

# DAVIS ENTERPRISE

*September 11, 2005*

## **County hasn't made case for eminent domain**

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Special to The Enterprise

The Yolo County Board of Supervisors recently put its eminent domain lawsuit to acquire Conaway Ranch, a 17,000-acre parcel in east Yolo County, on hold until January while it negotiated with the property owners a voluntary purchase of the ranch. Those negotiations reportedly broke down last week.

The decision to postpone the eminent domain action is helpful nonetheless, because it permits the opportunity for a careful evaluation of whether eminent domain was needed in the first place and whether the county has thought out the consequences of public ownership of ag land and using money from the Rumsey Band of Wintun Band of Indians to pay for the ranch.

The county has argued that it needs to acquire Conaway Ranch to maintain farming on the property and protect its water resources. Most Yolo County residents, including me, are in favor of these goals. However, the need for public ownership of property currently zoned agriculture, with the intent of keeping it agriculture, has not been justified.

Rather than engage in a serious analysis about the need for public ownership, the county has instead framed the issue as, whom do you trust to manage property, the county or the property owner? This seductively simple approach ignores the fact that the county, not the property owner, maintains absolute General Plan and zoning control over the property.

In addition, 8,300 acres of the property cannot be developed, because they are within the Yolo Bypass and are subject to flooding. The water resources attached to the property are likewise protected through the county groundwater ordinance.

The Central Valley loses approximately 100,000 acres of farmland per year to urban development. Indeed, significant agricultural conversion in Yolo County is happening right before our eyes through the development of the Spring Lake project in Woodland. All loss of ag land is permanent and cannot be mitigated, and represents a serious threat to the Central Valley economy and environment. The solution, however, is not for counties to condemn or acquire every agricultural parcel near cities, but for citizens to elect leaders who have the wisdom to resist unsound development overtures and implement sound land use policies through their general plan and zoning powers.

## **County-tribe relationship**

The financial burden of county ownership of Conaway Ranch on the notoriously cash-short county is enormous. The acquisition will cost the county more than \$50 million, will require ongoing management expenses and has already resulted in \$500,000 in legal fees.

The tribe has indicated it has agreed to assist the county financially and is willing to fund county ownership, but the details about the agreement have not been made public. Although a full public vetting of the relationship between the county and tribe is warranted, an examination of what has been disclosed raises other problems arguing against the need public ownership.

The tribe owns Cache Creek Casino Resort in western Yolo County. A couple of weeks before the tribe agreed to fund the eminent domain, the county approved the tribes plan for building a new 314-acre golf course on highly productive farmland next to the resort. This approval occurred even though it is well accepted that the golf market in the Sacramento region is overbuilt.

Although the county maintains there was no quid pro quo, the decision brings into question whether the county is really serious about protecting agriculture and raises questions, at a minimum, about the propriety of this new partnership.

More importantly, the tribe is not permitted under existing law to be a member of the joint powers authority intended to manage the ranch, although there is a pending bill to change this. There are sound reasons why tribes generally are not permitted to be members of JPAs, which invite further scrutiny of the relationship between the county and tribe.

JPAs are legal inventions that allow local governments (and sometimes the state) to combine in a new governmental organization to provide common services. For instance, a city and county through a JPA arrangement could provide water supplies through a jointly owned treatment plant, thereby saving money by having one plant instead of two.

However, a JPA requires equal authority among its governmental members to function properly. Although the tribe has certain attributes of sovereignty, it does not function like local cities or counties for JPA purposes.

First, it would be unthinkable for a city to take city funds and contribute them to the campaign of a county supervisor, and then have members of the city council and the board of supervisors serve on the same JPA. Besides being a misuse of public funds, such an action would raise questions about whether the county supervisor could act without undue influence by the city.

Although the law prohibits these types of contributions between cities and counties, there is no restriction on tribes. All tribes are permitted by law to contribute to local campaigns. In fact, the tribe was a large financial contributor to several candidates during recent Yolo County supervisorial elections (it contributed \$5,000 to one candidate), which strongly suggests it should not sit on the same JPA as the county.

In addition, recent court decisions have exposed state and local government to enormous liability through their ownership and operation of property with flood control function. Indeed, many local governments are trying to get out of the flood control property ownership.

By acquiring Conaway Ranch, the county (and other members of the JPA, including Davis and UC Davis) will be exposed to the liability in the millions of dollars if a flood disaster related to that property strikes. However, the tribe probably would not be subject to such liability if it joined the JPA due to legal protections provided to tribes.

Ranch management plan

Early this year, the county unwisely suspended efforts to prepare a management plan explaining how it proposes to operate Conaway Ranch. The plan would have included a discussion about important issues such as cropping decisions, pesticide use and vector abatement.

Without such a plan, even if the county purchases the property or is successful in its eminent domain lawsuit, it will very likely be a pyrrhic victory. With the ability of farmers to have profitable business enterprises difficult at best, it is hard to imagine how the county will be able to make ends meet when acting as a farm owner, because of the added expense associated with public ownership of the property.

For instance, if the county wishes to lease property to a tenant farmer, as is currently done at Conaway Ranch, the county cannot simply give the lease to the best farmer. Instead, the county is required to lease the property through a competitive bidding process and pay the county overhead. Moreover, laws like CEQA that apply to publicly owned, but not privately owned farms, will add costs to county ownership.

No matter what the current Board of Supervisors does, a different board would have the authority to sell the ranch, and it would certainly feel the pressure to do so if the economics for public ownership of farmland is as problematic as it appears to be. The county should address in the plan how it will deal with this eventuality.

### **More debate needed**

Thanks to the delay in the eminent domain lawsuit, there is more time to debate the need for the county acquisition of the Conaway Ranch. The following actions should be taken before the eminent domain trial starts to evaluate the prudence of this acquisition. The county should:

- Fully explain why it believes its zoning powers and authority over its water resources is inadequate to preserve the ranch;
- Disclose all agreements between it and the tribe involving Conaway Ranch and explain how their financial relationship will work; and
- Reconvene the JPA planning group and adopt a management plan before acquiring the ranch.

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