

## County & region

# Accusations fly in Nipomo water election

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A group of residents claims Nipomo officials violated the state's open meeting law by illegally changing the date of a special election on state water.

Nipomo Citizens for Democracy have also demanded that no argument for state water be allowed on the ballot because none was submitted in time for the original election date, May 12.

But Arthur Shaw, attorney for the Nipomo Community Services District, said the district was simply complying with state election laws when it decided last week to change the election date by one week.

The conflict began in December when Shaw told the district directors they could legally ignore a binding election held in November 1991 in which Nipomo voters decided against state water by a 356-to-328 margin.

The Nipomo citizens group then

successfully launched a referendum campaign to force the directors to honor the original election or hold a new one so voters could decide whether the first one should be binding.

The district has hired a private firm to conduct the election. The county is busy preparing for the June primary to run Nipomo's special election, and the district couldn't wait until June to hold its election without missing the deadline to decide whether it wants state water.

District officials moved the election from May 12 to May 19, district General Manager Ryder Ray said Wednesday, so people would have another week to prepare pro and con arguments for the sample ballot.

State law says 10 days must be given for people to file ballot arguments after the election notice is published, Shaw said. "By the time we were getting it published, we didn't have enough time. So I recommended we slip the election back a week."

Ray called Shaw early Wednesday after receiving a ballot argument and a letter Tuesday from the Nipomo citizens group. Tuesday would have been the deadline for submitting ballot arguments if May 12 was the election date.

The letter accused the district of violating the Brown Act, the state's open meeting law.

The Brown Act prohibits governing bodies from acting on any item that isn't posted in public on the meeting agenda at least 72 hours before the meeting. Exceptions are made if at least four-fifths of those voting determine an emergency has developed.

Ray said the Feb. 19 agenda contained two election-related items but didn't contain any specific mention of changing the election date or any reference to an emergency situation.

"We were acting at the direction of our counsel," Ray said.

And Shaw maintains that "proper notice was given on the agenda."

"The election date was considered under the item about publishing the notice of election," he said.

That contradicts previous district procedures, said Charles Gulyash, who has been active in the citizens group.

There was a specific item on the Feb. 5 agenda, when the board initially set the election for May 12, he said.

"They didn't legally advertise they were going to change it," Gulyash said.

"On Feb. 5, they handed out an election schedule. If a member of the public was interested in this election, they could look at the Feb. 19 agenda and not know the date was changed."

The citizens group probably won't take the issue to court, he said, but the group will speak at the March 3 district meeting.

"Going to court would be unproductive," Gulyash said. "I don't think the community wants to get this where you make a lot of lawyers rich."