

AGRICULTURAL GROUNDWATER PRINCIPLES

JUNE 23, 2014

As legislative proposals to strengthen groundwater regulation are considered, the undersigned agricultural organizations request adherence to the following principles.

- 1) **Groundwater Reliance**: Increased reliance on groundwater for growing food, fiber and other agricultural commodities is due not only to a third year of drought, but also to restrictive environmental laws, court decisions and new regulations. This has significantly affected contractual entitlements to surface water and prevented the capture and delivery of flows of stormwater runoff through the Sacramento-San Joaquin Delta. This has reduced surface water availability to recharge groundwater basins and has forced farmers to rely more heavily on groundwater. Any legislation that creates a new groundwater management regime must be coupled with real, substantive actions to increase surface water supplies and restore water supply reliability within a specified time horizon.
- 2) **Protection of Property and Water Rights**: The reasonable and beneficial use of groundwater is a property right. Under California law, overlying landowners have a correlative right to reasonable and beneficial use of groundwater. Any proposal must recognize and respect these rights. This does not mean that overdraft should continue – overlying rights are limited to a basin’s safe yield – but that the existing nature and extent of groundwater rights should be maintained.
 - a. **Sustainable Yield** – The obligation to keep groundwater basins in balance should continue to be described as “the maximum amount of water that could be extracted annually, year after year, without eventually depleting the underground basin.”¹
 - b. **No Moratorium** – Access to groundwater should not be impeded except through the appropriate process to define groundwater rights. Any limits or controls on new overlying use must not extinguish or significantly impair overlying groundwater rights or devalue the land they attach to without payment of just compensation.
 - c. **Surface Water Rights** – Any new regulatory structure relating to groundwater must respect existing water rights and the state’s existing administration and legal characterization of these rights.
 - d. **Crop Dictation**: No groundwater management entity should be authorized to dictate crop types or agronomic practices. Although processes may improve management and clarify existing groundwater rights, how those rights are used must remain up to the landowner.

¹ City of Santa Maria v. Adam (2012) 211 Cal.App.4th 266, 279, quoting City of Los Angeles v. City of San Fernando (1975) 14 Cal.3d 199, 214.

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- 3) **Recharge**: Groundwater recharge should be established as a beneficial use of water.
- 4) **Economic Impacts to Local Economies**: Any new approach to groundwater management must protect and strengthen local and regional economies in the short and long-term. Water supply reliability – both surface water and groundwater – is the driver of economic stability and growth in key regions of the state. The impacts on these communities must be considered when developing sustainable groundwater management statutes and regulations, and identifying plans, funding sources and compliance requirements.
- 5) **Economic Impacts To Agriculture** : Restrictions on groundwater use potentially will reduce land values, limit availability of land acquisition and operational financing, negatively affect infrastructure investments, harm rural communities, and substantially alter land use. Legislative proposals on groundwater management must ensure that local water agencies provide input to local land use decision-makers, while protecting and preserving existing local land use authority.
- 6) **Governance**: Organizing a governance structure, nurturing consensus, and developing a workable groundwater management plan will take time. Local entities must develop a local governance structure that is effective, open and transparent, and durable. The governance structures may take many forms such as joint powers authorities, obtaining special act authority, etc. In all cases, governance structures must include overlying landowners.
- 7) **Local Control**: Compliance with state groundwater management statutes must rest with local authority to design and implement plans with technical assistance from the Department of Water Resources. State authority to intervene must be narrowly and specifically articulated in legislation to ensure that State-intervention is permitted only if a water basin or sub-basin is experiencing long term overdraft and if in such cases local authorities:
 - a. Fail to form a Local Groundwater Management Entity as required by the by legislation
 - b. Fail to submit a groundwater management plan as required by legislation
 - c. Fail to implement the groundwater management plan, as objectively measured by specific standards with exceptions for exigent circumstances

Legislation must also specify the specific criteria governing termination of state involvement.

- 8) **Funding**: Developing and implementing groundwater management plans and updating them as the need arises will be challenging and costly. Ongoing funding sources must be identified.

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- 9) **Adjudication**: Landowners must retain the ability to access the adjudicatory process as a means of perfecting their rights. Although this process may be improved, it should not be supplanted by or made subservient to a planning process.
- 10) **Minimize Regulatory and Economic Burdens**: Regulatory obligations, and the financial costs necessarily accompanying them, should be narrowly tailored to avoid imposing burdens where they will not return meaningful benefits to groundwater conditions. Fee authority should only be permitted in basins not in a condition of sustainable yield.
- 11) **Privacy**: To the extent that private information is provided as part of a groundwater management plan, the privacy of individual information must be ensured. All specific information provided by individuals to local or state agencies must be protected from the Public Records Act and only generally aggregated in reports.

These principles are supported by:

Agricultural Council of California

California Pear Growers Association

California Alfalfa & Forage Association

California Seed Association

California Association of Wheat Growers

California State Floral Association

California Bean Shippers Association

Family Winemakers of California

California Farm Bureau Federation

Pacific Egg & Poultry Association

California Grain & Feed Association

Paramount Farming Company

California League of Food Processors

Western Growers Association