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Chemical & Engineering News: EPA Union's Attempt to Join Lawsuit Opposing Fluoride Standard was Rebuffed

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Chemical & Engineering News
August 1, 1988

EPA Union's Attempt to Join Lawsuit Opposing Fluoride Standard was Rebuffed

By *Bette Hileman*

In an unprecedented move, the Environmental Protection Agency's union of professional employees, Local 2050 of the National Federation of Federal Employees, attempted to file an amicus curiae brief in a lawsuit against the agency itself in 1986. The lawsuit in the U.S. Court of Appeals for the District of Columbia was initiated by the Natural Resources Defense Council. It charged that the agency had ignored scientific evidence of adverse health effects when it set the recommended maximum contaminant level (RMCL) for fluoride in drinking water at 4 ppm.

The EPA union, authorized by law to represent 1100 Washington area scientists, lawyers, and engineers, tried to join in the suit because its members believed that the support documents for the RMCL were unprofessional and an embarrassment to the agency. They charged that the fluoride health effects document, which was written by an outside contractor, had been skewed to meet the political goals of requiring very few communities to remove fluoride from their drinking water and avoiding the suggestion that levels of fluoride found in the drinking water of some communities (between 2 and, 4 ppm) might cause adverse health effects.

The union's brief cited many studies showing health effects at 4 ppm that had been omitted from the document. In particular, it opposed EPA's labeling moderate to severe dental fluorosis a mere cosmetic effect that therefore did not need to be protected against by the new standard. It also pointed out that some individuals living in areas with 4 ppm natural fluoride in their drinking water would be at risk of developing crippling skeletal fluorosis. Without comment, the court refused to accept the amicus brief from the EPA union.

In 1984, the South Carolina Department of Health & Environmental Control filed suit against EPA to raise or eliminate the fluoride standard. South Carolina objected to the 4-ppm standard because it did not want any community to have to spend the considerable amount of money as much as \$10 per month per household—required to remove fluoride from its drinking water.

Both suits were thrown out of court in February 1987 by a unanimous decision of the three judges, Ruth B. Ginsburg, Robert Bork, and James Buckley. They determined that "EPA reasonably interpreted the statute, responsibly evaluated the sometimes conflicting evidence in an extensive record," and "provided rational explanations for its determination. We therefore uphold EPA's rule as within the bounds of the agency's permissible discretion."

Jaqueline M. Warren, senior staff attorney at the Natural Resources Defense Council, believes the court made the wrong decision. "I don't think EPA should be allowed to set less protective standards in the absence of significant new evidence that would justify that," she says.

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See also:

- [Natural Resources Defense Council Lawsuit Against EPA](#)
- [Natural Resources Defense Council Legal Brief \(2\)](#) (pdf file) - September 1986
- [Natural Resources Defense Council Legal Brief \(1\)](#) (pdf file) - April 1986
- [EPA Headquarters Union Amicus Brief](#) (pdf file) - September 1986

Fluoride Action Network | 802-355-0999 | health@fluoridealert.org