



**Mitigation and Resource Protection Program Oversight Committee  
Environmental Oversight Committee**

**Orange County Transportation Authority  
600 S. Main Street, Orange CA**

**June 3, 2009  
10 – 11:30 a.m.**

**AGENDA**

- 1. Welcome**
- 2. Approval of March and May 2009 Minutes**
- 3. Presentation Items**
  - A. Environmental Cleanup Allocation Committee Overview  
Garry Brown, Environmental Cleanup Allocation Committee Chair
- 4. Conservation Assessment Analysis Update**  
Hal McCutchan, OCTA Environmental Program Manager
- 5. Approval of Property Acquisition/Restoration Prioritization Process**  
Charlie Larwood, OCTA Transportation Planning Manager
  - A. Action recommendation: Approve the recommendations in the Property Acquisition/Restoration Prioritization Process Staff Report
- 6. Approval of NCCP/HCP Scope of Work**  
Hal McCutchan, OCTA Environmental Program Manager
  - A. Action recommendation: Approve the NCCP/HCP Scope of Work
- 7. Candidate Property Site Visits**  
Marissa Espino, OCTA Senior Community Relations Specialist
- 8. Public Comments**  
*Public comments on all items take place at this time.*
- 9. Next Meeting – July 1, 2009**
- 10. Committee Member Reports**
- 11. 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 Meeting Minutes**

**March 4, 2009**

## **Committee Members Present:**

Chair Patricia Bates, OCTA Board of Directors  
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups  
Rose Coffin, Taxpayers Oversight Committee  
Cathy Green, OCTA Board of Directors  
Adam Probolsky, Probolsky Research  
Dan Silver, Endangered Habitats League  
Jonathan Snyder, US Fish and Wildlife Services  
Sylvia Vega, Caltrans  
Erin Wilson, CA Department of Fish and Game

## **Committee Members Absent:**

Veronica Chan, US Army Corps of Engineers  
Debbie Townsend, California Wildlife Conservation Board  
Judy McKeehan, SWCA Environmental Consultants

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

Ellen Burton, Executive Director of External Affairs  
Marissa Espino, Senior Community Relations Specialist  
Janice Kadlec, Public Reporter  
Ken Smart, Woodruff, Spradlin, & Smart  
Monte Ward, Director of Special Projects

## **Members of the Public:**

Rich Gomez, Saddleback Canyons Conservancy  
Gloria Sefton, Saddleback Canyons Conservancy  
Dennis McHale, Canyon Land Conservation Fund

### **1. Welcome**

Chair Patricia Bates welcomed everyone to the meeting and asked Vice-Chair Melanie Schlotterbeck to lead the pledge of allegiance.

### **2. Minutes**

Chair Patricia Bates asked if there were any corrections to the February 4, 2009 meeting minutes. There being no corrections, a motion was made by Cathy Green and seconded by Vice-Chair Melanie Schlotterbeck to approve the February 4, 2009 meeting minutes as presented. The motion passed unanimously.

### **3. Presentation Items**

#### **A. Citizens of the Santa Ana Mountain Communities of Silverado, Modjeska, and Trabuco Canyons**

Rich Gomez of the Saddleback Canyons Conservancy gave a presentation on the areas in Silverado, Modjeska, and Trabuco Canyons, which they would like considered for the Measure M2 Comprehensive Mitigation Program.

Adam Probolsky asked if the properties identified in the presentation had applied for the M2 Mitigation Program? Monte Ward said all the properties identified in the presentation are part of the Green Vision Map and will automatically go through the screening process for the M2 Mitigation Program. Adam asked if the owners of the properties have requested to be included in the program? Vice-Chair Melanie Schlotterbeck said the Green Vision Map outlines acquisitions and restoration opportunities; it is not necessarily at the request of the landowner. The question will need to be asked at some point if the landowner would be a willing seller. Monte said the M2 Mitigation process is based purely on the willingness of property owners to participate. Since there will be more opportunities for acquisition than funds available, this will be one of the evaluations the EOC will make.

