

DATE: April 30, 2012

TO: City of London, Ontario – City Council – May 1, 2012 Council Meeting

RE: London's Municipal Water Fluoridation

TOPICS: Water Fluoridation Safety & Efficacy Issues – National Sanitation Foundation Standard 60 – Canada Food & Drug Act – Canada Natural Health Product Regulations – Ontario Safe Drinking Water Act – Ontario Fluoridation Act – Supreme Court of Canada Position, 1957 – Municipal Councils Accountable – Canada's Growing List of Communities Rejecting Water Fluoridation

Dear Mayor/Chair Joe Fontana and all London City Council Members:

Citizens of London have requested that we write to you. We forward this letter to every member of London Council, to ensure the following information is available to you, for your own consideration and personal verification, in anticipation of the ongoing fluoridation decision(s) your council is facing. It is hoped that this information will prove useful in guiding your decision making on the future of London's municipal water fluoridation.

- i.* Fluoride works topically, in high concentrations, when applied directly on the tooth enamel surface – such as with fluoride tooth paste brushing, and dental applications containing higher concentrations of fluoride, with the individual's/patient's informed consent. Both Health Canada (2010) and the US Centers for Disease Control (1999) have conceded that – ***swallowing fluoridated water has very little effect on reducing dental caries rates.*** As such, why does any community still fluoridate people's drinking water for the purpose of swallowing/ingestion?

- ii.* For many decades, promoters of water fluoridation, including Health Canada, touted fluoridation as natural, like calcium fluoride in ground-water. Yet, Health Canada (and others) remained silent on what is actually used to fluoridate – ***a toxic waste product, from the phosphate fertilizer production industry, called hydrofluorosilicic acid which contains***

silicofluorides/fluorosilicates, plus trace co-contaminants of arsenic, lead, mercury and radionuclides. Only recently has Health Canada finally conceded, **"Health Canada has not conducted toxicology studies on fluorosilicates,"** (Response to Environmental Petition No. 221B, under Section 22 of the Auditor General Act, Received April 22, 2008). Health Canada also conceded, **health harm toxicology research has never been conducted on hydrofluorosilicic acid, the most prevalent chemical compound being used in water fluoridation schemes,** (Health Canada's Chief Dental Officer of Health, Dr. Peter Cooney in Waterloo, Ontario debate audio, October 21, 2010). It appears Health Canada is satisfied to promote the general concept of municipal water fluoridation, while remaining silent on what municipalities actually use to fluoridate; thereby leaving municipalities completely in the dark, and on their own, to discern safety and suitability of fluoridating chemical compounds when it comes to human health, toxicology and effectiveness pertaining to consuming such chemical compounds. Ontario public health, and local public health, have also not provided much, if any, scientific research on the claimed safety and/or effectiveness of these specific fluoridation chemicals.

- iii. The United States National Sanitation Foundation (NSF) Standard 60 does nothing to ascertain if hydrofluorosilicic acid is safe for lifetime human consumption, or whether it is even effective at fighting dental caries/cavities. By its own admission NSF International is, "an independent, not-for-profit, non-governmental organization," (NSF/ANSI 60 - 2009). By its own disclaimers, "NSF International (NSF), in performing its functions in accordance with its objectives, does not assume or undertake to discharge any responsibility of the manufacturer or any other party. The opinions and findings of NSF represent its professional judgment. NSF shall not be responsible to anyone for the use of or reliance upon this Standard by anyone. NSF shall not incur any obligations or liability for damages, including consequential damages, arising out of or in connection with the use, interpretation of, or reliance upon this Standard," (NSF/ANSI 60 - 2009).** NSF does not conduct health harm or health benefit research itself. NSF expects the polluting industry to conduct such research, does not require proof be placed in NSF's hands that such research has been conducted, and allows such industries to voluntarily police themselves when it comes to affixing the NSF Standard 60 label on hydrofluorosilicic acid shipments. NSF has made it clear that it merely makes recommendations which others are free to follow or not follow, and that NSF accepts no liability if one chooses to follow NSF's recommendations.

