

**ASSEMBLY BILL**

**No. 3005**

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**Introduced by Assembly Member Robert Rivas**  
**(Coauthors: Assembly Members Berman, Chu, and Gallagher)**  
(Coauthors: Senators Beall, Caballero, Hill, Monning, and Nielsen)

February 21, 2020

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An act to add Section 1602.5 to the Fish and Game Code, to add Section 21163 to the Public Contract Code, to add Chapter 6.8 (commencing with Section 21189.60) to Division 13 of the Public Resources Code, and to add Section 13260.1 to, and to add Part 4 (commencing with Section 6700) to Division 3 of, the Water Code, relating to the Leroy Anderson Dam and Reservoir, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 3005, as introduced, Robert Rivas. Leroy Anderson Dam and Reservoir: environmental review, permitting, and public contracting.

Existing law prohibits an entity from diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or banks of, a river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake, unless the Department of Fish and Wildlife receives written notification regarding the activity and the department either determines that the activity will not substantially adversely affect an existing fish and wildlife resource or, if the department determines that the activity may substantially adversely affect an existing fish and wildlife resource, the department issues a final agreement to the entity that includes reasonable measures necessary to protect the affected resource.

This bill would require the department, within 15 days of receipt of the notification from the Santa Clara Valley Water District, to inform the department whether the Anderson Dam project, as defined, will not substantially adversely affect an existing fish and wildlife resource. If the department determines that the project will substantially adversely affect an existing fish and wildlife resource, the bill would specify the process by which the department is to issue a final agreement to the district that includes reasonable measures necessary to protect the affected resource.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA establishes administrative procedures for the review and certification of the EIR for a project and judicial review procedures for any action or proceeding brought to challenge the lead agency's decision to certify the EIR or to grant project approvals.

This bill would establish specified procedures for the administrative and judicial review of the environmental review and approvals granted for the Anderson Dam project, as defined, located in the County of Santa Clara. The bill would apply certain rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court to an action or proceeding seeking judicial review of the lead agency's action related to the Anderson Dam project under CEQA.

Existing law requires specified persons to file with the appropriate regional water quality control board a report of waste discharge relative to any material change or propose change in the character, location, or volume of discharge into the waters of the state. Existing law requires the regional board to prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, as specified.

This bill would require the State Water Resources Control Board, within 120 days of receipt of a report of waste discharge from the district with respect to the Anderson Dam project, to prescribe requirements as to the nature of the proposed discharge, as provided.

This bill would authorize state agencies with permitting authority over the Anderson Dam project to take certain actions to expedite the permitting process for the project, including entering into an agreement for the recovery of certain costs.

Existing law authorizes certain local entities to select a bidder for a contract on the basis of “best value,” as defined. Existing law governs various types of contract procedures applicable to the Santa Clara Valley Water District and prescribes competitive bidding procedures for any improvement or unit of work over \$50,000.

This bill would authorize the district, upon approval by the board of directors of the district, to award contracts on a best value basis for any work of construction to retrofit, repair, or replace the Leroy Anderson Dam and Reservoir, owned by the district and located in the County of Santa Clara. The bill would require the district, if the board elects to award contracts on a best value basis, to comply with specified requirements governing the documents prepared setting forth the scope and estimated price of the project and the request for qualifications. The bill would prohibit a best value contractor from being prequalified or shortlisted unless the contractor provides an enforceable commitment to the district that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project, in accordance with certain criteria. By requiring certain information of bidders to be certified under penalty of perjury, the bill would expand an existing crime, thereby imposing a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The Leroy Anderson Dam and Reservoir, owned by the  
4 Santa Clara Valley Water District and located in the County of  
5 Santa Clara, is the largest reservoir in the county with a capacity  
6 of 89,278 acre-feet, and is a critical part of the region’s water  
7 supply system.

