

Waterman Gap sale clouded by petition

Proposal may be put on the ballot

By **ROBIN MUSITELLI**

SENTINEL STAFF WRITER

BOULDER CREEK — Organizers of a petition to void the sale of 1,340 acres of watershed land to a conservation group said Monday they have more than enough signatures to qualify for a public vote.

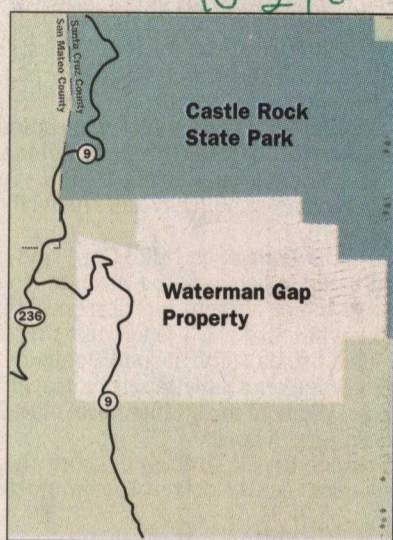
The question is: Now what?

Sale of the so-called Waterman Gap property by the San Lorenzo Valley Water District has turned into such a legal knot that petition proponents and water board directors admit they're confused.

Bruce Oneto, a retired lawyer and Boulder Creek resident, and his supporters started the petition drive last week protesting sale of the land to the Sempervirens Fund, which intends to turn the land over to the state as an addition to Castle Rock State Park. Oneto wants the district to keep the land and use it for educating students about the forest. The signatures have been turned over to the county Elections Department.

The petition asks water district directors either to cancel the ordinance authorizing the sale or put the matter to vote of district customers sometime next year.

To qualify, petitioners figured that



Sentinel graphic

by Friday they needed 548 signatures of water district customers, a number they say they exceeded.

Two days before that deadline, however, the district and Sempervirens closed escrow on the deal, catching petition-circulators unaware. Escrow had been scheduled to close Monday.

Oneto and supporters accuse the district of trying to derail the referendum by speeding the close of escrow after they became aware of the petition effort.

"I think it was really dirty," said Lisa Rudnick, a Ben Lomond resident.

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Petition

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Water district officials say escrow closed earlier because Sempervirens Fund director Brian Steen was scheduled to leave town.

But Oneto continued to gather signatures, and turned in 677 Friday afternoon. The county Elections Department is in the process of verifying them.

What happens next is hazy.

Oneto said he is seeking legal advice. "I don't know where to go from here really," he said.

Gail Pellerin, head of the county's Elections Department, said that if the signatures are certified, the water board has the option of repealing the ordinance or calling a special election.

"It's my belief we will not rescind the ordinance," water board Director David Ross said Monday. "I personally would say, 'OK, have a referendum,' even though I think it's not going to change anything."

What effect a referendum would have on ownership of the land is unclear.

Steen, of Sempervirens, said that with the close of escrow, he believes Sempervirens owns the land, referendum or not.

But by Oneto's reckoning, referendum law gave sale foes 30 days to gather signatures and turn them into the county.

Oneto also maintains that the ordinance approved by the water board directors authorizing sale of the property did not take effect until 30 days after its passage. That's the normal course of non-emergency ordinances, he said.

The 30-day mark was Saturday. Because it fell on a weekend, the ordinance would take effect Monday, Oneto said.

He also questions whether escrow legally could have closed when the ordinance authorizing sale of the land had yet to take effect.

But Oneto's interpretation is one of several possibilities.

Water district manager Jim Mueller said the ordinance itself says it takes effect immediately — but also says it is subject to a referendum.

Ross, the district director, said the question of when the ordinance takes effect has become "too technically legal" for him.

"The lawyer who drafted it said 'right away,' and then died before the ordinance was adopted," Ross said. The attorney who replaced him is checking on it.

Ross also maintains that the ordinance wasn't even needed to sell the property.

"It was a lawyer decision to put it in the form of an ordinance and we're not clear why," he said. "We don't need an ordinance to sell property."

Ross said the district was aware of the petition drive but said the district's attorney had advised directors to proceed with the sale anyway.

If the water district had stalled or abandoned the sale, it would have been vulnerable to a lawsuit by Sempervirens for breach of contract, Ross said.

If the petition effort is certified by the Elections Department, petition supporters can get a court injunction to stop the sale, Ross said.

He predicted that if the fight goes to the ballot box, a majority of customers would vote to sell the land to Sempervirens instead of having the water district retain ownership, as Oneto favors.

Referendum backer Rudnick, however, said the referendum could also turn into a recall election with write-in candidates.

"If this goes to litigation, that doesn't help anybody. We're suing ourselves," Rudnick said. "I would rather that we get some reasonable people on that board."

Contact Robin Musitelli at rmusitelli@santa-cruz.com.