

RECHARGE ZONE PROTECTION DOES NOT MEAN REGULATION

by

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Against all experience the belief persists: reams of new regulations are the only solution to environmental threats, including, for example, contamination of the Edwards Aquifer. Detailed mandates and constraints are an assault on our individual liberties, and they are nearly always the worst way to achieve environmental goals. Our precious aquifer and its recharge zone are too important to entrust the details of protection efforts to the political process.

It's not about personalities, competence, expertise, or budgets. Government, which means politics, is just not a good institutional mechanism for resolving intricate details of any kind, much less the management of diverse properties in a complicated, rapidly changing world economy. Government is at its best when it reacts to widely shared objectives by creating incentives that harness individual initiative and creativity to resolve details. Government is at its worst when it micro-manages the property of others. The result, like most zoning ordinances, quickly grows into a monstrous document that stifles free enterprise and innovation, and promotes litigation and slight of hand to change boundaries and the interpretation of key phrases.

There is a simple, cost-effective alternative to monstrously detailed environmental rulemaking. The key words are financial responsibility. For example, for aquifer protection, a financial responsibility approach would mean that property owners on, or upstream of, the recharge zone, would be assessed impact fees when land uses have certain detrimental effects. For example, for plugging a sinkhole, the fee should be the cost of replacing the lost recharge (hundreds of \$\$/acre-foot per year). When creating impervious cover increases run-off, the fee should be the per unit capacity cost of flood control structures.

When land uses create serious risks, but detrimental effects are not certain, property owners should carry insurance coverage sufficient to pay for damages and clean-up if an accident occurs. For instance, gas station operators would have to be insured for the cost of clean-up and damages from spills and underground storage tank leaks. Truckers that haul potential contaminants over the aquifer would have to be insured for the cost of clean-up and damages from accidental spills.

A financial responsibility approach (FRA) has several major advantages over micro-management. The FRA does not prohibit or mandate any behavior. For

example, applying FRA to recharge zone protection eliminates the need to draw boundaries, determine appropriate safeguards, or create lists of prohibited businesses. The FRA works through the market, not against it. To minimize the cost of the insurance, landowners can offer appropriate safeguards that can quickly change with new technologies. If the feasible safeguards don't lower the threat enough, landowners will find the cost of insurance prohibitive. The insurance companies will have a strong financial incentive to monitor implementation of the promised safeguards, and to assist in the advancement of appropriate technologies. The policies will be offered if there is a demand for them.