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The Whittier Fire burns brush and trees on St. Francis Ranch off State Route 154 near Lake Cachuma.

KENNETH BONG / NEWS-PRESS

Greka successor blasts latest state 'Targate' motion

By SCOTT STEEPLTON
NEWS-PRESS CITY EDITOR

Claiming the state of California "hijacked" a judge's request for a reason tailored to a recent U.S. Supreme Court ruling why the successor to Greka Oil & Gas Inc. should not be awarded sanctions of nearly \$1 million for uncovering destruction of evidence and other government misconduct, attorneys for the company say anything but full and immediate payment is a miscarriage of justice.

In papers filed Friday in U.S. District Court in Los Angeles, attorneys representing Santa Maria-based HVI Cat Canyon LLC say instead of filing with a federally appointed special master a simple report on sanctions that conforms to a recent decision in a similar case involving Goodyear Tire & Rubber Co., the state seeks to undo three prior court findings in the company's favor and force the company "to not only try this case with significant gaps in evidence, but to also bear the financial costs of investigating and exposing the state's misconduct."

Company attorney Stephen Larson calls the state's motion filed last month "procedurally improper and, if granted, would result in a miscarriage of justice."

"The state of California destroyed evidence and then made false statements about its efforts to preserve evidence and engaged in conduct that misled both the court and counsel for HVI Cat Canyon Inc. and 'impugned the integrity of the court's process.'"

"HVI-CC incurred substantial costs to bring this issue to light. Three separate judicial officers have examined the state's misconduct and found that the state of California should be liable for HVI-CC's reasonable attorneys' fees incurred in connection with HVI-CC's motion for sanctions." California and the federal government sued the company in 2011 over oil spills at its Santa Maria leases, some of which date to 2005.

In defending its client, company counsel uncovered the misconduct, actions one federal magistrate equated to the Watergate scandal.

The company sought to have the case dismissed or in the alternative, sanctions against the government entities in the form of attorneys' fees.

Since state players engaged in the misconduct, the federal government was relieved of any culpability in the sanctions issue.

A recommendation by a magistrate that the state pay up followed, only to be withdrawn by the judge overseeing the case and handed off

"It is time for the state of California to face the consequences of its widespread spoliation of evidence in this case and its repeated misrepresentations to both the Court and HVI-CC."

Stephen Larson,
attorney for HVI Cat Canyon Inc.

to the special master. That person, a retired federal judge, in April also recommended sanctions.

But that, too, was set aside and the parties were asked to argue anew based on the Goodyear case.

The state, which has asked repeatedly that any sanctions be put in escrow and only be released at the conclusion of the appeals process — the assumption being there are going to be hefty fines against HVI, so just subtract that from the sanctions amount — filed its response motion last month, followed Friday by the company's response.

Instead of sticking to Judge Fernando Olguin's order to use the Goodyear case as a guide in the new motions — that is limiting sanctions to attorneys' fees and costs that compensate the other party for fees and expenses incurred as a result of the misconduct at issue — company attorneys say, "the state has opted to resurrect its previously rejected — and meritless — arguments in what amounts to an improper motion for reconsideration."

"It is time for the state of California to face the consequences of its widespread spoliation of evidence in this case and its repeated misrepresentations to both the Court and HVI-CC. The state's objection should be rejected in its entirety and the state should be required to promptly pay HVI-CC \$922,550.25 in reasonable attorneys' fees, as recommended by the special master."

A recommendation from the special master could come any day, Judge Olguin will have the final say.

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Brush fire burns uncontrolled toward west Goleta

Whittier Fire races over countryside after starting Saturday near Lake Cachuma

By MITCHELL WHITE
NEWS-PRESS STAFF WRITER

A massive brush fire broke out near Lake Cachuma off State Route 154 on Saturday afternoon, covering at least 5,400 acres with no containment and prompting mandatory evacuations of several campgrounds as flames engulfed both sides of San Marcos Pass.

Firefighters were unable to keep the Whittier Fire from cresting the ridge and it began burning downhill toward western Goleta and the ocean.

An evacuation warning was issued late Saturday night for Las Varas Canyon east to Winchester Canyon and from Highway 101 north to Camino Cielo. Alerts were sent to 315 phone lines at approximately 9:45 p.m. to be prepared to evacuate.

The fire was burning "completely out of control" Saturday and there were reports of structures lost, believed to be cabins and outbuildings at the Whittier Campground.

Fire crews focused on structure protection and evacuations in the area Saturday night as the fire continued to move east, said Capt. Dave Zaniboni, Santa Barbara County Fire Department spokesman.

"The goal is to keep the fire on this side of the mountain range and keep it from going over to the Santa Barbara side of the mountain range," Capt. Zaniboni said, adding that several air tankers and



The Whittier Fire destroyed outbuildings and equipment near Lake Cachuma.

