

Environmental Oversight Committee

May 7, 2008
Meeting Minutes

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Cathy Green, OCTA Board of Directors
Judy McKeehan, SWCA Environmental Consultants
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Absent:

Stephanie Hall, US Army Corps of Engineers
Merlin L. Henry Jr., Taxpayers Oversight Committee
Adam Probolsky, Probolsky Research
Debbie Townsend, California Wildlife Conservation Board

Orange County Transportation Authority Staff Present:

Monte Ward
Ellen Burton
Jim Sterling
Marissa Espino
Lisa Moon

Members of the Public Present:

Derek Ostensen

1. Welcome

Chair Patricia Bates welcomed the committee members and called the meeting to order at 10:08 am.

2. Minutes

Chair Bates provided a correction to a small error in the April minutes.

Vice-Chair Melanie Schlotterbeck provided clarification on the paragraph 7 on page 3 and the following addition to paragraph 8 on page 3: Claire Schlotterbeck mentioned that often times the properties that are in the Green Vision Map that are in red, and proposed for development or are a priority for acquisition, are sometimes the most critical areas and, therefore, should not be overlooked in this process.

Monte Ward, OCTA Director of Special Projects, had a correction to a small error in the April minutes.

3. Master Agreement Working Group Report

Monte gave an update on the Master Agreement Working Group meeting. The key issue that was addressed at the working group meeting was whether or not the San Diego Master Agreement should be used as a starting point. Monte said it was the consensus in the working group that it should be recognized that there are significant differences between Orange County and San Diego County in terms of what is trying to be addressed.

Monte said the legal counsel that has been retained worked on the San Diego agreement and they clearly understand the reasons for the way the San Diego agreement turned out the way it did, and the differences in Orange County. The working group members agreed that OCTA's master agreement would be more specific than San Diego in terms of mitigation and tying the mitigation to assurances from the resource agencies.

Monte explained the working group would consult with San Diego as a starting point. A tentative schedule has been laid out and will be covered in a subsequent item when the work plan has been updated. Target date is by end of this calendar year. A draft form agreement would then be circulated in the first quarter of next year for review and approval. Framework of the agreement, without specific detail, is anticipated by summer so that the committee can review it and it can be shared with resource agencies and OCTA Board of Directors. There are a number of open questions to address in order to get to an agreement, specifically on how to match up commitments that OCTA will be making against any assurances the resource agencies will be providing, and aligning those two things. Monte said there are different ways to approach it. In San Diego's case, they defined a process more than an outcome and the working group's consensus was that the EOC might be able to come closer to finding the outcome and not just the process here in Orange County.

Monte said the next meeting will be to meet with San Diego then following that, the group will start looking at creating the framework agreement and anticipating bringing it back at a meeting in the summer.

Chair Bates asked Monte if he wanted input from the committee on this issue now. Monte replied that it would be a good time to review the discussion guide and provide any input to him or any members of the working group.

Chair Bates asked if any committee members had time to review this document and make any comments. Chair Bates then summarized and said that the committee needed to think of it as a work in progress and anytime there were questions that needed to be communicated or discussed, go through Monte to take back to the working group.

Director Green thought that when looking at agencies as signators that OCTA, Fish & Game, Fish & Wildlife, and Caltrans would be automatically assumed as signators. Corp of Engineers and the Regional Water Quality Control Board were discussed as potential signators, and she felt that water quality control board should be told early because they could stop the EOC from moving forward. Director Green said keeping them informed is important, but if down the line they have not signed off, can they come back and say, 'You didn't tell us,' and then they can stop everything.

Chair Bates reiterated that it is important to be all-inclusive up front.

Director Green said the committee should realize that if water quality control board and the Corp of Engineers become signators, sometimes the bureaucracy can hold it up. That is why those two agencies are iffy as to whether or not they should be signators, but she agrees, absolutely, to include them in discussions up front.

Sylvia Vega also agreed to give information up front to streamline permitting processes as well as mentioned including the coastal commission staff as part of the process.

Chair Bates asked if the water quality control board was a signator, is it going to have to go through their approval process?

Monte advised to begin the discussion with the assumption they would be signators and then see how to proceed, and see what the level of comfort is on their part, see the level of participation, the level of agreement, then make a subsequent decision as to whether or not they are signators or simply just consultants in developing the agreement. Starting with the assumption that they will be signators, that will assure full participation and brings them into the discussion.

Dan Silver said it is the general experience to not get the regional water quality control boards as signators and that's why he thinks the approach is to explore it but realize it just may not be possible. The EOC can coordinate with them at the minimum and they can always agree to use this to the maximum extent possible in making their own determinations. They've actually developed two, in essence, master mitigation programs already, called special area management plans in San Diego and San Juan creeks. Part of this project is in those watersheds and, where it is in those watersheds, that's something they can coordinate right away and figure out how they fit into this process.

Dan said he also agreed that the EOC should go beyond the San Diego process and get to a list of eligible mitigation sites so we don't have to reinvent the wheel and I think it's very feasible given the much smaller scope of this program.

