

LOCAL

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Vidak, Perez trade barbs as election nears

BY JAMES BURGER
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With nine days to go and more than \$2 million poured in by party powerbrokers in the 16th Senate District special primary election, the claws have come out in the race between front-runners Leticia Perez and Andy Vidak.

Republican Vidak's campaign is on the radio and TV calling Perez a liberal pawn of Democrats in Sacramento.

Democrat Perez's camp is play-

ing up Vidak's opposition to a minimum-wage increase, carefully cutting a clip of his words from a radio debate to make him sound less sensitive to the poor.

But observers say victory May 21 will come down to how many supporters each can get to the polls.

"It's a matter of turnout," said



Perez

Allan Hoffenblum, publisher of the California Target Book, which follows state politics. "The Democrats haven't been doing so well in these special elections."

Turnout
Conventional wisdom dictates that Republicans traditionally win in the turnout game. But data



Vidak

from the elections offices in the four counties with territory in the 16th District show Democrats have the numerical advantage with vote-by-mail voters.

Those records show 11,830 Democratic voters have returned their mail ballots while 10,776 Republicans have.

While those numbers don't necessarily show who got the votes, they triggered a bit of a confident swagger from Perez campaign manager Trent Hager.

Perez will collect the most votes,

he said, and end up in a July 23 run-off with Vidak. There are three other primary candidates.

The vote-by-mail turnout numbers are about what Vidak expected when the race started, said his campaign spokesman, Tim Orman, and he's betting Hager is wrong about who comes out on top.

"I think it looks good for us," Orman said. "I think it definitely gets us in the ballpark of getting close to 50 percent."

Any candidate who gets more

Please see SENATE / B3



FELIX ADAMO / THE CALIFORNIAN

Local fisherman Craig Coston walks in a shallow section of the Kern River about 10 miles inside of the canyon. Sediment releases from Southern California Edison's power plant have clogged up the river for miles and ruined the fishing, according to Coston and other local anglers. "They've killed the ecosystem," said Coston. Sediment can be seen on both sides of the river at this point.

Silt chokes lower Kern and the explanation is muddy

Sediment releases from Southern California Edison's dam on the lower Kern River have gunked up the river for miles and ruined a once thriving fishery, according to local anglers.

"They've killed the ecosystem," said avid fly fisherman Craig Coston.

Edison says it has released sediment according to a long established plan that is monitored by downstream river interests, two federal agencies, the State Water Resources Control Board and the Department of Fish and Wildlife.

That all may be true, but it's also true that silt has clearly built up below Edison's Democrat dam to the point that the river is no deeper than five inches in many places.

The silt has filled in pools, laid a smooth blanket over gravel and built beaches up under and around rocks. In some places the silt banks are two to three feet tall. All of which has eliminated habitat for bugs that fish need to eat as well as places for fish to hide from predatory birds, Coston said.

And while Mother Nature's stingy snow packs for the last two winters can be



Sediment clings to a rock on the bank of the receding Kern River.

blamed for a lot of other water woes, Coston said that's not the case with the destroyed fishery.

Above Democrat dam, he said, the fishing is phenomenal. The river is robustly healthy.

Below Democrat all the way to the mouth of the canyon, 15 miles or more, is "horrible," Coston said.

Other fishing experts confirmed "the river's a mess" below Democrat with hardly any fish.

"It's not an issue of naturally occurring silt, or this being a low water year," Coston said. "It's all about how Edison is managing the sediment."

To understand why naturally

occurring river silt needs a management plan, you have to go back to 2001.

Edison hadn't bothered with the sediment building behind Democrat dam for about a decade.

In 2001, during a safety inspection of the dam, somehow tons of backed up silt — 272,000 cubic yards — were dumped into the river.

The river was a mess for miles and it wasn't just fishermen who noticed.

That's when the Department of Fish and Wildlife (formerly Fish and Game), State Water Resources, Army Corps of Engineers and the Forest Service got involved.

Please see HENRY / B5



Lois Henry CALIFORNIAN COLUMNIST

Episcopals regain 2 buildings; some Anglicans must find new home

BY JOHN COX
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St. Paul's Anglican Parish in Bakersfield is looking for a new home following a courtroom decision that hands control of its church property back to the Episcopal Church.

The Anglicans are on the move following a little-noticed ruling in February that parishioners in two of several breakaway Kern churches lacked the authority to disaffiliate from the Episcopal Church.

