

Fluoride fighters are dealt setback

Watsonville told anti-fluoride law won't hold water

By **DONNA JONES**

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WATSONVILLE — In what was widely seen as a test case, a judge ruled Tuesday that state law trumps an anti-fluoridation ordinance passed by city voters in 2002.

Santa Cruz County Superior Court Judge Robert Atack's ruling clears the way for the chemical to be added to the city's drinking water, though legal hurdles may still arise to stall or stop implementation.

"The handwriting is on the wall," said Christopher Krueger, deputy state attorney general. "It has vast implications for other cities that might try these types of ordinances. It's not going to work."

Fluoride backers, who contend the chemical helps prevent tooth decay, hailed the decision.

"This is terrific for my patients and the people in Watsonville to finally get the benefit of community water fluoridation," said Jim Jacobson, a Watsonville orthodontist and president of the Dientes Community Dental Clinic board of directors.

But others saw the judgment as a defeat for democracy.

"I can't believe we're in a culture and time when voters don't have the right and ability to make decisions about what they are going to ingest into their bodies," Mayor Judy Doering-Nielsen said.

At issue was the conflict between the city ordinance, which didn't name fluoride but in practical terms banned it, and a state law that mandates fluoridation in cities with 10,000 or more water hookups if funding is available.

Since the California Dental Associa-

Fluoride

Continued from Page A1

tion Foundation offered Watsonville nearly \$1 million to install a fluoridation system and operate it for one year, the state ordered city officials to fluoridate or faces fines of \$200 a day.

Facing litigation from residents if the city complied with the state, and financial penalties if it didn't, the City Council turned to the courts for help.

Resident Nick Bulaich spearheaded the 2002 Measure S, which banned introducing substances not approved by the federal Food and Drug Administration into the water supply. The FDA does not regulate fluoride.

Bulaich criticized City Attorney Alan Smith, calling his defense of the measure weak.

"(The decision) was predictable because it goes back to the fact that no city resident was allowed to join the case," Bulaich said.

A court commissioner denied Bulaich's request to take part in the legal action. Bulaich's appeal is pending.

Had he been permitted to address the court, Bulaich said, he would have argued

attest to fluoride's safety and effectiveness.

"We raised every single credible legal issue, and then some," Smith said. "We had a reasonable shot of winning, and another day with another judge we might have."

Smith said if Bulaich wins his appeal and is allowed to participate, the case could get thrown back to Atack for further consideration. The council also could appeal the ruling.

Sending the case to an appeals court would widen its significance, Smith said. While Atack's ruling isn't binding on judges elsewhere in the state, an appeals court decision would be, he said.

Santa Cruz is among the state's cities with anti-fluoridation ordinances on the books.

Doering-Nielsen said she couldn't predict whether the council would look to a higher court. She was one of only two council members to oppose fluoridation; the other has since left the council.

Bulaich said he's exploring his options.

"I'm not going to roll over," Bulaich said. "It's not only a disservice to what I believe, but such a disservice to voters."



DOERING-NIELSEN

Mayor says residents should have the right to decide what they ingest