Sylvia said that the question is do we invite the regional water quality control boards to be signators. It's an invitation either way.

Monte recommended that the regional water quality control boards should be invited to participate in the Master Agreement Working Group discussions and then out of that we can come back to the EOC, and eventually the OCTA Board, and make a recommendation on what role they will have in the agreement.

4. Work Plan Refinements

Monte highlighted the following tasks:

Task 4.0

To be completed in fall '08.

Task 5.0

The Impact and Mitigation Working Group recommends to start looking at this task now concurrent with completing the impact analysis (Task 4.0) so that this process is well along in fall 2008.

Task 6.0

Draft form complete by year-end (12/08)
Begin review and adoption process in spring '09

Melanie wanted to know at what point does the mitigation opportunities, master agreement, or freeway impacts go to the T2020 Committee and to the full Board.

Monte replied that there could be a draft form some time in Fall '08 presented to the T2020 Committee and Board, prior to bringing any kind of agreement forward. This would allow the EOC to document the process and share, preliminarily, what the results look like and try to get concurrence early on before taking an agreement to the committee.

Consensus on the work plan was made.

5. Impact and Mitigation Working Group

Jim Sterling, OCTA Section Manager of GIS, Planning & Analysis, gave an update on the April Impact and Mitigation Working Group meeting.

The focus of the group has been to compile environmental data sets and to define methods that can be used to support the impact analysis. Results of that analysis are going to be an inventory of potential impacts for every freeway project. Various data sources used were the US Forest Service, Fish & Wildlife, Fish & Game and County of Orange.

Jim discussed methods that will be used for analysis. Several maps were presented as examples that show the sites of freeway projects in context of the environmental data. What's important to note is that the vegetation layer is what is being closely examined to quantify the impacts as a measure of habitat, a measure of species

occurrence. We also have parks and open space and different water features and sources.

Jim said project footprints of these maps are then overlaid on this environmental data to see where there are any interfaces and where direct impacts are on that specific project. It lists any resources (e.g., streams, habitat areas) that are directly impacted by that project. It also lists indirect impacts (less quantitative and more qualitative).

A listing of impacted areas will be developed, and the idea is to go back to the working group so that they can see the direct impacts and discuss them further and refine the list before bringing it back to the EOC. Jim hopes to have this accomplished at the next working group meeting.

Jim said at the last two working group meetings, there has been discussion of two other types of impacts: cumulative and growth induced. Cumulative refers to projects that when added up – including transportation and others – may be more significant when together, and those areas need to be identified. In addition, if there is any growth induced by the freeway projects we want to get a handle on what those increases might be.

Jim said a subgroup has convened to develop a white paper of possible approaches in conducting the cumulative impacts analysis and the growth inducing impacts. Dan Phu and other OCTA staff are developing another OCTA paper that is looking at what has been done in the past and what are the guidelines from different agencies.

Jim said another path that will be taken is to advance looking at mitigation opportunities. The goal is to match the mitigation needs, based on the impacts, to the opportunities. There are two components: 1) Develop a set of criteria for evaluating and prioritizing opportunities; and 2) Develop an inventory of areas or properties that need to be evaluated for possible use as impact mitigation.

Jim indicated there was a suggestion that the Green Vision map should be used as a starting point to identify mitigation opportunities and asked for the EOC's feedback or concurrence for using the map as a basis for moving forward.

Chair Bates asked if there were any questions or comments on using the Green Vision map for the advancement of mitigations areas to get inventoried.

The consensus was to use the Green Vision map as the base and invite broader participation from the community by developing an outreach program that would solicit additions our changes to Green Vision map.

Monte indicated that it would be a good idea to invite and allow parties to come and make presentations to the committee to share what they are trying to accomplish with respect to conservation efforts throughout the county because there are

separate groups working in different areas of the county. He said it would be helpful for the committee to understand what the status is of these parties and what they are working towards. This would assure a complete inventory.

Chair Bates requested the development of an outreach program be implemented and presented at the next EOC meeting.

Monte said when we get to the databases that are the source data for these maps and when discussion starts about specific areas or properties, we can start to run into issues of confidentiality and how much information that sources are willing to share. It is an issue that needs to be honed in on and resolved.

Dan revisited an earlier discussion about the subgroup that will be producing a white paper of possible approaches in conducting the cumulative impacts analysis and the growth inducing impacts. Dan offered the use of the Endangered Habitats League in-house attorney to help with the process.

6. Future Presentations

This item was addressed in Item 5. The primary goal is to start the outreach effort to build an inventory of mitigation opportunities and to bring presentations to the EOC.

7. Public Comments

Derek Ostensen from the City of San Juan Capistrano asked if the Mayor Pro-Tem, Mark Neilson could come to do a presentation detailing their \$20M bond initiative and how it will be distributed and to leverage matching Measure M funds to add to San Juan Capistrano's \$20M bond.

9. Committee Member Reports

There were no committee member reports.

10. Adjournment

Chair Bates announced that the next EOC meeting would be on June 4, 2008, and the meeting was adjourned at 10:52 a.m.