

SAFE WATER ASSOCIATION, INC.,

Plaintiff,

vs.

Case No. 92 CV 579

CITY OF FOND DU LAC,

Defendant.

AFFIDAVIT OF ROBERT J. CARTON, Ph.D.

IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

State of Maryland )  
 )  
City of Adamstown )

Robert J. Carton, Ph.D., being first duly sworn on oath and with personal knowledge of the information contained herein, respectfully states to the Court as follows:

1. I am an environmental scientist currently with the U.S. Army. From September 1972 until May 1992, I was employed full-time by the U.S. Environmental Protection Agency (EPA). I spent approximately 15 of those years in the Office of Toxic Substances, managing risk assessments. For two years I was responsible for writing regulations under the Federal Water Pollution Control Act. I was also program manager for compliance of new pollution sources with the National Environmental Policy Act.
2. I was President of the union of EPA professionals for two terms. This union, the National Federation of Federal Employees, Local 2050, represented then, and still does, 1100 lawyers, scientists, and engineers at EPA Headquarters in Washington, D.C.
3. I received my B.A. in chemistry from La Salle University, Philadelphia, PA, my M.S. in environmental science from Drexel University, Philadelphia, PA, and my Ph.D. in environmental science from Rutgers University, New Brunswick, NJ.
4. I recently published an article on the U.S. Cancer - Fluoride situation (Exhibit\_\_\_\_), and have managed the preparation of a long list of reports and studies while an employee of EPA.
5. My field of study, interest and expertise, and my previous responsibilities as president of the union of EPA professionals, has led me to consider thoroughly, and, in an impartial manner, the scientific basis for the government's claims as to what constitutes a safe level of fluoride in drinking water.

6. During that investigation, I have discovered that the government, in its assessment of the risks of fluoride exposure, violated accepted standards of professional conduct.

7. In the spring of 1985, allegations of scientific misconduct in the development of EPA's fluoride in drinking water standard were made to the union by an EPA professional intimately familiar with the work on the standard.

8. In November of that year, EPA set a new Recommended Maximum Contaminant Level (RMCL) for fluoride in drinking water of 4 mg/l, which approximately doubled the dose considered to be safe (the previous standard was 1.4 to 2.4 mg/l).

9. As union president-elect, I investigated these allegations and concluded that the scientific documents supporting the decision to raise the RMCL were fraught with tendentious errors and omissions of key data, to the point of constituting scientific fraud.

10. My conclusions were summarized in a statement, given at a meeting of the Drinking Water Subcommittee of the EPA Science Advisory Board, Arlington, VA., on November 1, 1991 (Exhibit\_\_\_\_\_).

In that statement I noted the following.

10a. The fluoride in drinking water standard, or Recommended Maximum Contaminant Level (RMCL), published by the EPA in the Federal Register on Nov. 14, 1985, is a classic case of political interference with science.

10b. The regulation is a fraudulent statement by the Federal Government that 4 mg/l of fluoride in drinking water is safe with an adequate margin of safety.

10c. There is evidence that critical information in the scientific and technical support documents used to develop the standard were falsified by the Department of Health and Human Services and the EPA to protect a long-standing public health policy.

10d. EPA professionals were never asked to conduct a thorough, independent analysis of the fluoride literature. Instead, their credentials were used to give the appearance of scientific credibility. They were used to support the predetermined conclusion that 4 mg/l of fluoride in drinking water was safe.

10e. The EPA management ignored the requirements of the law to protect sensitive individuals such as children, diabetics or people with kidney impairment. Contrary to law, they made the criteria for considering health data so stringent that reasonable concerns for safety were eliminated. Data showing positive correlations between fluoride exposure and genetic effects in almost all laboratory tests were discounted.