8 (b) A breach of the Leroy Anderson Dam at full capacity could  
9 have catastrophic consequences, including inundation of a land  
10 area extending more than 30 miles northwest to San Francisco  
11 Bay, including the Cities of Milpitas, San Jose, Santa Clara, and  
12 Sunnyvale, and more than 40 miles southeast to Monterey Bay,  
13 including the Cities of Gilroy, Morgan Hill, and Watsonville. This  
14 area includes a significant part of region known as Silicon Valley  
15 and is home to thousands of job-creating businesses that drive the  
16 regional, state, and national economies.

17 (c) The dam has been determined by the Santa Clara Valley  
18 Water District, the Department of Water Resources Division of  
19 Safety of Dams, and the Federal Energy Regulatory Commission  
20 to be at risk of an uncontrolled release of water due to a seismic  
21 event. The district has adopted a restriction that is equivalent to  
22 58 percent of the reservoir’s capacity. To further protect public  
23 safety, the Santa Clara Valley Water District also reduces the  
24 reservoir’s storage before the rainy season to decrease the chance  
25 that the restricted capacity is exceeded.

26 (d) Built in 1950 to the seismic and dam safety standards of the  
27 day, the dam would not withstand the largest likely earthquake,  
28 known as the maximum credible earthquake, on the nearby  
29 Calaveras and Coyote Creek faults. A 2008 seismic stability  
30 evaluation identified potential embankment instability as a result  
31 of seismic shaking and liquefaction. In 2012, voters in the County  
32 of Santa Clara approved of a parcel tax that paid for the initiation  
33 of the Anderson Dam Seismic Retrofit Project, and will pay for a  
34 portion of the overall project costs. By 2016, findings from the  
35 geotechnical and geologic investigations performed during the  
36 project’s design phase led to the conclusion that a more extensive  
37 dam retrofit than had originally been envisioned would have to be  
38 performed, causing a necessary delay and redesign of the project.

1 (e) In February 2017, an atmospheric river event, which  
2 conveyed a series of wet storms to the region, triggered the use of  
3 the dam’s spillway, increasing the flow in Coyote Creek beyond  
4 capacity, flooding homes and businesses in the City of San Jose,  
5 and causing the evacuation of 14,000 people. The dam’s outlet,  
6 used to draw down the reservoir in an emergency, is too small by  
7 modern standards, and in advance of the 2017 storms, the outlet  
8 had been releasing as much water as possible for more than a  
9 month.

10 (f) The Santa Clara Valley Water District’s Anderson Dam  
11 Seismic Retrofit Project will remove and replace the dam. It will  
12 be constructed to modern seismic and dam safety standards,  
13 including increased capacities for the dam’s spillway and outlet  
14 to allow a rapid, controlled draw down in an emergency and to  
15 enhance incidental flood protection. The project design is now 75  
16 percent complete.

17 (g) The project is complex and must be evaluated under both  
18 state and federal environmental laws. To help protect public safety,  
19 the environment, and a significant portion of the San Francisco  
20 Bay area economy, state permitting agencies should ensure that  
21 permit review and approval is completed expeditiously.

22 (h) The independent Board of Consultants, convened pursuant  
23 to the Federal Energy Regulatory Commission process, has  
24 recommended the “best value” procurement method for the  
25 Anderson Dam Seismic Retrofit Project due to its complex design,  
26 delivery, and installation. Authorizing this project for an alternative  
27 method of contract award, similar to other major surface storage  
28 projects, is in keeping with construction industry practices and is  
29 prudent for a project of this scale and importance.

30 (i) Timely completion of the Anderson Dam Seismic Retrofit  
31 Project will reduce the risks to public safety and the California  
32 economy stemming from the outdated design of the existing dam.

33 (j) The replacement of the Leroy Anderson Dam is of statewide  
34 importance and that the project warrants expedited permit  
35 processing, as well as other actions by the state that will further  
36 support the timely delivery of a well-constructed dam replacement  
37 to protect public safety.

38 SEC. 2. Section 1602.5 is added to the Fish and Game Code,  
39 to read:

1 1602.5. (a) For purposes of this section, the following  
2 definitions apply:

3 (1) “Anderson Dam project” or “project” has the same meaning  
4 as set forth in Section 6700 of the Water Code.