Dan Silver asked if Mr. Gomez knew what sort of development would be anticipated under the General Plan for the different canyons. He also wanted to know the level of threat for the different areas of the canyons. Rich Gomez said, generally, both the Foothill/Trabuco and Silverado/Modjeska plans have specific guidelines for development. There are several development projects, which have been considered in the past and may resurface again. They can provide more detail on the development plans and specific areas of threat if requested. Dan asked if, as in the case of Foothill/Trabuco, the estate lot pattern of development allowed by the General Plan applied to the other areas. Rich said yes it does.

Vice-Chair Melanie Schlotterbeck said, as a point of clarification, because the Green Vision Map is a baseline inventory, the organizations that contributed to the Map were not required to fill out the M2 Mitigation form. Adam Probolsky asked if every property in the Green Vision Map expressed interest in selling? Melanie said no, this was not the purpose of the map. Adam said his interest is having a running tally of willing sellers. However this is compiled, it would be very helpful. Rich Gomez said he would compile a list of willing sellers.

Chair Patricia Bates said the Committee would be holding a Workshop and it is her desire to have all groups make presentations. The criteria for funding consideration has been approved by the OCTA Board and suggested Mr. Gomez review his properties to see which would best fit with the various criteria. Rich Gomez said his coalition would be pleased to put together a matrix of both willing sellers within the criteria and framed against the General Plan. Cathy Green said

it is also important to know if different projects included groups who were proponents of Measure M.

Monte Ward said the Working Group suggested all projects undergo an initial screening against the resource values. It would be helpful to establish this first and then determine where the willing sellers are within the screening process. Adam Probolsky said in the future when considering a property, he wanted to know if he is looking at a willing seller. Chair Patricia Bates said it has been established earlier in the program that eminent domain is not in the purview of the EOC or OCTA.

Chair Patricia Bates said there was one member of the public who requested to speak. She introduced Dennis McHale from the Canyon Land Conservation Fund. Mr. McHale said Canyon Land Conservation Fund is a local 5013C organization dedicated to the preservation of the last remaining open land in the western edge of the Cleveland National Forest in Orange County, California. He reminded the Committee of the beauty that can be found in the canyon areas and urged them to remember this when making their decisions.

#### **B. Brown Act**

Ken Smart, OCTA General Counsel gave a general overview of the Brown Act with specific references to "serial meetings" and/or communications of committee members outside of the regular public committee meetings. He distributed copies of an excerpt from the Brown Act dealing with this subject and recent legislative action dealing with the issue.

Cathy Green asked if a subcommittee made up of staff from other government agencies would be subject to the Brown Act. Ken Smart said if the subcommittee was a permanent on-going subcommittee, it would be subject to the Brown Act. If the subcommittee has only a temporary purpose and was only meeting for a few months, then it would be an ad hoc subcommittee and not subject to the Brown Act.

Dan Silver asked if a number of committee members could take a field trip to inspect and be educated about property as long as they did not discuss anything among themselves. Ken said if it was a majority of the committee it could be set up as a meeting and properly noticed so members of the public could join the meeting.

#### **4. Approval of Master Agreement and Planning Agreement**

Monte Ward presented the Draft staff report to approve the agreements for the renewed Measure M freeway mitigation program. The staff report would go to the Transportation 2020 Committee and then the OCTA Board of Directors for approval. Approval of these recommendations by the OCTA Board would put in place the agreements necessary to begin expenditures for conservation and would ensure the first series of funding available under renewed Measure M would be available for that

purpose. It does not designate an expenditure of funds or specific allocation of funds, this would be subject to subsequent analysis and recommendations that would come through the EOC and OCTA Board.

Dan Silver asked for a clarification of Recommendation D, is it asking for \$60 million - \$30 million in each Fiscal Year? Monte said it is asking for \$30 million to be distributed in Fiscal Years 2009-2010 and 2010-2011 or \$30 million in two years. An additional \$30 million would potentially be available in Fiscal Years 2011-2012 and 2012-2013. The target for sales tax revenue is a changing number, but staff is confident of disbursement of the first \$30 million for early acquisition as the Renewed Measure M Ordinance called for. Adjustments can be made accordingly for further funding as the sales tax figures become clearer.

