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ISSUE BRIEF | Farmers & Ranchers First Agenda

THE REAL COSTS OF CALIFORNIA'S AGRICULTURAL LAND HEIST

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TOPLINE POINTS

- ★ California is considering redistributing farmland to “underserved” populations on the basis of race, ethnicity, and national origin.
- ★ Also being considered is land use and lease restrictions as well as conversion of private land to public ownership.
- ★ These proposals are unconstitutional, discriminatory, violate civil rights protections, and create a chilling effect for the state's farmers and ranchers.

“This is prepping the political soil — the funding soil and the seed money for land acquisition.” – Nelson Hawkins, Chair of the California Land Equity Task Force, in an [interview with a Sacramento newspaper](#) on raising funding only for farmers of color.

BACKGROUND

The [2022 California Budget Act](#) (AB-179) directed \$1 million to the California Strategic Growth Council to establish the [California Agricultural Land Equity Task Force](#) (Task Force) to provide policy recommendations to the California Legislature and Governor by January 1, 2026, on “how to equitably increase access to agricultural land for food production and traditional tribal agricultural uses.”



In advance of its final meetings this year, the Task Force published a [draft report](#) containing initial recommendations to redistribute farmland to “socially disadvantaged and historically underserved farmers, ranchers, and Tribal land stewards.” Alarming, the draft report seeks to prioritize producers on the basis of race, ethnicity, and national origin. Specifically, the draft report’s recommendations (also called “goals”) include restricting land use and the ability to freely lease or rent agricultural land. The draft report also proposes the direct transfer of state-owned lands to Tribal Nations and further urges the legislature to convert California’s Prime Farmland and Farmland of Statewide Importance into public domain. These recommendations amount to race- and ethnicity-based group membership categorizations serving as proxies for economic need and ultimately dictating future California landownership, completely disregarding consequences for agriculture and rural communities.

These draft recommendations are the Left’s latest attempt to push both diversity, equity, and inclusion (DEI) and environmental, social, and governance (ESG) agendas into our nation’s agricultural sector, and at a time when the farm economy is recovering from years of [higher input costs and unprecedented agricultural trade deficits](#). However, this is not a new playbook. With the [support](#) of progressive extremists, the prior administration’s U.S. Department of Agriculture (USDA) [directed](#) billions of dollars towards race, sex-based, and socially disadvantaged programming, thus worsening the blow of a poor farm economy. Both the [courts](#) and the [current administration](#) have blocked such unconstitutional and inherently discriminatory practices.

Specifically, the Task Force’s draft report contains four overarching recommendations underpinned by counterproductive strategies and actions:

1. **“Tribal Stewardship and Land Return:”** Recommendation is to “[r]eturn state-owned lands to Tribal Nations” and to “[e]xpand land access and return opportunities for California Tribal Nations” ([p. 20](#)).
2. **“Protected and Thriving Agricultural Lands:”** Recommendation is to “[d]evelop and fund land steward-focused conservation tools” ([p. 24](#)) for “priority producers and land stewards,” which refers to “socially disadvantaged farmers and ranchers, including BIPOC, Black, Latino, and Indigenous communities” ([p. 37](#)).
3. **“Equitable Land Transition and Acquisition:”** Recommendation is to “[e]stablish new funding programs that are designed to serve priority producers and land stewards” ([p. 29](#)) for “[p]riority producers” meaning “socially disadvantaged and underserved groups, including racial/ethnic minorities such as Black, Latino, and Native American farmers” ([p. 37](#)).
4. **“Secure Land Tenure:”** Recommendation is to “[a]ddress power imbalances in landowner-tenant relationships” ([p. 36](#)), which follows an “Agricultural Tenants’ Bill of Rights” and protects “socially disadvantaged tenants, including farmworkers from BIPOC and Latino communities” ([p. 42](#)).

OVERARCHING LEGAL CONCERNS

The draft report’s recommendations, strategies, and actions do not legally hold.



The draft report likely violates both the U.S. Constitution and the California Constitution.

The draft report recommendations are likely unconstitutional as they prioritize producers on the basis of race, ethnicity, and national origin.

In 2021, the [U.S. District Court for the Northern District of Texas](#) blocked the USDA from taking actions resembling those proposed in the draft report. Specifically, the USDA, under the prior administration, excluded white farmers and ranchers from a loan forgiveness program for socially disadvantaged farmers and ranchers created under Section 1005 of the American Rescue Plan Act. In doing so, the district court rendered USDA's actions as unconstitutional, relying upon decades of Supreme Court precedent holding that race-based discrimination in government programs cannot be justified solely on the need to remedy past race-based discrimination.

Additionally, the Fifth Amendment's Taking Clause requires "just compensation" for private property taken. However, the draft report recommends that local laws and regulations be adopted to prohibit non-agricultural land use, unless certain restrictive measures are taken. Imposing restrictions on private land could result in unconstitutional, not justly compensated takings. Further, the draft report's recommendations to restrict leases and rents could also be considered takings that are not justly compensated.