Even though Anglicans at St. Paul's and St. Michael's Anglican Church in Ridgecrest both held their own titles to church property, Kern County Superior Court Judge Sidney P. Chapin ruled that they had to vacate.

His ruling essentially dismissed the permission a former Episcopal bishop granted them to secede, saying he overstepped his authority in supporting their move to disaffiliate.

A number of other Anglican churches aren't affected, pending the outcome of a different case in Fresno.

The legal battles are part of a larger schism that led congregations in the San Joaquin Valley and across the country to leave the Episcopal Church.

In general, the parishioners who wanted to align with the Anglican Church had a number of more conservative views than the mainline U.S. Episcopal Church. A tipping point might have come when the Episcopal Church ordained an openly gay bishop, V. Gene Robinson, in New Hampshire in 2003.

One such a dispute in Virginia, the Washington Post noted, also became an issue in global Anglicanism — of which the Episcopal Church is part — when one of the breakaway leaders was disinvented to a global Anglican meeting.

Please see CHURCH / B3

Voters OK'd 3 strikes reviews but some counties balking

BY PAUL ELIAS
The Associated Press

SAN FRANCISCO — Majorities in every California county voted last fall to scale back the state's Three Strikes law so thousands of inmates serving life sentences for relatively minor third offenses would have the chance to be set free.

Five months later, there is no such unanimity among counties when it comes to carrying out the voters' wishes.


Whether a third-strike felon eventually will gain freedom varies greatly depending on the county that sent him away, according to an Associated Press analysis of California Department of Corrections and Rehabilitation data.

In San Bernardino County, which has the second highest number of eligible inmates, 33 percent of the 291 Three Strikes inmates have been granted release under Proposition 36. But in Los Angeles and San Diego counties, just 6 percent of the nearly 1,300 eligible inmates have had their sentences reduced so far.

Please see RELEASE / B5


"These people aren't doing life sentences because they are nice people."

— Greg Walden, San Diego County District Attorney



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ALEX HORVATH / CALIFORNIAN FILE

Three Strikes families respond following court proceedings in Kern County Superior Court on Dec. 19, 2012. Pedro Marin Jr., not pictured, was among the first to be released. Marin's mother, Helen Rolon, and his sister Helen Ante talk about his release from prison where he has been for 17 years.

30 people released so far under Prop. 36 in Kern County

BY JASON KOTOWSKI
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Kern County's Public Defender says he is pleased with how Proposition 36 has been implemented locally, so far resulting in the release of 30 people who had faced the prospect of spending the rest of their life behind bars.

"The electorate has applaudably, admirably recognized that life sentences for non-serious, non-violent offenses doesn't serve society as related to the human cost and the enormous taxpayer cost," Konrad Moore said. His office is handling the bulk of the county's Proposition 36 resentencing cases.

Moore said that following the state's 1996 Three Strikes law, Kern County and other counties statewide struggled to understand and implement the statute, and "very aggressive" sentences were handed down locally. Some people in Kern County were receiving 25 years to life sentences for what Moore said were relatively minor offenses such as petty theft or being caught with a small amount of drugs that counted as their third strike.

"Perhaps because there was such a strict reading of the statute many individuals here fared more poorly or were treated more harshly than individuals in other jurisdictions," Moore said.

His office contacts people who are eligible for resentencing under the statute and compiles and reviews all the necessary paperwork regarding their prior offenses and self-improvement steps they've made. A total of 277 people sentenced in Kern County are eligible.

Chief Deputy District Attorney Mark Pafford said the DA's office has opposed most of the cases.

"I'm not going to be the person who says that someone convicted of at least two vio-



Susan Johnson was delighted following court proceedings in Kern County Superior Court on Dec. 19, 2012. Johnson's husband, Randy Lee Johnson, was to be one of the first released under Proposition 36.

lent or serious felonies and then another felony no longer poses a risk to society," he said. "That's not going to be our office."

Pafford said five cases have been denied, two because the court ruled the individuals were still dangerous, two because they were ineligible through the law, and one because of a technicality in the law in connection with a gun.

He said there are some cases that the DA's office will probably just concede. They review each case to see how old the strikes are, if the person has taken steps to address substance abuse, received vocational training and has stayed out of trouble while incarcerated.

RELEASE: Decisions vary by county

CONTINUED FROM B1

Statewide, 16 percent of 2,847 eligible inmates have been resentenced.

