

# County of San Luis Obispo Agricultural Liaison Advisory Board



Agricultural Liaison  
Advisory Board (ALAB)

## Positions/Members/Terms

CHAIR: Dee Lacey  
VICE CHAIR: Jean-Pierre Wolff

## MEETING AGENDA

District One: Mecham Appt.  
Dee Lacey (1/13)

District Two: Gibson Appt.  
Lisen Bonnier (1/11)

District Three: Hill Appt.  
Tom Ikeda (1/13)

District Four: Achadjian Appt.  
Bill Struble (1/11)

District Five: Patterson Appt.  
Noah Small (1/13)

Ag. Finance Rep.  
Mark Pearce (8/10)

Cattlemen Rep.  
Dick Nock

Coastal San Luis RCD Rep.  
Jean-Pierre Wolff (8/11)

Direct Marketing/Organic Rep.  
Eric Michielssen (4/12)

Environmental Rep.  
Debra Garrison (1/11)

Farm Bureau Rep.  
R. Don Warden

Nursery Rep.  
David Pruitt (4/12)

Upper Salinas-Las Tablas RCD Rep.  
Charles Pritchard (1/14)

Vegetable Rep.  
Richard Quandt (4/12)

Wine Grape Rep.  
Neil Roberts (4/12)

County Agricultural Commissioner  
Bob Lilley  
*Ex-Officio*

U.C. Coop. Extension Farm Advisor  
Mary Bianchi  
*Ex-Officio*

Monday, May 3, 2010

6:00pm

### LOCATION:

Farm Bureau Office  
651 Tank Farm Road  
San Luis Obispo

1. 6:00pm Call to order, introductions, quorum determination:  
Chair Lacey
2. 6:05pm Open comment: (for items not on the agenda):  
Chair Lacey
3. 6:15pm Announcements from Co. Ag. Dept. staff: see handout available at meeting. Announcements from members: "Reports from the Trenches".  
Chair Lacey
4. 6:25pm Review/approval of previous meeting minutes:  
Chair Lacey
5. 6:30pm Review/possible action: update on Board of Supervisors' action on Conservation and Open Space Element (COSE) and Grading Ordinance:  
Chair Lacey
6. 7:00 pm Review/possible action: discussion of current local Williamson Act Program and options for the future:  
Warren Hoag: Dept of Planning and Building
7. 8:00pm Future agenda items/meeting dates, adjournment:  
Chair Lacey

### ALL TIMES ARE APPROXIMATE

MEMBERS: Please contact Lynda Auchinachie in the County Department of Agriculture at 805-781-5914 if you can NOT attend.

### *Scope of the Agricultural Liaison Advisory Board (ALAB):*

*The ALAB is advisory in nature and is recognized as a forum for discussion of matters that relate to local agriculture and land use or as directed by the County Board of Supervisors. ALAB members serve at the pleasure of the Board of Supervisors. Meetings are open to the public. Monthly agendas, minutes and supplemental handouts for agenda items can be accessed at [www.slocounty.ca.gov/agcomm](http://www.slocounty.ca.gov/agcomm) or at the County Department of Agriculture – 2156 Sierra Way, Suite A, San Luis Obispo.*

ALAB Agenda 6

Williamson Act Update



## DEPARTMENT OF PLANNING AND BUILDING

**TO:** BOARD OF SUPERVISORS

**FROM:** AGRICULTURAL PRESERVE REVIEW COMMITTEE

**VIA:** WARREN HOAG, AICP, DIVISION MANAGER, CURRENT PLANNING

**DATE:** AUGUST 25, 2009

**SUBJECT:** AGRICULTURAL PRESERVE REVIEW COMMITTEE'S COMMENTS ON STATE BUDGET CUTS FOR OPEN SPACE SUBVENTIONS TO COUNTIES AND CITIES PARTICIPATING IN THE WILLIAMSON ACT (ITEM D-1, REVIEW IMPACTS OF THE RECENTLY AMENDED 2009 -2010 STATE BUDGET TO THE COUNTY'S 2009 – 10 BUDGET)

### Summary

At the request of the Agricultural Preserve Review Committee, staff is forwarding these comments to the Board of Supervisors for consideration as part of their review of Item D-1 on today's agenda regarding the impacts on the county budget of the amended state budget for 2009 – 10. The Agricultural Preserve Review Committee reviewed the Governor's action to cut the current Williamson Act subvention from the 2009 -10 state budget as a discussion item at their August 17, 2009 regular meeting. The consensus of the Review Committee was to recommend that your Board continue to support our county's participation in the Williamson Act program and to strongly urge that the state subvention funding be restored in order to continue providing partial reimbursement of county tax revenue losses incurred by implementation of the Williamson Act. If eliminated in future years, the annual revenue loss for San Luis Obispo County would amount to approximately \$1 million per year.

### Discussion

The Williamson Act, or California Land Conservation Act of 1965, is the county's most important program for protecting agricultural land. Nearly 66% of the county's agricultural land, or approximately 37% of all county land (789,087 acres of the 2,124,000 total acres), is subject to land conservation contracts. The Williamson Act is an important growth management tool for local government and agriculture because it provides certainty to landowners that they will be able to farm without encroachment of incompatible non-farm uses. Increasing conservation efforts by private and public groups point to the importance of a variety of efforts to protect our most valuable resources for the future of agriculture and open space. The Williamson Act's assessment of low income - high valued agricultural lands is especially important to this coastal county.

The state payment to the county in 2008-2009 fiscal year would have been approximately \$1 million. However, with the 10% reduction approved in the adopted 08-09 budget, the amount the county actually received was about \$900,000. The entire subvention amount was eliminated for the upcoming 2009-2010 state budget cycle which has historically been about \$1 million per year.

The Williamson Act has always been a partnership between the state, the county, and private landowners. Open space subventions, which began in 1971, represent the state's good faith incentive for counties and cities that offer the program to landowners. The Agricultural Preserve Review Committee strongly feels that the action to eliminate subventions from the amended state budget sends the wrong message to local government by implying that the state is no longer committed to preservation of agriculture. Local government is also currently affected by increasing monetary woes where loss of open space subventions could adversely affect political decisions that could undermine the present success of the Williamson Act.

The Agricultural Preserve Review Committee encourages the Board of Supervisors to continue to support our county's participation in the Williamson Act program and to strongly urge that the state subvention funding be restored in order to continue providing partial reimbursement of county tax revenue losses incurred by implementation of the Williamson Act.

c: Jim Grant, Interim County Administrator  
Kami Griffin, Assistant Planning Director  
Robert Lilley, County Agricultural Commissioner

# **The Williamson Act: Past, Present, Future?**

The Summary Report from the  
Legislative Oversight Hearing

Wednesday, March 3, 2010  
State Capitol, Sacramento, California

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Appendix: Written Materials	Yellow Pages

**Copying this report.** The summary report (the *white* pages), the briefing paper and research memo (the *blue* pages), and the additional written materials (the *yellow* pages) are not copyrighted and their contents are in the public domain. Anyone may copy this report without further permission.

A copy of this summary report appears on the Senate Local Government Committee's webpage: [www.sen.ca.gov/locgov](http://www.sen.ca.gov/locgov)

## **The Williamson Act: Past, Present, Future? A Legislative Oversight Hearing**

On Wednesday, March 3, 2010, the Senate Local Government Committee held an oversight hearing on the California Land Conservation Act of 1965 --- better known as the Williamson Act. The hearing began promptly at 9:30 a.m. and continued until 11:40 a.m. Held in Room 112 of the State Capitol in Sacramento, the Committee's hearing attracted about 60 people.

Four of the five Committee members participated in the oversight hearing:

Senator Dave Cox, Committee Chair  
Senator Christine Kehoe, Committee Vice Chair  
Senator Sam Aanestad  
Senator Curren D. Price, Jr.

Three other legislators joined the Committee members' hearing:

Senator Lois Wolk  
Assembly Member Anna Marie Caballero  
Assembly Member Mariko Yamada

This report contains the staff summary of what happened at the Committee's hearing [*see the **white** pages*], reprints the Committee staff's briefing paper [*see the **blue** pages*], and reproduces the written materials provided by the speakers and others [*see the **yellow** pages*].

Senate staff video-recorded the entire hearing and it is possible to purchase DVD copies by calling the Senate TV and Video Program at (916) 651-1531. It's on the California Channel's website: [www.calchannel.com/channel/viewvideo/1099](http://www.calchannel.com/channel/viewvideo/1099)

### **STAFF FINDINGS**

After reviewing the speakers' presentations and written materials, and thinking about the comments that the legislators made during their oversight hearing, the Committee's staff reached these findings:

- County officials, conservation groups, and landowners generally support the Williamson Act's voluntary contracts, the use-value property tax assessments, and the state subventions to county governments.

- Governor Schwarzenegger's near-elimination of the state subventions in 2009-10 makes it tough for counties to remain in Williamson Act contracts.
- Unless the Legislature restores the subventions in 2010-11 --- wholly or partially --- more counties will follow Imperial County's example and nonrenew their Williamson Act contracts.
- If contract nonrenewals spread, it may be impossible to replace Williamson Act contracts on millions of acres of agricultural and open space land.
- Legislators want to explore other revenue sources to replace the State General Funds to pay for the state subventions to counties.
- Some legislators want to consider statutory changes to the Williamson Act that will focus attention on farm and ranch land of statewide importance.
- Some legislators worry about landowners who transfer or sell their water rights from Williamson Act contracted land, making the property less productive.
- Some legislators want to explore other long-term ways to preserve agricultural and open space lands, possibly income tax relief for the landowners as an alternative to use-value property tax relief.

## OPENING REMARKS

After conducting the Committee's regular business and passing three bills, **Senator Cox**, the Committee Chair, turned to the Williamson Act topic. He noted that the dramatic cut in direct state subventions to counties caused many to question the state government's commitment to the conservation of agricultural land and open space. Just last week, the Senator reported, Imperial County's board of supervisors voted to nonrenew their Williamson Act contracts.

This oversight hearing will allow legislators to learn more about the Williamson Act, **Senator Cox** stated, allowing them to speak up during other committee hearings, budget debates, and in caucus meetings. The hearing is a chance to listen closely to county officials, conservation groups, and landowners about the future of the Williamson Act.

## STAFF BRIEFING

Before the hearing, the legislators received a briefing paper, including suggested questions for the speakers. The appendix reprints that paper. [*See the blue pages.*]

Committee consultant **Peter Detwiler** briefed the legislators about the Williamson Act by taking apart the statute's formal name, the California Land Conservation Act of 1965, and describing each of those terms. "California is just like the rest of the United States, only more so," said Detwiler as he explained that the law simultaneously serves multiple goals. The state's literal foundation is the "land," and the Act affects about one-third of all private, non-forested land in California. He handed out two charts prepared by the State Department of Conservation which showed how much Williamson Act contracted land was in each county and how much the counties claimed in state subventions for 2007.

The term "conservation" in the law's formal name was intentional, Detwiler said. "It's 'conservation' like Gifford Pinchot, not 'preservation' like John Muir." Under the Williamson Act, landowners "grudgingly give way" to development at regional edges through nonrenewal, cancellation, and public acquisition. The "Act" was a conscious adoption of three statutes covering the contracts, property reassessments, and the subvention program.

The "1965" in the title is significant, Detwiler argued, because the law reflects the historical, economic, and political context that existed 45 years ago. Referring to a chart on pages 6 and 7 in the Committee's briefing paper, Detwiler explained that the Williamson Act predated robust land use planning and zoning practices, the California Environmental Quality Act (CEQA), local agency formation commissions' (LAFCOs) spheres of influence and municipal service reviews, alternative easements, and the profound fiscal shifts caused by the Serrano decision and Proposition 13. "Like any 45-year old," said Detwiler, "The Williamson Act may be having a mid-life crisis."

## THE SPEAKERS

The Committee invited nine people to speak, organized into three panels based on their points-of-view: county officials, conservation groups, and landowners. Legislators invited the speakers to provide written materials to supplement their brief remarks. The witnesses whose names appear with an asterisk (\*) provided written materials. The appendix reprints the speakers' materials. [*See the yellow pages.*]

### Counties' Reactions and Advice

The first panel consisted of county officials with considerable experience with the Williamson Act:

Honorable Judy Case, County Supervisor\*  
County of Fresno

Susan Thompson, County Administrative Officer\*  
County of San Benito

Ted James, Planning Director\*  
County of Kern

Fresno County Supervisor **Judy Chase** spoke on behalf of the California State Association of Counties (CSAC), as well as her own county. She warned legislators that another year without state subvention payments could be “the last straw” that would cause counties to nonrenew their Williamson Act contracts. The Supervisor presented the results of CSAC’s recent survey of its members which elicited responses from 23 counties. Although a majority indicated that they have continued their contracts, the survey represents just a “snapshot in time.” Once counties nonrenew, she cautioned, it’s almost “impossible to reverse” those decisions. Continuity is important, she said, asking legislators to “reinvest” in the program.

Answering a question from **Senator Wolk**, Chase said that Fresno could nonrenew if the state government doesn’t resume its subventions. **Senator Price** asked how Fresno County dealt with the loss of subventions. Chase explained that the \$5.6 million in state subventions was small compared to her county’s \$1.7 billion annual budget, but the subventions were an important part of the County’s discretionary revenues.

