

# City loses appeal over fluoridation

## Fluoridation Court rules against 2002 vote on Measure S

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Sixth appellate district justices decided Wednesday to uphold a Santa Cruz Superior Court ruling that may force water fluoridation in Watsonville.

Presiding Justice Conrad Rushing and associate justices Eugene Premo and Franklin Elia determined that voter-approved Measure S, a 2002 ban against adding substances not approved by the Food and Drug Administration to Watsonville water, is pre-empted by state law and "void and without effect."

The law, SB 96, allows the state to "preempt local government regulations, ordinances and initiatives that prohibit or restrict the fluoridation of drinking water by public water systems with 10,000 or more service connections."

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The decision will become final in 10 days, City Attorney Alan Smith said. The city then has a 30-day period to petition the state Supreme Court, which can choose whether to hear the appeal.

Council members will likely debate their next step at a closed session meeting Nov. 22, Smith said.

Smith argued that the state had not completely dealt with all fluoridation issues in the law, which was passed in 2004. During oral arguments Oct. 18, he questioned why state law allows municipal districts with less than 10,000 hook-ups, as well as public districts, not to fluoridate.

"I was surprised they didn't focus on what I thought was my main argument," Smith said Wednesday.

After the decision, locals on both sides of the fluoridation debate weighed in with reactions.

Dentist Bruce Donald, fluoride chairman for Monterey Bay Dental Society and an active member of the California Dental Association, has practiced as a dentist in Santa Cruz for 41 years. He said the decision affirms "once and for all" that fluoridation is a statewide concern.

"It's been shown over many years that teeth exposed to areas that are fluoridated have a lower risk of tooth decay," he said. "It's just something that will help all of us, no matter what our economic status is."

"In 50 years, we haven't seen any proof that there's danger," he added.

Cynthia Matthews, associate vice president of public affairs for Planned Parenthood Santa Cruz and a vocal fluoridation proponent, lauded the appellate decision.

"The research is very clear that people of all ages benefit (from fluoridation), including seniors," she said.

City officials first agreed to an offer from the California Dental Association to fund fluoridation in April 2002. After voters approved Measure S, the city rejected a revised offer from the CDA.

When the state Department of Health ordered the city to comply with the revised offer, Watsonville pursued the case in Santa Cruz Superior Court. Judge Robert Atack ruled against the city.

City Council member Oscar Rios said he was still supportive of fluoridation. He added that he would discuss the situation with Smith before deciding how the city should proceed.

Nick Bulaich, a fluoridation opponent who campaigned for Measure S, said he was upset, but not surprised, at the ruling. Bulaich submitted a brief for the case that was relegated to a footnote.

"Not only am I a footnote in history, but the voters of Watsonville have been told their vote means nothing," he said. "The voters got screwed."

He questioned why justices limited their scope to whether Measure S was pre-empted by state law.

"The problem with this decision was that there was so much to be resolved, yet they resolved so little," he added.