

NEWMARK

April 18, 2022

Holly Geneva Stout, ESQ
California Water Commission
P.O. Box 942836
Sacramento, CA 94236-0001

Re: Department of Water Resources: Easement – Parcel no. 4BSH-131; APN: 042-340-002; Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project

Dear Ms. Geneva Stout,

In response to the letter dated March 24, 2022 regarding the above referenced easement, the ownership and partners of the duck club known as The Wooden Decoy, LLC, have the following questions/concerns. Please note that the sole purpose for acquiring this property, which is already in Federal Easement for creating and maintaining waterfowl habitat, was to enjoy the property as a hunting club. As such, the ownership of The Wooden Decoy, LLC has committed substantial time, effort, and capital investment to optimize the land for waterfowl habitat.

Some of our questions/concerns are as follows:

1. Optimal duck habitat depth is 6” to 18” of water, which we generally maintain in good faith per the spirit of our federal easement, which seeks to protect waterfowl habitat ... anything deeper theoretically de-values the property for the intended purpose for our acquisition and subsequent capital investment. We have no idea how this program of inundation will impact the hunting and it’s intended use as waterfowl sanctuary. What we do know is that water levels will likely exceed 6” to 18” during inundation periods creating a less than optimal water depth.
2. Will this inundation and widening of the berm to the east open our property to public access and duck hunting? During high water years we have experienced other hunters gaining access to our property via “Public Water Rights”. There is a host of issues which cause concern with this including, at the top of the list ...safety. How do we prohibit public access during inundation?
3. How will we navigate the roads and infrastructure improvements during inundation for the fish program? We need the DWR to commit, as part of any agreed upon easement, with an engineering study that shows how our roads will be navigable, and a payment program (in addition to the easement) to cover the costs of:
 - a. Infrastructure upgrades to allow us access
 - b. An annual maintenance agreement by the DWR
4. Our required easement numbers via eminent domain would be **the greater of:**
 - a. Easement Lease Payment: \$1.5 million or fair market value (±\$4,000/acre), plus infrastructure and annual maintenance costs as noted above.
 - b. Sale: \$3 million or Fair Market Value for best in class duck hunting clubs throughout the Sacramento Valley.

Note: This price has no reflection on the hours put in by members of the Wooden Decoy LLC for the purpose of improving the waterfowl habitat.

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Additional comments/questions/concerns:

1. How can a subordinate easement take precedent over a senior agreement? Is there legal precedence set by placing an easement over a senior easement?
2. It is not fair to penalize property owners who have lived with a set of standards and invested according to a set of rules, now to be treated unfairly.
3. We made a \$1.5 million investment to perpetuate the waterfowl easement and it has not been considered in the offered easement price. We would like to know the price/ acre offered to others: The Conway Ranch, The Knaggs Ranch etc.?
4. We have asked for clear communication as to having controls:
 - a. discharge notice by 8/1
 - b. initiate discharge by 10/1, benefiting both parties to reduce chances of adding groundwater and flood water
 - c. levy improvements to protect waterfowl habitat and an obligation to reduce the rate of discharge from the Notch from 6000 CFS to less if the infrastructure cannot sustain.
5. If the ±30 years of conservation work on the Swanston Ranch and other locations in the bypass by the Department of Fish & Game (wildlife) is not important, and if property owners cannot rely on the terms of agreed by federal & state easements, then we feel duped from the point of our purchase. We would rather work with state & federal agencies with clear and reliable mandates.
6. Not notifying or working with Swanston Ranch Partners on when, and how much, water will be flooding the properties. Additionally, for the non-migratory seasons, we would also like to understand (1) when and (2) how much water will be flooding the Swanston Ranch. Many property owners in the Swanston ranch and beyond partake in wildlife benefiting programs to leave water on/off managed wetlands land during the balance of the year. To what extent have these programs (both ecologically and monetarily) been factored into the scope of flood and payment programs?
7. Conway ranch is an active agricultural site that is electing for the Salmon easement with ±17,000 acres. Why is the Swanston Ranch, next to the Conway Ranch, now being included with the Yolo Bypass Salmon easement flooding without receiving similar notice and infrastructure work to manage inundation? Why were the Swanston Ranch Properties so late to these studies and discussions?

We look forward to discussing these items and furthering our pursuit to a mutually beneficial outcome.

Sincerely,



Todd Eschelman

The Wood Decoy, LLC
Partner/Member

Cc: Deke Hunter, The Wood Decoy, LLC – Partner/Member
Derek Hunter, The Wood Decoy, LLC – Partner/Member

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