

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

**RESOLUTION NO.: 22-106**

Resolution of the Monterey County Board of Supervisors:

- a. Adopting a Mitigated Negative Declaration for the Proposition 68 Lake San Antonio South Shore Marina Project; and )
- b. Adopting a Mitigation Monitoring and Reporting Program as outlined in the Initial Study and Mitigated Negative Declaration (IS/MND) document, in the event Proposition Grant 68 funds are awarded. )

**The Mitigated Negative Declaration for the Lake San Antonio South Shore Marina Project came before the Monterey County Board of Supervisors on March 22, 2022. 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:**

**FINDINGS**

- 1. **FINDING:** **PROJECT DESCRIPTION** – The Monterey County Department of Public Works, Facilities, & Parks, acting as the California Environmental Quality Act (CEQA) Lead Agency, proposes to replace the former marina and fuel system within the Lake San Antonio Recreation Area. The Lake San Antonio Recreation Area South Shore Marina Project (herein referred to as the proposed Project) would require the demolition and off-haul of the former marina, which is currently moored in Lake San Antonio, the removal and/or relocation of existing fuel infrastructure at the Lynch Site, and the installation of a new marina and fuel infrastructure at the Harris Creek Site.

The proposed Project site is comprised of three sites located within the Lake San Antonio Recreation Area. The first site is located on the western side of Lake San Antonio at the former Lynch Marina, hereinafter referred to as the “Lynch Site.” The second site is located south of the Lynch Project Site at Harris Creek, hereinafter referred to as the “Harris Creek Site.” The last site is the decommissioned marina, which is currently moored within Lake San Antonio near the Harris Creek Project Site, hereinafter referred to as the “Former Marina Site.”

According to the Monterey County Land Use Plan for South County, the Project site is designated as Public/Quasi-Public. Per the County Zoning Code, the Project site is zoned Public/Quasi-Public. Undeveloped open space surrounds the Project site.

- EVIDENCE:** The project plans and related support materials contained in the project are on file with the Monterey County Public Works Facilities and Parks (PWFP).

2. **FINDING:** **California Environmental Quality Act (CEQA) (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Board of Supervisors, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County as well as the 3<sup>rd</sup> party consultant, LSA Associates, Inc. contracted to perform the Initial Study/Mitigated Negative Declaration.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
  - b) An Initial Study was prepared pursuant to CEQA. The Initial Study is on file in the offices of the PWF and is hereby incorporated by reference.
  - c) The proposed mitigation measures avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.
  - d) All project changes required to avoid significant effects on the environment will be incorporated into the project and/or are made conditions of approval. A 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.
  - e) The Mitigated Negative Declaration (MND) for the project was prepared in accordance with CEQA and circulated for public review from January 14, 2022 to February 14, 2022.
  - f) Issues that were analyzed in the MND include: air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, noise, tribal cultural resources, and Mandatory Findings of Significance.
  - g) No comments from the public were received.
  - h) Monterey County PWF, 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.
  - i) To mitigate the physical impacts of the project, the following is a summary of the mitigation measures proposed:

**Air Quality.** The Construction Contractor, in coordination with County of Monterey PWF, shall ensure, per the MBARD *CEQA Air Quality Guidelines*, that the following dust mitigation measures be implemented during construction:

- The construction contractor shall water all active construction sites as least twice daily. Frequency shall be based on the type of operation, soil, and wind exposure.
- Prohibit all grading activities during periods of high wind (over 15 mph).

- The construction contractor shall apply nontoxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed the area.
- Haul trucks shall maintain at least two (2) feet of freeboard above ground surface.
- The construction contractor shall cover all trucks hauling dirt, sand, or loose materials.
- The construction contractor shall plant vegetative ground cover in disturbed areas as soon as possible.
- The construction contractor shall cover inactive storage piles.
- The construction contractor shall sweep streets if visible soil material is carried out from the construction site.
- The construction contractor shall limit the area under construction at any one time.