Declaring that “we are ready to work with you,” San Benito County Administrative Officer **Susan Thompson** told the legislators that the continuation of the Williamson Act is “critical for small counties.” Thompson said that she was speaking on behalf of the Regional Council of Rural Counties, in addition to her own county. While the loss of state subventions is a blow to rural counties’ budgets, the “bigger message ... is that the Williamson Act is good policy” which is as relevant in 2010 as it was in 1965. While her county has not issued contract nonrenewals, it has stopped accepting additional applications from landowners. With 76% of San Be-

nito County's private land under contract, the program is important to keeping both row crops and rangeland in production. Thompson gave the Committee two examples of large development projects that County officials were able to deflect because of its commitment to the Williamson Act. **Senator Aanestad** was interested in the state subventions' effects on the County's budget.

Speaking for the California County Planning Directors' Association was **Ted James** who is also Kern County's Planning Director. Williamson Act contracts help counties discourage "leapfrog development," he said, demonstrating the state law's "on the ground effectiveness." While the County's general plan and zoning ordinance are "in my arsenal" to shape development patterns, James said that those tools are only as good as the county supervisors' political will. The Act "has more teeth for me" because of the contracts' self-renewing obligations. The Williamson Act contracts plus the County's use of CEQA, mitigation requirements, subdivision standards, and LAFCO decisions help retain land in agricultural use. He gave the legislators a recent example of how the Kern County LAFCO turned down the City of Bakersfield's attempt to annex land because of the development pressures that it would have created.

### Conservation Organizations' Reactions and Advice

Having heard from county representatives about their interest in continuing Williamson Act contracts and state subventions, the Committee turned to conservation groups for their perspective:

Brian Leahy, Division of Land Resource Protection\*  
State Department of Conservation

Edward Thompson, Jr., California Director\*  
American Farmland Trust

Michael B. Endicott, Resource Sustainability Advocate\*  
Sierra Club - California

**Brian Leahy** is the State Department of Conservation's Assistant Director who manages the Division of Land Resource Protection. Half of California's land area is owned by the federal and state governments, with the remainder in private ownership. Leahy displayed a large California map and pointed out the grazing land in yellow and irrigated farmland in green for the legislators. Ranching and farming

may be the “highest-and-best-use” for these soils, although perhaps not the most economical. With the development pressures expected over the next 40 years, there’s “not a lot of land left” for other uses, Leahy explained. Calling the Williamson Act a “very effective” program, he said that the contracts are “the excuse” that allow local officials to say “no” to development.

**Senator Aanestad** told Leahy that “it’s your fault” that the subventions disappeared in 2009-10. Echoing the hearing’s subtitle, Senator Aanestad said that the Williamson Act’s past has been “successful,” but he’s “very much concerned” about the present, because the Administration seems to leave the future up to others. The “state is not holding up its end of the bargain” in what should be a state-local partnership, the Senator declared. We “can’t just leave the locals in the lurch,” said the Senator, especially not the 12 rural counties in his Senate district. Aanestad said he was “adamant” about the need to restore the subventions. When the Senator asked about the likelihood of restoring the state subventions in 2010-11, Leahy described the Administration’s reasoning for cutting the subventions and replied that he doesn’t “see any reason for that logic to change.”

**Senator Wolk** claimed that the Administration doesn’t care about the program. She asked Leahy if there are funding sources for state subventions other than the State General Fund and if statutory changes should tighten up on compatible uses, including regulating water transfers. Leahy said that it was “not our place to comment” on water transfers, but selling permanent water rights affects the long-term productivity of Williamson Act contracted lands.

The California Director for the American Farmland Trust, **Ed Thompson**, told the legislators that he wanted to make three points: (1) the Williamson Act is a bargain for state taxpayers, (2) the Act needs significant improvements, and (3) legislators need to do even more to effectively preserve farmland. Agriculture pays more in taxes than it consumes in local public services, Thompson declared. He asked legislators to think carefully about what a “Williamson Act version 2.0” might look like because the tax relief is more important to ranchers than crop producers. The pattern of land enrollment around cities is “pretty spotty,” causing him to question whether tax incentives are sufficient to limit sprawl. Policy makers should look to other states --- New York, Wisconsin, Michigan --- that offer “circuit breaker” income tax relief to landowners. State income tax relief is fairly popular among local officials in those states because they don’t have to fight for annual subventions. Thomson called upon legislators to increase the state government’s investment in agricultural conservation easements, noting that other states spend more than California’s 11¢ a person. Conversely, local officials need to do better to “increase the

efficiency of development” because denser development patterns are the “most important” way to conserve farmland. But the biggest hole in California’s programs is the “lack of clear, firm state policy” that favors farmland preservation. That lack of policy direction “underlies our difficulty here” as California loses 75 square miles of agricultural land a year.

How does Wisconsin’s income tax circuit breaker program work, **Senator Wolk** asked Thompson. He explained that if local property taxes go up, the state income tax credits kick in, targeting tax relief to those who need it the most. Have other states adopted farmland preservation goals, asked **Assemblymember Yamada**. “California is a national leader in many areas, but not this one,” Thompson replied. But, he noted, federal officials haven’t always followed their own 1981 law on farmland preservation.

**Michael Endicott** is Sierra Club-California’s sustainability advocate, promoting social, economic, and ecological values. Endicott told the legislators that he shares Senator Wolk’s concerns about landowners who transfer their water rights away from Williamson Act contracted land. Especially in coastal areas the Williamson Act helps to reduce the pressures to convert agricultural land to other uses. Because the type of farming influences the ability to achieve sustainability goals, it’s important to maintain the subvention program even in tough times, he said. As legislators think about a “Williamson Act 2.0” they shouldn’t complicate the program because “focus and prioritization is in order.” Endicott said that he had “some concern” about the income tax approach advocated by AFT’s Ed Thompson because he didn’t want the Legislature to encourage “hobbyist farmers” while trying to protect real agriculture. As for other revenue sources to pay for the state subventions, Endicott suggested looking into oil severance taxes and property transfer taxes.

When **Assemblymember Caballero** asked Endicott to explain his concern about the income tax relief approach and what she called boutique farms, he replied that other states’ requirements may not fit California’s context. Besides, Endicott said, boutique farmers have different interests than what he called “general farming.”

**Senator Price** asked Endicott about his recommendation to prioritize the state’s goals. He replied that the “proof that the Williamson Act is a good act is that people renew [their] contracts.” Continuing contracts shows that the landowners’ commitment to property is worth protecting. When it comes to agricultural production, “the more stability the better,” Endicott said. Agricultural operations need “big pockets” of land, not just little protected islands.

### Landowners' Reactions and Advice

For its final panel, the Committee invited representatives of landowners' groups that have used Williamson Act contracts:

Paul Wenger, President\*  
California Farm Bureau Federation

Jack Hanson, Treasurer\*  
California Cattlemen's Association

William H. Geyer, Executive Director\*  
Resource Landowners Coalition

Besides being the President of the California Farm Bureau Federation, **Paul Wenger** is a Williamson Act landowner in the San Joaquin Valley. While Proposition 13 helped landowners control their property taxes, those who bought agricultural land after 1978 still face problems. They can afford to pay their property tax bills, but they won't have much return on investment. The Williamson Act helps landowners reduce their tax bills even further, increasing their operating income. Buyers who acquire adjacent agricultural land under "1031 exchanges" drive up the price for the surrounding farmland. The result will be increased pressure for development if the Williamson Act ends, Wenger explained. He told the legislators about his concerns about selling agricultural land for water transfers and buying ranches for recreational use. Land should be taxed on its productivity, he declared. As much as 14.5 million acres have been under Williamson Act contracts for at least 35 years, demonstrating the landowners' commitment to conserving their property.

What about compatible uses on Williamson Act contracted land, asked **Senator Wolk**, specifically mentioning energy facilities that use solar and wind power. Wenger explained that his standard is whether a nonagricultural use takes away the land's agricultural productivity. We "need to look at what the Act is all about," he said. What about an agricultural processing plant, Senator Wolk asked. If it's an "adjunct" to the agricultural use, that would be OK, but "it's really degrees" of compatibility, Wenger explained. He wants to encourage family farms to stay in operation. What about water transfers, Senator Wolk asked. Should the Legislature prohibit the permanent transfer of water rights from Williamson Act contracted land? Wenger said that legislators should "look at it pretty closely ... if a permanent transfer harms agricultural productivity."

When **Assembly Member Yamada** asked Wenger about his “barometer” of understanding among urban legislators, he replied that the Act’s supporters need to explain the program in terms that legislators understand. “Everybody can understand taxation based on value,” he said. The goal is to “keep the family on the farm.”

**Jack Hanson**, the California Cattlemen’s Association’s Treasurer (and Sierra County Supervisor), told legislators that he found common ground with many of the previous speakers. “There are just a few givens,” he said: the Act has been enormously successful, the Act’s future is in doubt without subventions, the Act is a bargain, and if the Act disappears, some more development will occur. The program is “not a subsidy or free lunch” for landowners because everybody gives up something. Spending \$39 million to replace counties’ revenue losses “is a bargain,” he claimed. “It’s the money issue, I’m sorry to say,” observed Hanson. “The Williamson Act has definitely not outlived its usefulness,” he continued, and it would be “very difficult” to continue ranching without the program.

**Senator Cox** asked Hanson if state law should treat ranchland differently than cropland. Hanson explained that because of their different characteristics, ranching may be the best use of nonprime soils.

**Bill Geyer**, Executive Director of the Resource Landowners Coalition, was the consultant to the Assembly Agriculture Committee and worked with Assemblyman John Williamson on the original statute and the subsequent subvention program. Geyer warned legislators that “you can’t have an on-again-off-again” subvention program because the lack of certainty will discourage landowners and county officials. Although he would “love to be dissuaded” that subventions from the State General Fund aren’t in trouble, he believes that they are. Geyer noted that many of the questions on page 13 of the Committee’s briefing paper reflect the thinking that he put into his client’s white paper on the Williamson Act. His group has hired Vince Minto, the former Glenn County Assessor, to “crunch the numbers” and analyze alternative funding sources. In the meantime, Geyer suggested that the Legislature consider an interim relief program as a “bridge to the future.”

Can you “give us a hint” of some of these alternative revenue sources, asked **Senator Aanestad**. Geyer said four alternatives might generate as much as \$10 million each: (1) charging new fees on early termination of contracts, (2) using a “mixed bag” of ideas, including fees on compatible uses that displace agricultural production, (3) allowing counties to charge administrative fees, and (4) reducing subven-

tion payments for substandard contracts. Senator Aanestad then asked when Minto's work would be ready and Geyer indicated that the project was just getting underway with results still months away.

**Senator Wolk** mentioned her SB 715, which proposes Williamson Act reforms, and noted the need to build consensus for changes.

Referring to her own AB 1965, **Assembly Member Yamada** asked Geyer about the concept of proportional restoration of state subvention payments. He replied that the concept should be under discussion, but there are "obviously different voices among counties."

### Others' Reactions and Advice

Following the three panels, Senator Cox invited public comments and two other speakers share their views with the legislators:

Eric Carruthers, Citizens Advisory Council  
Santa Clara County Open Space Authority

Pablo Garza  
The Nature Conservancy

**Eric Carruthers** is a retired Santa Clara County planner who serves on the Santa Clara County Open Space Authority's Citizens Advisory Committee. He told the legislators that the state government needs to find the means to keep the Williamson Act program intact. Echoing Ted James' advice, he agreed that the Act complements counties' land use regulatory programs. He wanted to "re-enforce" the Sierra Club's position on the need to protect farming on the edges of coastal development. He cited an American Farmland Trust study for San Francisco which found that specialty crops are important in metropolitan areas. Climate action change needs a local food supply, Carruthers concluded.

Speaking for the Nature Conservancy, **Pablo Garza** gave his strong support for the Williamson Act because of its "effective, economical, environmental benefits." The state government needs to finance the subventions, he said.

## ADDITONAL ADVICE

In addition to the speakers at the oversight hearing, the Committee also received written advice from six other sources:

41 signatories\*

California Rangeland Conservation Coalition

10 signatories\*

Sacramento/Capital Region Food System Collaborative

Honorable Simón Salinas, Chair\*

Monterey County Board of Supervisors

Mike McKeever, Executive Director\*

Sacramento Area Council of Governments

Amy L. White, Executive Director\*

Land Watch Monterey County

Honorable Dave Goicoechea, Chairman\*

Sierra County Board of Supervisors

The members of the **California Rangeland Conservation Coalition** submitted a copy of their January 27, 2010 letter to Governor Schwarzenegger declaring their distress at the proposal to continue elimination of the Williamson Act subvention payments. The Coalition wrote that the “longer-term negative impacts vastly outweigh the [state’s] short-term budget savings.”

The Sacramento-based coalition known as the **Food System Collaborative** gave the Committee a copy of its February 9, 2010 letter to Governor Schwarzenegger, urging his Administration to restore the state’s Williamson Act subventions. They wrote that “the region and the State will need the Williamson Act more than ever in order to meet greenhouse gas emissions (GGE) reduction targets” called for by AB 32 and SB 375.

In his February 23, 2010 letter to the Committee, Salinas County Supervisor **Simón Salinas** declared that the Williamson Act subventions have “provided a

tangible incentive for local governments to stay in the program and initiate more contracts.” He called for the subventions’ “eventual restoration.”

**Mike McKeever**, Executive Director of the Sacramento Area Council of Governments, sent the Committee a copy of his March 1, 2010 letter to Governor Schwarzenegger encouraging him to restore the Williamson Act subventions. McKeever wrote that “to not fund them threatens AB 32 and SB 375 implementation.”

On March 2, 2010, Land Watch Monterey County Executive Director **Amy White** wrote to the Committee, enclosing a copy of a February 1 joint letter to Governor Schwarzenegger urging him to avoid suspending Williamson Act subventions in 2010-11.

