

From: Christine Massey [REDACTED]
Sent: June 30, 2020 12:36 PM
To: Lockyer, Kathryn <kathryn.lockyer@peelregion.ca>; Macintyre, Ava <ava.macintyre@peelregion.ca>; ZYG-RegionalClerk <zzg-regionalclerk@peelregion.ca>
Subject: Fwd: Recap Of Final Day: TSCA FLUORIDE TRIAL

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST.

Dear Clerk,

I request that the email below be added to Council's next agenda.

Best wishes,
Christine

RECEIVED
June 30, 2020
REGION OF PEEL
OFFICE OF THE REGIONAL CLERK

----- Forwarded message -----

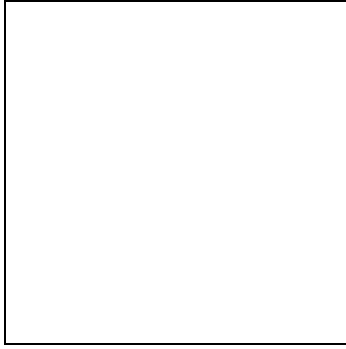
From: Christine Massey [REDACTED]
Date: Fri, Jun 19, 2020 at 7:58 AM
Subject: Recap Of Final Day: TSCA FLUORIDE TRIAL
To: <Nando.Iannicca@peelregion.ca>, <annette.groves@caledon.ca>, Crombie, Bonnie <bonnie.crombie@mississauga.ca>, Carolyn Parrish <carolyn.parrish@mississauga.ca>, Chris Fonseca <chris.fonseca@mississauga.ca>, <dipika.damerla@mississauga.ca>, George Carlson <george.carlson@mississauga.ca>, <gurpreet.dhillon@brampton.ca>, [REDACTED] Jennifer Innis <Jennifer.Innis@caledon.ca>, Johanna Downey <johanna.downey@caledon.ca>, John Kovac <John.Kovac@mississauga.ca>, Karen Ras <karen.ras@mississauga.ca>, Medeiros, Martin - Councillor <martin.medeiros@brampton.ca>, Matt Mahoney <Matt.Mahoney@mississauga.ca>, Palleschi, Michael - Councillor <michael.palleschi@brampton.ca>, Iannicca, Nando <nando.iannicca@mississauga.ca>, Saito, Pat <pat.saito@mississauga.ca>, Pat Fortini Councillor <pat.fortini@brampton.ca>, <Patrick.Brown@brampton.ca>, <paul.vicente@brampton.ca>, Starr, Ron <ron.starr@mississauga.ca>, <rowena.santos@brampton.ca>, <stephen.dasko@mississauga.ca>, McFadden, Sue <sue.mcfadden@mississauga.ca>, Mayor Allan Thompson <mayor@caledon.ca>, Premier of Ontario | Première ministre de l'Ontario <premier@ontario.ca>, <mayor_tory@toronto.ca>

Dear Premier, Regional Council and Mayor Tory,

A key strategy by fluoridation promoters over the decades has been to rely on observational studies as "proof" of safety and effectiveness, while insinuating that nothing less than controlled human experiments are acceptable as evidence of harm (even though human experiments investigating toxicity are considered unethical, not carried out and therefore cannot exist).

Be advised of the following, published by the [Fluoride Action Network](#):

REFERRAL TO _____
RECOMMENDED _____
DIRECTION REQUIRED _____
RECEIPT RECOMMENDED _____



The landmark federal trial pitching FAN and others against the US EPA over water fluoridation came to a dramatic turning point yesterday. FAN has argued that fluoride's ability to impact the mental development of both the fetal and infant brain posed an unacceptable risk to millions of Americans (and others) drinking fluoridated public water supplies. The dramatic moment came when, after both sides had completed their summary statements, the federal judge surprised everyone by recognizing the key plank in the plaintiff's case and undermining the key argument in the EPA's case.

The judge said:

So much has changed since the petition was filed...two significant series of studies – respective cohort studies – which everybody agrees is the best methodology. Everybody agrees that these were rigorous studies and everybody agrees that these studies would be part of the best available scientific evidence.

The EPA appears to have applied a standard of causation, which from my read of TSCA is not accurate. It's not a proper allocation. It's not the proper standard.