On the state level, the suggested disparate treatment is most certainly unlawful under California's Constitution as well. [California Proposition 209](#), approved by voters in 1996, amended the California Constitution to explicitly prohibit discriminatory practices in public employment, public education, or public contracting. The report's recommendations to restrict land use and direct state financial assistance to only certain individuals and groups, therefore, also likely violate the California Constitution. The [Pacific Legal Foundation \(PLF\)](#) [has similarly flagged California equity mandates](#), like those in the draft report, as unlawful discrimination.

OVERARCHING POLICY CONCERNS

Implementation of the draft report's recommendations will not only amount to a host of civil rights violations, but they could also further deter strong agricultural output in California. California farmers and ranchers are already facing an [unfriendly state regulatory environment](#) that raises operating costs, and the restrictions proposed by the task force on the use of farmland will only cause further increases. When the cost of doing business increases year over year, farmers leave the state, and their output leaves with them, as seen in [dairy production declines](#) over the past two decades in almost all of the northern and southern counties in the state, and the number of dairy cows has decreased in [CA by 160,000 since 2008](#). With [regulatory cost surges of 1,400%](#) for some growers and [widespread resource removal](#), it is no surprise that the number of farms [fell by 10.5%](#) in just five years — a decrease of 7,387 farms. Additionally, according to the CA Dept. of Conservation's biennial Farmland Mapping & Monitoring Program report (2019 edition), [since 1982, the state has lost 7.95 million acres of agricultural land](#).



Grit, determination, fertile soil, and temperate climates have enabled California's agricultural producers to overcome state policymakers historically working against them — but they cannot hang on forever. California is the nation's [top agricultural producing state, accounting for 75-80% of U.S. fruits and nuts, and half of U.S. vegetables](#). The state has even earned the [titles](#) of "Salad Bowl of the World" and "America's Bread Basket." However, the overreaching policies like those contained in the Task Force draft report put all of this productivity at risk. Legislative action related to the Task Force's work [has already begun](#) in the California Legislature. The time is now to stand up to such policies, which should *not* be pursued by the California Legislature in current or any future form.

Implementation of these overarching recommendations, strategies, and actions raise policy concerns, as they threaten current California agricultural producers:

- 1. The draft report promotes unjustified restrictions on land purchases, use, leasing, and zoning changes.** In addition to the use of racially discriminatory criteria to redistribute land, the report recommends the use of specific local zoning changes and other regulations to restrict land use and to make it more difficult to farm for those already doing so. This approach assumes that government intervention will be able to correct historical racial disparities in land ownership. Still, it fails to address how market forces will affect these actions and how other scarce resources associated with agricultural production will be affected.

One can look to the California Department of Food and Agriculture's (CDFA) Healthy Soils Program (HSP) and State Water Efficiency and Enhancement Program (SWEEP) to see how the draft report recommendations might be implemented. Both programs provide race-preferred grants and technical assistance for soil health and irrigation upgrades in line with state equity mandates. [CDFA's equity directives \(via the Farm Equity Advisor\)](#) prioritize "socially disadvantaged farmers" defined by race/ethnicity for expedited applications, providing higher funding rates, and dedicated outreach, allocating [~20-30% of the \\$50M+ annual budgets to these groups](#). [Race is a key factor in scoring and selection](#) in these programs, allowing for [excluding or deprioritizing non-minority applicants](#). A 2023 CDFA [report even noted ~50% of 2019 HSP projects funded racial minority applicants](#), while other sources show minority farmers comprise [less than 10% of producers in the state](#).

But even beyond redistributing land, the report recommends incentivizing local governments to adopt zoning changes that prioritize leasing agricultural land to racial minority producers and restricting private land purchases with use limitations, as well as imposing arbitrary minimum lease lengths on land rentals. These proposed actions will not only distort land and lease values in a way that will restrict land access, but will also stifle all existing private owners' rights, reduce current land values, and future producers' abilities to finance and purchase land. These measures also



lack evidence of any productivity or ecological gains, thereby risking harm to California's existing \$54 billion farm economy.

2. **The draft report recommends a complex redistribution scheme for state-owned lands to Tribal Nations, without providing specifics.** While some Californians may wish to expand tribal access to lands, the sole justification of the recommendation is a blanketed referral to historical grievance attributable to all Native Americans as presumed members of an arbitrarily defined group. Additionally, there is no explanation of purported economic benefit to the greater public interest, nor is there any feasibility information included. Specifically, the report is silent on how the state would handle transfers of land currently being utilized for recreation, conservation, and grazing leases — complexities requiring much thought and detail. Instead, it recommends creating and funding the work through a Tribal Lands Return Commission and recommends handling real-world details at a later date.
3. **The draft report recommends ineffective conservation policies that will undermine land stewardship, lead to even more underutilized acres, and result in no production gains.** Specifically, Recommendation 2 of the draft report aims to "conserve" farmland through a statewide mitigation program with mandatory easements and assistance contracts which prioritize racial minorities, leases state-owned farmland at below-market rates to these same race-based groups, and makes changes to local protective zoning and leasing practices favorable to these groups, but lacks analysis on qualifications of recipients as agricultural producers or the productivity impacts that could follow.