Dan Silver asked is there was any indication what will happen after the first five years in terms of availability of funds. Monte said there has been some extended forecasting and there is potential in years 2015-2016. Staff expects there will be some policy recommendation about how much funding will be available for acquisition, how much for restorations, and how much for management of properties. Within the NCCP/HCP process there will be an implementation plan, which will talk about requirements for maintenance and restoration of acquired properties. The EOC will have a role on ensuring the requirements are carried out.

A motion was made by Cathy Green, seconded by Vice-Chair Melanie Schlotterbeck and passed unanimously to approve the following recommendations:

- A. Approve the draft Memorandum of Agreement C-9-0278 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to serve as the Master Agreement and guide the implementation of the Renewed Measure M Freeway Mitigation Program.
- B. Approve the draft Planning Agreement C-9-0279 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to establish the process, roles, responsibilities and commitments for the preparation of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan.
- C. Approve draft Agreement C-9-0169 between the Orange County Transportation Authority and the California Department of Fish and Game in an amount not-to-exceed \$300,000 for staffing services to enable the Department to meet its responsibilities for preparation and timely approval of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan.

D. Authorize up to \$30 million from the Early Action Plan commercial paper program to be available in Fiscal Years 2009-2010 and 2010-2011 to enable implementation of Memorandum of Understanding C-9-0278, Planning Agreement C-9-0279 and Agreement C-9-0169 for contract services and for acquisition, restoration and/or management of conservation properties, subject to the provisions of these agreements and subsequent action by the Board of Directors.

#### **5. Review and Prioritization for Early Acquisitions**

Monte Ward reviewed the Freeway Mitigation Program Conservation Strategic Implementation Plan Process.

Dan Silver asked if there will be a consultant helping in the early interim action. Monte said yes, and staff will undertake the compilation of data so it can be packaged in an orderly fashion. It serves a dual purpose – it helps get in position for early acquisition and helps input into the NCCP/HCP process. Dan asked if there was a process for choosing the consultant. Monte said yes. The conservation assessment Request For Proposal (RFP) will be going out today and later a larger RFP will go out for the NCCP/HCP process.

#### **6. Outreach Update**

Ellen Burton announced plans for a workshop(s) in May to hear presentations on properties applying for the Mitigation Program. Vice-Chair Melanie Schlotterbeck said the internal subcommittee workshop is set for April 30, she felt it would be more beneficial to have the property workshop(s) occur before that meeting. Marissa Espino said they could schedule the workshop(s) in mid April; she will check the committee member's calendars and try for a Thursday evening.

#### **7. Public Comments**

Gloria Sefton from the Saddleback Canyons Conservancy spoke to the committee about the importance of public access to the Cleveland National Forest. Current access from Trabuco, Modjeska, and Silverado Canyons is limited and it is difficult to gain access for the public to hike, bike, or ride horses without crossing private property. It would be wonderful to have marked areas of public access to the Cleveland National Forest; many of the properties discussed in the previous presentation would provide the bridge. Another great feature of these properties is the proximity to O'Neal Regional Park. There has been a tremendous amount of litigation in the past over many of the proposed properties and acquisition would eliminate future need for costly litigation.

#### **8. Next Meeting**

The next meeting of the Environmental Oversight Committee will be April 1, 2009 at 10 a.m.

**9. Committee Member Reports**

There were no further reports from Committee members.

**10. Adjournment**

The meeting adjourned at 11:25 am.

