

Lower Ranch lawsuit comes to successful conclusion

by Bob Neale

“We take very seriously our responsibility to enforce the conservation easements we hold. The people of Sonoma County count on us to do so,” stated Sonoma Land Trust executive director Ralph Benson as he announced the successful settlement of a nearly three-year-old lawsuit with the owners of the 528-acre Lower Ranch near San Pablo Bay. This settlement upholds the agricultural conservation easement, pays the Land Trust’s legal fees, and ensures that the landowner’s activities will protect the agricultural resources on the property.

The Land Trust has spent decades working to protect the agricultural and conservation lands at the southern tip of Sonoma County between the Petaluma River and Infineon Raceway, and has acquired more than 5,000 acres there over the years. In the case of Lower Ranch (called Carneros River Ranch by the landowner), which is located across the highway from the Port

Sonoma marina, rather than owning the land outright, the Land Trust holds an agricultural conservation easement that permanently restricts the use of the land to agriculture.

Several years ago, the current owner of the ranch, a limited liability corporation associated with Skip Berg and the Port Sonoma marina, began pumping mud from its dredging operations at Port Sonoma onto the agricultural land in a manner the Land Trust felt was inconsistent with the conservation easement. Furthermore, their future plans included a tremendous increase in this activity and did not adequately safeguard the agricultural values of the land. After lengthy but ultimately unsuccessful discussions with the landowners, the Land Trust filed suit in 2006 to enforce the terms of its agricultural conservation easement.

The landowners maintained that the mud they were dumping on the ranch would enable them to grow

higher-value crops and enhance the agricultural value of the ranch; thus, they argued, they were not violating the terms of the easement and did not require Land Trust approval. In the absence of credible support for their idea or mutually agreeable standards, the Land Trust simply could not agree.

The settlement will allow the landowners to continue to place dredge and fill material on the ranch, but only in accordance with strict protocols and performance standards on the quantities, locations and handling of materials, and stringent standards for salinity, acidity and contaminants. Perhaps the most important aspect of the agreement is the requirement that the affected farmland must be returned to active farming and remain in production. The landowners also agreed to pay the Land Trust’s legal fees, which amounted to more than \$200,000, and to pay for the increased cost of monitoring the easement to ensure that the performance standards are met going forward. We had first-rate legal representation by Robert “Perl” Perlmutter and Matthew Zim of Shute, Mihaly & Weinberger LLP, and Rod Kerr of Kerr & Wagstaffe LLP.

“We couldn’t stand by and let them divert the use of a productive farm to a mud dump,” said Benson. “At the same time, their contention that mud is ultimately dirt and, with the right handling, can be farmed and farmed well had merit. The settlement provides both the landowners and the Land Trust with the framework needed to ensure that this beautiful ranch at the gateway to Sonoma County remains in farming.”

Bob Neale is the SLT stewardship director.



■ Indicates protected land



This springtime shot shows Lower Ranch in the foreground, just across Highway 37 from Port Sonoma marina and fronting the Petaluma River. Photo by Stephen Joseph.

Land community supports suit

The California Attorney General, acting on behalf of the California Coastal Conservancy, joined the Land Trust in the litigation. The Conservancy, having originally financed this conservation easement, in addition to millions of dollars worth of other conservation easements throughout California, felt a strong duty to support the enforcement of the Lower Ranch agricultural conservation easement.

The Land Trust was also supported in the litigation by the California Council of Land Trusts (CCLT), a statewide organization. More than 30 California land trusts signed a letter and CCLT filed a brief in support of the litigation. The land trust community, which stakes its credibility on the permanence of conservation easements, perceived this situation as a worst-case scenario with a well-funded landowner disregarding a conservation easement that was in place when they acquired the property.



Be a part of their future

If you and I don't protect this beautiful place we call Sonoma County, who will?

by Beverly Scotland

Your gifts to the Sonoma Land Trust translate into permanently protected lands that are rich in history, natural resources, breathtaking views and recreational opportunities. We are funded primarily by membership contributions, so join or renew today to ensure that the natural beauty of Sonoma County is protected ... today and for generations to come.

You can have a significant impact on the lives of future generations by making a planned gift to the Sonoma Land Trust. These gifts ensure that funds will always be available to purchase and care for open space, and preserve the character and beauty of our local landscape.

(Continued on back page)

“It was thinking of Sonoma County’s beauty for our grandchildren and their grandchildren that created a planned gift in our estate for the Land Trust.”

— Dick and Mary Hafner