

ASSEMBLY THIRD READING

AB 3005 (Robert Rivas)

As Amended June 3, 2020

2/3 vote. Urgency

SUMMARY:

Expedites permitting and contracting requirements in order to facilitate the replacement of the Leroy Anderson Dam and Reservoir (Anderson Dam).

Major Provisions

- 1) Defines the Anderson Dam project as any activity or work of construction to retrofit, repair, replace, or improve the safety of the Leroy Anderson Dam and Reservoir, owned by the Santa Clara Valley Water District (Valley Water) and located in the County of Santa Clara, including any upstream or downstream construction, improvements, changes in operational activities, and flood protection measures that may be required to implement that activity or work.
- 2) Requires the Department of Fish and Wildlife (DFW), to issue a final Lake and Streambed Alteration Agreement (LSAA) to Valley Water that includes reasonable measures necessary to protect the affected resource within 180 days of receipt of a LSAA notification from Valley Water and if other specified requirements have been met. Allows for an extension of the 180 day time period through a mutual agreement between the DFW and Valley Water.
- 3) Requires the State Water Resources Control Board (SWRCB) to issue project certification within 180 days after specified actions by Valley Water, and specifies procedures and requirements that govern the determination of whether a project certification application is complete.
- 4) 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 Valley Water for the recovery of certain costs.
- 5) Authorizes Valley Water, upon approval by its board of directors, to award contracts on a best value basis, as specified, for any work for the Anderson Dam project.
- 6) Prohibits 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. This prohibition does not apply if Valley Water or the contractor have entered into a project labor agreement (PLA).

COMMENTS:

Leroy Anderson Dam and Reservoir. Anderson Dam is a large earthen dam located near Morgan Hill, California, that impounds Santa Clara County's largest surface water reservoir – Anderson Reservoir. The dam and reservoir are owned and operated by Valley Water, and the reservoir stores local rainwater runoff and imported water from the Central Valley Project. With a capacity of nearly 90,000 acre-feet, the reservoir is a part of the region's water supply system for drinking water and a water source for groundwater recharge projects.

Seismic Concerns. Experts estimate that a magnitude 7.25 earthquake on the Calaveras Fault centered less than 2 km (1.25 miles) from the dam, or a magnitude 6.6 earthquake on the Coyote Creek Fault centered beneath the dam, could significantly damage the dam embankment and lead to dam failure and the uncontrolled release of water. A catastrophic failure of the dam would impact thousands of people and property in Santa Clara, San Benito, Monterey, and Santa Cruz counties, with effects impacting the immediate vicinity, Silicon Valley, and the San Francisco Bay and Monterey Bay areas.

Anderson Dam is currently operated at a restricted level due to these seismic concerns. However, because the dam outlet is too small, the seismic restriction to keep the reservoir at reduced capacity cannot always be met. On February 20, 2020, the Federal Energy Regulatory Commission (FERC) ordered Valley Water 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.

Anderson Dam Reconstruction Plans. The Anderson Dam Seismic Retrofit Project was initiated in 2012 and is estimated to cost \$576 million. The project will remove most of the existing earthen dam and replace it. The new dam will be constructed to modern seismic and dam safety standards, including increased capacities for the spillway and outlet to allow a rapid, controlled draw down in an emergency. These features are intended to increase dam safety and incidental flood protection.

This bill seeks to expedite permitting and contracting requirements in order to facilitate the Anderson Dam project. Other recent large dam retrofits have not sought the same expedited processes that would be required by this bill.

According to the Author:

AB 3005, The Expedited Dam Safety for Silicon Valley Act, will facilitate the speedy and expert construction of the Anderson Dam Seismic Retrofit Project that will protect lives and property from Dam failure, reduce flood risk for downstream communities, and restore Anderson Reservoir's supply of clean, safe drinking water for the region. The bill authorizes the most efficient, safest, and best overall value selection of the construction contractor and requires a skilled and trained workforce for the project. AB 3005 requires expedited processing of state permits by the Department of Fish and Wildlife and the State Water Resources Control Board, with costs covered by Valley Water, not the state.

Arguments in Support:

Those in support argue that this bill is primarily related to public safety and helps ensure the state does its part to expeditiously eliminate the risk of a devastating loss of life, property, and thousands of job-creating Silicon Valley businesses from the potential failure of the Anderson Dam.

Arguments in Opposition:

Those in opposition argue that, while the bill is well-intentioned, the timelines required by the bill may leave state agencies with inadequate time to identify necessary recommendations to sufficiently protect public trust resources, including fish and wildlife, and beneficial uses as required by existing state law.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, the costs to the DFW and the SWRCB are minor and absorbable.

VOTES:**ASM WATER, PARKS, AND WILDLIFE: 14-0-0**

YES: Eduardo Garcia, Megan Dahle, Bigelow, Flora, Chu, Friedman, Cristina Garcia, Gloria, Kalra, Levine, Mathis, Blanca Rubio, Salas, Wood

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

UPDATED:

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