

NCS D emerges clean from lawsuit

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The Nipomo Community Services District escaped unscathed from a lawsuit filed in November alleging that utility subscribers were hit with unlawful fee increases to fund new development.

In a decision last Thursday, San Luis Obispo Superior Court Judge Martin Tangeman ruled that the plaintiffs, "Citizens against Unlawful Fees," did not file their suit

within the 120-day window required by state law.

According to court documents, the NCS D beat the suit by filing a demurrer, a legal maneuver that challenges the validity of a pleading. District officials claimed the effective date of the fee increase was June 26 — 60 days after the NCS D board approved the ordinance at its April 27 meeting.

The citizens group, represented by San Luis Obispo attorney John Fricks, claimed the 120-day win-

dow should be counted from July 1, or the date the fees would be implemented.

Tangeman's decision in favor of the NCS D means that the lawsuit came just three days too late to be heard in court.

The fee adjustments were put in place last year to help fund supplemental water purchased from the city of Santa Maria, in addition to eliminating deficits within the district's operating budget. At last estimate, the pipeline is projected to

cost \$6 million.

Jon Seitz, general counsel to the NCS D, said he was relieved by the results.

"We could have defended (the fee increases) on their merits," he said. "This just resolves it in a more timely fashion."

It is unclear whether Citizens Against Unlawful Fees will file an appeal. Fricks did not return calls for comment.

See **NCS D** / A4