted Habitats**

An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as: coastal sage scrub, riparian woodlands, grasslands, etc. and possibly includes ties to historical land coverage.

☐ **Restores Sensitive Habitats**

The property's habitat restoration includes the restoration of species, sub-species, and natural communities ranked as sensitive under CNDDDB (California Natural Diversity Database).

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

☐ **Aligns with Resource Agency Priorities**

Proposed restoration meets resource agencies' particular requirements (e.g., the restoration satisfies the agencies' (ACOE, RWCB, and DFG) definition of habitat creation for the purposes of no-net loss policies for wetlands) and/or is determined to otherwise benefit fish and wildlife resources and the habitats upon which they depend.

☐ **Includes Support from Local and State Governments**

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

☐ **Includes Support from the Community**

This acquisition is supported by the public, environmental and community organizations.

☐ **Utilizes Partnership & Leveraging Opportunities**

Working on this restoration project would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

Where applicable, the following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Watershed Protection
- Proximity to Underserved Area
- Scenic/Viewshed/Enhanced recreation experience
- Economic Benefits (supports local businesses)
- Public Access
- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Trail Connectors

RESTORATION CONSTRAINTS

The following criteria are potential constraints to restoration, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

☐ **Considers Cost**

In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential restoration will be an important factor in selecting mitigation sites.

☐ **Determines Hazardous Conditions**

Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.

☐ **Includes Access to Site**

The restoration site is accessible for restoration work, maintenance and management.

☐ **Includes Availability and Delivery of Water**

The water used for the restoration is available, does not increase environmental impacts when delivered to the site and works with local water agencies to ensure groundwater sources are not impacted by water withdrawal.

Renewed Measure M Property and Habitat Management Criteria

Endowments will be provided through Measure M funding for long term management of the acquired and restored properties. The amount of funding provided will be determined in each case through the preparation of Property Analysis Record (PAR) or an equivalent method. A PAR analysis involves application of a computer database methodology developed by the Center for Natural Lands Management for estimating the required amount for endowments. Every effort will be made to work with partners to leverage the available Measure M funding to accomplish the necessary long-term management of acquired and restored habitat.

DRAFT



MEMO

September 2, 2008

To: Environmental Oversight Committee

From: Monte Ward

Subject: **Update on Master Agreement: Analysis and Documentation**

OCTA staff and legal consultants have continued to analyze the costs and mechanics of using the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) process as the underlying basis for the M2 comprehensive freeway mitigation program. Two meetings have been held with representatives from OCTA, the Department of Fish & Game and the U.S. Fish & Wildlife Service to discuss this approach and assess its risks and benefits.

Following is a summary of the status of these efforts:

1. All parties agree that the HCP/NCCP process could accomplish the goals of the M2 program.
2. Fish & Game, in particular, has expressed some concerns regarding the time, cost and complexity of the NCCP process.
3. The current estimate of time needed to complete the HCP/NCCP process is eighteen to twenty-four months. An advance credit agreement would be necessary to enable early property acquisition and restoration.
4. OCTA's current estimated cost for this process is in the range of \$450,000 to \$650,000. Further scoping and refined cost estimating will be needed to develop a firmer estimate.
5. Fish & Game has indicated a potential staffing shortage to enable the agency to fully participate in the HCP/HCCP process. OCTA may need to consider funding the necessary staff resources, which could add to the overall cost.
6. The conservation community has expressed concern about whether the costs for the HCP/NCCP process would be paid from the mitigation funds identified in the M2 plan and ordinance, or from the freeway program funds or M2 funds as a whole.

7. An EIR/EIS will need to be completed as part of the HCP/NCCP process. OCTA is concerned about risks associated with a new environmental process overlaid on the M2 freeway program. There is precedent for a narrowly drawn project description for HCP/NCCP, specific to the conservation activities that could reduce these risks. Comprehensive environmental studies would still be done for individual projects.
8. OCTA is researching to what extent the CEQA/EIR requirement could affect the ability to commit funds to early property acquisition and restoration.
9. A Master Agreement, spelling out the participating agencies' commitment to the HCP/NCCP process; and a Planning Agreement detailing roles, responsibilities and participation of each agency will need to be adopted to move forward. OCTA legal counsel and consultants are developing draft agreements.
10. The timeline and process for OCTA to procure consultant assistance to complete the HCP/NCCP process needs to be further explored and integrated into the overall schedule.
11. Participation in the HCP/NCCP process, the Master Agreement and Planning Agreement by other agencies, including Caltrans, the Army Corps of Engineers and regional water quality control boards needs further exploration and discussion between OCTA and those agencies.