

Landowner Rights and Responsibilities

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CFBF Land Use Policy Objectives

California agriculture has long been the envy of the world because of its exceptionally high productivity and innovative research and technology. Our nation was also blessed with the public policy genius of Governor Edmund G. "Pat" Brown who had the foresight to create an infrastructure network that provides water and allows for efficient transportation of commodities from farm to market. Of course the federal government had an important role in the development of California's \$26 billion agricultural economy. The nation should be thankful for the land grant college system, the Central Valley Project, and the Cooperative Extension Service. As a 20-year employee of an organization whose roots are intertwined with the extension service, I would be remiss if I didn't give special attention to the important contribution of our farm advisors and extension specialists. These men and women have provided the critical link between new research developments and their practical applications on the farm. The Coop Extension deserves special recognition and our continued gratitude for its important work.

It is a pleasure to be with you this afternoon. The premise of my talk will be that landowner rights and responsibilities must be considered in the context of the governments' rights and responsibilities. Most agricultural landowners understand that they have the responsibility to be good stewards of the land, in part because their economic survival often depends on it. For the governments' part, the \$26 billion dollar question appears to be, Do our governmental policymakers have the collective will to enact and follow policies that support continued agriculture activity?

Unfortunately, I believe the answer is clearly no. While there may be isolated locales or regions that have implemented policy objectives that recognize the fact that the highest and best use of agricultural land can actually be agriculture, our state and local governments are still inclined to consider commercial development and the need for affordable housing as higher priorities.

The reasons why protection of our agricultural resources generally takes a back seat to new development projects are numerous; they are interrelated and both political and philosophical. From an individual's viewpoint, capitalism dictates that one can only generate new wealth by obtaining the highest financial return in commodity transactions. It is simple supply and demand economics. Land is often viewed as just another commodity, especially property on the urban fringe of rapidly growing cities and towns.

In his eloquent essay, Land Use Ethics and Property Rights, Dr. Richard Collins argues that "we must distinguish those property 'rights' that relate to the use, enjoyment, privacy, the right to

enforce trespass, and the right to dispose of and inherit land from the 'right' to gain the highest and immediate dollar return based on expectancy or speculative value. " Without passing judgement on this thesis, it should be noted that a growing number of farmers and ranchers have developed an alternative position based on the fact that human behavior is sometimes ruled by more than narrow self-interest. It may be the desire to pass a good farming business down to children, or perhaps it is an ethical judgement, such as placing a higher intrinsic value on the need for food production or the beauty of open-space. This concern about protecting open-space is clearly shared by a broad segment of the public who view it as a highly desirable social amenity. But the public's love for open-space could actually hasten the demise of California agriculture as it is at risk of being love to death. Specifically, more rigorous public scrutiny of agricultural practices and proposed changes in cropping patterns is creating tension between landowners and government officials.

Since the inception of California's Planning and Zoning Law in 1965, farmers and ranchers have come to accept the power granted local governments to create and implement comprehensive land use plans, known as general plans. General plan land use designations and local zoning ordinances can severely limit the land use options on any given parcel. The policy of the California Farm Bureau Federation (CFBF) not only reflects an understanding of the right of cities and counties to plan for future growth and development; it actually encourages more responsible planning to protect its members' right to farm. (Below is a summary of CFBF's most pertinent ag resource protection policies.) In the debate over private property rights, California farmers and ranchers appreciate that their neighbors' unfettered use of their land could significantly impinge on and potentially deny their right to continue to pursue their livelihood in agriculture.

A recent issue paper for the [Joint Policy Council on Agriculture and Higher Education](#) (JPC) describes the types of urban-agricultural interface or edge issues and the need to mitigate impacts at both a macro and micro level. The intent of the JPC paper is to provide specificity to the relevant issues involved in four types of interfaces-Urban:Ag, Ag:Wildland, Urban:Wildland, and Rural Residential:Ag-and it understandably predicts that with population growth and the increased political power of the urban sector, decisions that affect edge issues will become more important to agriculture. Recent events in several regions of state have proven this statement to be a monumental understatement.

