

*Before the Board of Supervisors
County of Monterey, State of California*

Resolution No.: 23-168

- Resolution of the Board of Supervisors of the County of Monterey to:)
 a. Adopt the Mitigated Negative Declaration for the Toro Park Water System Improvement Project, Project No. 220165 pursuant to California Code of Regulations (CCR) Section 15074 of the California Environmental Quality Act (CEQA) Guidelines;)
 b. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan; and)
 c. Authorize Public Works, Facilities and Parks to proceed with said Project.)

The Mitigated Negative Declaration for the Toro Park Water System Improvement Project came before the Board of Supervisors of the County of Monterey (County) on May 9, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Board of Supervisors finds and decides as follows:

1. Finding:

On the basis of the whole record before the Board of Supervisors of the County of Monterey (County), there is no substantial evidence that the proposed project, as designed and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration (MND) reflects the independent judgment and analysis of the County.

Supporting Evidence:

Pursuant to Public Resources Code Section 21083, and California Environmental Quality Act (CEQA) Guidelines California Code of Regulations (CCR) Sections 15063(a) and 15063(b)(2), the Lead Agency shall conduct environmental review in the form of an Initial Study to determine if the project may have a significant effect on the environment and shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.

The County of Monterey as Lead Agency, through the Department of Public Works, Facilities, and Parks (PWFP), prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of PWFP and is hereby incorporated by reference. The Initial Study and Mitigated Negative Declaration are also attached to the May 9, 2023, staff report to the Board of Supervisors as Exhibit 1.

There is no substantial evidence, based upon the record as a whole, that the project may have a significant effect on the environment. The Initial Study identified several potentially significant effects, but the County will implement proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. Based upon the analysis of the Initial Study, PWFP prepared a Mitigated Negative Declaration.

The Draft Initial Study and Mitigated Negative Declaration for the Toro Park Water System Improvement project were prepared in accordance with CEQA Guidelines; filed with the County Clerk on January 30, 2023; and submitted to the Governor's Office of Planning and Research (OPR) State Clearinghouse for public review from January 30 through March 10, 2023 (State Clearinghouse Number 2023010595).

Resource areas that were analyzed in the Draft Initial Study/Mitigated Negative Declaration included: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire.

Evidence that has been received and considered includes: technical studies/reports, staff reports that reflect the County's independent judgment, and information and testimony presented during public meetings and hearings. These documents are on file with PWF and incorporated by this reference.

The County identified less than significant impacts to air quality, biological resources, energy, greenhouse gas emissions, noise, and wildfire. Mitigation measures will not be required for these resource areas.

The County identified potentially significant impacts to cultural and tribal cultural resources, and mitigation measures have been proposed to reduce the identified impacts to a level of less than significant. Mitigation Measures 1 and 2 would reduce the potentially significant impacts by requiring the presence of on-site archaeological and tribal monitors during all ground disturbing activities and pre-construction cultural resource sensitivity training.

Pursuant to Public Resources Code Section 21083.2 et seq., PWF staff initiated AB52 consultation with local Native American tribes on August 3, 2022. On August 10, 2022, the Esselen Tribe of Monterey County (ETMC) submitted a letter to County staff requesting consultation, identifying the area as highly sensitive, requesting monitoring of all ground disturbance by a member of ETMC, and recommending a subsurface evaluation (i.e., testing) and preconstruction training. Subsequently, County staff consulted with an Ohlone, Coastanoan, Esselen Nation (OCEN) representative on September 22, 2022, and with representatives of ETMC on September 23, 2022. During consultation, representatives of both tribes requested the following: 1) the on-site presence of a Native American monitor from their respective tribe to observe all excavation activities associated with development of the site; 2) inclusion in any resource recovery program or reburial; and 3) that County staff forward the archaeological report for review. After consultation with OCEN and ETMC, County staff directed and Albion Environmental completed subsurface testing. The test results were negative, and Albion found no evidence of potentially significant cultural materials within the project area. Albion determined that no further archeological investigation is recommended. However, in response to the requests made by tribal representatives during consultation and due to the project site's proximity to Toro Creek, Mitigation Measure 2 has been applied to address inadvertent discovery of cultural resources and to reduce potential impacts to unknown tribal cultural resources to a less than significant level. Mitigation Measure 1 (described in Section VI.5 of the initial study) would require a cultural resources awareness training program provided by a project archaeologist for construction crew members prior to soil disturbance. Mitigation Measure 2 would require that if tribal cultural artifacts or human remains are discovered, these resources are treated

with appropriate dignity and respect, and in accordance with applicable law. Therefore, the potential impact to cultural and tribal cultural resources would be less than significant with mitigation incorporated.

All project changes required to avoid significant effects on the environment have been incorporated into the project. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference.

Analysis contained in the Initial Study and the record as a whole indicate the project would have the potential to result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Wildlife (CDFW) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless CDFW determines that the project will have no effect on fish and wildlife resources. In this case, for purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to CDFW for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination.

During the public review period for the draft Initial Study, the County received four comment letters/emails from interested parties and public agencies. The comments are attached to the May 2, 2023, staff report to the Board of Supervisors as Exhibit 3. The Board of Supervisors considered the comments received for the draft initial study pursuant to CEQA Guidelines CCR Section 15074.b and finds that the comments do not conflict with or challenge the analysis and conclusions of the draft initial study or MND. The County responses to these comments are attached to the May 2, 2023, staff report to the Board of Supervisors as Exhibit 4, and are incorporated by this reference. No further response is required.

The County finds that there is no substantial evidence supporting a fair argument of a significant environmental impact.

Pursuant to CEQA Guidelines CCR Section 15073(e), the County provided notice of the public hearing to those public agencies that submitted comments on the Initial Study and MND.

The Board of Supervisors of the County of Monterey considered the Initial Study and Mitigated Negative Declaration at a duly noticed public hearing held on May 2, 2023.

PWFP, located at 1441 Schilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Monterey does hereby:

- a. Adopt the Mitigated Negative Declaration for the Toro Park Water System Improvement Project, Project No. 220165 pursuant to CCR Section 15074 of the CEQA Guidelines;

- b. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan; and
- c. Authorize Public Works, Facilities and Parks to proceed with said Project.

PASSED AND ADOPTED on this 9th day of May 2023, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez, Askew, and Adams

NOES: None

ABSENT: None

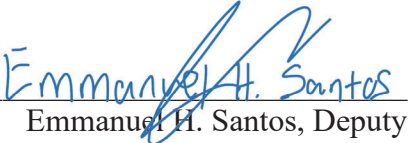
I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting on May 9, 2023.

Dated: May 10, 2023

File ID: RES 23-074

Agenda Item No. 35

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Emmanuel H. Santos, Deputy