5 (2) “District” means the Santa Clara Valley Water District.

6 (3) “Notification” means the documents described in  
7 subparagraphs (A) to (E) of paragraph (1) of subdivision (a) of  
8 Section 1602.

9 (b) Notwithstanding any other law, the department shall comply  
10 with both of the following:

11 (1) Within 15 days of receipt of a notification from the district  
12 pursuant to Section 1602, the department shall inform the district,  
13 in writing, whether the project will not substantially adversely  
14 affect an existing fish or wildlife resource.

15 (2) If the department determines that the project will  
16 substantially adversely affect an existing fish and wildlife resource,  
17 within 45 days of the determination, the department shall issue a  
18 draft agreement to the district that includes reasonable measures  
19 necessary to protect the fish and wildlife resources adversely  
20 affected by the project. Within 15 days of receipt of the draft  
21 agreement, the district shall notify the department whether the  
22 measure is acceptable. If the draft agreement is not acceptable, the  
23 district shall notify the department in writing and specify measures  
24 that are not acceptable. Within 15 days of receipt of the district’s  
25 notification that the draft agreement is not acceptable, the  
26 department and the district shall meet for purposes of resolving  
27 their disagreement. Within 15 days of the meeting, the department  
28 shall issue a final agreement that includes reasonable measures  
29 agreed upon by the department and district that are necessary to  
30 protect fish and wildlife resources adversely affected by the project.

31 SEC. 3. Section 21163 is added to the Public Contract Code,  
32 to read:

33 21163. (a) As used in this section:

34 (1) “Best value” means a procurement process whereby the  
35 selected bidder may be selected on the basis of objective criteria  
36 for evaluating the qualifications of bidders with the resulting  
37 selection representing the best combination of price and  
38 qualifications.

39 (2) “Best value contract” means a competitively bid contract  
40 entered into pursuant to this section.

1 (3) “Best value contractor” means a properly licensed person,  
2 firm, or corporation that submits a bid for, or is awarded, a best  
3 value contract.

4 (4) “District” means the Santa Clara Valley Water District.

5 (5) “Project labor agreement” has the same meaning as in  
6 paragraph (1) of subdivision (b) of Section 2500.

7 (b) Upon the approval of the board, the district may award  
8 contracts on a best value basis for any work of construction to  
9 retrofit, repair, or replace the Leroy Anderson Dam and Reservoir,  
10 owned by the district and located in the County of Santa Clara,  
11 including any upstream or downstream construction or operational  
12 improvements for flood protection, environmental restoration, or  
13 fish passage that may be required to implement that work.

14 (c) If the board elects to award a contract on a best value basis  
15 pursuant to the authorization in subdivision (b), the district shall  
16 comply with the following:

17 (1) The district shall prepare a set of documents setting forth  
18 the scope and estimated price of the project. The documents may  
19 include, but need not be limited to, the size, type, and desired  
20 design character of the project, performance specifications covering  
21 the quality of materials, equipment, workmanship, preliminary  
22 plans or layouts, or any other information deemed necessary to  
23 adequately describe the district’s needs. The performance  
24 specifications and any plans shall be prepared by a design  
25 professional who is duly licensed and registered in California.

26 (2) The district shall prepare and issue a request for  
27 qualifications in order to prequalify or short-list the entities,  
28 including subcontractors and suppliers, whose bids shall be  
29 evaluated for final selection. The request for qualifications shall  
30 include, but need not be limited to, the following elements:

31 (A) Identification of the basic scope and needs of the project or  
32 contract, the expected cost range, the methodology that will be  
33 used by the district to evaluate bids, the procedure for final  
34 selection of the bidder, and any other information deemed  
35 necessary by the district to inform interested parties of the  
36 contracting opportunity.

37 (B) Significant factors that the district reasonably expects to  
38 consider in evaluating qualifications, including technical  
39 design-related expertise, construction expertise, acceptable safety  
40 records, and all other non-price-related factors.

