



**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

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**Approved by:**

  
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Director of Special Projects  
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**Mitigation and Resource Protection Program Oversight Committee  
Environmental Oversight Committee  
Committee Charter**

**Purpose**

Renewed Measure M (M2) provides for the allocation of at least 5 percent of net freeway program revenues (or \$243.5 million in 2005 dollars) for programmatic mitigation of freeway projects, subject to a Master Agreement between the Orange County Transportation Authority (OCTA) and state and federal resource agencies. The intent is to provide for comprehensive, rather than piecemeal, mitigation of the impacts of freeway projects and to do so in a way that results in high-value environmental benefits in exchange for streamlined project approvals and greater certainty in the delivery of the freeway program as a whole.

The Environmental Oversight Committee (EOC) makes recommendations to the OCTA Board of Directors regarding the allocation of revenues for programmatic mitigation and monitors the implementation of the Master Agreement.

**Line of Reporting**

The EOC will provide recommendations to the OCTA Board of Directors. Currently, all matters related to M2 are considered first by the OCTA Transportation 2020 Committee, a subcommittee of the OCTA, for recommendation to the full OCTA Board.

**Responsibilities**

The EOC provides advice on the development and implementation of programmatic mitigation of freeway projects under M2. Activities undertaken by the EOC may consist of the following:

- Inventory and assessment of freeway impacts.
- Inventory and assessment of mitigation opportunities.
- Review and provide input on funding opportunities, including M2 financing, matching funds and grant funding.
- Review and provide input on both the monetary and environmental value of property or other mitigation elements.
- Review and provide input on the Master Agreement.
- Monitor implementation of the Master Agreement, including acquisitions, management, operations and maintenance activities.



## **Environmental Oversight Committee Roster**

**Chairman Patricia Bates**

OCTA Board of Directors  
Orange County Supervisor, 5<sup>th</sup> District  
County of Orange

**Debbie Townsend**

Assistant Executive Director, Land  
Acquisition Program  
California Wildlife Conservation Board

**Vice Chairman Melanie Schlotterbeck**

Environmental Consultant  
Measure M Support Groups

**Sylvia Vega**

Office of Chief Environmental Planning  
Caltrans

**Cathy Green**

OCTA Board of Directors  
Huntington Beach City Council Member  
City of Huntington Beach

**Vacant**

Taxpayers Oversight Committee  
OCTA

**Mark Cohen**

Senior Project Manager  
US Army Corps of Engineers

**Stephanie Hall (alternate)**

Physical Scientist/Project Manager  
US Army Corps of Engineers

**Judy McKeehan**

Environmental Consultant

**Erinn Wilson**

CA Department of Fish & Game

**Adam Probolsky**

Chairman & CEO  
Probolsky Research

**Dan Silver**

Executive Director  
Endangered Habitats League

**Jonathan Snyder**

Wildlife Biologist  
US Fish and Wildlife Service





**Environmental Cleanup Allocation Committee  
(Allocation Committee)  
Committee Charter**

**Purpose**

Renewed Measure M (M2) provides for the allocation of 2 percent of gross revenues (or \$237.2 million in 2005 dollars) to help protect Orange County beaches and waterways from transportation-generated pollution, or “urban runoff”. The intent is to allocate, on a countywide competitive basis, funds to help meet federal Clean Water Act standards using Best Management Practices. The program is meant to supplement, not replace, existing transportation related pollution reduction efforts and to fund high-impact capital improvements over local operations and maintenance.

The Allocation Committee (AC) makes recommendations to the Orange County Transportation Authority (OCTA) Board of Directors regarding the development and implementation of a comprehensive funding allocation program, including a grant process, matching requirements, maintenance of effort requirements and an annual reporting and benefit assessment process.

**Line of Reporting**

The AC will provide recommendations to the OCTA Board of Directors. Currently, all matters related to M2 are considered first by the OCTA Transportation 2020 Committee, a subcommittee of the OCTA, for recommendation to the full OCTA Board.

**Responsibilities**

The AC provides advice on the development and implementation of a funding program for transportation-related water quality improvements. Activities undertaken by the AC may consist of the following:

- Development of a comprehensive countywide capital improvement program for transportation-related water quality improvements.
- Development of a competitive grants process with priority given to:
  - High impact capital improvements;
  - Capital improvements in a Watershed Management Area; and
  - Cost-effective projects that leverage other funding sources
- Evaluations of grant requests and recommendations on the award of funds.
- Development a matching requirement to leverage other funds for water quality improvements.
- Development of maintenance of effort requirement to ensure that funds augment, not replace existing water quality programs.

- Development of an annual reporting and benefits assessment process and procedures.

## **Membership**

The AC shall consist of 12 voting and two non-voting members, none of whom can be elected officials, and selected by the OCTA Board of Directors as follows:

- One member representing the County of Orange;
- One member representing Caltrans;
- Five members representing the Orange County cities, one from each supervisorial district;
- Two members representing water or wastewater public agencies;
- One member representing the development industry;
- One member representing the scientific/academic community;
- One member representing private non-profit organizations involved in water quality;
- One non-voting member representing the Santa Ana Regional Water Quality Control Board;
- One non-voting member representing the San Diego Regional Water Quality Control Board.

Members are expected to be able to devote at least 25 hours per year to Committee business. Alternates are not permitted.

## **Terms of Office**

Terms of office are three years with no term limitations.

## **Meeting Time and Location**

Committee meetings will take place on the second Thursday of the month from 10:30 a.m. to 12:30 p.m. at the Orange County Transportation Authority, 600 South Main Street in Orange.

## **Selection of the Chair and Vice-Chair**

The Chair and the Vice-Chair will be selected by the AC from among its members.

## **Duration of Existence**

The AC will continue throughout the duration of the implementation of Renewed Measure M.



## **Environmental Cleanup Allocation Committee Roster**

### **Chairman Garry Brown**

President & Chief Executive Officer  
Orange County Coast Keeper

### **Vice Chairman Mary Anne Skorpanich**

Director  
Watershed and Coastal Resources Program  
County of Orange

### **Mark Adelson**

Senior Environmental Scientist  
Santa Ana Regional Water Quality Control  
Board

### **John Bahorski**

City Manager  
City of Cypress

### **Karen I. Baroldi**

Regulatory Specialist  
Orange County Sanitation District

### **Tim Casey**

City Manager  
City of Laguna Niguel

### **William J. Cooper**

Professor  
UC Irvine, Department of Civil and  
Environmental Engineering

### **Paul D. Jones**

General Manager  
Irvine Ranch Water District

### **Joe Parco**

Senior Civil Engineer  
City of Santa Ana

### **Hector B. Salas**

Associate Environmental Planner, NPDES/  
Storm Water Unit  
Caltrans

### **James Smith**

Northern Watershed Unit Supervisor  
San Diego Regional Water Quality Control  
Board

### **Sat Tamaribuchi**

Vice President of Environmental Affairs  
The Irvine Company

### **Dick Wilson**

Environmental Services Manager  
City of Anaheim

### **Vacant**

Third supervisorial district city  
representative

