



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

November 20, 2013

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

**8:30 a.m. to 10:00 a.m.
Room 154**

AGENDA

- 1. Welcome**
- 2. Approval of Sept. 4, 2013 Minutes**
- 3. Fall 2013 Wilderness Preserve Tour Recap**
Marissa Espino, OCTA
- 4. NCCP/HCP and EIR/EIS Presentation**
Dan Phu, OCTA
Action Recommendations:
 - A. Endorse the release of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS) for a 90-day public comment period.
 - B. Direct staff to work with the Finance and Administration Committee on the future expenditure of the Environmental Mitigation Program funds.
- 5. Staff Report**
- 6. Public Comments**
- 7. Committee Member Reports**
- 8. Next Meeting – TBD**
- 9. Closed Session**
Pursuant to Government Code Section 54956.8 to discuss the price and terms of payment for the acquisition of the following real properties.

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.

The negotiator for OCTA is Dan Phu. The negotiators for the real properties are as specified.

<u>Real Property</u>	<u>Geographic Area</u>	<u>Assessor's Parcel Number</u>	<u>Owner's Negotiator</u>	<u>Acreage</u>
Aliso Canyon	Coastal	056-240-66	John Mansour	150
Irvine Mesa Corridor	Cleveland Nat'l	105-060-02, 105-060-09, 105-060-19, 105-051-36, 876-011-02, 876-011-03, 876-011-19, 876-011-07, 876-011-08, 876-011-11, 876-011-18, 105-051-18, 876-021-15, 876-021-04, 876-021-05, 105-051-33, 105-051-21, 105-051-57, 105-201-12, 105-201-11	David Meyers	670
Holtz Ranch (CCRC Farms LLC)	Cleveland Nat'l Forest	876-034-01, 876-041-01, 105-051-83, 105-051-84, 105-051-85, 105-070-93	Brad Schnepf	327.9
MacPherson	Cleveland Nat'l Forest	105-051-06, 105-051-08	Craig MacPherson	216.7
Mitchell Properties West	Trabuco	842-081-12	Steven U. Parker	101.7
Saddleback Meadows	Trabuco	856-071-01/09, 856-072-01/51, 856-073-01/58, 856-074-01/45; 856-075-01/57, 856-081-01/11, 856-082-01/44, 856-083-01/46, 856-084-01/37, 856-085-01/41, 856-086-01/37, 856-091-02/11, 856-092-01/42, 856-093-01/25, 856-094-01/34, 856-095-01/62, 856-096-01/57, 856-097-01/34, 856-098-01/37	William Fleissig	222
Sky Ranch	Trabuco	842-021-4, 05, 07, 08 and 842-031-04, 05, 08, 09	Dave and Michael Eadie	526.9
Takahashi (Baker Square LLC)	Cleveland Nat'l Forest	105-051-12	Carl Reinhart	643
Watson	Trabuco	858-021-10, 11	Dave and Michael Eadie	98.3

10. Adjournment

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Measure M2 Environmental Oversight Committee

**September 4, 2013
Meeting Minutes**

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Lori Donchak, OCTA Board of Directors
Chris Flynn for Sylvia Vega, Caltrans
Philip La Puma, Measure M2 Taxpayers Oversight Committee
Cara Allen for David Mayer, CA Department of Fish and Wildlife
Derek McGregor, Public Member
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services

Committee Member(s) Absent:

Veronica Chan, US Army Corps of Engineers
Nancy Jimeno, Public Member
Dave Means, California Wildlife Conservation Board

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Strategic Communications Specialist
Lesley Hill, Planning Department Project Manager
Janice Kadlec, Public Reporter
Monte Ward, Measure M Consultant
Dan Phu, Project Development Section Manager

Guests

Stephanie Barger, OC Resource Foundation
David Carlberg, Amigos of Bolsa Chica
Vanessa Mascia, Resident
Gloria Sefton, Saddleback Canyon Conservancy
Melba Slavik, Resident

1. Welcome

Chair Patricia Bates called the Environmental Oversight Committee (EOC) meeting to order at 10:00 a.m. She asked Philip La Puma to lead the Pledge of Allegiance.