1 (C) A standard template request for statements of qualifications  
2 prepared by the district. In preparing the standard template, the  
3 district may consult with the construction industry, the building  
4 trades and surety industry, and other local agencies with experience  
5 awarding a contract on a best value basis. The template shall  
6 require all of the following information:

7 (i) If the bidder is a privately held corporation, limited liability  
8 company, partnership, or joint venture, composed of privately held  
9 entities, a listing of all of the shareholders, partners, or members  
10 known at the time of statement of qualification submission who  
11 will perform work on the project.

12 (ii) Evidence that the members of the contracting team have  
13 completed, or demonstrated the experience, competency, capability,  
14 and capacity to complete, projects of similar size, scope, or  
15 complexity and that proposed key personnel have sufficient  
16 experience and training to competently manage and complete the  
17 project, and a financial statement that ensures that the bidder has  
18 the capacity to complete the project.

19 (iii) The licenses, registration, and credentials required for the  
20 project, including, but not limited to, information on the revocation  
21 or suspension of any license, credential, or registration.

22 (iv) Evidence that establishes that the bidder has the capacity  
23 to obtain all required payment and performance bonding, liability  
24 insurance, and errors and omissions insurance.

25 (v) Information concerning workers' compensation experience  
26 history and a worker safety program.

27 (vi) An acceptable safety record. "Safety record" means the  
28 prior history concerning the safe performance of construction  
29 contracts. The criteria used to evaluate a bidder's safety record  
30 shall include, at a minimum, its experience modification rate for  
31 the most recent three-year period, and its average total recordable  
32 injury or illness rate and average lost work rate for the most recent  
33 three-year period.

34 (vii) The information required under this paragraph shall be  
35 certified under penalty of perjury by the bidder and its general  
36 partners or joint venture members.

37 (d) (1) A best value contractor shall not be prequalified or  
38 shortlisted unless the contractor provides an enforceable  
39 commitment to the district that the contractor and its subcontractors  
40 at every tier will use a skilled and trained workforce to perform



1 all work on the project or contract that falls within an  
2 apprenticeable occupation in the building and construction trades,  
3 in accordance with Chapter 2.9 (commencing with Section 2600)  
4 of Part 1.

5 (2) This subdivision shall not apply if any of the following  
6 requirements are met:

7 (A) The district has entered into a project labor agreement that  
8 will bind all contractors and subcontractors performing work on  
9 the project or contract to use a skilled and trained workforce, and  
10 the contractor agrees to be bound by that project labor agreement.

11 (B) The contractor has entered into a project labor agreement  
12 that will bind the contractor and all its subcontractors at every tier  
13 performing the project or contract to use a skilled and trained  
14 workforce.

15 SEC. 4. Chapter 6.8 (commencing with Section 21189.60) is  
16 added to Division 13 of the Public Resources Code, to read:

17

18 CHAPTER 6.8. ANDERSON DAM SEISMIC RETROFIT PROJECT

19

20 21189.60. For purposes of this chapter, the following  
21 definitions apply:

22 (a) “Anderson Dam project” or “project” means any activity or  
23 work of construction to retrofit, repair, or replace the Leroy  
24 Anderson Dam and Reservoir, owned by the Santa Clara Valley  
25 Water District and located in the County of Santa Clara, including  
26 any upstream or downstream construction or operational  
27 improvements for flood protection, environmental restoration, or  
28 fish passage that may be required to implement that activity or  
29 work.

30 (b) “District” means the Santa Clara Valley Water District.

31 (c) “Permit” means a permit, agreement, certification, approval,  
32 authorization, permission, notice to proceed, or directive, or  
33 issuance of this document, from a state agency that is necessary  
34 for the project to proceed.

35 (d) “State agency” means a state agency, board, commission,  
36 or department with the authority to issue permits that would  
37 authorize the project or project-related work.

