



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 20-664, **Version:** 1

a. Consider Board Referral 2019.12 regarding increased penalties for non-compliance with archeological on-site monitoring requirements associated with development projects to better protect Native American and other cultural resources; and

b. Continue this item to a date certain of September 1, 2020

Project File: Board Referral 2019.12 - Archaeological On-Site Monitoring

Location: County Wide

Proposed CEQA Action: Not a Project under California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5) (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Consider Board Referral 2019.12 regarding increased penalties for non-compliance with archeological on-site monitoring requirements associated with development projects to better protect Native American and other cultural resources; and
- b. Continue this item to a date certain of September 1, 2020

SUMMARY/DISCUSSION:

On October 15, 2019 the Board of Supervisors made a referral requesting that the Resource Management Agency (RMA) draft an ordinance to strengthen Monterey County's enforcement and increase fines related to non-compliance with archeological on-site monitoring conditions. Pursuant to that referral, RMA and the Office of County Counsel collaborated to create a draft ordinance and on July 28th came before the Board for a second reading and adoption of an ordinance which increased fines for non-compliance. At the hearing, the Board directed staff to further increase fines proposed in the ordinance, and subsequently continued the item to August 18th, 2020.

RMA and the Office of County Counsel have continued to confer with respect to the extent to which fines can be legally increased beyond the amounts included in draft ordinance that the Board considered on July 28th. Due to the importance of this matter, staff is requesting a continuance to September 1st, which will give staff two additional weeks to complete revisions to the draft ordinance per the direction of the Board.

CEQA:

Response to this referral and direction from the Board does not constitute a project under CEQA. Per CEQA Guidelines Section 15378(b)(5) "projects" do not include "Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment". This report identifies options for the Board to provide direction. If an ordinance is pursued, that would become a project subject to CEQA.

OTHER AGENCY INVOLVEMENT:

Office of County Counsel was consulted in the preparation of this staff report.

FINANCING:

Funding for staff time associated with bringing this Referral to the Board is included in the FY2020-21 Adopted Budget for RMA-Planning. County Counsel does not charge their time directly to County General Fund Units as these costs are accumulated and allocated through the Countywide Cost Allocation Plan (COWCAP). If the Board directs staff to prioritize work on an ordinance to amend administrative penalties, RMA staff time associated with the ordinance amendment will be included in the Adopted Budget for RMA-Planning.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This Referral is intended to ensure proper management of our land resources, including archaeological and Tribal cultural resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
 - Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Brandon Swanson, RMA Planning Services Manager
Reviewed by: Brian Briggs, Deputy County Counsel. Office of County Counsel
Approved by: Carl P. Holm, AICP, RMA Director

cc: Front Counter Copy; California Coastal Commission; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File