2. Approval of the June 5, 2013 Minutes

A motion was made by Melanie Schlotterbeck, seconded by Lori Donchak, and passed unanimously to approve the June 5, 2013 EOC meeting minutes as presented.

3. Property Management Updates

Lesley Hill gave an overview of OCTA's efforts to protect and maintain the M2 acquisition preserves and an update of some of the property management issues.

Some of the issues discussed in the management overview included an update on the wildlife monitoring efforts, the concern of new trails being cut through sensitive habitat on both the Ferber and O'Neill Oaks Preserves, new fencing/gates/signs that are being erected on the Preserves, and OCTA staff and their consultants experiencing harassment from the local public while on and around the Trabuco Canyon area Preserves.

A memo was also provided to the EOC from OCTA CEO Darrell Johnson to the members of the OCTA Board of Directors responding to the Public Comments given at the June 5, 2013 EOC meeting dealing with management efforts pertaining to the Ferber Ranch, O'Neill Oaks, and Hafen properties.

Monte Ward talked about the escalation process for trespassers on the properties. When developing the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and the Resource Management Plan a decision is made on how to handle management and access going forward for the properties. OCTA has decided to use a process similar to the County of Orange and the Irvine Ranch Conservancy. This process relies on self monitoring and self policing by the trail user. The managers will be given the ability to issue citations, fines will be levied, and even closures will occur depending on the escalation.

Melanie Schlotterbeck said she was shocked about the trespassing issues. When the conservation community got together with OCTA to form this program, these types of problems were never envisioned because the land could have been converted to urban uses. She requested a copy of the signage language for her records.

Melanie Schlotterbeck asked how the self policing and monitoring worked since the properties are not open for public use. Monte Ward said a public event will be held at the Ferber property on October 5, 2013. OCTA has started to work with a few of the equestrian groups representing potential trail users in the area. This is where the dialog begins between the managers and the people on the ground. It is an education process that goes both ways – it helps OCTA understand the best way to manage the property and it helps communicate OCTA's priorities to the users. Based on the early contacts and work on the public event he believed there is a very good opportunity to start working through all the issues together.

Melanie Schlotterbeck asked how the fining system works. Lesley Hill said she is not sure how it works but will get back to her with the details.

Melanie Schlotterbeck asked how the access issue or the trespassing issues affect OCTA's ability to get and maintain the permits. Jonathan Snyder said the management of the open space is a key part of any permit. This is an issue that needed to be addressed and it is an issue the wildlife agencies needed to have confidence in. From his view in general and from a biological standpoint, OCTA is doing a good job of managing the properties.

Jonathan Snyder agreed with Monte Ward that the opportunities for coordination are a key goal. It is unfortunate the current situation is confrontational and access is being denied. The sooner the Resource Management Plan is completed and the two sides can move into the coordination role the better.

Melanie Schlotterbeck asked whether trespassers would be breaking state or federal law once the NCCP/HCP is adopted since these properties are being preserved under the NCCP/HCP. Jonathan Snyder said, from a legal standpoint, the state and federal regulations the wildlife agencies deal with would be the wildlife regulations. For example, if a gnat catcher nest is torn down it would be a violation of the Federal Endangered Species Act. If it was another species it would be a violation of the Migratory Bird Treaty Act. Otherwise the wildlife agencies' interest is in permit enforcement.

Monte Ward said it seems like compensation for damages is the most effective deterrent. Most people who are on the properties are not damaging property; they are staying on the road or trail and are either curious or lost. Most activities are not purposefully harmful activities and not the sort of thing that would be escalated.

Melanie Schlotterbeck asked if a trail map would be available for the public event on October 5. Monte Ward said he did not think a map would be ready but they are certainly going to showcase some of the trail network for the hikers and equestrians.

Melanie Schlotterbeck asked if there is a tracking mechanism OCTA can create to keep track of repeat violators the patrol or land manager comes into contact with on the property. Lesley Hill said yes, the private patrol and the rangers with OC Parks stop the individual(s), try to educate them, and if it is someone they have seen before they ask for ID. If the Park Rangers see someone they have seen before they will take it to the next step.