In short, after 20 years of work by FAN and it's supporters, and 70+ years of campaigning by opponents of fluoridation since it's inception, yesterday felt like a moment in time where the validity of our objections was finally recognized on a world stage.

According to FAN director Paul Connett, PhD, "While this is not a *final* victory for FAN it indicates a path forward to achieve that final victory. Needless to say we are very excited about this outcome. We had our 7 days in court: we had some of the best experts in the world testify on our behalf and our lawyers, especially Michael, were brilliant in presenting our case. Here now is the day in more detail. The invisible science is now visible and the voiceless have been heard. It's official it is in the record- and no one can take that away."

Closing Statements

Here are just some of the powerful points from Michael Connett's closing statement for the plaintiffs:

- "In this case, the EPA has failed in its duties to protect the public from harm."
- "TSCA commands that the EPA not just protect the general public...if there is one unreasonable risk, to just one susceptible subpopulation, the EPA must take action to remove such risk."
- "We brought before your honor, world class experts in the highest order. Experts that the EPA has consistently depended on for assessments...The EPA has based their regulations on lead and mercury on our experts."
- "It's undisputed that fluoride will pass through the placenta into the brain of the fetus. It's undisputed that babies who are bottle fed with fluoridated water receive highest doses of fluoride in our population at the moment of greatest vulnerability. It's undisputed that fluoride damages the brain."
- "At the start of the trial I said there are three key questions that need to be answered. Is there a hazard? Is there a risk? Is the risk unreasonable? The answer [to all three questions] is a resounding yes."
- "We have 4 high quality cohort studies. Each has found associations between early life exposures to fluoride and lowered IQ...by around 5 IQ points. The effect size rivals the neurotoxic effects of lead."
- "There is no dispute that the developing brain is the most susceptible to neurotoxic side-effects."
- "The most likely explanation for the observed adverse effects...is that fluoride is a neurotoxin at the levels found in fluoridated communities across the United States."

Connett also pointed out that the experts the EPA relied upon, including the two Exponent employees, were not experts on fluoride, and that the agency did not call their own employees to answer key questions in the case. He was referring to EPA's foremost expert on fluoride, Dr. Joyce Donahue, as well as Dr. Kris Thayer. Additionally, he said the EPA never once attempted to determine an estimate of what the levels are that cause neurotoxic effects. Connett added that the EPA witness Joyce Donohue, PhD said the National Institutes of Health funded-studies were "well conducted" and "warrant a reassessment of all existing" fluoride studies.

Then Connett concluded his statement by showing the true extent of potential damage, saying we have 2 million pregnant mothers in fluoridated areas and over 400,000 exclusively formula-fed babies in fluoridated areas, all presently being exposed to fluoride-contaminated drinking water.

EPA's Turn

The EPA's attorney started by questioning whether fluoride posed a hazard. Early on in her closing statement, the judge stopped her—which would become a very common occurrence--and said, "The way you're framing this is not helpful. I don't think anyone disputes that fluoride is a hazard...the critical question is at what level it poses a risk."

It was at this point, that the EPA's closing statement turned into a 40-minute inquisition by the judge. First he started asking about the EPA's claims that the animal studies showed fluoride to be safe. This resulted in him getting their attorney to admit that if the studies found a moderate effect in adult rats, then why wouldn't there then be a prenatal and neonate effect? This put the EPA in a corner, causing them to ditch their line of argument and admit that the human studies are in-fact more relevant.

The judge then reprimanded the EPA for challenging the reliability of Philippe Grandjean's benchmark dose, but never taking the time to calculate their own to prove their point. EPA quickly pivoted to an argument that the Canadian and Mexican cohorts weren't applicable to the US; probably one of the dumbest arguments we hear from proponents. The judge intimated that he was aware of the [new study out of California](#) proving otherwise, which appeared pretty devastating to the EPA.

The judge concluded by asking one final question, "Under TSCA, can the court find an unreasonable risk without finding causation?" EPA replied, "yes."

Judge Makes Recommendations

After closing statements, Judge Chen immediately started sharing his views on the case and making recommendations. This is when he said (it's worth repeating):

So much has changed since the petition was filed...two significant series of studies – respective cohort studies – which everybody agrees is the best methodology. Everybody agrees that these were rigorous studies and everybody agrees that these studies would be part of the best available scientific evidence.