# **Environmental Oversight Committee Meeting Minutes**

**May 6, 2009**

## **Committee Members Present:**

Chair Patricia Bates, OCTA Board of Directors  
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups  
Rose Coffin, Taxpayers Oversight Committee  
Adam Probolsky, Probolsky Research  
Jonathan Snyder, US Fish and Wildlife Services  
Erin Wilson, CA Department of Fish and Game

## **Committee Members Absent:**

Veronica Chan, US Army Corps of Engineers  
Cathy Green, OCTA Board of Directors  
Judy McKeehan, SWCA Environmental Consultants  
Dan Silver, Endangered Habitats League  
Debbie Townsend, California Wildlife Conservation Board  
Sylvia Vega, Caltrans

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

Ellen Burton, Executive Director of External Affairs  
Marissa Espino, Senior Community Relations Specialist  
Janice Kadlec, Public Reporter  
Hal McCutchan, Environmental Program Manager  
Monte Ward, OCTA Consultant

## **Members of the Public:**

George Basye, Newport Banning Ranch LLC  
Tony Bomkamp, Glenn Lukos Associates, Regulatory Specialist/Biologist  
Michael Nihan, RBF Consulting  
Sharon Wood, Assistant City Manager of Newport Beach

### **1. Welcome**

Chair Patricia Bates welcomed everyone to the meeting at 10 a.m. She asked Adam Probolsky to lead the pledge of allegiance.

### **2. Minutes**

Because the meeting lacked a quorum, Chair Patricia Bates tabled approval of the March 4, 2009 meeting minutes to the next meeting.



### **3. Continued Pubic Workshop Presentation Items**

#### **A. Newport Banning Ranch**

George Basye, Newport Banning Ranch LLC, gave a presentation on Newport Banning Ranch property, an 80-acre site they would like considered for the Measure M2 comprehensive mitigation program.

Jonathan Snyder asked what type of habitat on this property would be suitable for hydrology restoration. Tony Bomkamp, Glenn Lukos Associates, Regulatory Specialist/Biologist replied approximately 50 to 60 acres could be reestablished as salt marsh and the rest would be riparian habitat.

Melanie Schlotterbeck asked who would be managing the open space in the development area. George Basye replied it would be a combination of the homeowners association and the City of Newport Beach Parks Department.

Adam Probolsky asked why this project would not be ready for four to five years. George Basye said the scoping period for the Environmental Impact Report (EIR) has just concluded and the City of Newport Beach is still preparing the final EIR. The current schedule is for the project to be approved by the city in the summer of 2010 and the next step would be to get approval of the Coastal Commission.

#### **B. Siena Project**

Michael Nihan, RBF Consulting, gave a presentation on the Siena property, a 57-acre site they would like considered for the Measure M2 comprehensive mitigation program.

Adam Probolsky asked if the property was currently attempting to be extracted from coastal boundaries. Michael Nihan said the effort was made to do this but the bill has currently been withdrawn. The Coastal Commission has also taken a position in opposition. Adam asked what the plan was for the remainder of the property. Michael said the plan for the remainder of the property is senior housing as well as some commercial along Crown Valley Parkway.

Melanie Schlotterbeck asked which property would be the commercial property. Michael said parcel 1 (3 acres), it has a lower value habitat.

### **4. Master Agreement and Planning Agreement Update**

Monte Ward and Hal McCutchan gave updates on the following:

- Master Agreement and Planning Agreement. These documents should go before the OCTA Board of Directors in late June or early July 2009.
- Conservation Assessment Analysis. The biologist is looking into all the conservation values.

- NCCP/HCP Scope of Work. Approval by the OCTA Board of Directors will be sought in late June or early July 2009. Hal gave the schedule for the completion of the project.

**5. April 15 Pubic Workshop Update**

Hal McCutchan gave an overview of the April 15 Property Acquisition and Restoration Workshop. A total of 14 presentations were given at the Workshop along with 4 public comments. Hal provided the committee members with a matrix and quick reference of the presentations made at the Workshop.

Chair Patricia Bates thanked Hal for the presentation and said the matrix was excellent.

Melanie Schlotterbeck agreed it was an excellent matrix and asked if the other property presentation made to the EOC could be incorporated into it. Hal said yes, it should be ready at the next EOC meeting.

**6. Public Comments**

Sharon Wood, Assistant City Manager of Newport Beach, clarified the City of Newport Beach's position on the Newport Banning Ranch property. The city would like all the property acquired for preservation as open space. If this does not happen in a timely fashion then the general plan is to develop the property as residential with a majority of the land designated as open space. It was not the City's intention the city acquire the land but the city would facilitate the acquisition of the property as open space. In conclusion, Sharon Wood said the City of Newport Beach's goal is to have as much as possible of the property preserved as open space even though they are going ahead with the review of the property for development.