Urban refugees seeking a rural lifestyle and environmentalists intent on protecting all natural landscapes have escalated the already controversial debate regarding government regulation of private land. I believe that California's agricultural landowners have shown admirable self-control considering the significant new constraints imposed on their farming practices. As you may know, agriculture is one of our nation's most regulated industries. For example, there are regulations dealing with employee safety, air quality, consumer, safety, and water quality. Farmers and ranchers certainly appreciate the need to protect the public health and safety, but they tend to draw the line when new restrictions are based on the more broadly interpreted doctrine of protecting the public welfare.

Many of California's agricultural landowners have felt abused by societal concerns over wetlands as expressed in the federal Clean Water Act, the Food Security Act of 1985, and the Food,

Agriculture, Conservation and Trade Act of 1990, but they have acted responsibly when they perceive that they've been treated fairly. That is why we are optimistic that Farm Bureau led efforts to voluntarily develop watershed management plans, combined with government financed performance-based incentive programs, will help to significantly reduce nonpoint source pollution.

This is not to say that we are all singing Hakuna Matata in California's heartland. Even farmers and ranchers who realize that they do not have a constitutional right to subdivide their land, are understandably angry about the heavy-handed techniques of some of our governmental agencies that try to dictate how and where they can farm their own land. This type of bureaucratic abuse is not only damaging our efforts to protect California's agricultural resources; it could ultimately do serious damage to our agricultural economy. We cannot continue to squeeze agriculture between the pressure of urban conversion and ever-increasing restriction on farming practices without a lot of our food producers just giving up. But please believe me when I tell you that our members have no intent on giving up without one helluva fight.

Quality of life issues, including the protection of view sheds and open-space, are now directly affecting landowners' ability to practice agriculture. Governmental restrictions to protect wetlands and habitat areas for endangered species are not new. But now there is growing public outcry over conversion of other natural habitats to cultivated agriculture, such as vineyard production. Recently, a proposed restriction by a county government on the conversion of rangeland to more intensive agricultural pursuits resulted in a series of protests complete with tractor-cades. The County of Santa Barbara proposed that certain farming practices be subject to conditional use permits, even on land zoned exclusively for agriculture, in order to protect new broadly defined environmentally sensitive areas. As demonstrated by the landowners' outrage, the agricultural community simply can't tolerate the notion of having to obtain government permission to cultivate their land.

Is the government fairly exercising its right to regulate land use or has the regulatory line been moved? Do farmers and ranchers really have a responsibility to give up their right to exercise their reasonable, investment-back expectations for the use of their property in order to protect a social amenity as ethereal as a someone else's view shed?

If a Santa Barbara rancher can't survive economically by raising cattle, yet could make up to \$4000 per acre growing wine grapes, should neighbors be allowed to prevent the plantings simply because they would rather look at cattle than grapevines?

What if the protesting neighbors were other wine grape growers who feared price declines from overproduction and simply wanted to stop the rancher from planting grapes because it would likely help depress future commodity prices? Believers in a free market economy would reject this scenario without hesitation, yet would probably feel compelled to protest at the thought of seeing their own property values reduced by a neighbor's unrestrained agricultural use of their land even if it was zoned exclusively for agriculture. In a perverse ruling, the U.S. Supreme Court recently let stand an Iowa ruling that overturned the state's right-to-farm law. The Iowa Supreme Court held that their state's statute was unconstitutional because it constituted a

"taking" of the neighbor's property rights without compensation. Yet, farmers and ranchers are scoffed at when they make similar claims due to government regulation for the public welfare.