10f. EPA management based its standard on only one health effect: crippling skeletal fluorosis. In setting the safe level at 4 mg/l, however, they ignored data showing that healthy individuals were at risk of developing crippling skeletal fluorosis if these individuals

happened to drink large quantities of water at the "safe" level of 4 mg/l. EPA's own data showed that some people drink as much as 5.5 liter per day. If these people ingested this amount of water containing 4 mg/l of fluoride, they would receive a daily dose of 22 mg. This exceeds the minimum dose necessary to cause crippling skeletal fluorosis, or "20 mg/day for 20 years" as stated by the EPA and Public Health Service. Most unsettling is the fact that EPA and the National Academy of Sciences can not document the scientific basis for the 20 mg/day threshold.

10g. In a recent series of letters between National Academy of Sciences, Ms. Darlene Sherrel, and Sen. Graham of Florida, the NAS was forced to admit that it could not document the derivation of the chronic effect level for crippling skeletal fluorosis. As already mentioned, crippling skeletal fluorosis is the single health effect upon which the fluoride in drinking water standard is based. The threshold is probably lower.

10h. There is evidence, ignored by the EPA, in a study by Dr. Geoffrey Smith, that exposure to fluoride at 1 mg/l in drinking water over a long period of time may calcify ligaments and tendons, causing arthritic pains, and may be responsible for the alarming increase in cases of repetitive stress injury. (Exhibit\_\_\_\_)

10i. EPA management relied upon a report from the Surgeon General which they knew was false. This report claimed to represent conclusions of an expert panel (on which the EPA was present as an observer) when in fact the concerns of this panel for the effects of fluoride on the bones of children, for its effects on the heart, for dental fluorosis, and for the overall lack of scientific data on the effects of fluoride in US drinking water were deleted. It has been reported in the press that these changes were made in the final report without the knowledge or approval of the expert panel.

10j. The EPA accepted the falsified report from the Surgeon General's office and asked a contractor to turn this into an "assessment." The contractor dutifully collected only literature that supported the report. The report was submitted for public comment, but was never altered to incorporate the volumes of information sent in by world class experts. Any opinions contrary to the report were dismissed. The result is actually a "Draft" stamped "Final."

11. The apparent coverup of fluoride risks within EPA prompted the EPA professionals' union, Local 2050 of the National Federation of Federal Employees, to attempt to file an amicus brief in support of the Natural Resources Defense Council, who sued EPA in 1986 over the fluoride standard. I was responsible for managing the preparation of the brief, which was prepared by the law firm of Lord, Day and Lord of New York City.

12. EPA has also attempted to silence scientists who do not follow the party line. Last year, EPA fired Dr. William L. Marcus, Ph.D. from his job as senior toxicologist in the Office of Drinking Water, EPA. Judge, David A. Clarke, Jr., declared in his decision on this case on December 3, 1992, that "the reasons given for Dr. Marcus' firing were a pretext....his employment was terminated because he

publicly questioned and opposed EPA's fluoride policy." Judge Clark ordered Dr. Marcus to be reinstated and provided with back pay, fringe benefits and interest, attorneys fees, and payed \$50,000 in compensatory damages. I testified at length at this hearing.

13. I believe there is a high probability of significant harm to public health from fluoridation and that it is unacceptable as a public health measure.

14. My conclusions regarding the lack of safety of both EPA standards and of fluoridation are based in part on the following:

A. As noted in my statement to the Subcommittee of the Science Advisory Board, EPA management relied upon a report from the Surgeon General which it knew was false. (Exhibit\_\_\_\_\_).

B. Dental fluorosis is considered a visible sign that potentially destructive effects of fluoride are also occurring in bone. EPA reported in 1985 that mild dental fluorosis occurs in areas with fluoride levels in drinking water as low as 0.2 mg/l. Objectionable dental fluorosis, i.e. pitting and staining of enamel, was reported by EPA to occur in some individuals at 0.7 mg/l. Despite this knowledge, EPA, even though aware that the report of the Surgeon General's expert panel had been altered, nevertheless followed this altered version and declared in 1985 that dental fluorosis was not an adverse health effect. Transcripts of the closed-door testimony of this panel, obtained under the Freedom of Information Act, show that they in fact voted to declare dental fluorosis an adverse health effect. Their declaration was doctored by unknown individuals to achieve a political end: If objectionable dental fluorosis were declared an adverse health effect, as it should be, then fluoridation at 0.8 to 1.2 mg/l would be in violation of the Safe Drinking Water Act.

