

Article Created: 6/06/2006 09:04 AM

## Conaway wins round in court

### Judge's decision could add millions to cost of property

By BEN ANTONIUS/Democrat staff Writer  
Daily Democrat

A judge ruled against Yolo County on Monday in a decision that could substantially increase the purchase price of the Conaway Ranch.

Judge Tim Fall's decision came as a surprise to county officials and their attorneys, who had said ahead of the hearing they were expecting a win in their bid to avoid paying ranchowners for lost water rights.

Though the first Conaway Ranch hearing in month was largely a technical debate of 90-year-old water laws, the ruling could wind up adding tens of millions of dollars to the final price tag of the ranch.

Of the \$240 million ranchowners have said their property is worth, \$139 million is from the hypothetical sale of the 30,000 acre feet of water, acquired through state licenses. The county had argued it should not have to pay the owners for any future water sales because the licenses can be revoked by the government with virtually no compensation.

Part of the complication is that Fall essentially agreed with the arguments made by both the county and the owners.

"You can't value the license but there's a difference between valuing ... licenses and valuing the use of water itself and the ability to transfer the water for profit," explained Gary Livaich, attorney for the owners.

Stuart Somach, an attorney for Yolo County, said he was at a loss to explain the nuanced ruling adding he hoped to receive some clarification in follow-up hearings.

"As a water lawyer, I just don't get it," he said. "It makes no sense to me."

Somach said he is waiting to return to court on July 7 for motions that determine what evidence will be permitted in the trial. Depending on the outcome of those rulings, Somach said he would consider taking the Monday decision to a court of appeals.

"We've got one shoe that has dropped but I don't know what the other shoe is doing yet," he said.

As it stands, the ruling certainly costs the county leverage at the negotiating table. Some supervisors said late last week that they hoped a favorable ruling would encourage ranchowners to compromise on a deal. Shortly after the decision, county supervisors canceled a scheduled meeting with reporters.

The possible sale of water rights has been a sticking point in previous settlement proposals. One deal, offered in February by the owners, would have given the county 50 percent ownership of the ranch and two of four seats on a management group. But it also offered no way for one side to stop the other from selling the ranch's water.

In light of the judge's ruling, the attorneys agreed to postpone the fast-approaching start of the jury trial - previously scheduled for June 13 - by several months. The trial is scheduled to begin Oct. 31, and Fall said he was setting aside six weeks for both sides' arguments and jury deliberations.

"We will not be doing this over the Christmas-New Years holiday," Fall said.

The county is attempting to take the ranch because it fears the CPG - a group of developers led by Sacramentan Steve Gidaro - will try to build on part of the land or sell the water rights. Supervisors voted for eminent domain after their efforts to buy the ranch were rebuffed. In December 2005, Judge Fall ruled that the county had the right to take the land.

Gidaro and partner John Reynen have a long history of involvement with the property, which has rice fields, good duck hunting and productive natural gas wells. They have repeatedly said they do not want to change the ranch and point to their stewardship since they bought it in December 2004, after eminent domain was already under way.

- Reach Ben Antonius at 406-6233 or [bantonius@dailydemocrat.com](mailto:bantonius@dailydemocrat.com).