What if our not-so hypothetical farmer is a coastal vegetable crop producer who wanted to convert to greenhouse cut flower production? Not unexpectedly, some nearby property owners have objected to such a change in use because they consider greenhouses more of an industrial land use than agricultural. You can imagine the outrage, and subsequent political arm-twisting, if the proposed greenhouses intruded on an ocean view from million-dollar coastal homes. Some have argued that building greenhouses on a coastal bluff is no different than building condominiums even though greenhouse production is a use by right in most agricultural zones. In Santa Cruz County, one such landowner was told he couldn't build greenhouses on his farmland even though greenhouses were expressly allowed in his land conservation contract with the county. The farmer filed a lawsuit and to his surprise was told that despite his contract, he had no right to build his greenhouses because one board of supervisors cannot contractually bind another future board. Is it any wonder that some farmers have been moved to take to the streets to protest their government's behavior?

My job for the California Farm Bureau is to be an advocate for farmers and ranchers who want to continue produce food and fiber in the efficient, profitable and responsible manner possible. In attempting to implement our policies on farmland protection and smart growth, my biggest fear has been that overzealous governmental regulation of agricultural enterprises will drive farmers and ranchers into the arms of developers.

With California's agricultural resources destined to decline due to ever-increasing pressure from urban sprawl and parcelization, there is an immediate need for all levels of government to reexamine their policies and regulatory activity relative to land use decisions, environmental protection, and their impacts on agricultural practices. Conflicting messages are being sent relative to policies and attitudes that actually encourage inefficient, low density development, and the growing recognition of the need to preserve farmland for the highest and best use of producing food and fiber for ourselves, the nation, and the world. There are also conflicting messages relative to government policies and activities that seek to regulate the use of privately-owned land for environmental reasons and the aforementioned need to keep agriculture profitable. Perhaps most importantly, there is the conflict federal estate tax policy and the desire to keep working landscapes in agricultural production.

Estate tax reform is another crucial example of an unexercised government responsibility. From my perspective, nothing should be higher on the federal tax reform agenda to protect the intergenerational transfer of farms and ranches to succeeding generations. Our congressional leaders must be made to understand that confiscatory estate taxes are forcing the unnecessary conversion of agricultural land and are a serious threat our national security.

The status quo is unacceptable.

If the government wants to protect the intrinsic value of farmland for future generations, it must make a greater effort to promote and encourage profitable agricultural enterprises. The primary focus of any incentive program must be to increase the profitability of farming and thus help to

maintain the business of agriculture, while protecting the land base with enforceable restrictions or conservation easements. Government can't force landowners to produce food any more than it can legislate ethical behavior, but it certainly can discourage it. Our goal must be to make sure that government promotes economically viable agricultural operations as well as encourages smart growth to contain urban sprawl.

In conclusion, I would simply reiterate, landowner rights and responsibilities must be considered in the context of the government's rights and responsibilities. If the government wants to protect the intrinsic value of farmland, it must make a greater effort to promote and encourage profitable agricultural enterprises.

CFBF Land Use Policy Objectives

- Encourage the recognition of farmland as an important resource that is worth protecting.
- Protect water resources necessary for agricultural production.
- Promote adoption of an agricultural element in county general plans.
- Promote adoption of right-to-farm ordinances to minimize conflicts with incompatible uses.
- Encourage implementation of sphere of influence and annexation policies to facilitate orderly, compact development and efficient use of infrastructure.
- Support infill growth and higher suburban densities prior to expansion onto agricultural land for more efficient use of our land resources.
- Oppose the creation of new towns or any urban "leap frog" centers in agricultural areas without strict mitigation of all the on-site and off-site impacts on ongoing agricultural operations.
- Seek implementation of mitigation measures to reduce the impacts of projects that convert agricultural land including the purchase of conservation easements or transfer of development credits.
- Protect the integrity of the California Land Conservation Act (Williamson Act) from the creation of potential loopholes or abuses by local officials and developers.
- Support local government revenue sharing agreements including sales tax redistribution plans to reduce the fiscalization of land use decisions.
- Reduce estate taxes on agricultural enterprises to ease the transfer of farm and ranch businesses across generations and to protect agricultural lands.