

Date of Hearing: June 2, 2020

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Lorena Gonzalez, Chair

AB 3005 (Robert Rivas) – As Amended May 4, 2020

Policy Committee: Water, Parks and Wildlife

Vote: 14 - 0

Urgency: Yes

State Mandated Local Program: Yes

Reimbursable: No

**SUMMARY:**

This bill expedites permitting and allows alternative contracting in order to facilitate the replacement of the Leroy Anderson Dam and Reservoir (Anderson Dam). Specifically, this bill:

- 1) Requires the Department of Fish and Wildlife (DFW), to issue a final Lake and Streambed Alteration Agreement (LSAA) within 180 days of receipt of a LSAA notification from the Santa Clara Valley Water Agency, if other specified requirements have been met.
- 2) Requires the State Water Resources Control Board (State Water Board) to issue project certification within 180 days after the Santa Clara Valley Water Agency does all of the following:
  - a) Files a complete application for project certification.
  - b) Files a complete application or petition for all water rights approvals necessary to implement the Anderson Dam project.
  - c) Completes and certifies the adequacy of environmental documentation for the project certification required under the California Environmental Quality Act (CEQA).
- 3) Authorizes 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 with Santa Clara Valley Water Agency for the recovery of certain costs.
- 4) Authorizes the Santa Clara Valley Water Agency to award contracts on a best value basis for any work for the Anderson Dam project. Prohibits a best value contractor from being prequalified or shortlisted unless the contractor provides an enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project, as specified. This prohibition does not apply if the water agency or the contractor have entered into a project labor agreement (PLA).

**FISCAL EFFECT:**

DFW and State Water Board costs are minor and absorbable.

**COMMENTS:**

- 1) **Background and Purpose.** The Department of Water Resources' Division of Safety of Dams rates Anderson Dam as having extremely high downstream hazard due to seismic risk. Anderson Dam is currently operated at a restricted level due to these seismic concerns.

In 2017, a series of atmospheric river storms filled Anderson Reservoir and resulted in water flowing over the spillway and into the creek below. Flooding along Coyote Creek caused an estimated \$73 million in property damage to San Jose homes and businesses.

On February 20, 2020, the Federal Energy Regulatory Commission (FERC) ordered Santa Clara Valley Water District to begin draining the reservoir by October 1, 2020 to "deadpool" – the level at which water in the reservoir cannot be drained by gravity through the dam's outlet – and to construct a low level outlet tunnel as soon as possible.

The Anderson Dam Seismic Retrofit Project was initiated in 2012 and is estimated to cost \$576 million. The project is paid for through a local benefit assessment and does not involve any state funds.

This bill requires expedited processing of state permits by the DFW and the State Water Board and allows for alternative contracting to ensure the respondent with the appropriate expertise rather than the lowest bid is chosen for the project.

- 2) **Amendments.** The author has proposed amendments to provide flexibility on timeframes and make other technical and clarifying changes.

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