**Biological Resources.** Eight (8) mitigation measures for Biological Resources are in the proposed MND.

**Springtime Botanical Inventory and Special-Status Plant Avoidance or Compensation:** At least 14 days prior to any ground disturbing activities, a qualified biologist, approved by Monterey County, shall conduct a spring botanical survey within the area of direct Project impacts. The survey shall be completed between March and May, at the peak of the spring time blooming season or when regional annual special-status plants are observable. The results of the survey shall be documented in a concise memorandum that includes a full botanical inventory of the Project site prior to any ground disturbance activities

If special-status plant species are present within the Project site(s) where direct impacts to the species can be avoided, the special-status plant species shall be avoided and a qualified biologist shall clearly delineate the avoidance area. No ground-disturbing activities shall occur within the exclusion area(s).

If special-status plant species cannot be avoided, the qualified biologist shall develop a Project-specific Special-Status Plant Species Mitigation Plan. If a plant listed under the Federal Endangered Species Act (FESA) or California Endangered Species Act (CESA) is found within the direct impact area, the County of Monterey Public Works, Facilities, & Parks shall obtain any necessary authorization from the appropriate agency prior to impacts and prior to implementing measures specific to that species. The County of Monterey Public Works, Facilities, & Parks shall review and approve the Special-Status Plant Species Mitigation Plan prior to implementation. Compensatory mitigation shall be provided in accordance with resource agency requirements and/or one or more of the following methods:

- The acquisition, protection, and in-perpetuity management of other existing plant species occurrences/populations at a minimum 1:1 conservation-to-impact ratio.
- The salvage of seed and/or plant material for translocation and/or planting at suitable off-site location(s), with long-term protections, monitoring, and management requirements that ensure the translocated or seeded individuals are self-sustaining for a minimum of 5 years at a minimum 1:1 compensation-to-impact ratio.

**Worker Environmental Awareness Program (WEAP):** Prior to any ground disturbance or construction activities, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the western pond turtle, northern California legless lizard and nesting birds, the specific measures that are being implemented to avoid adverse effects to biological and aquatic resources, and the boundaries of the Project site. The training shall explain local, State, and federal regulations/authorizations pertaining to biological and aquatic resources that are/may be applicable to the Project, as well as all measures related to biological and aquatic resources that must be implemented during construction.

**Pre-Construction Surveys, Construction Monitoring, and Reporting:** Within 3 days prior to initiation of vegetation removal, a qualified biologist shall conduct a pre-construction survey to ascertain the presence or absence of special-status wildlife species. A qualified biological monitor shall be present during all vegetation clearing activities (including mowing and/or initial ground disturbance) and ground disturbance to ensure avoidance or relocation of special status species, when feasible.

When avoidance or relocation is not feasible, the qualified biologist shall establish a buffer, which would be avoided until the qualified biologist determines that work can proceed. The qualified biologist shall receive approvals from the resource agencies prior to handling any special-status wildlife species. If a federally- and/or State-listed or fully-protected species is observed within the Project site, work activities with potential to directly or indirectly disturb the plant or animal (as determined by the qualified biologist) shall not occur until the appropriate regulatory agency (California Department of Fish and Wildlife and/or United States Fish and Wildlife Service) has authorized the work to proceed.

The results of all pre-construction surveys and compliance monitoring shall be documented and reported to the County by the qualified biologist and the documentation shall be available upon request throughout the duration of construction activities.

**Project Site Delineation.** Prior to the start of construction, the qualified biologist shall clearly delineate (i.e., with stakes, flagging, fencing, and/or temporary signage) the work areas to ensure that no work occurs outside the approved limits of disturbance. This fencing used to delineate the work area will also serve as a temporary barrier to minimize the potential for special-statu

species to enter work areas during construction and/or become trapped within the fenced Project site.

**Permitting for the South Shore Marina Project:** Prior to construction of the proposed Project, the County of Monterey Public Works, Facilities, & Parks, or designee, shall submit resource agency permit applications and obtain permit authorizations from the United States Army Corps of Engineers (USACE) (Section 404 Nationwide Permit authorization), CDFW (Section 1602 Streambed Alteration Agreement), and Regional Water Quality Control Board (Section 401 Water Quality Certification). The County of Monterey Public Works, Facilities, & Parks, or designee, shall ensure compliance with all permit conditions.