C. Crippling skeletal fluorosis is the only adverse health effect accepted by EPA, and the only one it considered in setting the MCL of 4 mg/l. According to EPA, this effect occurs when an individual is exposed to more than 20 mg/day for 20 years or more. EPA, however, cannot document the rationale for selecting this effect level in accordance with accepted regulatory procedures. In fact, the government does not know what level of fluoride in water can cause crippling skeletal fluorosis. Thus, its 4 mg/l standard has no scientific basis.

D. In violation of standards of scientific conduct requiring that the MCL protect all citizens, EPA set a level that will cause crippling skeletal fluorosis in 20 years for about 1% of the population, according to its own stated toxic dose of 20 mg/day, and its own data showing 1% of the population drinks more than 5.5 l/day.

E. In further violation of professional ethics, it can also be demonstrated that EPA did not consider, in deriving its standard, arthritic pains - the earliest sign of crippling skeletal fluorosis, and did not derive a safe dose for this effect. Thus, while recommending the addition of fluoride to drinking water, the government does not know the lowest effect level for this stage of

the disease. There was evidence available to EPA in 1985, which it ignored, that exposure to fluoride at 1 mg/l in drinking water over a long period of time calcifies ligaments and tendons causing arthritic pains, and may be responsible for the alarming increase in cases of repetitive stress injury.

F. It is clear that fluoride is mutagenic, and that it may well cause cancer, although both are continuously denied by the government. Buried in the report of the National Toxicology Program study on the effects of fluoride in rats and mice were the results of a battery of four genetic toxicology studies showing fluoride to be a mutagen. Three studies were positive for mutagenicity and one was negative. The negative study was invalid based on testimony of the originator of the test itself, Dr. Bruce Ames.

15. It is my best judgment, reached with a high degree of scientific certainty, that fluoridation presents unacceptable risks to public health, and that the government cannot prove its claims of safety.

16. I further swear that the statements regarding fluoridation made by me on the CBC broadcast "Marketplace," aired 11/24/92, were true and correct when made, and remain true and correct today.

17. I make this Affidavit in support of the Plaintiff's Motion for Summary Judgment.

Dated this \_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Dr. Robert J. Carton

Subscribed and sworn to before me

this \_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission: \_\_\_\_\_

<http://www.rvi.net/~fluoride/000247.htm>

## **Safe Water Association vs. City of Fond du Lac, March 1993**

- [Press Release, June 30, 1993](#)
- [Affidavit of Albert W. Burgstahler, Ph.D.](#)
- [Affidavit of Robert J. Carton, Ph.D.](#)
- [Affidavit of Dr. John Colquhoun](#)
- [Affidavit of Mark Diesendorf, Ph.D.](#)
- [Affidavit of Dr. Richard G. Foulkes](#)
- [Affidavit of Dr. Sheila L.M. Gibson](#)
- [Affidavit of John Remington Graham](#)
- [Affidavit of Gerard F. Judd, Ph.D.](#)
- [Affidavit of David C. Kennedy, D.D.S.](#)

- [Affidavit of George W. Kell](#)
- [Affidavit of Robert Roy Kintner, Ph.D.](#)
- [Affidavit of Dr. Lennart Krook](#)
- [Affidavit of John R. Lee, M.D.](#)
- [Affidavit of William L. Marcus, Ph.D., D.A.B.T.](#)
- [Affidavit of Jim Maxey, D.D.S.](#)
- [Affidavit of Richard G. Matthew](#)
- [Affidavit of Attorney Scott C. Matthew](#)
- [Affidavit of Hans C. Moolenburgh, M.D.](#)
- [Affidavit of H. J. Roberts, M.D.](#)
- [Affidavit of Jan F. Sallstrom, Ph.D.](#)
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