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Laws needed to protect private property rights

Your land is not your own, particularly if government wants it. If you weren't sure of that before, the latest sign comes from Yolo County, Calif., Superior Court Judge Timothy Fall, who made it clear to all that the threat of a government body taking land by eminent domain hangs like a dark cloud over all property owners.

The decision clears the way for Yolo County to force the owners of Conaway Ranch to sell their property to the county.

The irony of this dispute is that the county does not need the land for some compelling project to benefit the public like a new dam and reservoir to increase the state's water supply or even an airport or an interstate freeway. No, the county wants the land to maintain it as it is. County officials are afraid of what the current property owners might do with the land so they decided to appropriate it.

The Conaway Ranch case follows in the footsteps of the June U.S. Supreme Court case, *Kelo v. City of New London*, in which the court ruled that the city of New London, Conn., could use eminent domain to acquire property for a private economic development. At the time, Justice Sandra Day O'Connor wrote in her dissent what now appears to be frighteningly true. O'Connor wrote: "The specter of condemnation hangs over all property. Nothing is to prevent local governments from replacing any Motel 6 with a Ritz Carlton, any home with a shopping mall, or any farm with a factory."

However, the Conaway Ranch case goes beyond that. If Fall's decision stands, it now appears local governments can take land just because they don't trust the owners to use it in the manner government deems appropriate.

There are already layers of restrictions and regulations governing private property use. Everything from local zoning ordinances to the federal Endangered Species Act and air and water quality laws can thwart a property owner's wishes for using or selling his land. The addition of another legal layer of eminent domain – "Do what we want or we'll condemn your land" – signals to landowners that property rights are endangered.

But there may be good news ahead. These cases, egregious as they are, should provide more than enough impetus for Congress and state governments to act to protect the rights of property owners.

Yolo County does not need to own Conaway Ranch. Taxpayers certainly don't need the expense, even if some of the money to finance the purchase, which could cost \$50 million or more, comes from the Rumsey Tribe of Wintun Indians, the owner of the Cache Creek Casino. The county will also lose the land from the tax rolls, further burdening taxpayers.

The judge was expected to set a date today for the jury trial to determine the sale price for the vast majority of Conaway Ranch the county is now eligible to appropriate.

County leaders should also be aware that they will be closely watched for what they do with this land. Any efforts to turn some or all of it over to the Rumsey Tribe for gaming use, or any other use for that matter, or efforts to use the water rights or land for development – which is what the county said it feared from the current owners – should



be taken as a violation of the public trust.

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Property owners and taxpayers need new laws to prevent this sort of abuse of private property rights and public money from ever happening again.

How many more homes and ranches need to be ripped from people's grasp before Congress and state legislatures act? Even one more is too many.

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