38 21189.61. (a) Rules 3.2220 to 3.2237, inclusive, of the  
39 California Rules of Court, as may be amended by the Judicial  
40 Council, shall apply to any action or proceeding brought to attack,

1 review, set aside, void, or annul the certification of any  
2 environmental impact report for the project or granting of any  
3 project approvals to require the actions or proceeding, including  
4 any potential appeals therefrom, to be resolved, to the extent  
5 feasible, within 270 days of the filing of the certified record of  
6 proceedings with the court. On or before April 1, 2021, the Judicial  
7 Council shall amend the California Rules of Court, as necessary,  
8 to implement this subdivision.

9 (b) Notwithstanding any other law, the procedures set forth in  
10 this chapter shall apply to an action or proceeding brought pursuant  
11 to this division to attack, review, set aside, void, or annul the  
12 certification of the environmental impact report for the Anderson  
13 Dam project or the granting of any project approvals.

14 21189.62. (a) The lead agency shall prepare and certify the  
15 record of proceedings in accordance with this section and in  
16 accordance with Rule 3.1365 of the California Rules of Court.

17 (b) No later than three business days following the date of the  
18 release of the draft environmental impact report, the lead agency  
19 shall make available to the public in a readily accessible electronic  
20 format the draft environmental impact report and all other  
21 documents submitted to or relied on by the lead agency in the  
22 preparation of the draft environmental impact report. A document  
23 prepared by the lead agency after the date of the release of the  
24 draft environmental impact report that is a part of the record of  
25 proceedings shall be made available to the public in a readily  
26 accessible electronic format within five business days after the  
27 document is prepared or received by the lead agency.

28 (c) Notwithstanding subdivision (b), documents submitted to  
29 or relied on by the lead agency that cannot lawfully be released to  
30 the public pursuant to law or that were not prepared specifically  
31 for the Anderson Dam project and are copyright protected are not  
32 required to be made readily accessible in an electronic format. For  
33 those copyright protected documents, the lead agency shall make  
34 an index of these documents available in an electronic format no  
35 later than the date of the release of the draft environmental impact  
36 report, or within five business days if the document is received or  
37 relied on by the lead agency after the release of the draft  
38 environmental impact report. The index must specify the libraries  
39 or lead agency offices in which hard copies of the copyrighted  
40 materials are available for public review.

1 (d) The lead agency shall encourage written comments on the  
2 project, to be submitted in a readily accessible electronic format,  
3 and shall make any such comment available to the public in a  
4 readily accessible electronic format within five days of its receipt.

5 (e) Within seven business days after the receipt of any comment  
6 that is not in an electronic format, the lead agency shall convert  
7 that comment into a readily accessible electronic format and make  
8 it available to the public in that format.

9 (f) The lead agency shall indicate in the record of proceedings  
10 comments received that were not considered by the lead agency  
11 pursuant to subdivision (d) of Section 21189.65 and need not  
12 include the content of the comments as a part of the record of  
13 proceedings.

14 (g) Within five days after the filing of the notice required by  
15 subdivision (a) of Section 21152, the lead agency shall certify the  
16 record of proceedings for the approval or determination and shall  
17 provide an electronic copy of the record of proceedings to a party  
18 that has submitted a written request for a copy. The lead agency  
19 may charge and collect a reasonable fee from a party requesting  
20 a copy of the record of proceedings for the electronic copy, which  
21 shall not exceed the reasonable cost of reproducing that copy.

22 (h) Within 10 days after being served with a complaint or a  
23 petition for a writ of mandate, the lead agency shall lodge a copy  
24 of the certified record of proceedings with the superior court.

25 (i) Any dispute over the content of the record of proceedings  
26 shall be resolved by the superior court. Unless the superior court  
27 directs otherwise, a party disputing the content of the record of  
28 proceedings shall file a motion to augment the record of  
29 proceedings at the time it files its initial brief.

30 (j) The contents of the record of proceedings shall be as set forth  
31 in subdivision (e) of Section 21167.6.