Defense attorneys blame prosecutors in some counties for opposing inmate petitions for resentencing even in cases where the prisoner clearly qualifies for early release under the language of Proposition 36. Those oppositions require time-consuming court hearings and written arguments.

"We are frustrated that some DAs are stubbornly refusing to follow the law," said Michael Romano, who authored Proposition 36 and runs the Three Strikes Project at Stanford Law School. The project represents about 20 inmates seeking resentencing.

Prosecutors say a decision to set repeat felons free should not be made in haste.

"These people aren't doing life sentences because they are nice people," said San Diego County Deputy District Attorney Greg Walden, who handles the petitions for his office. "I don't want to make a mistake and then later have to apologize to a family later victimized by one of these people let out."

Proposition 36 was backed by 68 percent of voters. It modified the state's 1996 Three Strikes law that stipulated a life sentence for a third felony conviction even if it was for a low-level offense such as stealing a bicycle.

The percentage of felons sentenced to a third strike has varied by county, in large part because of the different philosophies among local prosecutors. Nevertheless, the Three Strikes law contributed to soaring prison costs and overcrowding that led to federal takeover of the state system.

The nonpartisan Legislative Analyst's Office said Proposition 36 could save the state \$70 million to \$90 million a year.

Under the new law, inmates file applications for early release in the counties where they committed their last crime. Some are representing themselves, filling out legal forms in pencil, while others are getting help from public defenders, law school students and law firms that have agreed to handle the petitions for free.

Dale Curtis Gaines is an example of those who can benefit from Proposition 36. A two-time convicted burglar, he was destined to spend the rest of his life in prison after he was caught with computer equipment stolen from the American Cancer Society and sentenced in 1998.

His lawyers, who say Gaines is physically and mentally disabled, filed a resentencing application after the initiative passed. He was set free in March from the state's medical prison in Vacaville after the Sonoma County district attorney dropped objections that the 55-year-old remains a threat to society.

Local prosecutors decide how aggressively to oppose the applications for reduced sentences, and judges make their decisions based on a variety of factors, including an inmate's disciplinary record while in prison. Inmates with violent prison records who would otherwise qualify for early release can be kept behind bars if a judge finds they are still a risk to public safety.

The result is an uneven application of the law, as illustrated by two similar counties in the San Joaquin Valley: Stanislaus County has resentenced just two of 50 eligible three-strikers, while Tulare County has resentenced 67 percent of its 42 eligible inmates.

"A lot of these inmates weren't told the

Three Strikes resentencing by county

County of sentence	Inmates eligible for resentencing	Number resentenced	Percentage resentenced
Alameda	9	1	11%
Alpine	0	0	0%
Amador	3	0	0%
Butte	9	0	0%
Calaveras	0	0	0%
Colusa	1	0	0%
Contra Costa	8	8	100%
Del Norte	2	1	50%
El Dorado	5	0	0%
Fresno	55	5	11%
Glenn	1	0	0%
Humboldt	2	0	0%
Imperial	3	2	66%
Inyo	1	0	0%
Kern	175	30	17%
Kings	34	1	3%
Lake	5	1	20%
Lassen	0	0	0%
Los Angeles	1,029	62	6%
Madera	15	0	0%
Marin	19	3	16%
Mariposa	0	0	0%
Mendocino	1	0	0%
Merced	13	2	15%
Modoc	0	0	0%
Mono	0	0	0%
Monterey	7	0	0%
Napa	3	0	0%
Nevada	2	0	0%
Orange	151	35	23%
Placer	15	1	7%
Plumas	0	0	0%
Riverside	182	51	35%
Sacramento	150	30	20%
San Benito	2	0	0%
San Bernardino	291	95	33%
San Diego	243	14	6%
San Francisco	3	1	33%
San Joaquin	26	15	58%
San Luis Obispo	7	1	14%
San Mateo	20	0	0%
Santa Barbara	27	2	7%
Santa Clara	149	44	30%
Santa Cruz	2	0	0%
Shasta	20	4	20%
Sierra	1	0	0%
Siskiyou	3	0	0%
Solano	4	0	0%
Sonoma	7	2	29%
Stanislaus	50	2	4%
Sutter	3	0	0%
Tehama	11	0	0%
Trinity	0	0	0%
Tulare	42	28	67%
Tuolumne	2	0	0%
Ventura	17	0	0%
Yolo	8	1	13%
Yuba	9	0	0%
Total	2,847	445	16%

Source: California Department of Corrections and Rehabilitation.

whole story," said Los Angeles County Superior Court Judge William Ryan, who is assigned to decide the more than 1,000 petitions filed in that court, where just 62 have been granted resentencing so far. "A lot of inmates thought the prison doors would automatically open. But it's a process, and I want to be very careful."