The EPA appears to have applied a standard of causation, which from my read of TSCA is not accurate. It's not a proper allocation. It's not the proper standard.

Chen continued by asking the parties whether they could discuss the possibility of an amended petition and re-assessment by the EPA, or start a new petition and have the EPA conduct a proper review, leaving his ultimate ruling until that was complete.

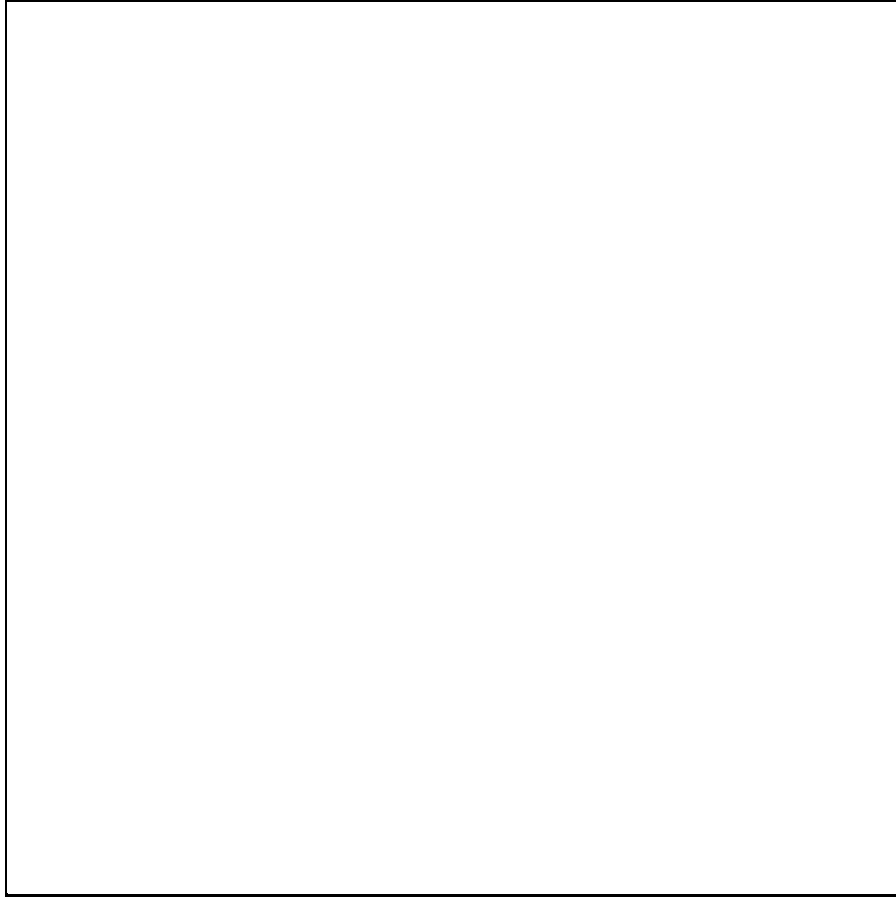
To many observers, it felt as though Chen was intimating that FAN had essentially won the case, but the he was giving the EPA a chance to right their original wrongs.

Michael Connett pointed out that the EPA has dragged their feet for a long, long time (it has been 14 years since the NRC report recommended that the EPA determine a new safer drinking water standard). So plaintiffs are in a situation where the EPA has made a political decision not to do anything, which is why we brought this petition in the first place. He also expressed concern that for a citizen's group this is a massive undertaking, pointing out that the plaintiffs have spent 4 years building this case, and the concern is that the time and resources necessary to go through the process a second time would be prohibitive.

At this point, the EPA claimed that they couldn't just re-evaluate our amended petition, because their guidelines for TSCA require an impossible burden of proof that no one could possibly meet to trigger a meaningful review. They also claimed that the U.S. EPA does not have the resources or expertise to undertake a risk evaluation of fluoride neurotoxicity.

Judge Chen then made clear that a lack of resources is not an excuse, and said that if both parties can't figure out a solution he'll rule on it himself, as he's been given the power to do so.

Connett then said that we can't ignore the evidence we have in front of us, and the EPA needs to do something **RIGHT NOW** to warn people of this risk.



(Sir Austin Bradford Hill)

...
Thank you,

Stuart Cooper
Campaign Director
Fluoride Action Network

▪