**Equipment Staging and Best Management Practices (BMPs):** Prior to the start of construction, the qualified biologist shall delineate construction staging areas away from Lake San Antonio. The designated upland areas shall be located in such a manner as to prevent any loose soil or spill runoff from entering jurisdictional waterways or adjacent sensitive vegetation communities. All equipment maintenance, staging, and dispensing of fuel, oil, or any other such activities used by the Project Contractor shall occur in these designated staging areas.

**Invasive Species Control:** Any plants removed or soil disturbed during the course of construction shall be contained and properly disposed of off site. All mulch, topsoil, seed mixes, or other plantings used for erosion-control shall be free of invasive plant species seeds or propagules. No vegetation listed on the California Invasive Plant Council (Cal-IPC) inventory shall be installed on the Project, and all plant palettes proposed to be installed on the Project site(s) shall be reviewed and approved by a qualified biologist.

**Nesting Bird Surveys and Active Nest Avoidance:** Any vegetation removal shall take place outside of the active nesting bird season (i.e., January 1–September 30), when feasible, to ensure compliance with the California Fish and Game Code. Should vegetation removal take place during the nesting bird season, a qualified biologist shall conduct a nesting bird survey prior to clearing activities to ensure that birds are not engaged in active nesting within or immediately adjacent to the Project site. If nesting birds are discovered during pre-construction surveys, the biologist shall identify an appropriate buffer (i.e., up to 500 feet depending on the circumstances and specific bird species) where no clearing, grading, or construction activities with potential to have direct or indirect impacts on the nesting birds are allowed to take place until after the birds have fledged from the nest, or the qualified biologist has determined that the nest is no longer active.

**Cultural Resources.** Per Monterey County Code of Ordinances Section 21.66.050, Subsection F, “if during the course of construction, previously unidentified archaeological resources are discovered, earth-disturbing activities shall stop within the vicinity of the find, and the project planner and a qualified archaeologist shall be contacted to assess the appropriate course of action. The

County of Monterey Public Works Facilities & Parks and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on site. When contacted, the project planner, and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery (California Code of Regulations, Title 14, Chapter 3, Section 15064.5(f)).

During construction, consistent with the requirements of California Health and Safety Code Section 7050.5, if human remains are discovered on site, no further disturbance shall occur until the Monterey County Coroner can evaluate them. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of identification. Pursuant to Section 5097.9 and 5097.993 of the California Public Resources Code, the Native American Heritage Commission shall identify a “Native American Most Likely Descendent” to inspect the site and provide recommendations for the proper treatment of the remains and any associated grave goods.

**Geology and Soils:** During construction, if paleontological resources are encountered, work shall be halted immediately within 50 meters (165 feet) of the find until a professional paleontologist can evaluate it. The County of Monterey Department of Public Works, Facilities & Parks and a professional paleontologist shall be immediately contacted by the responsible individual present on site. When contacted, the County’s Project Manager and the paleontologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery per Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources put forth by the Society of Vertebrate Paleontology.

**Hazards and Hazardous Materials.** Prior to commencement of Project operation, the County of Monterey (County) shall prepare a Spill Prevention, Control and Countermeasure (SPCC) Plan for the fuel system at the new marina at the Harris Creek Site. The Operational SPCC Plan, at a minimum, shall contain information about the facility, the petroleum storage containment, inspections, a site diagram with locations of tanks (above and below ground), drainage, and other pertinent details, measures to be taken to prevent fuel spills or measures to be taken to contain and clean up fuel spills, and training modules for fuel station/docking employees pertaining to fuel spill prevention and fuel spill containment and cleanup. Once completed, the Operational SPCC Plan shall be available at the fuel station/docking area at the marina and shall be available for easy access by fuel station/docking employees.

**Hydrology Water Quality.** Two measures for Hydrology and Water Quality are proposed in the MND:

**Construction Best Management Practices.** Prior to the start of construction, the County of Monterey (County) shall ensure that the Construction Contractor prepares and implements a Storm Water Pollution Prevention Plan (SWPPP) to address all construction related activities, equipment, and materials that have the potential to affect water quality. The SWPPP shall identify the sources of pollutants that may affect the quality of stormwater and include Best management Practices (BMPs) to control the pollutants (e.g., Sediment Control, Erosion Control, and Good Housekeeping BMPs). Consistent with the Construction General Permit (CGP).