32 21189.63. (a) The draft and final environmental impact report  
33 shall include a notice in not less than 12-point type stating the  
34 following:

35  
36 THIS EIR IS SUBJECT TO CHAPTER 6.8 (COMMENCING  
37 WITH SECTION 21189.60) OF DIVISION 13 OF THE PUBLIC  
38 RESOURCES CODE, WHICH PROVIDES, AMONG OTHER  
39 THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER  
40 CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE

1 PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY  
2 JUDICIAL ACTION CHALLENGING THE CERTIFICATION  
3 OF THE EIR OR THE APPROVAL OF THE PROJECT  
4 DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES  
5 SET FORTH IN SECTIONS 21189.61 TO 21189.64, INCLUSIVE,  
6 OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER  
7 6.8 (COMMENCING WITH SECTION 21189.60) OF DIVISION  
8 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN  
9 THE APPENDIX TO THIS EIR.

10

11 (b) The draft environmental impact report and final  
12 environmental impact report shall contain, as an appendix, the full  
13 text of this chapter.

14 21189.64. (a) Within 10 days after the release of the draft  
15 environmental impact report, the lead agency shall conduct an  
16 informational workshop to inform the public of the key analyses  
17 and conclusions of that report.

18 (b) Within 10 days before the close of the public comment  
19 period, the lead agency shall hold a public hearing to receive  
20 testimony on the draft environmental impact report. A transcript  
21 of the hearing shall be included as an appendix to the final  
22 environmental impact report.

23 (c) (1) Within five days following the close of the public  
24 comment period, a commenter on the draft environmental impact  
25 report may submit to the lead agency a written request for  
26 nonbinding mediation. The lead agency shall participate in  
27 nonbinding mediation with all commenters who submitted timely  
28 comments on the draft environmental impact report and who  
29 requested the mediation. Mediation conducted pursuant to this  
30 paragraph shall end no later than 35 days after the close of the  
31 public comment period.

32 (2) A request for mediation shall identify all areas of dispute  
33 raised in the comment submitted by the commenter that are to be  
34 mediated.

35 (3) The lead agency shall select one or more mediators who  
36 shall be retired judges or recognized experts with at least five years  
37 of experience in land use and environmental law or science, or  
38 mediation.

1 (4) A mediation session shall be conducted on each area of  
2 dispute with the parties requesting mediation on that area of  
3 dispute.

4 (5) The lead agency shall adopt, as a condition of approval, any  
5 measures agreed upon by the lead agency and any commenter who  
6 requested mediation. A commenter who agrees to a measure  
7 pursuant to this paragraph shall not raise the issue addressed by  
8 that measure as a basis for an action or proceeding challenging the  
9 lead agency's decision to certify the environmental impact report  
10 or to grant one or more initial project approvals.

11 (d) The lead agency need not consider written comments  
12 submitted after the close of the public comment period, unless  
13 those comments address any of the following:

14 (1) New issues raised in the response to comments by the lead  
15 agency.

16 (2) New information released by the public agency subsequent  
17 to the release of the draft environmental impact report, such as  
18 new information set forth or embodied in a staff report, proposed  
19 permit, proposed resolution, ordinance, or similar documents.

20 (3) Changes made to the project after the close of the public  
21 comment period.

22 (4) Proposed conditions for approval, mitigation measures, or  
23 proposed findings required by Section 21081 or a proposed  
24 reporting or monitoring program required by paragraph (1) of  
25 subdivision (a) of Section 21081.6, where the lead agency releases  
26 those documents subsequent to the release of the draft  
27 environmental impact report.

28 (5) New information that was not reasonably known and could  
29 not have been reasonably known during the public comment period.

30 21189.65. Except as otherwise provided expressly in this  
31 chapter, nothing in this chapter affects the duty of any party to  
32 comply with this division.

33 21189.66. The provisions of this chapter are severable. If any  
34 provision of this chapter or its application is held invalid, that  
35 invalidity shall not affect other provisions or applications that can  
36 be given effect without the invalid provision or application.