Supervisor **Dave Goicoechea**, Chairman of the Sierra County Board of Supervisors provided his board’s March 2, 2010 formal resolution urging the Senate Local Government Committee “to reaffirm the significant value of these [subvention] programs to the preservation of agricultural land and open space in California.

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# **The Williamson Act: Past, Present, Future?**

A Legislative Oversight Hearing

Wednesday, March 3, 2010  
State Capitol, Room 112

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*To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, the enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.*

California Constitution Article XIII §8  
Originally added by Proposition 3 (1966)

## **The Williamson Act: Past, Present, Future?** **A Legislative Oversight Hearing**

This briefing paper prepares the members of the Senate Local Government Committee for their March 3, 2010 oversight hearing on the Williamson Act.

With 16.6 million acres under Williamson Act contracts, the statute affects about half of California's farmland. That's nearly one-third of all private real estate. These voluntary contracts between landowners and local officials stretch from urbanism's edges to the far reaches of the most rural counties. Fifty-three of the 58 counties have land under contract. Alpine, Del Norte, Inyo, San Francisco, and Yuba counties are the exceptions. Since 1972-73, the State General Fund has paid about \$875 million as direct subventions to the participating county governments.

Despite the law's broad application, the 2009-10 State Budget all but eliminated the State General Fund's direct subventions to counties for this 45-year old effort. Landowners, conservation groups, and county officials now question the state government's commitment to conserving farmland and open space.

The March 3 hearing is an opportunity for the five Senators who serve on the Senate Local Government Committee to review the California Land Conservation Act of 1965. When the future of the Williamson Act comes up in other policy committees, during debates over the State Budget, and in closed caucuses, other legislators can turn for advice to Senators Cox, Kehoe, Aanestad, Price, and Wiggins.

### **How It Works**

What most call the Williamson Act is the result of three interlocking statutes:

**The California Land Conservation Act of 1965** ("Williamson Act") allows landowners to contract with counties to conserve their properties as farmland and open space (Government Code §51200, et seq.).

**Mandatory property tax reassessments** for the lands that are enforceably restricted to open space uses (California Constitution Article XIII §8; Revenue & Taxation Code §421, et seq.).

**Open space subventions** paid by the State General Fund to counties for the Williamson Act contracted lands (Government Code §16140, et seq.).

Land in agricultural production and other open space uses are eligible for Williamson Act contracts. Landowners and counties can voluntarily sign ten-year contracts that automatically renew annually, so that a contract's termination date is always a decade away. The Farmland Security Zone program within the Williamson Act allows landowners to sign 20-year contracts, resulting in lower property tax assessments and more protection for their agricultural and open space lands.

It is relatively difficult to end a Williamson Act contract, but there are five main methods:

- *Nonrenewal*: contracts run out over the next nine years.
- *Cancellation*: contracts can end immediately if counties make findings and landowners pay penalties.
- *Rescission*: contracts end when other programs protect the land.
- *Public acquisition*: contracts end when agencies buy or condemn the land.
- *Annexation*: contracts may end when certain cities annex the lands.

While their lands are subject to Williamson Act contracts, landowners give up the right to develop their farms, ranches, and open space lands. In return, counties must reassess the contracted lands to reflect these enforceable restrictions. County assessors rely on clear constitutional authority and complicated statutory formulas to determine “use value” preferential tax assessments for the contracted lands.

The State General Fund pays direct subventions to counties (and a few cities) to replace the property tax revenues that the local governments forgo because of the preferential tax assessments. The subvention payments for prime agricultural land are higher than subventions for nonprime land. The State General Fund also pays indirect subventions to school districts to replace all of the property tax revenues that schools lose because of the lower property tax assessments on the Williamson Act contracted lands.

### **State Policies, State Programs**

California's efforts to conserve agricultural and open space lands rely on constitutional and statutory foundations, but also need the willing cooperation of the affected landowners and county officials. Underlying the subventions and contracts is the language added to the California Constitution by Proposition 3 (1966). This briefing paper reprints the key language in the box on the Table of Contents page.

**Government Code §51220: Williamson Act's Statement of Legislative Intent**

51220. The Legislature finds:

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

(b) That the agricultural work force is vital to sustaining agricultural productivity; that this work force has the lowest average income of any occupational group in this state; that there exists a need to house this work force of crisis proportions which requires including among agricultural uses the housing of agricultural laborers; and that such use of agricultural land is in the public interest and in conformity with the state's Farmworker Housing Assistance Plan.

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontinuous urban development patterns which unnecessarily increase the costs of community services to community residents.

(d) That in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited under the provisions of this chapter, constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments.

(e) That land within a scenic highway corridor or wildlife habitat area as defined in this chapter has a value to the state because of its scenic beauty and its location adjacent to or within view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.

(f) For these reasons, this chapter is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land.

Building on that constitutional foundation, the Williamson Act contains very clear legislative findings, as reprinted on page 3.

In addition to these constitutional and statutory provisions, a collaboration among landowners, county governments, and state officials implements the Williamson Act to achieve at least five very broad policy goals:

- Promoting food security by protecting the land base.
- Encouraging agricultural support industries.
- Complementing regulatory efforts to curb sprawl.
- Avoiding costly public facilities and public services.
- Promoting environmental quality and resource values.

Other state laws contain links to Williamson Act contracted land:

The *Planning and Zoning Law* requires county and city general plans to identify agricultural and open space lands in their land use, conservation, and open space elements. Further, 33 counties and 21 cities report adopting optional agricultural elements as part of their state-mandated general plans.

The *Subdivision Map Act* prohibits county supervisors and city councils from approving the subdivision of Williamson Act contracted lands if the resulting parcels would be too small to sustain their agricultural use, or if the subdivision would result in residential development that wasn't incidental to commercial agricultural production.

The *Cortese-Knox-Hertzberg Local Government Reorganization Act* generally prohibits a local agency formation commission (LAFCO) from placing Williamson Act contracted lands within the sphere of influence of a city or special district that provides sewers, nonagricultural water, or streets. State law also prohibits a LAFCO from annexing contracted land to those cities and districts.

The *Community Redevelopment Law* prohibits local officials from including Williamson Act contracted lands in redevelopment project areas.

Appendix G of the *CEQA Guidelines*, the formal state regulations that interpret the *California Environmental Quality Act (CEQA)*, require public officials who conduct an initial study for a proposed development to determine whether the project would conflict with a Williamson Act contract.

## The Past: An Historical Sketch

After efforts to preserve open space and agricultural land suffered discouraging defeats, in 1963 the Assembly created an interim committee and an expert advisory group to develop an acceptable solution. The result was AB 2117 (Williamson, 1965) which enacted the California Land Conservation Act of 1965. In 1967, the Legislature added the title “Williamson Act” to honor the statute’s author, Assemblyman John C. Williamson who represented Kern County from 1959 to 1966.

Based on a chronology prepared by University of California researchers, **Table 1** on pages 6 and 7, traces the Williamson Act’s key historical milestones and shows other related actions in *italics*.

Statutory evolution. Like all statutory programs, the Williamson Act reflects the economic and political conditions that existed when the Legislature passed the statute. Similarly, statutory amendments and program adjustments over the last 45 years reflect continually changing conditions and concerns. When legislators created the Williamson Act in 1965, the *Planning and Zoning Law* already mandated counties and cities to adopt general plans, but the statute required only three elements: land use, circulation, and housing. Legislators didn’t add the requirements for the conservation and open space elements until 1970. That year, the Legislature also passed the *California Environmental Quality Act (CEQA)*. Bills passed in 1971 adopted the *vertical consistency requirement*, requiring local zoning and subdivision decisions to be consistent with county and city general plans. Also in 1971, legislators told the local agency formation commissions (LAFCOs) to adopt policy documents called *spheres of influence* to guide development away from open space lands. *Proposition 13* (1978) fundamentally changed how counties assess property tax values. The state government lacked a reliable way to track agricultural acreage until the 1982 bill that created the *Farmland Mapping and Monitoring Program* within the California Department of Conservation.

Other approaches. The Williamson Act is not the only statutory program that allows landowners to voluntarily conserve agricultural, open space, and other resource lands. The Open-Space Easement Act of 1974, the 1979 conservation easement law, and the 1995 California Farmland Conservancy Program Act all rely on voluntary easements to protect land resources. In addition, the California Timberland Productivity Act of 1982 uses landowners’ contracts to trigger the preferential property tax assessments, similar to the Williamson Act’s approach.

**Table 1: Key Milestones in the Williamson Act's History**

1965	<p>AB 2117 (Williamson) creates the California Land Conservation Act.</p> <p><i>Legislature requires the equalization of local property tax assessments, resulting in higher property tax bills on rural lands.</i></p>
1966	<p>Proposition 3 amends the California Constitution to allow for the preferential assessment of open space lands.</p>
1967	<p>Legislature adopts the capitalization of income method for assessing contracted lands.</p>
1967-70	<p>Bills expand the definition of the lands that are eligible for contracts.</p>
1969	<p>Legislature allows contract cancellations, but requires county officials to make findings and landowners to pay cancellation fees.</p>
1970	<p><i>Legislature passes the California Environmental Quality Act (CEQA).</i></p> <p><i>Legislature requires counties and cities to include conservation elements and open space elements in their general plans.</i></p>
1971	<p>Legislature creates the state subvention program.</p> <p><i>Legislature requires county and city zoning and subdivision decisions to be consistent with their general plans.</i></p>
1974	<p><i>Legislature authorizes open space easements.</i></p>
1976	<p>Legislature changes subventions to eliminate direct payments to schools and to emphasize urban prime lands.</p> <p><i>Legislature begins to equalize school funding after <u>Serrano</u> decision.</i></p> <p>Legislature creates Timber Preserve Zones, starting the transfer of timberland out of Williamson Act contracts.</p>
1978	<p><i>Proposition 13 amends the California Constitution to roll back the full cash value of property assessments and to limit reassessments.</i></p>

- 1979 Legislature caps contracted lands' assessments to their Proposition 13 assessments.
- Legislature authorizes conservation easements.*
- 1981 California Supreme Court limits contract cancellations to "extraordinary" situations. Legislature adopts tighter cancellation rules.
- 1982 Legislature allows counties to limit contracted lands' assessments to 70% of their Proposition 13 assessments.
- Legislature creates the Farmland Mapping and Monitoring Program.*
- 1984 Legislature limits the subdivision of contracted lands.
- 1987 Legislature codifies fair market value as the basis for computing landowners' cancellation fees.
- 1988 Department of Conservation starts its audit program.
- 1989 Department of Conservation publishes *Land in the Balance*.
- 1993 Legislature triples the state subventions for contracted land.
- 1994 Legislature creates specific standards for compatible uses.
- 1995 *Legislature authorizes agricultural conservation easements, now called the California Farmland Conservancy Program.*
- 1996 *Proposition 218 amends the California Constitution to limit local taxes, assessments, and fees.*
- 1998 Legislature creates Farmland Security Zones within the Williamson Act with longer contracts, lower assessments, and other protections.
- 2008 Legislature reduces the state subventions for contracted land by 10%.
- 2009 Governor cuts the state subventions for contracted lands to \$1,000.

Source: Based on *Land in the Balance* (1989)

Statewide review. *Land in the Balance* was the state government's most comprehensive look at the Williamson Act. The University of California's Agricultural Issues Center reviewed the law and its implementation, and the California Department of Conservation published the results in December 1989. Although more than two decades old, *Land in the Balance* remains a valuable resource for policy advisors and the decision makers they serve.

The UC researchers estimated a \$12 billion difference between the restricted and unrestricted assessed valuations on Williamson Act contracted land in 1988-89. The general funds of the (then) 48 participating counties received about \$44.5 million less in property tax revenues than they would have without the Williamson Act contracts. Special districts and other county funds received about \$16.4 million less; K-14 school districts about \$59.4 million less. The State General Fund replaced the schools' foregone revenues. In 1988-89, the \$14.5 million in direct state subventions covered about a third of the counties' foregone revenues, although there were county-by-county variations.

Since *Land in the Balance*, both the state-local fiscal relationship and the open space subvention program have changed in significant ways. The Educational Revenue Augmentation Fund (ERAF) shifts that began in 1992-93 moved property tax revenues from cities, counties, special districts, and redevelopment agencies to favor the schools and the State General Fund. The state government significantly increased its direct subvention payments to county governments, starting in 1992.

Because of these important changes, it's impossible to extrapolate from the 1989 findings in *Land in the Balance* to reach detailed conclusions about the Williamson Act's 2010 fiscal effects on counties and school districts.

### **The Present: Where We Are**

In 2007, the last year for which the California Department of Conservation has published its data, 16,565,519 acres were under Williamson Act contracts.

Of those 16.6 million acres, 15.6 million acres were eligible for open space subvention payments from the State General Fund to county governments. Local officials claimed \$37,737,344 in direct General Fund subventions, of which nearly 60% went to San Joaquin Valley counties. **Table 2** on page 9 reports the 10 counties with the highest subventions.

**Table 2: Top 10 Subvention Counties (2007)**

1. Fresno	\$5,270,408	6. Stanislaus	\$1,466,943
2. Kern	\$4,733,094	7. Merced	\$1,429,352
3. Tulare	\$3,411,417	8. Yolo	\$1,283,038
4. Kings	\$2,681,127	9. Madera	\$1,246,397
5. San Joaquin	\$1,908,313	10. San Luis Obispo	\$1,088,726

Source: California Department of Conservation

Other facts from this 2007 statistical snapshot can help legislators appreciate how landowners and county officials use the Williamson Act:

- Contract nonrenewals covered 535,372 acres.
- Landowners and officials successfully cancelled contracts on 1,788 acres.
- Public agencies terminated contracts when they acquired 14,901 acres.
- Cities annexed 481 acres.

