

# Court orders Watsonville to fluoridate its water

Fluoridation  
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State health codes trump voters' choice, judge rules; City Council members outraged

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Opponents of adding fluoride to Watsonville's water supply were dealt a major blow Tuesday when a judge ruled that state health and safety codes pre-empted a city voter-approved initiative to keep the substance out of people's taps.

Santa Cruz Superior Court Judge Robert Atack ruled that Watsonville must comply with state orders from the California Depart-

ment of Health Services to fluoridate the city's water.

"Basically, the voters' ordinance is trumped by state laws," Watsonville City Attorney Alan Smith said.

The decision comes more than a year after the city filed a request for an injunction of relief with the courts to determine whether the state could force the city to fluoridate against the will of Watsonville voters.

Watsonville Mayor Judy Doer-

ing-Nielsen said she was "extremely disappointed and dismayed" on Tuesday.

"It's awful! The citizens of Watsonville made a choice that they didn't want this here," Doering-Nielsen said. "It's terrible; they're going to put poison in the water supply. That poison is also going to run off into the wastewater stream and into the ocean. The state has no business telling the city what it can or can't do."

City Council member Ramon Gomez said he was disappointed that the "judge ruled against the people of Watsonville."

At the center of the debate is Measure S, the November 2002 voter-approved initiative that essentially barred fluoride from the water supply. Shortly after the measure passed, Health Services countered the city by threatening legal action — and fines of up to \$200 per day — if it did not com-

ply with a state law mandating fluoridation.

The City Council suddenly found itself in quite a quandary: ignore the state's orders and face fines and lawsuits or proceed with fluoridation against the will of its constituents, who could also file suits. At that point, council members voted to pass the decision off onto the courts.

See FLUORIDE, page 2

## FLUORIDE

From page 1

When asked about what course of action they thought the city should take next, neither Gomez nor Doering-Nielsen said they were ready to comment.

"We'll have to discuss the matter with our attorney and look at our options," Gomez said.

The city has the right to appeal Atack's decision, but must do so within 60 days of the final judgement, Smith said.

"I expect the (final judgement) in the next week or so, which would put our deadline to appeal sometime in mid-September," Smith said. "At this point, I have no idea what the city will do. The City Council will need to make the final decision on this, but they

don't meet again until August, so we won't even discuss it until then."

Regardless of the city's decision, Measure S proponent Nick Bulaich vowed to fight the state's fluoridation orders "to the end."

"I'm not going to quit," said Bulaich, who has filed his own suits against the state regarding fluoridation. At one point, Bulaich attempted to intervene in the city's suit, but was denied by a court commissioner in December.

Bulaich stressed that Measure S isn't so much about banning fluoridation, but rather regulating the manner in which it's carried out.

"If we could find an FDA-approved substance, free of excess contaminants, we could begin fluoridation tomorrow, but the substance (the state) wants us to use is toxic," Bulaich said.

Bulaich said Tuesday's ruling

came as no surprise, adding that he felt the city did not do enough to argue its case in court.

"To me, (this suit) was an orchestrated rollover," Bulaich said. "The taxpayers of Watsonville could have saved money if they'd just gone to a florist, bought a \$40 azalea potted plant, brought it to court and set it on the table where the city attorney was. It would have had the same effect."

Conversely, Smith said he thought the city went into the suit with a strong case, labeling Tuesday's ruling as "a decision that could have gone either way."

"It's one of those cases that's really up to the individual judge's take on the issue," Smith said. "I thought both sides had a reasonably good shot at winning, but it appears the courts sided with the state. Pre-emption cases like this happen all of the time."