

**Introduced by Senator Cannella**

February 21, 2014

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An act to add Section 21168.11 to the Public Resources Code, relating to environmental quality.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1398, as introduced, Cannella. Environmental quality: flood control activities: Salinas River.

The California Environmental Quality Act 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. The act 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. The act authorizes the court, in an action or proceeding challenging a decision of a public agency on the ground of noncompliance with the act, to enter an order that includes, among other things, a mandate to suspend any or all specific project activities that could result in an adverse change or alteration to the physical environment until the public agency has taken actions that maybe necessary to bring the public agency into compliance with the act.

This bill would, for maintenance activities along the Salinas River meeting specified requirements, prohibit the court in such an action from staying or enjoining those maintenance activities unless those activities present an imminent threat to public health and safety or would

materially, permanently, and adversely affect unforeseen important Native American artifacts, or unforeseen important historical, archaeological, or ecological values.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Salinas River in the County of Monterey.

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. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The Salinas River is the central coast's largest river and is  
4 within the fourth largest watershed in California, flowing 170 miles  
5 from the mountains of San Luis Obispo County northward to  
6 Monterey Bay. Most rivers in California flow west or south.  
7 Because it flows northward and has one of the largest subsurface  
8 flows in the nation, the Salinas River is called "the Upside Down  
9 River."

10 (2) The Salinas River flows into the Monterey Bay National  
11 Marine Sanctuary, one of the world's most diverse marine  
12 ecosystems. The river is designated by the State Water Resources  
13 Control Board as one of the most critical watersheds in California  
14 due to degrading habitats and nonpoint source pollution impacts.

15 (3) The Salinas River is a wildlife corridor providing the  
16 principle source of water from its reservoirs and tributaries for the  
17 farms and vineyards of the Salinas Valley. The Salinas River  
18 watershed, which includes the Nacimiento River, San Antonio  
19 River, Estrella River, and Arroyo Seco River, encompasses  
20 approximately 4,200 square miles. It supplies the water for central  
21 coast cities from San Luis Obispo to Salinas as well as one of the  
22 most productive agricultural valleys in the United States.

23 (4) The Salinas Valley region produces strawberries, wine  
24 grapes, and other crops. Farming supports local families with two  
25 in five households relying on income related to agriculture, which  
26 supports 45,000 jobs. Farming supports the local economy.  
27 Agriculture contributes over \$4.14 billion per year to Monterey  
28 County's economic output, with a total impact of over \$8.7 billion  
29 on the local economy. Farming provides a healthy local food

1 supply. Monterey County farmers are among the most productive  
2 and efficient in the world growing more than 150 crops.

3 (5) Farming shapes the local landscape. For every acre of  
4 buildings and pavement in Monterey County there are four acres  
5 of strawberries, lettuce, grapes, or other crops. Farming supports  
6 local communities. Agriculture generates tax revenues for  
7 Monterey County supporting services that enhance everyone's  
8 quality of life.

9 (6) In 1995, devastating flooding occurred throughout Monterey  
10 County. The floods resulted in countywide devastation to private  
11 property resulting in over 11,000 evacuations and damage to homes  
12 and businesses. Sewage treatment facilities and private septic  
13 systems along the river were flooded and untreated sewage was  
14 released into the river.

15 (7) Countywide losses from flooding in 1998 were estimated  
16 at over \$38 million, with agriculture-related losses totaling over  
17 \$7 million and involving approximately 29,000 acres of prime  
18 farmland that were damaged.

19 (8) The Salinas River system is complex and currently  
20 overgrown with nonnative vegetation. The river flows through the  
21 richest and most valuable land in the state from which crops are  
22 shipped to every portion of the world. If this area were to flood,  
23 the economic impact would be felt on a local, state, national, and  
24 even worldwide level.

25 (9) The Salinas River needs a flood maintenance program that  
26 allows for holistic flood management that considers the agriculture  
27 resources, environmental interests, and the local economy.

28 (b) It is the intent of the Legislature to facilitate maintenance  
29 activities along the Salinas River for the purposes of flood  
30 protection.

31 SEC. 2. Section 21168.11 is added to the Public Resources  
32 Code, to read:

33 21168.11. (a) For the purposes of this section, "maintenance  
34 activities" mean activities specified in a plan for flood control  
35 purposes along the Salinas River in the County of Monterey if  
36 both of the following requirements are met:

37 (1) The proposed activities are in compliance with all federal,  
38 state, and local laws and regulations, including water quality and  
39 species protection.

1 (2) The plan is developed in conjunction with local stakeholders,  
2 including environmental groups, affected landowners, agricultural  
3 interests, and other water users.

4 (b) (1) Notwithstanding Section 21168.9, for an action or  
5 proceeding brought pursuant to this division to attack, review, set  
6 aside, void, or annul the decision of a public agency regarding  
7 maintenance activities meeting the requirements of subdivision  
8 (a), the court, in granting relief in the action or proceeding, shall  
9 not stay or enjoin the maintenance activities unless the court finds  
10 either of the following:

11 (A) The maintenance activities present imminent threat to the  
12 public health and safety.

13 (B) The site where the maintenance activities would occur  
14 contains unforeseen Native American artifacts or unforeseen  
15 important historical, archaeological, or ecological values that would  
16 be materially, permanently, and adversely affected by the  
17 maintenance activities.

18 (2) If the court finds that subparagraph (A) or (B) of paragraph  
19 (1) is satisfied, the court shall only enjoin those specific  
20 maintenance activities that present imminent threat to public health  
21 and safety or that materially, permanently, and adversely affect  
22 unforeseen important Native American artifacts, or unforeseen  
23 important historical, archaeological, or ecological values.

24 SEC. 3. The Legislature finds and declares that a special law  
25 is necessary and that a general law cannot be made applicable  
26 within the meaning of Section 16 of Article IV of the California  
27 Constitution because of the unique circumstances existing along  
28 the Salinas River in the County of Monterey.