

**From:** Lutenski, Leigh (ECN) <leigh.lutenski@sfgov.org>  
**Sent:** Sunday, April 19, 2020 4:45 PM  
**To:** ECN, BalboaReservoirCompliance (ECN) <balboareservoircompliance.ecn@sfgov.org>  
**Subject:** Fw: April 8, '20, virtual CAC meeting, DSG guidelines, ELDP status and timeline

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**From:** Harry Bernstein <riquerique@yahoo.com>  
**Sent:** Wednesday, April 8, 2020 7:12 PM  
**To:** BRCAC (ECN) <brcac@sfgov.org>  
**Subject:** April 8, '20, virtual CAC meeting, DSG guidelines, ELDP status and timeline

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by Harry Bernstein on Item 3, on an aspect of the DSG, for CAC members--  
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Governor Newsom approved the Balboa Reservoir Project's designation as an Environmental Leadership Development Project (ELDP) on December, 30, 2019, from AB 900—the Jobs and Economic Leadership Act of 2011, as amended 8/26/16. Qualifying projects are rewarded by receiving expedited judicial review of CEQA issues. By the way, the ELDP status is highlighted on p. 25 of the Design Standards and Guidelines for the project (DSG).

According to one relevant clause of the Public Resources Code, SECTION 1. **21178 (c)** The Legislature finds and declares all of the following:

> this legislation applies to “large projects... that would replace old and outmoded facilities with new job-creating facilities to meet those regions’ needs...”  
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Since the Balboa Reservoir project is for a new facility rather than an old and outmoded one, it appears questionable as to whether it actually qualifies—see documentation below.

The other issue is that although the Planning Department filed its application on June 25, 2019, it is assumed that the public, including the BRCAC, whether inadvertently or otherwise, was not informed of this application between then and the time that public comment period closed on July 28, 2019. One BRCAC member, Mr. Ahrens, said that he first became aware of the Public Resources Code and the ELDP designation on August 7. So today there is a request, courtesy of aj, for all BRCAC members to submit personal statements for the Reservoir Project administrative Record to answer two questions:

- 1 ) Was the community informed about the AB 900 Application to the State Clearinghouse to allow for public review within the allotted timeframe?
- 2 ) Were you and the BRCAC notified in a timely manner about the opportunity for public review and comment of the Balboa Project's application for ELDP status.

This can be sent to [cpc.balboareservoir@sfgov.org](mailto:cpc.balboareservoir@sfgov.org). [The specific subject is the timeliness of notification for the AB 900--Application SCH # 2018102028.]

Being able to comment on the prospect of expedited review for this process would have been of interest to many members of the community who have been attending BRCAC meetings. After all, CEQA review was already underway at the time that the AB 900 Application was open for public comment, but a person cannot comment on something he or she does not know about.  
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## DOCUMENTATION—

SECTION 1. **21178.** of the Public Resources Code, as amended on 8/26/16

The Legislature finds and declares all of the following:

*21178 (c) There are large projects under consideration in various regions of the state that would replace old and outmoded facilities with new job-creating facilities to meet those regions' needs while also establishing new, cutting-edge environmental benefits to those regions.*

notification for the AB 900 Application SCH # 2018102028 was filed by SF Planning Dept on 6/25/2019.

AB 900 is enacted in PRC Div 13, Ch. 6.5 "Jobs and Economic Improvement Through Leadership Act of 2011", Sections 21178-21189 [https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PRC&division=13.&title=&part=&chapter=6.5.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&title=&part=&chapter=6.5.&article=)