These data shifted over time as the Williamson Act gained acceptance among increasing numbers of landowners and counties. Economic pressures --- commodity prices, energy and labor costs, global competition, land speculation, development pressures --- influenced participation rates. The behavior of landowners and county officials also changed in response to changes in state law. For example, historical records show that in the first two years after the Legislature passed the Williamson Act, counties had signed contracts affecting only 200,000 acres. By 1970-71, about 6.2 million acres were under contract. Five years later (1975-76), with the advent of state subvention payments, 14.4 million acres were subject to Williamson Act contracts.

Subvention payments grew as landowners signed more contracts and the state government increased the subvention formulas. In 1972-73, the first year for the subvention program, the State General Fund paid about \$8.8 million to county governments and some cities. By 1990-91, the direct subventions were \$13.6 million, reflecting the additional acreage under contracts. When the Legislature changed the subvention formulas after the ERAF shifts, payments climbed. In 2005-06, the direct subventions were about \$38.7 million.

Skepticism. As the State General Fund faces a profound structural imbalance between expenditures and revenues, some have questioned the wisdom of the subvention program. When Governor Schwarzenegger's proposed 2003-04 Budget wanted to save about \$39 million by ending the state subvention payments, the Legislative Analyst's Office instead recommended a ten-year phase-out.

The LAO has been generally skeptical of the Williamson Act's benefits. In 2004, the LAO restated its two main concerns about the subventions' effectiveness:

The state exercises no control over the specific land parcels that are put under contract, and as such, cannot ensure that participating lands are in fact at risk in terms of development pressures. As a consequence, it is likely that some lands under contract would not be developed even absent the Williamson Act subventions. As a result, a portion of the tax reduction may result in no behavioral change by the landowner at all.

If such development pressures *should* occur, this results in creating incentives for the landowner to cancel or not renew the contract... As a consequence, the program may not result in permanent changes to land use patterns but simply delay for a relatively short period of time the development of open space and agricultural lands.

Budget cuts. The first cuts came in 2008-09 when legislators passed and Governor Schwarzenegger signed AB 1389 (Assembly Budget Committee, 2008), a State Budget "trailer bill" that ordered the State Controller to reduce the counties' open space subventions by 10%. When it passed the 2009-10 State Budget, the Legislature further reduced the state subventions to \$27.8 million. Exercising his constitutional authority, Governor Schwarzenegger all but eliminated the direct subventions to counties, slashing the annual appropriation to a mere \$1,000.

Reactions. Although agricultural groups and county officials knew about the earlier skepticism, many were shocked by the immediate severity of this year's cut. Landowners, conservation groups, and county officials openly questioned the state government's commitment to conserving farmland and open space.

Newspaper articles last fall reported that some counties stopped accepting and approving landowners' applications for new Williamson Act contracts. Other counties continued to sign new contracts, but expressed wariness about the subvention program's long-term future. A few counties began to explore nonrenewing their existing contracts, which would trigger higher property assessments. On February 23, the Imperial County Board of Supervisors voted to nonrenew its contracts.

At its March 3 oversight hearing, the Committee may wish to consider asking county officials how they are reacting to the subvention cuts:

- ☞ *Have county supervisors nonrenewed existing Williamson Act contracts?*
- ☞ *If so, which counties, how many contracts, and how many acres?*

- ☞ *Have more landowners than usual filed notices of nonrenewal?*
- ☞ *Have more landowners than usual applied for cancellations?*
  
- ☞ *Have county supervisors stopped signing new Williamson Act contracts?*
- ☞ *If so, in which counties?*
  
- ☞ *What are the 2009-10 fiscal effects on counties' budgets?*
- ☞ *How have counties responded to this year's loss of subventions?*

### **The Future: What Comes Next?**

The March 3 oversight hearing gives Senators the chance to explore the future of the Williamson Act with county officials, conservation groups, and landowners' representatives. As they think about the future of the Williamson Act, legislators may wish to consider asking the speakers about these topics:

Statewide benefits. Over the last 45 years, landowners, conservation groups, and county officials have claimed at least five statewide benefits of conserving productive agricultural land and open space under the Williamson Act:

- Promoting food security by protecting the land base.
- Encouraging agricultural support industries.
- Complementing regulatory efforts to curb sprawl.
- Avoiding costly public facilities and public services.
- Promoting environmental quality and resource values.

- ☞ *Are these five statewide benefits still important and valuable?*
- ☞ *Should legislators recognize additional statewide benefits?*
- ☞ *Can the Williamson Act help achieve the goals set by AB 32 (2006)?*
- ☞ *Can the Williamson Act help achieve the goals set by SB 375 (2008)?*
- ☞ *Can the Williamson Act help achieve the goals for water conservation and protecting the Sacramento-San Joaquin Delta?*

Land base. The Williamson Act recognizes "prime agricultural land," based on its soil quality, water availability, livestock carrying capacity, and commercial productivity. The Act also defines open space use and compatible uses.

- ☞ *After 45 years, are these statutory definitions still valid?*
- ☞ *Should legislators refocus the Williamson Act on other land categories?*
- ☞ *Should the Act treat cropland, rangeland, and habitat land differently?*

- ☞ *Are the state and local definitions of compatible uses adequate to avoid interference with commercial agriculture and open space uses?*
- ☞ *Should legislators expect pressure from alternative energy producers (solar, wind, biogas) to broaden the compatible use definition?*

**Tax relief.** The Williamson Act relies on preferential property tax assessments to encourage landowners to voluntarily promote statewide policy goals. Preferential assessments reduce property tax revenues which, in turn, trigger direct and indirect subventions from the State General Fund. Property tax relief helps landowners stay in business, especially ranchers.

- ☞ *Should the Legislature explore other forms of tax relief that could achieve the same statewide policy goals?*
- ☞ *Would state income tax credits be adequate economic incentives for private landowners to preserve agricultural and open space lands?*
- ☞ *Would counties and school districts prefer to receive property tax revenues rather than state subvention payments?*
- ☞ *Should state income tax credits be proportional to landowners' income?*
- ☞ *Should legislators link a landowner's eligibility for state income tax credits to land, water, and energy conservation practices?*
- ☞ *Should legislators offer state income credits to landowners in every county or should legislators require counties to adopt programs to promote agriculture and open space before landowners are eligible?*

**Contracts.** The term for a standard Williamson Act contract is 10 years, automatically renewing annually. Farmland Security Zone contracts run for 20 years, offer better protection from development, and require higher cancellation fees.

- ☞ *Are there statutory obstacles that discourage landowners and counties from signing voluntary contracts?*
- ☞ *What is the state government's role in supervising and enforcing Williamson Act contracts between landowners and county governments?*
- ☞ *Should the Legislature close the Williamson Act to new contracts, encouraging landowners and counties to sign Farmland Security Zone contracts instead?*

**Terminations.** The California Supreme Court said that the constitutionality of preferential property tax assessments depends on enforceable restrictions on agricultural and open space uses. Nevertheless, there have been controversies over how contracts terminate: nonrenewals, cancellations, rescissions, public agency acquisitions, and city annexations.

- ☞ *Are the cancellation fees and findings adequate to discourage speculative investments and development pressures on contracted lands?*
- ☞ *Are there adequate safeguards to discourage public agency acquisition of Williamson Act contracted lands for non-agricultural use? Habitat use?*

County programs. If the Legislature is unlikely to restore subventions to replace lost property tax revenues, some counties may wish to consider running their own land conservation programs. Some have talked about a “Williamson Act 2.0.”

- ☞ *Should legislators pass an alternative law, without state subventions, that allows counties and landowners to agree on enforceable land use restrictions to obtain lower property assessments?*

Subventions. Until recently, the State General Fund invested nearly \$40 million a year in direct subventions to counties; more in indirect subventions to schools.

- ☞ *Is the state government likely to restore the counties’ direct subventions?*
- ☞ *Are there alternatives to State General Fund revenues to pay for the counties’ direct subventions?*
- ☞ *Should legislators earmark cancellation fee revenues as a partial source of funding for county subventions?*
- ☞ *Should legislators increase cancellation fees to recover the landowners’ historical property tax benefits?*
- ☞ *Should legislators impose termination fees on public agencies’ acquisitions? Should the termination fees be similar to the cancellation fees?*
- ☞ *Should legislators impose fees when cities annex land and terminate the contracts? Should these termination fees be similar to cancellation fees?*
- ☞ *Should legislators earmark material breach penalty fee revenues as a partial source of funding for county subventions?*
- ☞ *Should legislators charge annual fees on “compatible uses” that displace agricultural production or open space uses on contracted lands?*
- ☞ *Should legislators recapture some of the historical property tax benefits that occur when contracted land changes ownership?*
- ☞ *Should legislators impose a state surcharge on local building permit fees as a partial source of funding for county subventions?*
- ☞ *Should legislators impose a state mitigation fee on projects that convert agricultural and open space land to new development?*
- ☞ *Are there other revenue streams that legislators should explore to fund county subventions? Oil severance taxes? Tidelands leases? Credits for carbon sequestration? Commercial agricultural marketing orders?*

## Sources & Credits

The following publications helped the Senate Local Government Committee’s staff prepare this briefing paper:

California Department of Conservation, California Land Conservation (Williamson) Act Status Report, 2002, Department of Conservation, August 2002.

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Carter, Harold O., et al., Land in the Balance: Williamson Act, Costs, Benefits and Options (Part 1), Department of Conservation, December 1989.

Governor’s Office of Planning and Research, The California Planners’ Book of Lists, 2010, Governor’s Office of Planning and Research, December 2009.

Legislative Analyst’s Office, “Tax Relief (9100),” Analysis of the 2004-05 Budget Bill, Legislative Analyst’s Office, February 2004.

Remy, Michael H., et al., Guide to CEQA (Eleventh Edition), Solano Press Books, 2007.

Sokolow, Alvin D., Land in the Balance: Williamson Act Costs, Benefits and Options (Part 2), Department of Conservation, December 1989.

The California Department of Conservation’s Division of Land Resource Protection maintains a useful website with important information about the Williamson Act, use value property assessments, and open space subventions:

[www.conservation.ca.gov/dlrp/Pages/index.aspx](http://www.conservation.ca.gov/dlrp/Pages/index.aspx)



Elvia Diaz, the Committee Assistant, produced this briefing paper. Peter Detwiler, staff consultant, wrote the paper. The mistakes are his, but he gratefully acknowledges the advice he received from Dan Chia, Jim Collin, John Gamper, Bill Geyer, Brian Leahy, Steve Oliva, Marianne O’Malley, and Ed Thompson, among others.

March 26, 2010

## **CSAC Co-Hosts Williamson Act Summit in Fresno County This Week**

Participants to develop aggressive advocacy campaign

By Paul McIntosh, Executive Director  
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On March 24, county officials from across the state participated in a Williamson Act Summit in Fresno County that focused on county concerns about the permanent loss of this program and its potential negative impact on the state's economy, particularly agriculture. Fresno County, the lobbying firm of Shaw/Yoder/Antwih, Inc., and CSAC hosted the event.

Given the statewide support for the Williamson Act, county officials from the Central Valley felt it was imperative to bring all interested counties and representatives from agriculture together to share perspectives.

Supervisor Judy Case, chair of the Fresno County Board of Supervisors, opened the meeting. Participants were given a brief overview of the Williamson Act's evolution and an update on actions from both the Legislature and Administration regarding subvention funding.

After a lively dialogue, a consensus was reached that counties, in partnership with agriculture, the environmental community, and supporters, should engage in an aggressive lobbying campaign to pressure the Governor to restore the Williamson Act subventions in the May budget revision.

This direction from the summit participants and the strong support voiced by members of the CSAC Board of Directors at their March 25 meeting is clearly consistent with CSAC's longstanding policy to support full funding of the Williamson Act. Consequently, CSAC will move forward in a partnership with the various stakeholders in strong advocacy campaign.

Following is a brief recap of summit comments:

- Counties are frustrated with the on-again-off-again subvention program, and the fact that it has become a partisan political football in budget negotiations.
- More counties will start the non-renewal process if subvention funding is not restored.
- Loss of subventions means the loss of the program, which contributes to loss of jobs in agriculture and other sectors of the economy. Food security will be threatened.
- We should not minimize the relevance of the Williamson Act to large counties with less land in the program. That acreage is meaningful and valued by the larger populace.
- Does the Governor truly want his legacy to include the de facto repeal of the state's premier agriculture and open space conservation program?

- The agriculture industry cannot take any new tax increases, especially given recent regulatory actions that affect farming operations. Development or solar farms will be the only option.

Watch for future information from CSAC on the progress of the advocacy campaign efforts as they come together.

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## County Williamson Act Survey Results Executive Summary March 1, 2010

### Introduction

The California State Association of Counties (CSAC) was asked by the Senate Local Government Committee (Committee) to help obtain information on the Williamson Act for a special oversight hearing of the Committee. The hearing, *Williamson Act: The Past, Present & Future*, is scheduled to take place on March 3, 2010 from 9:30am - 11:00am in Sacramento.

Consequently, CSAC conducted a survey on county Williamson Act issues specifically related to the lack of subvention funding to counties. The survey was sent to all 58 counties on February 19, 2010. CSAC received 23 responses from the following counties: Mariposa, Imperial, Santa Barbara, Shasta, Kings, Lake, Placer, Sonoma, Butte, Contra Costa, Siskiyou, Yolo, Lassen, San Benito, Napa, Alameda, Tehama, San Mateo, Monterey, Sierra, San Joaquin, Fresno and Kern. The brief survey contained basic questions related to how counties are dealing with the cuts to Williamson Act subventions. The following is a summary of responses received.