SEB FIRE

Please see FIRE on A5

Theo Kracke "will now have to prove that enforcement of existing law meets the legal definition of development. ... That will be hard for him to do."

Ariel Calonne,
Santa Barbara city attorney

Vacation-rental lawsuit moves forward

By SCOTT STEEPLTON
NEWS-PRESS CITY EDITOR

Santa Barbara was dealt a minor blow as officials for a third time try to get a lawsuit over the city's short-term vacation rental ban thrown out of Ventura County Superior Court.

Judge Mark Borrell overruled the city's response to four causes of action in a lawsuit filed by Theo Kracke, who owns a short-term vacation rental on Arrellaga Street and operates Paradise Retreats, which operates 27 such

rentals in Santa Barbara — 10 in the city's coastal zone.

The city attorney's office now has until July 20 to argue how the judge erred in, among other things, ruling that the City Council's 2015 ban on short-term vacation rentals constitutes a "development" under the state Coastal Act in that it changed intensity of use and of access to the shoreline.

For decades, these rentals offering alternative lodging near the coastline operated undisturbed. Owners were issued business licenses and the city

collected from them the transient occupancy tax, or bed tax, just as it does from hotels and motels.

City officials even offered an amnesty program in 2010 and 2014 to identify and bring into compliance owners who had not paid their bed taxes.

Some residents have complained about the rentals, which, as a result of the ban, dropped from 349 registered units in Santa Barbara in June 2015 to 215.

Mr. Kracke decided to fight the ban on the grounds it violates the Coastal

Act and the city's own local coastal plan, land-use regulations, zoning ordinances, zoning district maps and implementing actions that, together, determine future development on the coast.

He also claims the city should have applied for and received a coastal development permit to obtain approval of the ban.

In its objection or demurrer to Mr. Kracke, the city wanted Judge Borrell to dismiss his request that the judge

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"This is a victory for those people who could not otherwise enjoy the Santa Barbara coastline."

Theo Kracke,
Paradise Retreats

SUNDAY

LOCAL / A2
Peter Howorth looks at Chumash use of asphaltum

NATION & WORLD / A4
Donald Trump appeared to resume his "bromance" with China's Xi Jinping

Some sun
Coast: 76/62
Inland: 93/57

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LOTTERY

Saturday's SUPER LOTTO: 3-4-19-27-45
Friday's MEGA MILLIONS: 2-9-11-28-60
Saturday's DAILY DERBY: 09-11-05
Saturday's DAILY 3: 6-2-6

Saturday's DAILY 4: 6-7-2-8
Saturday's FANTASY 5: 6-19-17-18-35
Saturday's POWERBALL: 8-10-29-40-59



Seafaring fun, while you wait

By JOSEF WOODARD
NEWS-PRESS CORRESPONDENT

Down at the Santa Barbara Harbor's boat launch, seafaring vessels enter the water daily, with virtually a 100 percent return rate.

But once a year a very different kind of boat launch event takes place at the adjacent West Beach area, with a radically different return rate. Some of these vessels, in fact, prove to be anything but seaworthy — and it's all in good, safe fun.

Welcome to the Kardboard Kayak Race Team Challenge, presented by the Santa Barbara Maritime Museum and sponsored by the Condor Express, which set up its temporary encampment on the sand early on Saturday afternoon.

In the space of two hours, boat-builders and racers tried their luck at building a kayak from a large piece of cardboard, a roll of colored duct tape, and a marker — in an hour — before racing the boat around a buoy.

With luck and crafty engineering, the kayak won't deconstruct or become a soggy, waterlogged mess. If so, not to worry.

Greg Gorgia, the museum's executive director, Kardboard Kayak coordinator and man with the megaphone, intoned that fateful moment around 2:30: "Time is up, everybody. Time is up!" The boat-building portion of the afternoon was over, shifting to the "let the races begin" moment.

And the races did begin, in three heats, the first two "Family Fun" heats for youngsters and finally a "professional paddlers" heat.

Contenders came to the race with some fanciful and sometimes absurd vessel names, including Corrugator, Orange Crush 5 (winner of both 2nd and 1st place in their first heat division), Abandon Ship, No Guarantees, Will it Float and the Team That Shall Not Be Named (first-place winner of the Pro Paddlers heat).

Not to forget, also in the running was also Pink Puffy Warrior Uni-



KENNETH SOBG / NEWS-PRESS PHOTOS

Competitors make a mad dash to the water Saturday at West Beach during the Kardboard Kayak Race Team Challenge.

corns with an Attitude. "Try to get a longer name next time," Mr. Gorgia told them, with a grin.