**Erosion Control Plan.** During the plans, specifications, and estimates phase, an Erosion Control Plan shall be prepared and implemented by the County of Monterey or its designated contractor in compliance with the provisions of the Monterey County Erosion Control Ordinance (Municipal Code, Title 16, Chapter 16.12). The Erosion Control Plan shall indicate the proposed methods for the control of runoff, erosion, and sediment movement during Project construction.

**Tribal Cultural Resources.** Prior to ground-disturbing activities, the County of Monterey Public Works, Facilities, & Parks shall contact the Salinan Tribe of Monterey, San Luis Obispo Counties and request that it submit the name of the designated monitor. The designated tribal monitor shall be on-site during all ground-disturbing activities. In the event that tribal cultural resources or Native American archaeological deposits are identified during monitoring, the County shall consult with the tribal representative to develop and implement a plan to: (1) evaluate the significance of the find; and (2) mitigate potential impacts to the find should it meet the definition of a historical or unique archaeological resource under CEQA. Mitigation may include, but would not be limited to, recording the tribal cultural resource, data recovery and analysis, and public outreach.

**Mandatory Findings of Significance.** The proposed Project has the potential to result in impacts to biological resources, including special-status plant and animal species, delineated aquatic resources, and nesting migratory birds and raptors protected under the Migratory Bird Treaty Act (MBTA). Implementation of the mitigation measures for biological resources identified in the MND (and summarized above) would reduce potential impacts to these resources to **less than significant** levels.

As discussed in the MND, the proposed Project is not expected to result in any significant impacts to any examples of the major periods of California history or prehistory. No historic cultural or archaeological resources as defined by CEQA were identified in the study area. However, because the proposed Project includes excavation, it has the potential to impact unknown buried archaeological resources and human remains. Monterey County Code of Ordinances Section 21.66.050, Subsection F, states that if previously unidentified archaeological resources are discovered during the course of construction, that project activities stop within the vicinity of the

find and the project planner and a qualified archaeologist be contacted to assess the appropriate course of action. Furthermore, if human remains are encountered during construction activities, the regulatory process outlined in Health and Safety Code (HSC) Section 7050.5 must be followed, which involves coordination with the Native American Heritage Commission and a Native American Most Likely Descendant. Adherence to the HSC and Public Resources Code (PRC) Section 5097.98, which addresses the treatment of Native American human remains, means that the proposed Project would not knowingly disturb human remains but would appropriately address any human remains should any be encountered during Project work. Impacts would be **less than significant**, with compliance with Monterey County Code of Ordinances Section 21.66.050, and HSC Section 7050.5, and no mitigation measures are required.

With implementation of identified mitigation measures and compliance with Monterey County Code of Ordinances Section 21.66.050, Subsection D.1.a and HSC Section 7050.5, the Project would not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or a wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

### **DECISION**

**NOW, THEREFORE, BASED ON THE ABOVE FINDINGS AND EVIDENCE, BE IT RESOLVED**, that the Board of Supervisors does hereby:

- a. Adopt a Mitigated Negative Declaration for the Proposition 68 Lake San Antonio South Shore Marina Project; and
- b. Adopt a Mitigation Monitoring and Reporting Program as outlined in the Initial Study and Mitigated Negative Declaration (IS/MND) document, in the event Proposition Grant 68 funds are awarded.

**PASSED AND ADOPTED** on this 22<sup>nd</sup> day of March 2022, by roll call vote:

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

NOES: None

ABSENT: None

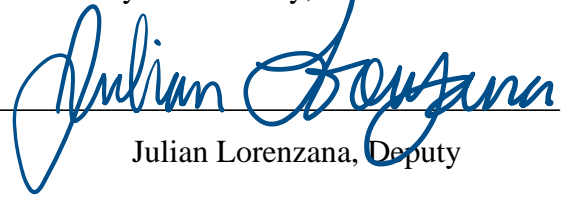
(Government Code 54953)

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 March 22, 2022.



Dated: March 25, 2022  
File ID: RES 22-075  
Agenda Item No.: 49

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



Julian Lorenzana, Deputy