### **How is your county responding to the state's failure to restore Williamson Act subvention funding?**

The majority of respondents to the survey indicated that they have continued to fund the program in the 2009-2010 budget year despite the lack of subvention funding. However, the majority of respondents also indicated that they are investigating options for the non-renewal process and other longer term strategies to deal with a lack of subvention funding.

Nine counties, including Shasta, Kings, Lake, Sonoma, Yolo, Imperial, San Joaquin, Fresno and San Benito have indicated that they have stopped accepting any new Williamson Act applications. Furthermore, Imperial County Board of Supervisors voted recently to not accept any new contracts and to not renew existing contracts, making them the first to begin the non-renewal process as a direct result of the state budget cuts. Additionally, Lassen County is initiating an economic study to investigate the potential impact of terminating the entire program.

The consensus from respondents also suggested that counties continue to be in a "holding pattern" with respect to making any type of decisions on the future of the program. With the loss of subvention funding from just one budget year, the state has not clearly indicated if this is a short-term solution or if the program will not be funded for a significant period of time. One county clearly indicated that they will be considering cessation of the program if the State continues to not appropriate subvention funds.

### **Is your county exploring any options or alternatives to the Williamson Act Program, such as developing a local program?**

The majority of respondents to the survey are not currently considering alternatives to the Williamson Act Program. Several counties remarked that they have explored alternative options, including a locally funded and administered program, but have found alternative options not attractive enough to divest from the Williamson Act Program despite the



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uncertainty surrounding subvention funding. As mentioned in the response to the previous question, counties remain in a holding pattern and are hesitant to dedicate scarce resources towards investigating alternative options until the future of the Williamson Act Program becomes clearer.

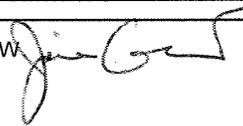
**If your county is continuing to fund the Williamson Act program, have you had to make cuts to other programs? How are you dealing with the loss of subvention funds?**

Counties have indicated a variety of different ways in which they are handling the lack of subvention funding. Several counties are making cuts to other programs and services as a result of the need to backfill the program.

Tehama County detailed the loss of over \$800,000 in subvention funding and how it directly affects their general fund revenues. As a result, Tehama County has made staff reductions and other program cuts to deal with the loss. San Benito County detailed how the loss of subvention funding combined with the deterioration of property tax revenues and slumping sales taxes has caused their County to eliminate positions, lay off employees and to tap into reserve funds. Kern County also described a loss of \$4.6 million in subvention funding and its ripple effect on the County's ability to provide other services. Siskiyou County described how the lack of subvention funding has had a direct impact to their general fund as their budget reserves have been depleted.

The majority of respondents are making cuts in their respective budgets to absorb the cut to subvention funding. In addition, all respondents emphasized the importance of the program to their respective communities and the dramatic impact that continued cuts to the program would have on counties, agriculture and the environment.

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT County Administrative Office		(2) MEETING DATE April 27, 2010		(3) CONTACT/PHONE Jim Grant, County Administrator 781-5011	
(4) SUBJECT Request to approve sending a letter to Governor Schwarzenegger supporting restoration of Williamson Act subvention funding in the proposed State budget. All Supervisorial Districts.					
(5) SUMMARY OF REQUEST The County Supervisors Association of California (CSAC) has initiated an advocacy campaign to save the subvention funding for the Williamson Act, also known as the California Land Conservation Act of 1965. Part of this campaign includes having affected counties send letters to Governor Schwarzenegger urging him to restore Williamson Act subvention funding in the May revision of the proposed State budget. A draft letter to the governor has been prepared for the Board's consideration.					
(6) RECOMMENDED ACTION Approve and instruct the chairman to sign the attached letter to Governor Schwarzenegger supporting restoration of Williamson Act subvention funding in the proposed State budget.					
(7) FUNDING SOURCE(S) Department budgets		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Agricultural Preserve Review Committee					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input checked="" type="checkbox"/> All		(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board N/A	
(16) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)		(17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A			
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A			
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date: _____	
(23) ADMINISTRATIVE OFFICE REVIEW 					

# County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM D430 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011



**TO:** BOARD OF SUPERVISORS  
**FROM:** JIM GRANT, COUNTY ADMINISTRATOR  
**DATE:** APRIL 27, 2010

**JIM GRANT**  
COUNTY ADMINISTRATOR

**SUBJECT:** REQUEST TO APPROVE SENDING A LETTER TO GOVERNOR SCHWARZENEGGER SUPPORTING RESTORATION OF WILLIAMSON ACT SUBVENTION FUNDING IN THE PROPOSED STATE BUDGET. ALL SUPERVISORIAL DISTRICTS.

## RECOMMENDATION

Approve and instruct the chairman to sign the attached letter to Governor Schwarzenegger supporting restoration of Williamson Act subvention funding in the proposed State budget.

## DISCUSSION

### Summary

On March 24, 2010, county officials from across the state participated in a Williamson Act Summit in Fresno County. The summit was hosted by the California State Association of Counties (CSAC) and focused on county concerns about the permanent loss of this program and its potential negative impact on the state's economy, particularly agriculture. A consensus was reached that counties, in partnership with agriculture, the environmental community, and supporters, should engage in an aggressive lobbying campaign to convince the Governor to restore the Williamson Act subventions in the May revision of the proposed State budget for 2010-11.

CSAC has subsequently initiated a strong advocacy campaign to save the subvention funding for the Williamson Act, also known as the California Land Conservation Act of 1965. Part of this campaign includes having affected counties send letters to Governor Schwarzenegger urging him to restore Williamson Act subvention funding in the May revision of the proposed State budget. A draft letter to the governor has been prepared for your Board's consideration (see Attachment 1).

### Background

The California Legislature passed the Williamson Act in 1965 to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. The Act creates an arrangement whereby private landowners contract with counties and cities to voluntarily restrict land to agricultural and open-space uses. The vehicle for these agreements is a rolling term 10 or 20 year contract (i.e. unless either party files a "notice of nonrenewal", the contract is automatically renewed annually for an additional year). In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use, rather than potential market value. From 1972-73 to 2008-09, the State general fund had paid direct

subventions to participating counties and cities to partially compensate for the resulting loss in property tax revenue.

Agriculture is a significant economic driver in San Luis Obispo County. Total crop values for 2009 were estimated at \$623,095,000, an increase of 3% over 2008. The Williamson Act is the county's most important program for protecting agricultural land. 67% of the county's Agriculture-zoned land, or 37% of all county land (793,414 acres of the 2,126,247 total acres), is subject to land conservation contracts under the Williamson Act. The acreage includes land that was added into Williamson Act contracts in December of 2009 and shows the significance of this program in preserving and supporting agriculture in the county.

#### Comments

The Williamson Act is an important growth management tool for local government and agriculture because it provides certainty to landowners that they will be able to farm without encroachment of incompatible non-farm uses. Increasing conservation efforts by private and public groups point to the importance of a variety of efforts to protect the county's resources for the future of agriculture and open space. The Williamson Act's assessment of low income - high valued agricultural lands is especially important to this county. The Williamson Act has always been a partnership between the State, the County, and private landowners. Subvention payments represent the state's good faith incentive for counties and cities that offer the program to landowners.

The total property taxes not collected for all governmental agencies in San Luis Obispo County because of participation in the Williamson Act program are approximately \$10 million annually. The direct property tax loss to our county itself is about \$2.4 million annually and 42% (\$1 million) has historically been reimbursed in prior years through the subventions. Since the subventions were reduced by 10% in 2008-09 and entirely eliminated in 2009-10, our county has lost at least \$1.2 million in direct subvention payments. Our county has demonstrated its commitment to preserving and protecting agricultural land by absorbing both the prior annual difference of \$1.4 million and the loss of full subvention payments over the last two years.

#### Future actions

Staff will bring back to your Board a further discussion of the county's options for dealing with the issue of Williamson Act subvention payments after the Governor's May revision of the proposed State budget has been released and before the county budget hearings are held in June.

#### **OTHER AGENCY INVOLVEMENT/IMPACTS**

The San Luis Obispo County Agricultural Preserve Review Committee (APRC) sent a letter to your Board on August 25, 2009 addressing the elimination of subvention payments from the amended State budget for 2009-10 (see Attachment 2). The letter states that the APRC strongly feels that the action to eliminate subventions sends the wrong message to local government by implying that the State is no longer committed to preservation of agriculture. In their letter, the APRC encouraged the Board of Supervisors to continue to support our county's

participation in the Williamson Act program and to strongly urge that the State subvention funding be restored in order to continue providing partial reimbursement of county tax revenue losses incurred by implementation of the Williamson Act.

### **FINANCIAL CONSIDERATIONS**

The State subvention payment to the county in the 2008-09 fiscal year would have been \$1,088,978. However, with the 10% reduction approved in the adopted 2008-09 State budget, the amount the county actually received that year was \$980,088. The entire subvention amount was eliminated in the amended 2009-10 State budget and the subventions are currently not funded in the proposed 2010-2011 State budget. In the years prior to 2008-2009, the subvention paid to the county has historically been about \$1 million annually. This represents about 42% of the \$2.4 million in annual property tax revenue not received by our county because of our participation in the Williamson Act program. The revenue loss to our county of not receiving full subvention payments in the last two years is at least \$1.2 million and we will lose another \$1 million dollars next year if the subvention funding is not fully restored in the proposed State budget.

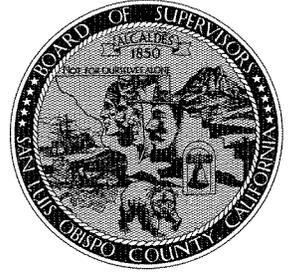
### **RESULTS**

Approving the attached letter for transmittal to Governor Schwarzenegger will demonstrate the Board of Supervisor's support for restoring the Williamson Act subvention funding in the proposed State budget for fiscal year 2010-11 as an essential component of the county's participation in this critical agricultural land preservation program. This action supports the desired communitywide results of a healthy, liveable, prosperous and well-governed community.

### **ATTACHMENTS**

1. Letter to Governor Schwarzenegger regarding Williamson Act subvention funding.
2. Agricultural Preserve Review Committee letter of August 25, 2009.

# BOARD OF SUPERVISORS



1055 MONTEREY, ROOM D430 • SAN LUIS OBISPO, CALIFORNIA 93408-1003 • 805.781.5450

April 27, 2010

The Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

*FRANK R. MECHAM, Supervisor District One*  
*BRUCE GIBSON, Supervisor District Two*  
*ADAM HILL, Supervisor District Three*  
*KHATCHIK H. "KATCHO" ACHADJIAN, Supervisor District Four*  
*JAMES R. PATTERSON, Supervisor District Five*

Re: Williamson Act Subvention Funding

Dear Governor Schwarzenegger:

The Board of Supervisors of San Luis Obispo County has taken action to strongly urge you to restore the \$38 million in Williamson Act subvention funding in your May revision of the State budget for 2010-11 that was previously eliminated from your proposed budget in January.

For cities and counties, the financial support provided by the Williamson Act subventions has provided a tangible incentive for local governments to stay in the program and initiate more contracts by partially replacing property tax revenues lost on enrolled land. Like the state, counties are also being faced with making tough decisions due to declining revenues and significant budget shortfalls. The loss of already limited discretionary dollars may be the last straw for some counties struggling to provide essential public services. If the subventions are not funded, there is no doubt that some counties will be forced to discontinue their participation in the Act given local budgetary conditions.

Agriculture is a significant economic driver in San Luis Obispo County. Total crop values for 2009 were estimated at \$623,095,000, an increase of 3% over 2008. The Williamson Act program is the cornerstone of the County's agricultural land preservation efforts. Of the 2.126 million total acres in the county, 793,414 acres (37%) are in the Williamson Act program and under land conservation contracts. 57% of the county land zoned Agriculture is within the Williamson Act program. This shows the importance of this program in preserving and supporting agriculture in the county.

The total property taxes not collected for all governmental agencies in San Luis Obispo County because of participation in the Williamson Act program are approximately \$10 million annually. The direct property tax loss to our county itself is about \$2.4 million annually and only 42% (\$1 million) has historically been reimbursed in prior years through the subventions. Since the subventions were reduced in 2008-09 and entirely eliminated in 2009-10, our county has lost at least \$1.2 million in subvention payments. Our county has demonstrated its commitment to preserving and protecting agricultural land by absorbing both the prior annual difference of \$1.4 million and the loss of full subvention payments over the last two years. We feel strongly that the State should equally honor its commitment to the Williamson Act by restoring the subventions in the proposed budget.

For California, eliminating the subvention payments is the first step toward a total unraveling of the broadest based agricultural conservation program in the State. California is losing its working landscapes at an alarming rate while simultaneously faced with tremendous population pressure that further jeopardizes the economic viability of thousands of farming and ranching enterprises.

Additionally, with the passage of AB 32 and SB 375, California has committed to reducing its carbon emissions and addressing global warming in a comprehensive manner. The Williamson Act is the ultimate complement to these measures. The Act strives to protect farmland and open space, land which in itself reduces greenhouse gas emissions through the carbon sequestration process and has proven to be an effective tool for encouraging the preservation of existing farmland and preventing leapfrog development.

The preservation of agriculture is not just a local priority; it is – and must remain – a State priority. We urge you to support the continuance of the Williamson Act subventions.