37 SEC. 5. Part 4 (commencing with Section 6700) is added to  
38 Division 3 of the Water Code, to read:

PART 4. ANDERSON DAM

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6700. (a) For purposes of this part, the following definitions apply:

(1) “Anderson Dam project” or “project” means any activity or work of construction to retrofit, repair, or replace the Leroy Anderson Dam and Reservoir, owned by the Santa Clara Valley Water District and located in the County of Santa Clara, including any upstream or downstream construction or operational improvements for flood protection, environmental restoration, or fish passage that may be required to implement that activity or work.

(2) “District” means the Santa Clara Valley Water District.

(3) “Permit” means a permit, agreement, certification, approval, authorization, permission, notice to proceed, or directive, or issuance of this document, from a state agency that is necessary for the project to proceed.

(4) “State agency” means a state agency, board, commission, or department with the authority to issue permits that would authorize the project or project-related work.

(b) A state agency may do any of the following:

(1) Enter into an agreement with the district to recover costs for actions authorized by this section that are above the usual level of service provided by the state agency to expedite the review of environmental documents prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or permit processing and approval for the Anderson Dam project with the goal of compliance with this division and completing permit review and approval in an expeditious manner.

(2) Hire or compensate staff or contract for services needed to achieve the goals described in paragraph (1).

(3) Work collaboratively with local, state, and federal agencies on an integrated regulatory approach similar to efforts implemented by the state permitting agencies for projects funded by the San Francisco Bay area Measure AA, the San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Program.

(c) This section does not limit the authority or discretion of a state agency with regards to processing a permit application, the issuance of a permit, or any conditions that may be required in conjunction with the issuance of a permit.

1 (d) The Federal Energy Regulatory Commission, the United  
2 States Army Corps of Engineers, the United States Fish and  
3 Wildlife Service, the National Marine Fisheries Service, and the  
4 United States Environmental Protection Agency may, and are  
5 encouraged to, participate in any integrated regulatory approach  
6 authorized by this section.

7 SEC. 6. Section 13260.1 is added to the Water Code, to read:

8 13260.1. (a) For purposes of this section, the following  
9 definitions apply:

10 (1) “Anderson Dam project” or “project” has the same meaning  
11 as set forth in Section 6700.

12 (2) “District” means the Santa Clara Valley Water District.

13 (b) Notwithstanding any other law, within 120 days of receipt  
14 of a report of waste discharge from the district with respect to the  
15 Anderson Dam project pursuant to Section 13260, the board shall  
16 prescribe requirements as to the nature of the proposed discharge.  
17 Consistent with Section 13263, the requirements shall implement  
18 any relevant water quality control plans that have been adopted  
19 and shall take into consideration the beneficial uses to be protected,  
20 the water quality objectives reasonably required for that purpose,  
21 other waste discharges, the need to prevent nuisance, and the  
22 requirements of Section 13241.

23 SEC. 7. The Legislature finds and declares that a special statute  
24 is necessary and that a general statute cannot be made applicable  
25 within the meaning of Section 16 of Article IV of the California  
26 Constitution because of the findings set forth in Section 1 of this  
27 act.

28 SEC. 8. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.

37 SEC. 9. This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety within  
39 the meaning of Article IV of the California Constitution and shall  
40 go into immediate effect. The facts constituting the necessity are:

1 The Leroy Anderson Dam, located in the County of Santa Clara,  
2 has been determined by local, state, and federal officials to be at  
3 risk of an uncontrolled release of water caused by an earthquake.  
4 A breach of the dam at full capacity would have catastrophic  
5 consequences for life and property, inundating an area extending  
6 more than 30 miles northwest to San Francisco Bay, including the  
7 Cities of Milpitas, San Jose, Santa Clara, and Sunnyvale, and more  
8 than 40 miles southeast to Monterey Bay, including the Cities of  
9 Gilroy, Morgan Hill, and Watsonville. Expedited action by state  
10 government is necessary in order to reduce the risk to life and  
11 property and the state and national economies. Therefore, it is  
12 necessary that this act take effect immediately.

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