Lori Donchak asked if there is standard liability protection for OCTA if someone is injured on the property. Monte Ward said this is part of the legal review prior to opening the property for public use. The difficulty is now, the property is posted as not open but people are on the property – OCTA has met this standard with the guidance they have been given. The standard will change once the property is open for public use.

Dan Silver said they have experienced escalating malice, trespassing, and damage to the property with mechanized trail cutting. This has occurred with absolute contempt for the property, for ownership, and for the habitat values despite all the outreach OCTA has done. Despite what one would think are responsible members of these equestrian and mountain bike riders groups, and despite all the communication, it is not working. He is frustrated and he is disgusted. His past experience with equestrians and mountain bikers has shown this immense sense of entitlement and self-righteousness about property they don't even own. This is taking place in Orange County and it is the worst he has ever seen. OCTA has done everything it can possibly do. It seems like the community around the property is either unable or unwilling to control their members. He believes it is a law enforcement issue now; this is the worst he has ever seen. He is extremely frustrated and does not know what can be done law enforcement wise but this is where it is at.

Derek McGregor asked Monte Ward what type of guidance (as mentioned previously) OCTA gets in this matter. Monte Ward said OCTA consults with its legal counsel and staff has held consultations with other land managers on the practices and standards they use.

Derek McGregor asked if OCTA should develop its own standards of practice until the NCCP/HCP is in place. Monte Ward said they have been using the EOC to talk publicly. It might make sense to work with a subgroup to deal with things between meetings just to keep on top of things and how OCTA is responding to them. Internally OCTA has staff, legal counsel, the security firm, and the Sheriff all working on responses when there are issues. At this point all efforts in developing standards are being put into the NCCP/HCP and Resource Management Plan.

Chair Patricia Bates suggested this be put before the Board of Supervisors. People need to understand this is a long-term goal for a short-term inconvenience. She was very distressed to hear about staff being intimidated and threatened when on the property. This is unacceptable and have resulted in the mounted police unit monitoring the property.

4. Fall 2013 Wilderness Preserve Tour

Marissa Espino briefed the group on the October 5th Wilderness Preserve Tour. The tour will consist of a hiking tour in the early morning and a tour on horseback in the late morning.

5. NCCP/HCP and EIR/EIS Status Update

Dan Phu gave an update on the NCCP/HCP. He said they plan to bring the NCCP/HCP and Resource Management Plan Draft to their November 2013 meeting seeking approval to release the documents for public input and comment.

Monte Ward said when the documents come to the EOC for review the first time, they will emphasize the process not the substance. It will include the release and the

schedule. It will be a good idea to have one of the workshops as a meeting of the EOC. The second time the EOC sees the document will be during the review period.

6. Public Comments

Stephanie Barger, OC Resource Foundation: Her group works with high school students educating them on leadership and democracy. She applauded OCTA for making this a priority and moving forward with excellent staff, partnerships and resources. She agreed with Dan Silver's comments and finds the current situation appalling. Volunteers and conservation groups have spent thousands of hours to get Measure M efforts through, to identify properties, support the properties, support the restoration projects, and support the education. This is something happening in all the parks – they are having major issues with users not being respectful of nature. The number one priority of this program is to preserve nature. She suggested OCTA could advertise on their buses about giving nature a break; and about how much nature needed to be respected; and to let nature prosper and grow.

Gloria Sefton, co-founder of Saddleback Canyon Conservancy: Her organization's mission is protecting and enhancing the environment in the rural canyon areas with a focus on the Modjeska, Trabuco, and Silverado areas. Saddleback Canyon Conservancy is one of the 30 collaborative organizations who worked with OCTA to develop the Measure M Environmental Mitigation Program. They believe this program has been a big success thanks to the diligence of the EOC. They are very pleased with the progress of the acquisitions and restoration projects. It is good to remember these properties at numerous times over the years have been slated for some type of residential or other development. Now that the properties have been conserved they do not have this issue to worry about.

She echoed Stephanie Barger's comments about giving these lands a break. Not only do these acquisitions conserve the properties in perpetuity but they conform to the Sustainable Community Strategies implemented by the State of California and adopted by the County of Orange. One of the strategies includes "maximizing existing infrastructure and eliminating the need for new facilities that might impact open space". These acquisitions do a great deal to help meet the mandates of the State of California to reduce greenhouse gas emissions.