Sincerely,

Frank Mecham  
Chairman  
San Luis Obispo County Board of Supervisors

cc: Senator Abel Maldonado  
Assemblyman Sam Blakeslee  
Senator Denise Ducheny, Senate Budget and Fiscal Review Committee Chair  
Assembly Member Bob Blumenfield, Assembly Budget Committee, Chair



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**DEPARTMENT OF PLANNING AND BUILDING**

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**TO:** BOARD OF SUPERVISORS

**FROM:** AGRICULTURAL PRESERVE REVIEW COMMITTEE

**VIA:** WARREN HOAG, AICP, DIVISION MANAGER, CURRENT PLANNING

**DATE:** AUGUST 25, 2009

**SUBJECT:** AGRICULTURAL PRESERVE REVIEW COMMITTEE'S COMMENTS ON STATE BUDGET CUTS FOR OPEN SPACE SUBVENTIONS TO COUNTIES AND CITIES PARTICIPATING IN THE WILLIAMSON ACT (ITEM D-1, REVIEW IMPACTS OF THE RECENTLY AMENDED 2009 -2010 STATE BUDGET TO THE COUNTY'S 2009 – 10 BUDGET)

Summary

At the request of the Agricultural Preserve Review Committee, staff is forwarding these comments to the Board of Supervisors for consideration as part of their review of Item D-1 on today's agenda regarding the impacts on the county budget of the amended state budget for 2009 – 10. The Agricultural Preserve Review Committee reviewed the Governor's action to cut the current Williamson Act subvention from the 2009 -10 state budget as a discussion item at their August 17, 2009 regular meeting. The consensus of the Review Committee was to recommend that your Board continue to support our county's participation in the Williamson Act program and to strongly urge that the state subvention funding be restored in order to continue providing partial reimbursement of county tax revenue losses incurred by implementation of the Williamson Act. If eliminated in future years, the annual revenue loss for San Luis Obispo County would amount to approximately \$1 million per year.

Discussion

The Williamson Act, or California Land Conservation Act of 1965, is the county's most important program for protecting agricultural land. Nearly 66% of the county's agricultural land, or approximately 37% of all county land (789,087 acres of the 2,124,000 total acres), is subject to land conservation contracts. The Williamson Act is an important growth management tool for local government and agriculture because it provides certainty to landowners that they will be able to farm without encroachment of incompatible non-farm uses. Increasing conservation efforts by private and public groups point to the importance of a variety of efforts to protect our most valuable resources for the future of agriculture and open space. The Williamson Act's assessment of low income - high valued agricultural lands is especially important to this coastal county.

The state payment to the county in 2008-2009 fiscal year would have been approximately \$1 million. However, with the 10% reduction approved in the adopted 08-09 budget, the amount the county actually received was about \$900,000. The entire subvention amount was eliminated for the upcoming 2009-2010 state budget cycle which has historically been about \$1 million per year.

The Williamson Act has always been a partnership between the state, the county, and private landowners. Open space subventions, which began in 1971, represent the state's good faith incentive for counties and cities that offer the program to landowners. The Agricultural Preserve Review Committee strongly feels that the action to eliminate subventions from the amended state budget sends the wrong message to local government by implying that the state is no longer committed to preservation of agriculture. Local government is also currently affected by increasing monetary woes where loss of open space subventions could adversely affect political decisions that could undermine the present success of the Williamson Act.

The Agricultural Preserve Review Committee encourages the Board of Supervisors to continue to support our county's participation in the Williamson Act program and to strongly urge that the state subvention funding be restored in order to continue providing partial reimbursement of county tax revenue losses incurred by implementation of the Williamson Act.

c: Jim Grant, Interim County Administrator  
Kami Griffin, Assistant Planning Director  
Robert Lilley, County Agricultural Commissioner

## ALAB Correspondence Since Last Meeting

# County of San Luis Obispo Agricultural Liaison Advisory Board



**Agricultural Liaison  
Advisory Board (ALAB)**

2156 Sierra Way, Suite A  
San Luis Obispo, CA 93401 (805) 781-5914

Positions/Members/Terms

CHAIR: Dee Lacey  
VICE CHAIR: Jean-Pierre Wolff

District One: Mecham Appt.  
Dee Lacey (1/13)

District Two: Gibson Appt.  
Lisen Bonnier (1/11)

District Three: Hill Appt.  
Tom Ikeda (1/13)

District Four: Achadjian Appt.  
Bill Struble (1/11)

District Five: Patterson Appt.  
Noah Small (1/13)

Ag. Finance Rep.  
Mark Pearce (8/10)

Cattlemen Rep.  
Dick Nock

Coastal San Luis RCD Rep.  
Jean-Pierre Wolff (8/11)

Direct Marketing/Organic Rep.  
Eric Michielssen (4/12)

Environmental Rep.  
Debra Garrison (1/11)

Farm Bureau Rep.  
R. Don Warden

Nursery Rep.  
David Pruitt (4/12)

Upper Salinas-Las Tablas RCD Rep.  
Charles Pritchard (1/14)

Vegetable Rep.  
Richard Quandt (4/12)

Wine Grape Rep.  
Neil Roberts (4/12)

County Agricultural Commissioner  
Bob Lilley  
*Ex-Officio*

U.C. Coop. Extension Farm Advisor  
Mary Bianchi  
*Ex-Officio*

**DATE:** April 12, 2010

**TO:** San Luis Obispo County Board of Supervisors

**SUBJECT:** Central Coast Regional Water Quality Control Board (CCRWQCB) regarding the preliminary draft Agricultural Order to Control Discharges from Irrigated Lands

Members of the Agricultural Liaison Advisory Board (ALAB) met on April 5, 2010, to discuss the proposed CCRWQCB draft order and its impact on agriculture in the county. Members unanimously agreed to the following motion:

**ALAB requests the Board of Supervisors support the agriculture community's Preliminary Alternative Agricultural Proposal as presented in the California Farm Bureau Federation's April 1, 2010 letter to the CCRWQCB, by requesting the CCRWQCB direct its staff to develop an order based upon this alternative concept proposal.**

The alternative concept proposal is attached.

ALAB requests that a Board of Supervisor member attend and testify on behalf of the County at the CCRWQCB workshop scheduled for May 12, 2010. Alternatively, ALAB would support your Board sending a letter to the CCRWQCB expressing the County's concerns about the proposed order and supporting the alternative concept proposal.

Sincerely,

Dee Lacey, Chair  
Agricultural Liaison Advisory Board



# CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

*Via US Mail and Email*

*cjones@waterboards.ca.gov  
rbriggs@waterboards.ca.gov  
aschroeter@waterboards.ca.gov  
hkolb@waterboards.ca.gov*

April 1, 2010

Jeffrey S. Young, Chairman of the Board  
Roger Briggs, Executive Officer  
California Regional Water Quality Control Board  
Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, California 93401

**Re: *Preliminary Alternative Agricultural Proposal in Response to Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands***

Dear Mr. Young and Mr. Briggs,

Please find the attached Preliminary Agricultural Proposal submitted in response to the Central Coast Regional Water Quality Control Board's "Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands." This Preliminary Agricultural Proposal is submitted on behalf of 7 County Farm Bureaus, as well as numerous additional entities listed at the conclusion of the proposal. Given the draft nature of this agricultural proposal, the agricultural community respectfully requests future and continuing collaboration with Regional Board staff and Board members as a new discharge program is developed.

Sincerely,

A handwritten signature in black ink, appearing to read "Kari Fisher", written in a cursive style.

Kari E. Fisher  
Associate Counsel

Attachment



# CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

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*Via US Mail and Email*

*cjones@waterboards.ca.gov  
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aschroeter@waterboards.ca.gov  
hkolb@waterboards.ca.gov*

April 1, 2010

Jeffrey S. Young, Chairman of the Board  
Roger Briggs, Executive Officer  
California Regional Water Quality Control Board  
Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, California 93401

**Re: *Preliminary Alternative Agricultural Proposal in Response to Preliminary Staff Recommendations for an Agricultural Order to Control Discharges from Irrigated Lands***

Seven county Farm Bureaus comprising the counties within the jurisdiction of the Central Coast Regional Water Quality Control Board (“CCRWQCB”) have met with representatives of other agricultural groups and individuals on numerous occasions to consider alternative elements to be included in a new agricultural discharge program. At the request of the CCRWQCB Board, we submit this conceptual proposal for revision of the current Conditional Agricultural Waiver of Waste Discharge Requirements (“Conditional Ag Waiver”). Members of the Central Coast agricultural community recognize that the quality of agricultural water discharges can and will improve through implementation of on-farm practices. During presentations by agricultural representatives at CCRWQCB Board meetings in October and December 2009, growers requested an opportunity to present an alternative concept (“Ag Proposal”) for the new Ag Waiver to the CCRWQCB Board prior to the formal commencement of the Conditional Ag Waiver renewal process. The CCRWQCB Board established a timeline for agriculture to submit a proposal by April 1, 2010, to be followed by a CCRWQCB Board workshop on May 12, 2010. The concepts set forth herein are the result of numerous area meetings with growers who all understood that the objective is to improve water quality attributable to commercial irrigated agriculture, which constitutes the largest industry and employer on the Central Coast. Farmers have reviewed the CCRWQCB’s Draft Conditional Ag Waiver (“Staff Draft Waiver”) which was distributed for comment on February 1, 2010, and will provide extensive independent individual comment prior to April 1, 2010.

The true goal of the Conditional Ag Waiver is to improve water quality. The State Water Code and the CCRWQCB Basin Plan provide the authority for CCRWQCB to impose regulations on dischargers to improve water quality. Farmers are equally concerned about water quality and the

environment. However, there is no need for CCRWQCB to impose arbitrary restrictions on commercial agriculture so long as farmers take necessary steps to demonstrate water quality improvement over a scientifically feasible timeline with intermediate milestones. The process of designing and adopting a new Ag discharge program will not be simple or quick. Further collaboration between the CCRWQCB and agriculture will be necessary to develop a workable long term solution. The Farm Bureaus hope the CCRWQCB will proceed with the development of a long term program rather than conditional waivers limited to five year terms. In that light, this proposal does not attempt to address every item necessary for inclusion in a new long term discharge program; it only strives to move the points of discussion on six key points:

- 1) The Farm Plan,
- 2) Practice Implementation,
- 3) Education,
- 4) Monitoring,
- 5) Groundwater, and
- 6) Land Use Regulations.

**PROGRESS THUS FAR** Farmers throughout the Central Coast had a history of voluntary water quality improvements prior to the first waiver. Individual growers report that fertilizer inputs have been reduced by up to 60% in the past 15 years. Progressive change from furrow to sprinkler to drip irrigation has improved efficiency and reduced water runoff. Conservation practices were implemented to minimize erosion and loss of sediment. All of this was undertaken prior to any regulatory mandate of the first Conditional Ag Waiver.

In 1999 the Agriculture and Rural Lands Water Quality Protection Program was developed by the Monterey Bay National Marine Sanctuary (“MBNMS”). The MBNMS worked directly with volunteer farmers and local Farm Bureaus to establish watershed working groups and develop an educational program through the U.C. Cooperative Extension (“UCCE”) that was later turned into the UCCE Short Course. Through this outreach program in Monterey, San Luis Obispo, San Benito, Santa Cruz, San Mateo and Santa Clara counties, farmers voluntarily implemented innovative on-farm water and soil conservation practices. Many of the concepts developed in this voluntary program were later adopted by the CCRWQCB in the first Ag Waiver.

Prior to January 2005, there was no specific regulation of agricultural water quality in the Central Coast. The implementation of the first Ag Waiver and the Monitoring and Reporting Program (“MRP”) created a monthly monitoring program for the first time to provide growers with information on water quality. Since there was no prior water quality regulation, no focused monitoring and no outreach, beyond voluntary programs, information and understanding of the water quality impacts of irrigated agriculture has been limited. Since 2005, with the enrollment in the Ag Waiver, there has been extensive outreach and education focused on monitoring results and water quality practice implementation.

Central Coast Water Quality Preservation, Inc. (“CCWQP”) was established by growers in December 2004 to conduct the Cooperative Monitoring Program (“CMP”) which commenced in January 2005. Monthly monitoring is meaningful only after sufficient data have been assembled, analyzed, and the results made available to the growers. CCWQP participated in UCCE Short

Courses and other practice related outreach since 2005. However, only since 2007 has there been sufficient data to conduct outreach and education on the nature and scope of water quality impairments in agricultural areas of the Central Coast. CCWQP provided regional, watershed, sub-watershed, and individual outreach sessions throughout the region. To supplement the CMP, CCWQP conducted upstream monitoring on selected watersheds, and followed up with more outreach. Throughout this period, voluntary outreach and practice implementation programs continued through the work of a large network of providers, who were themselves better informed about agricultural water quality impacts due to the CMP dataset. CCWQP also provided individual confidential on-farm sampling to work with growers who implemented new and sometimes innovative management practices. All of this work directly with growers had a positive impact on water quality in the Central Coast.

**Changes in Water Quality:** The optimal dataset length for trend analysis depends on the variability of the data (the more variability, the longer the dataset needed). Ten years of data is the time frame often cited as an optimal minimum for trend analysis, given the level of variability typical of many water quality datasets. In a recent trend analysis of Central Coast data, significant water quality trends were detected at a number of the sites. With a less robust dataset, failure to detect trends may be due to a true lack of trends, or it may be due to a lack of sufficient statistical power to detect trends that actually exist. A “power analysis” of the CMP dataset has not yet been conducted.

A preliminary seasonal Mann-Kendall trend analysis on nitrate, turbidity, and stream flow data from a subset of CMP sites has identified many significant downward trends in stream flow, and very few trends in nitrate or turbidity. Loading trends for nitrate and suspended sediment (turbidity) were not analyzed, but significant downward trends in flow were generally much larger than any upward trends in constituent concentration. Therefore, loading to downstream water bodies from CMP areas has likely declined substantially at any site experiencing significant declines in flow.