While thanking the many sponsors, prize-providers and others involved in the event, Mr. Gorgia mentioned the Condor Express, Sambo's, Santa Barbara Sailing Center, Channel Islands Outfitters, Santa Barbara Life Guards, and the U.S. Coast Guard.

"They're putting their reputation on the line here," Mr. Gorgia said, "by competing in the race."

Alas, in the final heat, the Coast Guard was among the few unlucky ones whose vessels dismantled and hopes went soggy.

But Mr. Gorgia assured the crowd that "this is not a reflection of their service to our country."

The Kardboard Kayak event has been presented by the Santa Barbara Maritime Museum for 15 years, and it had previously been operating as a part of the long-standing and annual two-week Semana Nautica

Summer Sports Festival.

Compared to the more openly athletically oriented events and races in the festival, including a "beach biathlon" alongside land-lubber sports, the Kardboard Kayak race is something of a curveball notion.

As for the quirky concept behind the project, Mr. Gorgia noted that "other people have done it. I don't know where it started. People have seen it here and taken it other places. On the East Coast, they do pumpkin races. They hollow out a pumpkin and race it."

This year's event drew 21 teams.

"You get all kinds," Mr. Gorgia said. "You get people who plan for a month ahead of time and you get people who just show up on the day and have it. We've had one team here for seven years in a row and a lot of first-timers."

As for the boat-building supplies, "they get two pieces of cardboard, a roll of duct tape, an X-acto knife,

and a magic marker, and that's all they can use. They have to be creative. You see all different styles. The whole idea is to have fun — safe fun."

Jennifer Haake, the Maritime Museum's volunteer coordinator, was busily managing details and running interference.

"We have engineers who get really into it," she said. "They want to design the prototype well in advance. So if we let them bring their own supplies or let them build something at home and bring it, it just wouldn't be fair. It forces everyone to get creative with what they have, to McGyver their way through it."

When reminded that the Coast Guard didn't fare so well this time around, she laughed and said, "No, they didn't. But he told me before he went out there he was going to be disappointed if he didn't sink, so he is not disappointed."

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DON KATCH / NEWS-PRESS

Past Santa Barbara city fire Chief Warner McGrew attends the retirement party of his son, Sgt. Mike McGrew of the Santa Barbara Police Department, at the El Paseo Restaurant on Friday.

Retired fire chief enters City Council race

By SARA BUSH
NEWS-PRESS CORRESPONDENT

Retired Santa Barbara City fire Chief Warner McGrew has announced he is joining the race for the City Council's 5th District seat.

"My priorities are public safety, infrastructure, and sustainable economic growth for the community," Mr. McGrew said.

"I would like to revitalize the mills and help bring new business to State Street.

"It shouldn't surprise us that the Internet has taken out some of the brick and mortar stores," he said. "That's an economic sustainability issue I want to help resolve."

He supports the 1 cent sales tax measure that will appear on the November ballot.

Mr. McGrew started his career with the Santa Barbara City Fire Department on April 1, 1970 and retired 35 years later to the day. "I served in every position within the department over those 35 years," he said, including 15 years as assistant fire chief and fire marshal and seven years as chief.

He has served on several boards for nonprofit organizations, including 9-1-1 for Kids and other fire-industry related groups.

"I've been in a leadership role most of my professional career," Mr. McGrew said.

He spent the last 12 years working on a federal management team with the U.S. Forest Service, managing large forest fires and other major disasters.

Staying connected to the Santa Barbara community is a priority and one reason he decided to throw his hat into the City Council race, he said.

"I'd been thinking about it over the years, and it just seemed like the right thing to do," he said. "Now the timing is right for me, and the opportunity came up with District 5."

The seats for Districts 4, 5 and 6 will be up for grabs in November, the city's second district election.

District 5 includes the Hidden Valley, Samarkand, Hitchcock, Upper State, San Roque, Hope and Campana neighborhoods.

Mr. McGrew also hopes to invigorate Santa Barbara Municipal Airport, which also lies within the District 5 boundary.

"It's important to work hand-in-hand with the city of Goleta to solve issues in that direction to good neighbors," he said. "The airport is a venue for bringing people into the whole South Coast. It's important that all government agencies on the South Coast work together to resolve issues as they come up and provide some view of what the future might look like for the whole South Coast area."

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"My priorities are public safety, infrastructure, and sustainable economic growth for the community."

Warner McGrew,
Santa Barbara City Council candidate



Sean Yamasaki, left, and Elise Meyer are neck-and-neck in the Paddler Pros division of the Kardboard Kayak Races.



BILL MORISON / NEWS-PRESS

Ken Dahmen, Santa Maria program manager for the Santa Barbara County Bicycle Coalition, gives safety tips to foster children during Saturday's bicycle donation at the Santa Maria Elks Lodge.

