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## **Sewer conversion hit with lawsuit : Contestants allege voting misconduct in annexation of beach communities**

The ongoing effort to convert four beach communities in Santa Barbara and Ventura counties from septic to sewer systems has taken another twist as a lawsuit has been filed challenging the results of a vote that seemed to pave the way for the conversion.

The individuals who filed the lawsuit -- Carpinteria residents William Taylor, John Stephenson, Timothy Finnigan, Marilyn Ulvaeus and Benjamin Weiss -- are seeking to decertify current election results. They are asking for a recount that would include two votes cast out after being challenged by the group Heal the Ocean, according to the lawsuit dated June 12.

They also want any illegally cast votes to be stricken from the tally, as they believe Heal the Ocean worked to "register persons in favor of the annexation that have never been domiciled in any of the beach communities," according to the lawsuit.

Proponents of the conversion say it will keep contaminants from septic systems from reaching the ocean. Opponents question the nearly \$80,000-per-home expense and the environmental benefit of the conversion.

The annexation issue falls under the aegis of the Santa Barbara County Local Agency Formation Commission, which received the annexation application from the Carpinteria Valley Sanitary District in the spring of 2007, according to the lawsuit.

The matter eventually went to a vote via special election on April 22, but was conducted completely by mail-in ballot. After a hand count of the votes by Santa Barbara County election officials, which followed a computer count, the two sets of results were determined to be identical -- 73 in favor of annexation and 59 opposed.

Another 20 votes were challenged because the voters were alleged by annexation proponents to have not been registered properly, however, Santa Barbara County Clerk Joe Holland's staff determined the ayes had indeed won and Mr. Holland certified the result on May 16.

The lawsuit claims that when the April 22 election date was set, Heal the Ocean began a "campaign designed to intimidate and deter persons from voting, and actively sought to disenfranchise voters opposed to the annexation."

On March 14, in letters to the clerks and registrars of voters for Santa Barbara and Ventura counties, Heal the Ocean's counsel claimed that about 20 of the voters who cast ballots "were not properly registered and should not be allowed to vote," according to the lawsuit. Heal the Ocean also sent the letter to the people mentioned in the document, and the Ventura County District Attorney, to request that "an immediate criminal investigation be conducted of each individual."

"Heal the Ocean offered no evidence in support of any of the assertions made in that letter," according to the lawsuit.

It wasn't long before the letter was being circulated, and the lawsuit alleges that "Heal the Ocean purposefully circulated the March 14, 2008, letter to persons living within the beach communities in an attempt to discourage persons from voting ... in the election."

Moreover, Heal the Ocean challenged six ballots at a public processing of ballots on April 17 and did not provide any evidence to support the claims at the time, according to the lawsuit. All of these ballots were in opposition to annexation, and the Ventura County Registrar's Office allowed the "challenges to stand," giving Heal the Ocean a chance to submit proof.

The contestants believe the registrar's office failed to "establish extraordinary proof of the validity of the challenge at the time the challenge (was) made," per election code 15104, according to the lawsuit.

A similar situation happened April 22, when the Ventura County Registrar's Office held another public proceeding and Heal the Ocean objected to 14 ballots, according to the lawsuit. The registrar's office again refused to rule on the challenges at that time.

The lawsuit claims that many of the challenges were particularly egregious, including the challenge to Audrey Lee Fan's ballot "on the grounds that she was not properly registered in Ventura County." The vote was cast out, but it is contended that she moved into a Rincon Point property six to eight months before the vote. Heal the Ocean also challenged the ballot of Derek Mitzel on the claim that the signature on his ballot did not match the one on his affidavit of registration, according to the lawsuit. The contestants believe no proof of forgery was provided, but the challenge was still upheld.

The contestants are looking for an order that finds that Philip Schmit, Ventura County Clerk, recorder and assessor and registrar of voters, "engaged in malconduct that prevented the ballots of" Mr. Mitzel and Ms. Fan from being counted.

Heal the Ocean executive director Hillary Hauser called the lawsuit "vague" in that it only names two voters, and never touches on the other ballots that were challenged. In an e-mail to the News-Press, Ms. Hauser speculated that perhaps the contestants did not want to mention that 14 voters were registered at a single address.

However, the conversion is already beginning, as the sanitary district this week approved the project to move forward on Padaro Lane, Ms. Hauser said.

"We think that's just a wonderful move forward," she said.

Padaro Lane residents will be paying for the project out of pocket, while the Sand Point and Sandyland portions of the conversion are more complicated in terms of engineering and financing, she wrote in an e-mail.