The very limited organophosphate (“OP”) time series that is available does not support a statistical trend analysis, but shows “across-the-board” declines in September concentrations of Chlorpyrifos at Santa Maria CMP sites and in Diazinon at Salinas CMP sites from 2006 to 2009. Due to the concurrent decline in stream flows, loads of these OP’s also declined substantially.

In conclusion, current water quality data sets support only limited analysis of water quality change in agricultural areas of the Central Coast. Thus far, analysis shows very little concentration-based water quality change, with the possible exception of late-summer organophosphate concentrations in a few areas, which appear to have declined between 2006 and 2009. Evidence of declining trends in stream flow during the growing season is more compelling, which suggests load reductions for many constituents to downstream areas. Currently, there are very few practices which demonstrably improve concentration-based water quality in agricultural discharges. Therefore, near-term changes in agricultural watersheds should be expected to show more in stream flow and loading rate declines than in concentration-based water quality.

## **PRELIMINARY ALTERNATIVE AGRICULTURAL PROPOSAL**

**FARM PLAN** The Farm Plan is an important element of the new Ag Program. The draft Ag Proposal recommends the continued use of Farm Plans for specific and limited use:

- Farm Plans are kept on site or in the farm offices
- Annual Farm Reports by each grower
- All growers will update their Farm Plans after renewal of the Ag Waiver
- Farm Plans are available for inspection by CCRWQCB staff
- Business operational records are proprietary and remain confidential

The present Conditional Ag Waiver requires a Farm Plan. The UCCE Short Course and Ag association representatives helped farmers write their first farm plans in 2005. The Farm Plan as initially developed by UCCE was for the growers to use and retain on farm and was intended to be confidential to the grower. The goal was to focus growers on those elements of farming which impact water quality. The present Conditional Ag Waiver provides that CCRWQCB staff may review the farm plans when inspecting the enrolled farm as part of usual enforcement inspections.

Staff's Draft Waiver makes the Farm Plan a catch all for record keeping for each farm a grower may operate. It proposes that the Farm Plan would contain Monitoring results, farm information, and records of detailed Practice Implementation. Upon 30 days notice, CCRWQCB staff could demand delivery of the farm plan to CCRWQCB offices for review. Upon submission of the Farm Plan, all information in the Farm Plan would become a public record.

Over 1,800 farmers and farm companies are enrolled in the current Conditional Ag Waiver. This represents over 390,000 acres, 95% of all commercially farmed land on the Central Coast. Each of these growers competes with each other to market their crops, throughout the region and nation. Farming is a business with significant risks, due to the weather, markets and regulation. Successful growers may make a profit only two out of every five years. Profit margins are very slim. A very good farmer may find success only because s/he can produce 5 or 10% more yield per acre than neighboring competitors. In such a highly competitive environment individual business practices must remain confidential. This is particularly important in every commodity crop, where the produce is virtually indistinguishable between each farm. Submission of the Farm Plan to CCRWQCB would eliminate any competitive advantage a grower may have in the market, without improving water quality or providing relevant information to CCRWQCB for enforcement purposes.

### **Ag Proposal: Farm Plans**

Farm Plans should remain as key components in the program and should be maintained onsite, but available for CCRWQCB inspection upon noticed request. The present procedure of allowing inspection of Farm Plans during site enforcement visits is preferable for several reasons. Only through onsite farm inspections can a CCRWQCB staff member see the linkage between the written plan and on farm practices. The information in the plans is only relevant when compared to the farm site. Abstract review of the plans in a remote office setting may lead

to misleading conclusions regarding the intent and impact of the contents, and their relevance to water quality improvement.

A Farm Plan should be a meaningful document for both the grower and the regulator. Farming operations should revise and/or update their Farm Plans within an appropriate set time period after adoption of the new waiver. Revisions of Farm Plans could include descriptions and or discussions on how the farming operation intends to implement certain management practices to improve water quality and/or comply with the conditions in the Ag Waiver. Farm Plans should continue to be maintained by each grower in their offices. Development and implementation of Farm Plans should create a presumption of compliance with the Basin Plan. The General Conditions of the new Ag Program should be revised to state: "Compliance with this Order shall constitute compliance with applicable Basin Plan provisions, including any prohibitions and water quality objectives governing protection of receiving waters from non-point source discharges." Detailed farm operation and business records are not relevant to improvements in agricultural water quality, are not appropriately part of the Farm Plan, and should not be included.

**Annual Report:** In lieu of submission of the Farm Plan to CCRWQCB, each grower could be required to submit an annual report of practices similar in format to the Monterey County Water Resources Agency ("MCWRA") annual Agricultural Water Conservation Plan (attached). This would provide meaningful information to CCRWQCB to evaluate farm and practice changes from the prior year. The MCWRA receives the reports from individual growers, which it holds as confidential business records, and assembles an annual report from the information submitted. CCRWQCB should adopt the same procedure for handling these reports as confidential business records. This form would be edited so that it directly relates to the types of farm practices which have an impact on water quality. It will provide staff with a better and more consistent way to review farm practices.

**IMPLEMENTATION OF PRACTICES** Growers will continue to address water quality issues through practice implementation. The Ag Proposal proposes the following practices:

- Summarize water quality related practices
- Evaluate effectiveness of practices
- Implement and/or maintain practices designed to improve water quality
- Fit practice implementation to the unique circumstances of each farm

Many growers have already implemented management practices or made operational changes that have reduced or eliminated tailwater discharge from their farms. If a grower has already eliminated tailwater there should be no further surface water requirement, as nothing more is needed to address the issue. For the remaining growers, the focus should be on practices, either ongoing or new, which will improve water quality and/or reduce discharge.

**Ag Proposal: Practice Implementation**

Growers should periodically evaluate the effectiveness of management practices and document this review in their Farm Plan. Growers should refine management practices to improve their effectiveness as necessary, protect against pollution, and protect the waters of the State. Growers

should address identified impairments and implement additional management practices, if applicable and appropriate. Growers should document management practice effectiveness in order to protect themselves from the imposition of practices that are ineffective or wasteful of resources. All of this can be accomplished with a clear focus on water quality improvements without excessive and massive record keeping involving trade secrets and confidential business practices.

**Tailwater:** All tailwater is not the same. 1) Tile drains: Without tile drains some of the most productive local farm land in the nation would become fallow, eliminating continued agricultural use and severely impacting local property tax revenues. Tile drains allow high perched subsurface water to be kept below the root zone, so plants can grow successfully. The perched subsurface water may be the result of adjacent rivers or nearby marine influence. Tile drains need to be maintained. Growers with tile drains could work with technical advisors to develop a better understanding of the benefits and water quality concerns associated with their use. Growers with tile drains should be allowed sufficient time to develop practices to improve water quality without the prospect of elimination of the drains. No grower can afford the investment in practices which will progressively improve water quality if there is a perpetual fear that the existing drains will become illegal. 2) Surface Tailwater: Tailwater from surface flows can be the result of excessive irrigation. It can also be generated because of local soil types and topography. The best management practices cannot change soils or slopes. Each farm needs to be able to address their unique circumstances. Most importantly, each farm needs to be able to allocate resources to address water quality issues that are real to their operation. Growers should not be compelled to spend time or money on practices or documentation that do not address their specific water quality issues.

**Nurseries:** Nurseries with impervious floors have been excluded from Staff's Draft Waiver, and are now required to get a Waste Discharge Requirement ("WDR"). Other commercial nurseries have specific proposed restrictions, such as preventing rainfall from striking potted plants. Seasonal precipitation varies considerably from Santa Cruz to Santa Barbara, which will require differing approaches to solving winter runoff in areas holding potted plants. It is better to establish water quality improvement goals and allow nursery operators discretion in reaching this target. They have a better understanding of the unique needs of the varieties of plants they grow and their ability to improve water discharge.

**EDUCATION** Education is an important element of any future agricultural discharge program.

- All enrollees must complete 5 hours of water quality related education within 5 years.

Success of the current Conditional Ag Waiver can be credited to grower participation and educational hours completed by growers. Staff's Draft Waiver removes the educational requirements mandated in the current waiver. In order to improve and maintain water quality, the CCRWQCB should support educational activities. The Ag Proposal supports the inclusion of educational requirements.

### **Ag Proposal: Education**

All enrollees of the program must complete at least five (5) hours of water quality education over a five (5) year period.

**MONITORING** In order to determine progress of water quality improvements, selective surface water monitoring should occur. The Ag Proposal offers the following surface water monitoring components:

- Continuation of the Cooperative Monitoring Program
- Voluntary and Confidential SMART Sampling
- Revised CMP Follow-Up Monitoring

The existing Conditional Ag Waiver requires enrolled growers to either conduct described individual monitoring or to participate in the Cooperative Monitoring Program (“CMP”). Since no farmers elected to conduct individual monitoring, all are participating in the CMP. The CMP conducts monthly monitoring at 50 sites, annual follow-up monitoring, aquatic toxicity monitoring four times per year, and annual benthic surveys and sediment toxicity testing at the 50 core sites. The results of this monitoring are reported quarterly to CCRWQCB and summarized and distributed to growers during outreach meetings and in CCWQP newsletters.

Staff’s Draft Waiver proposes several levels of reported on-farm monitoring for every grower on every farm. The CCRWQCB does not presently know how many discrete farm parcels are enrolled in the current Conditional Ag Waiver, but it is estimated to exceed 10,000 individual farms. The requirement that every farm submit multiple monitoring results will not improve water quality and will instead result in a flood of meaningless data at great expense to farmers and the government.

### **Ag Proposal: Surface Water Monitoring Program**

**Cooperative Monitoring Program:** The Cooperative Monitoring Program currently in place should continue to be utilized as the mechanism for implementing surface water monitoring requirements set forth in the current Ag Waiver. Growers need only continue to participate in the CMP (or elect to perform Individual Monitoring as described in the first Waiver). The Cooperative Monitoring Program should continue to be used to document water quality improvements, as well as documenting if water quality standards are being achieved. Results from this monitoring will be reported to CCRWQCB. Such data will then be fully analyzed and evaluated by CCRWQCB. The Executive Officer will provide regular updates to the Regional Board regarding the monitoring data and results, and progress of activities to maintain, improve, and/or protect the water quality within the Region.

Additional monitoring or sampling may be needed in specific watershed areas of concern. However, a one-size fits all approach is inadequate and inappropriate due to the different types of agriculture, topography, irrigation use practices, and geography throughout the region. The agricultural industry seeks to continue to develop flexible practices and measures to aid in water

quality improvements and desires to continue to collaborate with the CCRWQCB on such programs after the release of the MRP.

**SMART Sampling:** The Ag Proposal supports confidential, voluntary, on-farm “SMART sampling” conducted by growers. SMART sampling refers to Simple Methods to Achieve Reasonable Targets. SMART sampling educates growers about their individual operations and practices. Such sampling includes evaluating grower practices to document steps taken to address water quality and to confirm the effectiveness of such measures. The sampling data will be used by individual growers to revise management practices or modify operations to improve water quality or eliminate discharges. SMART sampling is encouraged for watershed areas of concern. The goals of voluntary SMART sampling include:

- 1) Identify water quality issues and a practice/change for the operation which can address these issues;
- 2) Implement practice/change in farm operations; and
- 3) Re-sample water to confirm improvement or identify continued water quality issues. If issue is not resolved, repeat steps 2 and 3 until the issue is resolved, at least annually.

Data and results from SMART sampling will remain confidential and kept in the Farm Plan. A two hour training on how to perform SMART sampling will be developed to provide consistency in application.

**Revised CMP Follow-Up Monitoring:** The revised surface water monitoring program proposal also builds upon the concept of the current “Follow-Up Monitoring” in the CMP, expanding the scope and broadening the existing program. The revised Follow-Up Monitoring Program would perform public access, reported “upstream monitoring” in all watersheds with documented water quality impairments related to the irrigation season on a rotational basis. To justify not reporting any farm-level data, the revised Follow-Up Monitoring Program would need to report data from upstream locations within watersheds of concern at public access sites. As part of the overall reporting for this program, CCRWQCB would receive an annual report from CCWQP at a noticed hearing that includes a thorough discussion of water quality results, on-farm activities, and the hydrologic and agricultural context of the results of those sites monitored in that year, addressing the goals below.

Goals of Follow-Up Monitoring:

1. In each area of concern being monitored, a detailed understanding of watershed hydrology, sources of impairment, and the degree to which sources of impairment are readily controllable will be developed. Factors to be examined include lack of natural baseflow, contributions from urban stormwater or a wastewater treatment plant (“WWTP”) need to be understood to provide context for water quality impacts.
2. In each area of concern, a narrative report of activities undertaken by growers to address specifically-identified water quality issues will be developed, in a manner which does not publically attribute water quality issues specific to any individual farm.
3. An informed discussion linking changes implemented or in progress by growers, and how these changes have demonstrably changed or can be expected to change nearby in-stream

water quality.

4. An informed discussion linking fine-scale sub-watershed level water quality and changes to water quality status at the bottom of the watershed.

Follow-Up Monitoring will be conducted on a rotating basis in agricultural areas with water quality impairments. The Follow-Up Monitoring Program will include traditionally-reported, public access monitoring of high spatial resolution (similar to the CMP 2008 “Upstream Monitoring” project) monthly during the irrigation season, for two years, in two selected watersheds per rotation. This monitoring will characterize water quality at a finer scale than the core CMP, to identify source areas for impairment and to provide for shorter-term opportunities to detect change. Water quality and hydrologic conditions at each site will be characterized in detail so as to understand what factors control stream flow and water quality at each point, and thus what impacts changes at the farm level can have at each monitoring point. The costs of this additional monitoring should not exceed 10% of the core CMP monitoring cost.