She agreed with Dan Silver's assessment of the situation and said Saddleback Canyon Conservancy is available to assist OCTA any way they can as the process proceeds; they eagerly await the plans and they look forward to providing input on public access.

Melba Slavin, Resident of Hamilton Oaks bordering the Ferber Ranch property: She is an equestrian and appreciates the beautiful trails she has been riding for over five years. Recently she was riding with a friend in an area she felt she had a right to be – she has an easement with her property. She heard a loud voice on a public

address system saying “halt” and a man got out of an official car – his name was Dale. He was very confrontational and rude. He accused them of trespassing and he was giving them a warning. He wanted their names and addresses, and was going to take their picture to make it official. Melba Slavin said she was pretty sure she had an easement for this property. When she asked why he needed her picture the man said if she is caught again she will be arrested and fined \$400. He also took a picture of the young girl (20 plus years old) riding with her and also took her address. She is not sure this is the way OCTA wants themselves represented. She did ask the man for a business card and he said he did not have it.

The other point she wanted to make was earlier in the week a mountain lion was seen in the area of Hamilton Trail. Her neighbor has a three-year old who plays in the back yard and worries about this.

She thanked OCTA for trying to make the acquisition happen in a positive way.

Chair Patricia Bates said regarding the mountain lion sighting OC Animal Care is very active in education in her area. She will bring this to their attention.

Chair Patricia Bates asked Dan Phu if the incident with the patrol officer had been reported to him. Dan Phu said he was not aware of this security incident. He will contact the private security patrol. He has instructed the patrol in the past to be non-confrontational and educate the public on what is happening and why they cannot be on the (Ferber Ranch) property.

Vanessa Mascia, Resident: Vanessa Mascia wanted to let OCTA know the welding at the bottom of the green main gate to the property is loose and coming undone.

She also reported she has heard other complaints about the security guard named Dale harassing some of her boarders as they are exiting the Thier Ranch, something they are allowed to do. She has also had reports this man has detained people coming in the front gate. Other reports she has received indicate the other members of the security company are doing a good job.

Vanessa Mascia said she understands what OCTA is going through keeping people off the property because for the past nine years this has been her job. She believes it needs to be a group effort to maintain what is happening and the equestrian group is 100 percent behind OCTA's efforts.

David Carlberg, past-president of Amigos of Bolsa Chica: Mr. Carlberg said the Amigos of Bolsa Chica have supported the efforts of the Measure M Mitigation Program for a number of years. They have even nominated properties for acquisition. Bolsa Chica and the situation in Trabuco Canyon have similarities. Bolsa Chica has been designated an ecological reserve meaning wildlife take precedent and human access has been regulated to not disrupt the nesting of tens of

thousands of resident and migratory birds, some of which are endangered species. Many years of research and planning by state and federal agencies have gone into developing the public access plan for Bolsa Chica which they fully support.

David Carlberg said they are very happy OCTA has recognized the need to meet its obligations to protect the natural resources of the land it has acquired. They fully support OCTA's approach on this issue in conducting scientific surveys and look forward to reviewing the upcoming conservation management plan and participating in other efforts.

7. Committee Member Reports

Philip La Puma made a short report to let the EOC know the Taxpayers Oversight Committee has four new members.

6. Next Meeting – TBD

The next EOC meeting will be determined at a later date.

7. Adjournment to Closed Session

The EOC adjourned to closed session at 11:30 a.m.

Pursuant to Government Code Section 54956.8 to discuss the price and terms of payment for the acquisition of the following real properties.

The negotiator for OCTA is Dan Phu. The negotiators for the real properties are as specified

Real Property	Geographic Area	Assessor's Parcel Number	Owner's Negotiator	Acreage
Aliso Canyon	Coastal	056-240-66	John Mansour	150
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Saddleback Valley Christian School	San Juan Capistrano	121-070-57, 67, 68	Ed Sauls and Ed Carney Saddleback Valley Christian School	67.9
Sky Ranch	Trabuco	842-021-4, 05, 07, 08 and 842-031-04, 05, 08, 09	Dave and Michael Eadie	526.9
Takahashi (Baker Square LLC)	Cleveland Nat'l Forest	105-051-12	Carl Reinhart	643
Watson	Trabuco	858-021-10, 11	Dave and Michael Eadie	98.3

8. Adjournment

Closed session adjourned and there were no further actions reported in public session.