HENRY: Snow pack isn't required to be considered

CONTINUED FROM B1

It was a "catastrophic event," said Keven Colgate, a consultant with Cardno ENTRIX, which developed the management plan Edison now operates under.

"It took seven years to move through the river," she said of that giant sediment dump.

Meanwhile, the river continues bringing more sediment down and Edison tries to release a little at a time to prevent a repeat of 2001.

The company dumped 20,000 cubic yards of sediment into the river in 2007 and 10,000 cubic yards again in 2009. Much of that was washed downstream in the big water year of 2011.

"The releases are timed so we get enough river flow, but we also have to release before certain fish species spawn and rear their young," Colgate said. "It's a small window of time."

The company has to decide whether it's a good year to dump silt by late January and then dump by very early February so as not to interfere with the mid-March spawning of small mouth bass and hard head minnow.

"We look at the amount of sediment stored behind the dam," Colgate said of factors they consider. "And we look at the coming water year."

Hmmm. I would think the coming water year would be a key factor. Because a low flow year means the silt is just going to sit there, clogging things up, which can't be very helpful to spawning fish.

Which makes me extremely curious as to why Edison decided to dump between 3,000 and 10,000 cubic yards of silt into the river in 2012 and again this past February.

(As an aside, yes, those ranges are ridiculously wide. An Edison spokesman said the company couldn't give me a more precise figure, which I found odd since it claims to closely monitor how the releases are affecting river health. Knowing exactly how much sediment you're dumping strikes me as a critical piece of data in that effort. But what do I know?)

Anyway, since Colgate said the coming water year is a factor in the decision, I asked if that meant they look at snow pack in, say, January and whether it has to be at a certain percentage of



FELIX ADAMO / THE CALIFORNIAN

Using a camera with a polarizing filter to reduce glare, local fisherman Craig Coston photographs sediment deposits in the Kern River, about 10 miles inside the canyon.

normal in order to dump. Welllllll, I was told, it's in the mix, but snow pack isn't "required" as a factor to be considered.

Since Edison decided to dump sediment after two of the worst winters we've had in years, I'm gonna go out on a limb and say snow pack doesn't mean bubkis in deciding whether to dump silt into the river.

I wondered how our state agencies, especially Fish and Wildlife, felt about the situation.

I was told it's cool for Edison to dump the sediment "under certain regulated conditions." But no one with Fish and Wildlife ever said what those conditions were and whether Edison was meeting them.

Instead, I was directed to ask Edison how the program is going. Eye roll.

Sediment moving through a river is natural, I was reminded by Edison and Fish and Wildlife. And after fires, which we've had in recent years, there's a lot more sediment than normal.

I get all that. But it doesn't answer the question of why the river above Democrat is healthy while below the dam fishermen are seeing a virtual wasteland.

Someone ought to be able to explain that.

Opinions expressed in this column are those of Lois Henry, not The Bakersfield

Southern California Edison power plants on the Kern River

- One above Kernville, one at Lake Isabella and the third on the lower river at Democrat.

- On the lower Kern, Edison diverts water from the river and holds it in a pool behind Democrat dam.

- When the company wants to make power, it moves that water into a canal and through its turbines then dumps the water back into the river at the mouth of the canyon.

- The Democrat power plant was built in 1907 and can generate up to 25 megawatts of power.

LOIS HENRY ONLINE AND RADIO

Lois Henry hosts "First Look with Scott Cox" every Wednesday on KERN 1180 AM from 9 to 10 a.m. The show is also broadcast live on www.bakersfield.com. You can get your two cents in by calling 842-KERN.

Read archived columns by Lois Henry at Bakersfield.com/henry

Californian. Her column appears Wednesdays and Sundays. Comment at <http://www.bakersfield.com>, call her at 395-7373 or e-mail lhenny@bakersfield.com

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Residents of Bakersfield wanted for participation in community opinion discussion group in the city of Bakersfield on June 1, 2013, from 9:00 a.m. to 5:00 p.m. Will pay \$175.00 to each participant, provide a continental breakfast and lunch. Call 877-235-8381 for additional information and initial interview.

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