These measures—such as easements locking land into overly restrictive uses without ensuring economic viability for producers on the land, leasing ~300,000 acres of state grazing land at uneconomic rates that fail to cover California Department of Fish and Wildlife management costs, and zoning that risks depressing land values by limiting development options—assume that government-mandated conservation will preserve farmland productivity without rigorous analysis of who gains access and what their long-term viability might be. There is also no analysis of the broader impacts upon American agriculture, such as the reduced output from these restrictive practices that could greatly increase the pace of idling of millions of acres of the most fertile farmland in the world—an existing trend acknowledged in the report.

4. **The draft report mirrors previously failed California water policies.** California's Sustainable Groundwater Management Act (SGMA) water trading generally prioritized centralized redistribution while ignoring market forces and efficiency. Specifically, Recommendation 2's effort to protect agricultural lands and redistribute them for production in state leases also resembles SGMA's allocations—focusing on restrictions (e.g., through easements with potential for restrictive covenants that interfere with agricultural production) and centralized allocations that risk harms like those seen from SGMA markets from reduced outputs because of



inflexibilities in meeting demand. Recommendation 3 in the draft report is to pursue equitable land transition and acquisition, proposing using government-orchestrated tools to "support fair opportunities" amid farmland transitions (e.g., 797,400 acres at risk to be transitioned by 2040). This recommendation echoes SGMA's allocation/trading ambitions and risks achieving comparable negative outcomes as SGMA through similar identity-based preferences that ignore free-market efficiency and exacerbate inequities for non-priority producers. Like SGMA's stalled trading efforts—which saw only [~4% of water traded annually](#) due to bureaucratic delays, inadequate data, and favoritism—the draft report's recommendations lack metrics for recipient viability or productivity and will potentially exacerbate the aforementioned California farmland loss (namely, a [10.5% farm decline from 2017-2022](#)).

- 5. The draft report does not detail budgetary needs or costs, which will ultimately fall on taxpayers.** The draft report proposes expansive land transfers and programming without providing any detailed cost estimates, often leaving the details up to newly formed groups and commissions. Specifically, the draft report uses "establish and fund" language throughout its recommendations without providing any quantitative details—such as even total estimated expenditures, which could range from hundreds of millions (for activities like technical assistance and establishment of a land observatory) to billions (land transfers, easements, costs of lost output, etc.) in budgetary offsets or new revenue that would be needed—nor where those might occur or come from. Calling for new programs without attaching dollar figures or detailed fiscal analyses begs the question of whether the Task Force acknowledges that their recommendations are not feasible from a budgetary perspective.

AFPI POLICY RECOMMENDATIONS

- **The California Legislature should reject the draft and/or final Task Force report recommendations.** Such policy recommendations are unlikely to withstand legal scrutiny, but if enacted, they would cause great harm to California's historic agricultural sector.
- **The federal government should pursue litigation and withhold federal funds should the draft and/or final Task Force report recommendations be implemented.** Should the policy recommendations be implemented, USDA and the Department of Justice (DOJ) should consider: 1) litigation based on the lack of constitutionality; and 2) withholding of federal dollars for related programming.
- **The federal government should deploy a more formalized agenda to discourage actions like those in the draft report and to end other examples of agricultural lawfare, such as:**
 - ☆ Repatriations and redistribution of prime American farmland.
 - ☆ Use of eminent domain to seize prime American farmland.
 - ☆ Restrictions on access to public lands for farmers and ranchers.



- ☆ Excessive civil and criminal penalties on agricultural producers.
- ☆ Excessive and confusing permitting requirements in the Endangered Species Act, National Environmental Protection Act, the Clean Water Act, and various environmental and historic preservation statutes.
- ☆ Arbitrary rules and regulations, particularly regarding agricultural use of federal lands.

CONCLUSION

The Governor and California Legislature, as well as other states, should reject the policies contained in the California Agricultural Land Equity Task Force's latest draft report, which are unconstitutional, discriminatory, and not based in merit—attributes that do not best serve California farmers and ranchers, who play an outsized role in the success of U.S. agriculture.

Instead, to increase access to agricultural land for food production, California should focus on reducing outflows of farmers and ranchers from their state, protecting the current successful configuration of its bountiful farmland, and reducing the suffocating cost of doing business in California.

