

City cited for not fluoridating

Fluoridation
Council to consider response Tuesday

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The City of Watsonville has been cited by the California Department of Public Health for failure to comply with an order by the state to fluoridate the water supply.

The citation was received by the city Thursday and demands written assurance from the city by Aug. 29 that it will comply, and plan and schedule for fluoridation submitted by Sept. 19.

City Attorney Al Smith said the citation appeared "out of the clear blue."

"We have been in communication with the Department

P-P. 8210
of Health Services," he said. "I was surprised ... but it is what it is."

Fluoridation has been an issue ever since the City Council first passed a resolution accepting a grant to fluoridate. In February 2002, Fluoridation 2010 Workgroup offered the city \$946,000 to fluoridate, but in November of that year, Watsonville residents concerned about the safety of fluoridation passed Measure S, banning all substances from the water not specifically approved by the Food and Drug Administration, which includes fluoride.

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But a state law requires cities to fluoridate if given the funding to do so, and Watsonville lost its battle in court to honor the voters' wishes. However, that case was decided years ago, and the city and the California Dental Association Foundation have been wrangling over a contract ever since as the city tries to make certain the project will cost it nothing. Of specific concern are lawsuits associated with the project.

Smith said the city had written a letter to the CDA in late June and met with representatives of the CDA and the Department of Public Health in July.

"We asked them if there were a lawsuit against the city, could we provide in the contract that the CDA defends us," Smith said. "They said, 'I don't know, write us a letter.' So we wrote a letter and have not heard back from them."

Heath and Safety Code Section 116409-116415 requires fluoridation in public water systems with at least 10,000 service connections if funds are made available to cover the costs. Costs, it says, "means only those costs that require an actual expenditure of funds or resources, and do not include costs that are intangible or speculative ..."

Smith said that, while it is clear the city can't ask for a fund to be created to cover the costs of lawsuits, asking for indemnification is another matter.

"For example, if a city worker is working during the constructions of the equipment and is injured, or during operations, a pipe breaks or there is an acid spill and an employee is injured — workman's compensation would be paid out of (the) city's general fund," Smith said. "So the management concern is, is it the state's position that the city has to pay for those workers if they are injured? So we asked what the Department of Health's posi-

tion on it was. ... Clearly you can't ask for any money, but can you require requests that the city be absolved from risk?"

The City Council will decide how to respond during the closed-session portion of Tuesday's City Council meeting.

The citation mentions a possible penalty of \$200 per day if the city does not comply, but no fine was issued with the citation.

Nick Bulaich, the Watsonville resident most responsible for Measure S's passage, said the state still refuses to identify what substance it wants the city to use to fluoridate the water.

"This is such a stinker because the state is obviously trying to bully the city around," he said. "No wonder this state is in such a mess, because we have a dysfunctional and dishonest department like our State Department of Health running things. We dare the state to tell us which specific fluoridation substance will prevent tooth decay as stated in the state law."