Agenda Item 4: NCCP/HCP and EIR/EIS Presentation

Overview

Measure M2 provides funding for programmatic mitigation to off-set impacts of Measure M2 freeway projects. This program includes the preparation of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) along with a Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS). The NCCP/HCP and DEIR/EIS are complete, and need to be circulated for public review under the endorsement of the Environmental Oversight Committee and direction of the OCTA Board of Directors.

Recommendations

- A. Endorse the release of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS) for a 90-day public comment period.
- B. Direct staff to present a long-term expenditure plan of the Environmental Mitigation Program funds to the Finance and Administration Committee.

Background

Pursuant to the master agreement, the Environmental Mitigation Program (Mitigation Program) will provide programmatic mitigation for impacts related to the 13 M2 freeway projects. The approach for this program is to develop and implement a Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) along with a Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS). This process fulfills the commitment of M2.

The Mitigation Program has the potential to minimize or reduce regulatory permitting delays in the implementation of the 13 M2 freeway improvement projects. The specific type of mitigation will be determined by OCTA working in conjunction with various stakeholders. The various forms of mitigation have included acquisition and/or restoration of land for conservation. To date, OCTA has acquired approximately 950 acres of open space lands and funded approximately 400 acres of habitat restoration projects. The acquired lands and funded restoration projects are incorporated into the NCCP/HCP as part of OCTA's mitigation commitment. The conservation strategy also complements existing preserved lands within the county.

Discussion

OCTA has worked closely with the wildlife agencies and Caltrans to develop and extensively review the NCCP/HCP and DEIR/EIS. The NCCP/HCP process examines habitat resources within broad geographic areas and identifies conservation and mitigation measures to protect habitat and species.

The DEIR/EIS analyzes three alternatives: (1) No Project/No Action; (2) Proposed NCCP/HCP; and (3) Federal and State Endangered Species Act-Listed Species Only NCCP/HCP (Reduced Plan). The proposed plan would result in no impact, less than significant impacts with mitigation, or beneficial improvement for all environmental resources.

Next Steps

Upon endorsement from the EOC and direction from the Board, the NCCP/HCP and DEIR/EIS will be released for a 90-day public comment period, as required by the NCCP/HCP planning process as well as to comply with CEQA and NEPA. The necessary notices will be mailed to the State Clearinghouse, Federal Register, stakeholders, and will be published in local newspapers. OCTA will host two open houses during the comment period – one to be held concurrently with the EOC meeting, and another will be held separately. The dates for the open house meetings have yet to be determined but are anticipated to occur during the first quarter of 2014. The public comment period will provide an opportunity to encourage participation, gather feedback from stakeholders, and address public concerns. The NCCP/HCP and DEIR/EIS will be available at OCTA headquarters and on the OCTA website for public review.

Following the public comment period, any comments received will be incorporated into the final NCCP/HCP and EIR/EIS. The final NCCP/HCP will be brought to the Board for adoption, anticipated during the latter part of 2014.

Resource Management Plans (RMP) will be prepared for each acquired property. The RMPs provide guidelines for the management of the properties in accordance with the goals and objectives set forth in the NCCP/HCP. The RMPs will provide guidance for the ongoing protection and preservation of the natural resources found within the properties, while addressing fire protection issues and accommodating safe access and recreational use of the site by adjacent property owners and the general public. The RMP process is separate from the NCCP/HCP planning process and it is not required to be completed until the NCCP/HCP is approved. Since public access to the acquired properties is recognized as an important co-benefit in the Board approved acquisition criteria, the RMPs will be released concurrent with the NCCP/HCP and DEIR/EIR. The public will be encouraged to provide input on this process.

Summary

OCTA has completed the NCCP/HCP and DEIR/EIS for the 13 freeway improvement projects under M2. The draft documents meet the objectives and goals of NCCP/HCP process. Upon endorsement from the EOC and Board approval, staff will circulate the NCCP/HCP and DEIR/EIS for a 90-day public review period.