

ASSEMBLY BILL

No. 1586

Introduced by Assembly Member Mathis

January 6, 2016

An act to add Section 21168.10 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1586, as introduced, Mathis. California Environmental Quality Act: Temperance Flat Reservoir.

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 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 a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.

This bill would prohibit the court, in an action or proceeding brought alleging a violation of CEQA, from staying or enjoining the construction or operation of the Temperance Flat Reservoir unless the court makes certain findings.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Temperance Flat Reservoir.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 21168.10 is added to the Public Resources
2 Code, to read:
3 21168.10. (a) For purposes of this section, “project” means
4 the Temperance Flat Reservoir described in the Upper San Joaquin
5 River Basin Storage Investigation Draft Environmental Impact
6 Statement issued in August, 2014.
7 (b) (1) Notwithstanding any other law, in granting relief in an
8 action or proceeding brought pursuant to this division challenging
9 the project, the court shall not stay or enjoin the construction or
10 operation of the project unless the court finds either of the
11 following:
12 (A) The continued construction or operation of the project
13 presents an imminent threat to public health and safety.
14 (B) The project site contains unforeseen important Native
15 American artifacts or unforeseen important historical,
16 archaeological, or ecological values that would be materially,
17 permanently, and adversely affected by the continued construction
18 or operation of the project unless the courts stays or enjoins the
19 construction or operation of the project.
20 (2) If the court finds that subparagraph (A) or (B) of paragraph
21 (1) is satisfied, the court shall only enjoin those specific activities
22 associated with the project that present an imminent threat to public
23 health and safety or that materially, permanently, and adversely
24 affect unforeseen important Native American artifacts or
25 unforeseen important historical, archaeological, or ecological
26 values.
27 SEC. 2. The Legislature finds and declares that a special law
28 is necessary and that a general law cannot be made applicable
29 within the meaning of Section 16 of Article IV of the California
30 Constitution because of the unique circumstances caused by the
31 drought in the San Joaquin Valley.

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