**GROUNDWATER** Groundwater is more difficult to understand and to characterize in relation to agricultural activities. The Ag Proposal advocates that:

- An existing agency or third party should develop a groundwater management plan within five years of adoption of the revised Ag Discharge program.

Groundwater aquifers are incredibly complex. “Research has shown that marked changes in fertilizer application rates at the surface may require up to 60 years for the soil leachate to reach and affect the groundwater.” (*Nitrates in Groundwater* MCWRA, 1995.) However, it is important to also note that nitrate concentrations in Monterey County groundwater did not change appreciably between 1988 and 1995, so present practices do not seem to impact existing nitrate levels. Some counties within the region have extensive research dealing with their major aquifers, while other counties have little data on aquifers. Most of the research has dealt with the height of water tables and/or salt water intrusion. Little research has been conducted on the causes or sources of pollution.

Staff’s Draft Waiver suggests that someone submit a Conceptual Plan for Groundwater Monitoring Program within 2 years after adoption of the new Conditional Ag Waiver. A better alternative is to take advantage of existing research and overlapping regulatory authority of county Water Resource agencies. For example, Monterey and Santa Barbara Counties have decades of experience and data on aquifers, water quality, nitrates and aquifer management. They are concerned that the concepts raised in Staff’s Draft Waiver are inconsistent with water quality and recharge goals already in place in these Counties. Their vast knowledge of the complexity of multiple county and regional aquifers shows that the impact by agriculture on any single aquifer is not easily quantifiable. Similar to the work of Dr. Harter, Monterey County data shows that not all farms pose similar risks to future impairment of the aquifer.

Not every county in the region has data or experience similar to Monterey. Santa Barbara and Santa Clara have some research on the impacts of farming on aquifers in their counties. Other counties have not addressed the issue. Some water agencies, like the Pajaro Valley Water Management Agency, do not even know where area aquifers recharge. Without a better

understanding of local aquifer diversity, it is not possible to design a groundwater monitoring program within two years.

**Ag Proposal: Groundwater**

It would be more effective to spend time assembling existing groundwater research from the counties and academic researchers who have worked in the Central Coast and then design a proposal based upon that information. Existing county resource agencies or a third-party could develop groundwater quality management plans (“GQMPs”) designed to minimize waste discharge to groundwater from irrigated agricultural lands. As part of GQMP development, they would collect and evaluate available groundwater data, identify groundwater management areas (“GMAs”) of concern, identify constituents of concern within the GMAs, prioritize the GMAs and constituents of concern, identify agricultural practices that may be causing or contributing to the problem, and identify agricultural management practices that should be employed by local growers to address the constituents of concern. Where local agencies have developed local groundwater management plans (e.g., AB 3030, SB 1938, Integrated Regional Water Management plans), the local groundwater management plan may be substituted for the GQMP.

**LAND USE REGULATION**

Regulating land use is not within the purview of the Regional Water Quality Control Board. The Water Code and the Basin Plan focus on water quality and activities which may impair water quality. While there is authority to prohibit an act which may result in discharge, there is no authority to require an act which is unrelated to discharges to waters of the state.

**Riparian vegetation:** The regional Farm Bureaus chose not to address this issue as it is clearly beyond the jurisdiction of the CCRWQCB and the California Water Code provides no authority to regulate the usage of land beyond consideration of implementation of practices at the election of the discharger that maintain water quality within established parameters for the regulated industry. Riparian vegetation is a regulatory taking of land by restricting its use without any relationship to water quality.

Prior existing legal use of land, such as farming, cannot be terminated through a regulatory change without compensation for the permanent loss of use of the land. It may be appropriate for a county government, with zoning authority granted by the Government Code, to regulate the expansion of an industry into an area where it has not previously operated, but not to restrict an existing use. However, there is no similar authority granted to the CCRWQCB pursuant to the State Water Code, or any other state law.

A simple due process illustration shows why the possible imposition of this concept may be dispensed with before it clouds the entire Ag Waiver process. Water by its nature flows to the lowest point on property, where it is discharged, off the property into a ditch or waterway. Thereafter the water flows down gradient past another farmer’s property. The concept of mandatory vegetative treatment in the mutually used ditch imposes a huge financial and legal liability on the downstream landowner to deal with water generated by their neighbor. Therefore the impact of this mandate falls on a party not responsible for the discharge in any manner. There is no possible way to refashion this proposed regulation so that there is any causal relation

Letter to Jeffrey S. Young and Roger Briggs, CCRWQCB  
April 1, 2010

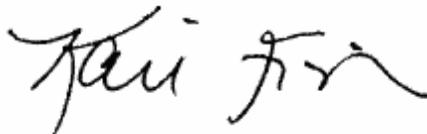
to the party bearing the burden of the regulation. As such, the concept is not only a taking of property but clearly inequitable and discriminatory in its potential enforcement.

**CONCLUSION** In cooperating and collaborating with the CCRWQCB, agricultural interests are fundamentally interested in ensuring the long term improvement of water quality in the region. We recognize that these improvements may not occur in discrete five year windows so we encourage the Board to work with us to establish a long term “program” with benchmarks and milestones that can be utilized to evaluate progress over time.

Agriculture is also concerned with the release or sharing of confidential and proprietary data in ways that will undermine the competitive position of area growers. We encourage the CCRWQCB to work with agriculture to bring relevant and necessary data forward in ways that advance water quality objectives while at the same time preserving the confidentiality of individual grower data. Using third party facilitators to aggregate data and allowing for data to be inspected on farm rather than requiring its submission to the CCRWQCB protect confidentiality, increase efficiencies, and will inform water quality improvement without compromising a grower’s livelihood.

Agriculture remains committed to water quality improvements. The above concepts combined with a phased long-term approach to achieving mutual goals for water quality improvement will result in significant and measurable improvements in water quality during the term of the new long-term Ag Program.

Very truly yours,



Kari E. Fisher  
Associate Counsel

Submitted on behalf of the following entities that support this proposal:

California Farm Bureau Federation  
Monterey County Farm Bureau  
San Benito County Farm Bureau  
San Luis Obispo County Farm Bureau  
San Mateo County Farm Bureau  
Santa Barbara County Farm Bureau  
Santa Clara County Farm Bureau  
Santa Cruz County Farm Bureau  
Western Growers  
Grower-Shipper Association of Central California

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April 1, 2010

The Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties  
California Strawberry Commission  
Central Coast Vineyard Team  
San Luis Obispo County California Women for Agriculture  
The Upper Salinas-Las Tablas Resource Conservation District  
United Vegetable Growers  
Paso Robles Wine Country Alliance  
Central Coast Agricultural Water Quality Coalition  
The California Artichoke Advisory Board  
Central Coast Greenhouse Growers Association  
Kendall Jackson  
Monterey County Vintners and Growers Association  
Salinas Valley Water Coalition  
Christensen & Giannini  
William Tarp, Triangle Farms, Inc.  
Neil Bassetti Farms  
Candi DePauw, California Poppy Company  
Mark Pisoni, Pisoni Farms  
Richard Sauret, President - Independent Grape Growers of the Paso Robles area  
Jeff Frey, Frey Farming  
Bob Martin, Rio Farms  
Frank Capurro & Son  
Tim Buffalo, Buffalo Land Management  
Bill De Vor, Greenheart Farms  
Ocean Mist Farms – Castroville, California  
Sea Mist Farms – Castroville, California  
Boutonnet Farms – Castroville, California  
Laguna Mist Farms – Castroville, California  
Sea Breeze Harvesting – Castroville, California  
Valley Pride – Castroville, California  
Ag Services – Salinas, California  
Kleen Globe Inc – Castroville, California  
Francis Giudici - L.A. Hearne Company  
Giudici Family Properties  
Mark Mitani and Douglas Iwamoto, MKM Farms, Inc.  
Gary Tanimura, Tanimura & Antle  
Luis Scattini & Sons  
Premium Packing Inc.  
Paraiso Vineyards  
Mary Ann Martinus  
Mike Manfre  
Ann R. Myhre

Office Use	
address code :	_____
staff :	_____
date :	_____

# 2009 Agricultural Water Conservation Plan

(Submit one plan per company)

Please check all that apply, fill in the acreage blanks and sign below.

**I farm property** in Zone(s) 2, 2A, 2B; the information included in this Agricultural Water Conservation Plan for the 2009 growing season is correct; I am engaged in the business of raising crops for commercial purposes; and I will implement the irrigation management practices selected in this plan during the 2009 growing season.

The amount of acreage that I will farm/operate **in 2009 ...**

... will not change since 2008.

... will increase since 2008.

... will decrease since 2008.

List Ranch Changes Here				
Added/Deleted	Ranch Name	Acreage	Wells	Previous/New Company
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

I do **not farm** any property in Zones 2, 2A, or 2B.

	<u>2008</u>	<u>2009</u>
① <b>Gross Acres</b> (All acreage <b>including</b> farm roads, buildings, etc.)	_____	_____
② <b>Net Acres</b> (Physical field acres, Nurseries, <b>excluding</b> farm roads, buildings, etc.)	_____	_____
③ <b>Crop Acres</b> (Net Acres multiplied by number of crops per year)	_____	_____
④ <b>Number of Irrigation Wells</b> [State reason for change in number of wells below, i.e., abandoned, newly drilled, well went inactive, well re-activated, lost ranch or gained ranch (see above "List Ranch Changes Here")]:	_____	_____
<div style="border: 1px solid black; width: 100%; height: 100%;"></div>		

X \_\_\_\_\_ X \_\_\_\_\_  
 Signature Print Name Date Phone No.

Comments:

COMPANY: \_\_\_\_\_  
 CONTACT: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, STATE ZIP: \_\_\_\_\_

I would like my raw data kept confidential.

# 2009 Agricultural Water Conservation Plan

Please complete the chart below listing the number of acres associated with the general crop types and irrigation methods. Record the sum of all listed acres on the Total Acres line below the chart (do not multiply by number of crops per year).

<b>IRRIGATION METHOD (NET ACRES)</b>
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	Average number of crops per acre	Furrow Only	Sprinkler / Furrow combination	Hand-move sprinkler only	Solid-set or permanent sprinkler	Sprinkler / Drip Combination	Drip Only	Micro-spray / Micro-sprinklers	Linear-Move (overhead)	Other (specify): _____
<b>The Total NET Acres below, must equal your Net Acres from page 1, line ②, 2009 column.</b>										
Vegetables										
Field Crops (beans, grain, etc.)										
Berries	1.0									
Grapes	1.0									
Tree Crops	1.0									
Forage Crops (alfalfa, pasture, etc.)										
Other: _____										
Set-aside (fallow)										
<b>Total NET Acres: _____ 0</b>										

Results of this irrigation method survey provide valuable and unique information regarding the status of irrigation practices in the Salinas Valley. For example, in 1993, 3% of the vegetable crops and 55% of the vineyards in the Salinas Valley were drip irrigated. Results from this 2009 survey will show further progress in this area.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# 2009 Agricultural Water Conservation Plan

## Irrigation Best Management Practices (BMPs)

For 2009, please indicate whether or not you intend to implement the management practice and how many acres (*net acres; must not exceed the figure on line ②, page 1, 2009 column*) would be affected by the practice.

For 2008, please indicate whether or not the management practice was implemented and how many acres (*net acres*) were affected by the practice.

For guidelines and definitions of terms, please refer to the attached appendix.

<u>Irrigation Management Practices</u>	2008				2009			
	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Net Acres</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Net Acres</u>
12-month Set-aside	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Summer Fallow (90 days between Apr.1 and Sep.30) or Other Fallow (210 consecutive days)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Water Flowmeter(s)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Time-clock on pump and/or pressure switch on booster	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Use of Soil Moisture Sensors (tensiometer or neutron probe) and/or ET Data (CIMIS)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Pre-irrigation Reduction	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Agricultural Mobile Irrigation Lab	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Transplants	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Educational Sessions (Applies to <u>all</u> Net Acres. List sessions attended below.)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Conservation Program	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Reuse of Tailwater or Run-off	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Recycled Water (Castroville Seawater Intrusion Project)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____

List other BMPs or innovative ideas that you incorporate on your ranches not listed above (i.e., PAM, drip germination, variety selection, furrow dikes, etc.):

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# 2009 Agricultural Water Conservation Plan

	2008			2009			<u>Net Acres</u>	
	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>		
<b><u>Sprinkler Irrigation System Improvements</u></b>								
Reduced Sprinkler Spacing	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Sprinkler Improvements (uniform nozzle sizes and/or flow control nozzles)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Off-wind Irrigation	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Leakage Reduction (replacing gaskets)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Linear-Move (overhead)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____

## **Micro Irrigation Systems**

Drip Tape / Hose	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Pressure Compensating Emitters / Tape (reduce pressure fluctuations along a row)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Micro-spray / Micro-sprinklers	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____

## **Surface Irrigation System Improvements**

Surge Flow Irrigation	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Shorten Field Run (Lessen furrow length or add a manifold line down center of field to cut water run in half.)	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Tailwater Return System	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____
Laser Leveling / Major Land Grading	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____	<input type="checkbox"/>	<input type="radio"/>	<input type="triangle-up"/>	_____

List other BMPs or innovative ideas that you incorporate on your ranches not listed above (i.e., PAM, drip germination, variety selection, in-furrow cross-ditches, etc.):

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