Santa Maria Elks donate 40 bikes to local foster kids

By CHASE CABOT
NEWS-PRESS CORRESPONDENT

Santa Maria Elks Lodge 1538 donated 40 bikes to foster children Saturday, collaborating with the Santa Barbara Bicycle Coalition and Our County Our Kids to provide the bikes and train each child in bicycle safety.

Each bike was assigned to a different child, with Elks members making adjustments to the bikes specified for each child, ensuring the bikes are safe and comfortable to ride.

Volunteers from Righetti High School's Mountain Bike Club helped in distributing the donations to the children. Once the bikes had been handed out, the Tailwinds Bicycle Club of Santa Maria donated a new helmet to each recipient.

Santa Maria Bici Centro, an organization working to make bicycling safe across the county, offered a bicycle safety seminar.

Gustavo Prado of the Santa Barbara County Department of Social

Services, said the department is "thrilled that the Elks Lodge wanted to step in and give back to our local youth."

The significance was not lost on the children receiving the gifts, Mr. Prado said.

"For many of these children, this will be their first bike they ever had," he said.

He also noted the positive and potentially life-changing effects receiving the bikes and helmets will have.

"It gives these children a sense of normalcy while they are in care, and makes them feel special."

Once the children got their bikes

and had gone through their basic safety training, they enjoyed a barbecue lunch and had a chance to ride their new bikes, putting their newly learned lessons in bicycle safety to the test.

Our County Our Kids is a program within the Santa Barbara County Department of Social Services that works on providing foster children with mentors. Our County Our Kids works with families to ensure children enter homes that are healthy, financially stable, and integrated within their communities.

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Suit must prove that short-term vacation rentals ban meets definition of a 'development'

■ LAWSUIT

Continued from Page A1

consider the local coastal plan in his pre-trial deliberations, City Attorney Ariel Calonne arguing it is irrelevant to the lawsuit.

But the judge disagreed. In his June 26 ruling, the judge says given Mr. Kracke's amended petition is premised, in part, on the requirements of the local coastal plan "and on allegations the city failed to conform to those requirements in issuing a short term vacation rentals ban, the terms of the LCP are relevant."

The judge ruled Mr. Kracke met the burden to allege the ban constitutes a development, even though there is no physical work being done.

The California Coastal Commission is of the opinion that regulating short-term vacation rentals "represents a change in intensity of use and of access to the shoreline, and thus constitutes development to which the (state) Coastal Act and (local coastal plans) must apply."

It further states that a prohibition on these rentals "is contrary to the California Coastal Act."

Instead of a ban, "a fair and narrowly tailored" approach to regulating these rentals "will promote and expand affordable coastal visitor opportunities while addressing neighborhood concerns."

Santa Barbara's local coastal plan even states "lower cost visitor-serving uses shall be protected and encouraged."

In addition, preservation of lower-cost lodging and restaurants is important.

Judge Borrell found that Mr. Kracke's allegations establish that the city, through the ban, intended to change the density or intensity of use of land or of access to the coastline, thus constituting a development.

"The legislature has decided that the provisions of the Coastal Act are to be construed liberally to accomplish its purposes and objectives. Interpreting the definition of 'development' as the court has here complies with that mandate," the judge writes.

The fundamental purposes of the Coastal Act are protecting California's coastline and ensuring state policies prevail over local concerns," the judge writes. "Requiring the city to obtain a (coastal development permit) before implementing a prohibition on residential areas of Santa Barbara's coastline is in harmony with both."

The city argued that the council merely acted to enforce existing ordinances.

Judge Borrell found otherwise. "The allegations (by Mr. Kracke) describe an identifiable choice between two existing yet conflicting policies — to allow and tax STRs or prohibit them. The City Council

chose to prohibit them as a deliberative body after public hearings."

It also provided funds to prosecute offenders.

Mr. Calonne could have chosen not to prosecute. But the Kracke complaint establishes something else.

"To the contrary," writes Judge Borrell, "the facts alleged show that these prosecutions were, as the council intended, 'competently and aggressively managed.'"

Mr. Calonne was upbeat in his assessment of the ruling, telling the News Press, "The trial court has now twice rejected Kracke's request for an injunction. This means that the demurrer ruling does not stop the city from continuing its vacation rental enforcement actions. We intend to continue to pursue these enforcement actions."

The Borrell ruling is "not a setback," he said. "We were not able to get the case thrown out without a trial."

Mr. Kracke, he added, "will now have to prove that enforcement of existing law meets the legal definition of development" under the Coastal Act.

"That will be hard for him to do."

While acknowledging his case is far from won, "This is a victory for those people who could not other-

wise enjoy the Santa Barbara coastline," he said.

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