**7. Next Meeting**

The next meeting of the Environmental Oversight Committee will be June 3, 2009 at 10 a.m.

**8. Committee Member Reports**

There were no committee member reports.

**9. Adjournment**

The meeting adjourned at 10:40 am.



# Environmental Cleanup Allocation Program

## Fast Facts



## Enhancing Water Quality for Orange County's Future



### Program Description & Objectives

The Orange County Transportation Authority's (OCTA) Environmental Cleanup Allocation Program, (Program) provides for the allocation of approximately \$240 million to improve overall water quality in Orange County from transportation-generated pollution. The Program was approved under Orange County Renewed Measure M (M2), the half-cent sales tax for transportation improvements approved by Orange County voters in 2006.

In August 2007, the OCTA Board of Directors approved a five-year M2 Early Action Plan, covering the years 2007 to 2012, to advance the implementation of several key M2 projects, including the water quality program.

### Program Funding

Program funds are to be allocated on a countywide competitive basis to assist jurisdictions in meeting the Clean Water Act standards for controlling transportation-generated pollution. The funds are designed to supplement, not supplant; existing transportation-related water quality programs. Funding allocation is designated to improve upon and not replace existing pollution reduction efforts by eligible entities, such as the County, cities, and special districts.

Funds will be awarded to the highest priority projects that improve water quality in streams, harbors, and other waterways that has a nexus to transportation-generated pollution.

### Environmental Cleanup Allocation Committee

The Environmental Cleanup Allocation Committee (Allocation Committee) is responsible for developing the Program and making funding recommendations to OCTA's Board of Directors. Comprised of 12 voting and two non-voting members, the Allocation Committee has been meeting on a monthly basis since November 2007. As of fall 2008, the Allocation Committee is in the process of: 1) developing a comprehensive capital improvements program and competitive grants process, 2) determining the evaluations of grant requests and recommendations on the award of funds, 3) developing a matching funds requirement as well as maintaining local discretionary funds and 4) developing an annual reporting and benefits assessment process and procedures.

### Next Steps

The Allocation Committee is working toward making recommendations on the Program's funding guidelines by mid-2009 and recommending an initial 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, as well as other pollution mitigation devices; and

- New capital and operation projects identified in a watershed management area plan or proposed by a Measure M jurisdiction.

Current discussion and decision making among the Allocation Committee members has focused on:

- Prioritizing specific water bodies for M2 funding;
- Determining the type, magnitude and fate of pollutants related to highway and road runoff;
- Identifying and defining capital improvement projects; and
- Determining pollution mitigation practices and applicability for Orange County.

### Contact Us

For more information, visit the OCTA Web site at [www.octa.net/environmental](http://www.octa.net/environmental) or contact Hal McCutchan of OCTA at (714) 560-5759 or by email at [hmcutchan@octa.net](mailto:hmcutchan@octa.net).





June 3, 2009

To: Members of the Environmental Oversight Committee

From: Marissa Espino, OCTA Sr. Community Relations Specialist

Subject: **Tours of Candidate Properties for M2 Freeway Mitigation Program Funding**

Recently, Environmental Oversight Committee (EOC) members have been receiving requests to tour potential candidate properties for M2 Freeway Mitigation Program funding. At any time, individual committee members may tour properties at their own discretion in response to these invitations.

OCTA staff is also recommending that formal tours of properties be scheduled in August 2009, as a public committee, once the submitted properties are given a preliminary ranking and candidate properties are recommended for funding consideration.

OCTA would schedule and coordinate all site visits and would provide transportation to the various sites. In adherence to the Brown Act guidelines, these tours will be posted publicly at OCTA and posted on OCTA's web site.

Please contact Marissa Espino at 714-560-5607 or [mespino@octa.net](mailto:mespino@octa.net) if you have any questions.