



April 11, 2018

The Honorable Al Muratsuchi
Acting Chair,
Assembly Committee on Natural Resources
Sacramento CA, 95814

RE: AB 2754 (Levine) California Coastal Act of 1976: Coastal Development-- OPPOSE

Dear Acting Chair Muratsuchi:

The undersigned organizations oppose AB 2754, which seeks to exclude “routine and ongoing” agricultural activities (as defined in the Department of Fish and Wildlife Regulations), from the definition of “development” under the California Coastal Act. The listed activities in subdivision (b) of Section 786.1 of Title 14 of the California Code of Regulations were designed for consideration of incidental take permits by the Department, which is a wholly different purpose than implementing Coastal Act policies to protect coastal resources. In the coastal context, this list is random and arbitrary.

The list of excluded activities is just that—a list. There is no standard for determining whether or not an

activity is truly ongoing. The bill simply states that a whole class of activities is, by definition, “ongoing”. This list includes dairies, vineyards, fur farms, fish farms, and poultry operations, to name a few. These activities have the obvious potential to create substantial harm to coastal resources, from runoff, habitat conversion, waste discharge, manure management and impairment to landforms, scenic views and public access. Assuming these types of development to be exempt unless a finding of “substantial impact” is made will create the expectation that these activities no longer require review. In practice, this will lead to misunderstandings and confusion that will make agricultural operators more vulnerable to enforcement actions and litigation, not less.

The Coastal Act requires that new development in the coastal zone must not harm coastal resources, including but not limited to wetlands, sensitive habitat, scenic views, public access and the biological productivity of ocean waters. The Coastal Act defines “development” broadly to include not just physical structures, but activities that increase the intensity of use of land or water. The mechanism for ensuring that activities won’t harm coastal resources is through the issuance of a coastal development permit (CDP). By exempting the list of agricultural activities referenced in the bill—a list that includes almost every conceivable agricultural activity—this bill effectively exempts an entire industry from having to comply with the Coastal Act. Nothing like this has ever happened in the Coastal Act’s 42-year history. This bill would set a dangerous precedent.

Waiving permit requirements unless the Commission makes a finding of “substantial impact” introduces a new standard of review which is less protective than current law. The bill provides no procedural pathway for the Commission or local government to actually make such a determination in the first place. Most operators will assume their activities are exempt simply because they are on the list, and not seek any determination whatsoever. The result will be increased impacts on currently protected resources. The cumulative impact will most certainly be substantial.

We question the need for this bill. Truly routine and ongoing agricultural activities don’t meet the definition of development under existing law, and coastal permits are not currently required. Local governments already have the authority to exempt other agricultural activities as appropriate in their LCPs through the Categorical Exclusion process (PRC Section 30604). The Coastal Act has done an admirable job of ensuring the long term viability of agriculture in the coastal zone by prohibiting subdivisions and conversion to non-agricultural uses, and slowing sprawl by maintaining the urban/rural boundary. It’s understandable that farmers and ranchers would prefer less regulation, but that is true of every regulated entity, everywhere. The Coastal Act and the LCPs provide ample opportunities for regulatory relief through administrative permits, waivers and categorical exclusions which nearly every county has adopted. Any changes to the permitting process should be made through the LCP amendment process, with adequate public participation and full Coastal Commission oversight.

For these reasons, we must regretfully oppose this measure and urge your NO vote.

Sincerely,

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Cc: Assemblymember Marc Levine, Committee on Natural Resources Members and Staff