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Fluoride foes 'exploring all options' after Supreme Court upholds Port Angeles city

By Tom Callis

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PORT ANGELES -- The state Supreme Court sided with Port Angeles City Hall on Thursday in the four-year-long dispute over water fluoridation, but activists aren't giving up just yet. The high court ruled in a 5-4 vote that water fluoridation in Port Angeles cannot be challenged through the initiative process.

The ruling tosses out city-wide initiatives that anti-fluoride groups Our Water-Our Choice! and Protect Our Waters filed in 2006, the same year the city added the product to its water as a means of preventing tooth decay.

Port Angeles resident Keith Wollen, spokesman for the two groups, said they are "exploring all options" on how to continue to challenge the practice. But he declined to say what is being considered. "That is not something we really want to talk about yet," Wollen said. "But there are other avenues. Again, I don't wish to get into it."

Gerald Steel, the groups' attorney, said the Supreme Court could be asked to reconsider the matter if it's believed that it overlooked laws or facts pertinent to the case. He said he has not come to that conclusion, at least not yet. "At this point I don't, but I think there needs to be more analysis before a decision is made," Steel said. The attorney from Olympia said that an appeal to the U.S. Supreme Court is not likely since the case didn't address Constitutionality issues. There also may still be a way for fluoride initiative to meet the "indications that the Supreme Court has given," he said.

The court found that the city's fluoridation program is not subject to the initiative process because it was an administrative action. Only legislative actions can be challenged by an initiative. The majority opinion argued that fluoridation is not a legislative action because the city was not creating new policy; it was merely acting within the authority granted to it by its own water management plan and state Department of Health regulations.

City Manager Kent Myers said the ruling "basically endorses what we said all along." He said the city still sees fluoride as a benefit, adding, "or we wouldn't be adding it to the water system."

The dissenting opinion, written by Justice Richard Sanders, argued that it's not administrative because the city is not required to fluoridate water. Sanders wrote that the majority decision "diminishes our state's forthright commitment" to the right of citizens to check government actions through the initiative process.

Members of the groups say they oppose fluoridation out of concern that its digestion can lead to long-term health problems, such as brittle bones.

Fluoride advocates and governmental health agencies say fluoride is safe to consume within certain limits. The state allows no more than 1.3 parts per million in drinking water, said Ernie Klimek, the city's water superintendent. Klimek said the city has never gone over that limit, and actually uses less. Port Angeles uses 1 part per million, and tests the level of fluoride every day, he said. One sample per month is also sent to the health department for testing.

Wollen said such regulations are flawed since they don't control how much fluoride people ingest.

Fluoride is a "coproduct derived from the production of fertilizer," according to the Center for Disease Control. It also occurs naturally.

The city buys its fluoride from Lucier Chemical in Wyoming, Klimek said. It spends about \$10,000 a year on fluoridation.

The city used a \$260,000 grant from the Washington Dental Service Foundation to help pay for the fluoridation system.

Forks is the only other city on the North Olympic Peninsula that fluoridates its water.

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Reporter Tom Callis can be reached at 360-417-3532 or at [tom.callis@peninsuladailynews.com](mailto:tom.callis@peninsuladailynews.com).

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