



June 2, 2021

The Honorable Dave Cortese
Member, California State Senate
State Capitol, Room 3070
Sacramento, CA 95814

**RE: Senate Bill 37 – OPPOSE
As Amended April 13, 2021**

Dear Senator Cortese:

On behalf of the Rural County Representatives of California (RCRC), I am writing to respectfully express our opposition to your Senate Bill 37 regarding the California Environmental Quality Act (CEQA). RCRC is an association of thirty-seven rural California counties, and the RCRC Board of Directors is comprised of elected supervisors from each member county.

SB 37 prohibits use of CEQA's "common sense" exemption for projects on sites listed on the state's Cortese List. The Cortese List is a compendium of sites contaminated by the improper disposal or discharge of hazardous wastes or materials, including sites subject to corrective action and where a leaking underground storage tank has caused pollution. While the Cortese List includes contaminated sites where remediation is active or has not yet occurred, it also includes tens of thousands of sites that have already been remediated and whose cases are closed.

Added Process Without Added Benefit. By eliminating the "common sense exemption" for projects on Cortese List sites, RCRC is concerned that SB 37 creates more process without any commensurate public benefit. CEQA applies to discretionary actions by governmental agencies where the project will have a significant effect on the environment. The "common sense exemption" can only be used "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."ⁱ Unlike actions at privately-owned sites where a discretionary governmental action may not be required, all projects undertaken at sites owned or operated by a local or state agency will involve discretionary actions. This means that SB 37 seeks to substantially expand CEQA to any projects undertaken on a site owned by a governmental entity that appears on the Cortese List, even when the project would

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not otherwise be subject to CEQA because it will have no significant impact on the environment.

Sites Impacted by SB 37. Repealing use of the “common sense exemption” will mean that all projects undertaken by state and local governments at their Cortese List sites will have to conduct an initial study and prepare a Negative Declaration – adding significant cost and time to those undertakings. These local- and state-owned sites include municipal and state corporation yards, equipment repair facilities, municipal airports (often in rural areas), fire stations, municipal administration buildings, courthouses, correctional facilities, highway patrol stations, state parks, closed landfills, etc. Other private sites often found in rural area include legacy mines and sawmills.

Projects Impacted by SB 37. Ironically, SB 37 could add costs and delays to projects intended to keep the public away from sites on the Cortese List and sensitive operations at those locations. Other types of projects that would be unnecessarily subjected to CEQA by SB 37 could include:

- Extension of a previously approved use permit or site approval^{ii, iii, iv, v}
- Post-closure permit renewal (including by DTSC)^{vi, vii}
- Continuation of an existing lease^{viii}
- Replacement of an existing roof^{ix}
- Installation of security equipment^x and fencing^{xi}
- Installation of solar or energy storage projects^{xii}
- Maintenance or replacement of existing structures and facilities^{xiii, xiv}
- Interior alterations at an existing building^{xv}
- Sampling, landfill repairs, and drainage improvements at a closed landfill^{xvi}
- Replacing failing asphalt and concrete parking bumpers and crack treatment^{xvii}
- Installation of a rain canopy structure^{xviii}

Unclear Duration. Finally, it is not clear how (or if) sites can be removed from the Cortese List after the remediation has been completed. There are thousands of sites listed because of leaking underground storage tanks but where the remediation action has already been completed. It makes no sense to preclude use of the “common sense exemption” for projects at local agency sites that have already been remediated.

In conclusion, we are concerned that SB 37 is overly broad and will impose additional costs and delays for minor projects at thousands of sites owned and operated by local governments. For these reasons, we regretfully oppose your SB 37, but look forward to working with you to address the concerns articulated above. If you should have any questions, please do not hesitate to contact me at jkennedy@rcrcnet.org or (916) 447-4806.

Sincerely,



JOHN KENNEDY
Legislative Advocate

cc: The Honorable Luz Rivas, Chair, Assembly Natural Resources Committee
Members of the Assembly Natural Resources Committee
Members of the Senate Environmental Quality Committee
Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee
Kirstin Kolpitcke, Consultant, Assembly Republican Caucus
Gabrielle Meindl, Chief Consultant, Senate Environmental Quality Committee
Genevieve Wong, Consultant, Senate Environmental Quality Committee
Scott Seekatz, Consultant, Senate Republican Caucus

ⁱ 14 California Code of Regulations Section 15061(b)(3)

NOTE: The following examples illustrate the types of projects for which the "common sense exemption" has been used. While these projects were not undertaken at Cortese List sites, they are illustrative of the types of projects for which the exemption could no longer be used at those locations:

ⁱⁱ <https://ceqanet.opr.ca.gov/2018062035/2>

ⁱⁱⁱ <https://ceqanet.opr.ca.gov/2020070164/2>

^{iv} <https://ceqanet.opr.ca.gov/2019120494/2>

^v <https://ceqanet.opr.ca.gov/2020090097/2>

^{vi} <https://ceqanet.opr.ca.gov/2019090173/2>

^{vii} <https://ceqanet.opr.ca.gov/2019120627/2>

^{viii} <https://ceqanet.opr.ca.gov/1999068075>

^{ix} <https://ceqanet.opr.ca.gov/2020040173/2>

^x <https://ceqanet.opr.ca.gov/2020050264/2>

^{xi} <https://ceqanet.opr.ca.gov/2020020473/2>

^{xii} <https://files.ceqanet.opr.ca.gov/253269->

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^{xiii} <https://ceqanet.opr.ca.gov/2020060056/2>

^{xiv} <https://ceqanet.opr.ca.gov/2020040154/2>

^{xv} <https://ceqanet.opr.ca.gov/2020050020/2>

^{xvi} <https://files.ceqanet.opr.ca.gov/267282->

[2/attachment/KyFB2wNuW4Fzlm0LVdiq5KCqiZUkpu5rLYrvBWYk70yI0fQy_Wk17x13A_dwjwSCnoUP8bFjpmMCC5N0](https://files.ceqanet.opr.ca.gov/267282-2/attachment/KyFB2wNuW4Fzlm0LVdiq5KCqiZUkpu5rLYrvBWYk70yI0fQy_Wk17x13A_dwjwSCnoUP8bFjpmMCC5N0)

^{xvii} <https://ceqanet.opr.ca.gov/2020070091/2>

^{xviii} <https://ceqanet.opr.ca.gov/2020020045/2>