

# Fluoride case goes to court

Tough decision has Watsonville seeking help

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WATSONVILLE — City leaders, caught between a state order to fluoridate their drinking water and city voters who passed an ordinance that essentially prohibits that, have opted to let the courts decide.

In the latest turn in Watsonville's fluoride saga, the council voted Tuesday night to seek what is known as a "declaratory judgment" on the state law vs. the city ordinance.

In November, voters approved a ballot measure that doesn't mention fluoride by name but essentially bars its addition to Watsonville's public water supply.

That puts the city in conflict with the state.

A state law mandates that cities with 10,000 or more water hookups must fluoridate the water if funding is available. That's the case in Watsonville, as the California Dental Association Foundation had offered almost \$1 million to install a fluoridation system and operate it for a year.

In February, the state Department of Health Services ordered the city to proceed with fluoridation plans, submitting a schedule by May 1, or face fines of \$200 per day.

Department of Health Services officials said Wednesday it was their first-ever compliance order.

That set the stage for Tuesday's meeting; the council could either comply with the state and face litigation from residents or side with residents and face fines from the state.

Council members decided a court case could clear the picture.

In 2000, state Attorney General Bill Lockyer said the state's fluoride law supersedes local rules, but that opinion hasn't been tested in court, City Attorney Alan Smith said.

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## Fluoride

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"We knew Watsonville was going to be the testing grounds for the statewide law," Jon Roth, director of the dental association, said by phone Wednesday.

More than two dozen people spoke to the council during the sometimes heated session, the vast majority fluoride opponents who told the council to side with voters even if it meant tangling with the state in court. They called the threat of fines toothless.

"The council should respect that vote," city water customer Mike Barsi urged the council.

There was even a contingent of fluoride foes from Redding, where a ballot measure similar to the Watsonville one passed in November.

"Your decision tonight is being watched by other communities in California and the rest of the United States," Redding resident Trudi Pratt said.

Some urged the council to comply with the state and fluoridate.

"We believe this is a good public policy," said Rama Khalsa, who heads the county Health Services Agency.

The council's ultimate decision came after some procedural wrangling. A multifaceted motion by Councilwoman Judy Doering-Nielsen that basically sided with city voters failed.

A motion by Councilman Rafael Lopez to comply with the state order also failed.

Eventually, Councilwoman Ana Ventura-Phares moved to let the courts decide.

The council began fluoridation efforts in July 2001. The city was offered a \$946,000 grant by the California Dental Association Foundation and signed a deal with the group in May 2002.

As that effort progressed, though, resident opposition gained momentum. The Watsonville chapter of Citizens for Safe Drinking Water, an antifluoride group with chapters throughout the West, petitioned to get a measure on the Nov. 5 ballot. It banned adding chemicals that aren't approved by the federal Food and Drug Administration to the water sup-

ply, with exceptions for chlorine and chemicals that make water safe for drinking.

That initiative was successful, gaining 51 percent of the vote. In response to the vote, the city canceled the grant agreement and later rejected construction bids for the project.

Mike Warren, city manager in Redding, said the likely difference between Watsonville receiving the state compliance order and Redding not getting one is that Redding never signed off on its grant offer.

Smith, the attorney for Watsonville, said the city would file in Santa Cruz Superior Court and that the case could conceivably go to trial in about six months.

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