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Another government taking

By Debra J. Saunders

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Conaway Ranch is a 17,300-acre spread north of Davis, Calif. On property that sidles up to Interstate 5 and provides a fine view of the Sacramento skyline, owners grow rice and alfalfa, boast rights to 50,000 acre-feet of water and extract natural gas. The gray sky and Sierra runoff are home to countless birds -- ducks, egrets and hawks -- some of which the owners hunt.

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Yolo County wants the land. In 2004, county supervisors voted to seize the ranch by eminent domain. "We want to keep it from being developed," explained Supervisor Mike McGowan.

The owners are fighting back, and they're media savvy. In 2005, the U.S. Supreme Court issued its infamous Kelo decision -- which supported the seizure by New London, Conn., of taxpayers' waterfront homes so the properties could be handed over to private development. Americans left and right were outraged at this expansive definition of a "public use" taking.

Justice Sandra Day O'Connor wrote in her dissent: "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall or any farm with a factory."

Now, the owners -- a group of developers that calls itself the Conaway Preservation Group and bought the property after Yolo commenced the eminent-domain action -- argue what Yolo wants to do is worse than Kelo.

Spokesman Tovey Giezentanner argues that while Kelo was outrageous -- for it allowed local governments to seize homes and hand them over to private developers -- if Yolo wins, it will be the first time the "government got into the business of trying to run an existing business." There will be nothing to stop governments from seizing other profitable businesses -- parking garages, farms, hotels -- and running them themselves.

"I've got some news for you," countered Mr. McGowan. "After going through this, it is highly unlikely I will ever do this again." The political fallout has been no picnic.

Mr. McGowan bristles at the notion Yolo wants to go beyond Kelo. A county buying land to preserve it is "pretty old stuff." I have to agree on that point.

That doesn't make the seizure of the ranch a good thing. Steven Anderson, an attorney

with the Institute for Justice, a key player in fighting eminent-domain abuses, said, "There may not be a constitutional claim," and preservation may be considered a public use, but "that does not mean it is right."

Oh, another wrinkle: Yolo doesn't plan to use county money to buy the property. Later this year, a jury will set the value of the ranch. The owners purchased the ranch for a reported \$60 million, but it may be worth much more. So who pays for it?

The Rumsey Band of Wintun Indians will put up the front money. The Yolo supes call this a "handshake deal" -- with no quid-pro-quo for the tribe. I should note the Rumsey tribe owns Cache Creek Casino. It all comes down to: Whom do you trust? The developer owners, who at this point can't build on any of the land but might be able to build on small portions in the future, if Yolo politics change?

Or the county, with Mr. McGowan's word "we have not made any concessions with the tribe"? Mr. McGowan argues that while the Conaway Conservation Group may be good stewards now, the minute conservation is not profitable, the owners will try to build where they can. (Not that I think that's necessarily a bad thing, but Mr. McGowan thinks it is bad.)

Mr. Giezentanner argues voters would be foolish to believe this land grab is a "stringless deal." While the casino grows as a political force in the county, it will be able to build on some of the land -- and this is a hot location, not far from the airport and easy access to I-5. Not a bad spot for another casino.

Debra J. Saunders is a nationally syndicated columnist.

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