London fluoridates municipal water with hydrofluorosilicic acid. What scientific proof does London have in its possession right now, from your fluoridation chemical supplier, proving hydrofluorosilicic acid, when used in concentrations intended in your municipal water supply,

is 'safe and effective' for lifetime swallowing/systemic ingestion by humans or animals?

Who has tested hydrofluorosilicic acid on behalf of your municipality, and then signed-off that it is safe for lifetime consumption and lifetime effectiveness at fighting dental caries/cavities?

You now know that NSF Standard 60 has nothing to do with such assurances or guarantees.

- IV. Health Canada concedes that hydrofluorosilicic acid (containing silicofluorides/fluorosilicates, plus trace co-contaminants of arsenic, lead, mercury and radionuclides) ***is not regulated under Canada's Food & Drug Act, nor is it regulated under Canada's Natural Health Product Regulations***, despite the fact that it is being directly added into the communal drinking water supply for the purpose of treating dental caries disease in humans. ***In fact, no municipal water fluoridation products have ever been regulated in such manner by Health Canada.***

It is almost too fantastic to comprehend this to be true, but it is true. Health Canada likes to hide behind calling fluoride a 'nutrient', without scientific proof that it is a 'nutrient', and then says we don't regulate 'nutrients'. Hydrofluorosilicic acid 'cocktail' contains far more than 'fluoride'. How convenient it must be for Health Canada to turn a blind-eye to that fact, and then dismiss all need for drug compliance, and dismiss all need for natural health product compliance, by oversimplifying the true and broad reaching impact of fluoridation as nothing more than mere 'nutrification' of the public. It is hard to imagine that hydrofluorosilicic acid is anything like a 'nutrient'; when the Canadian Environmental Protection Act classifies hydrofluorosilicic acid as "***persistent***", "***bio-accumulative***" and "***toxic***", Environment Canada classifies hydrofluorosilicic acid as a "***hazardous substance***", Transport Canada classifies hydrofluorosilicic acid as a "***dangerous good***", and the United States Environmental Protection Agency classifies hydrofluorosilicic acid as "***class one hazardous waste***".

'Reckless' and 'cavalier' are two words that come to mind when reflecting on how Health Canada has been (mis)handling / (mis)managing such things all these many decades.

- v. Health Canada's Chief Dental Officer of Health, Dr. Peter Cooney, has conceded that ***lifetime swallowing of fluoridated water results in less than one cavity reduction per person***, (Waterloo, Ontario debate audio, October 21, 2010; also corroborated separately by Statistics Canada research data).

London Councillors need to insist that any purported reduction in dental caries/cavities be clearly expressed in absolute terms, not merely percentage reduction terms. **Zero to fifty percent cavity reduction, when expressed in real terms, means zero to half a cavity reduction per person per lifetime, not a mouthful of cavities being reduced to half a mouthful of cavities.** If municipal council is set upon spending precious and scarce taxpayer dollars on such a water fluoridation program, council would be wise to insist that payback for such investment can be proven to their taxpayers/investors, not merely claimed by blank statements, like \$1 spent on fluoridation saves \$38 in dental caries treatment. See: <http://cof-cof.ca/2012/01/does-water-fluoridation-really-save-dollars-otherwise-spent-on-filling-cavities/>

There are also some very good, variable controlled, high quality, population studies conducted within Canada, where hydrofluorosilicic acid fluoridation has been turned-off, and dental caries rates did not go up – in fact actually went down – without any alternative forms of fluoride treatment, and without any heightened vigilance in dental care. Why are Canadians not being told about such research? See: <http://cof-cof.ca/6062-2/>

- vi. The stated purpose of the Ontario Safe Drinking Water Act (OSDWA) is "to recognize that the people of Ontario are entitled to expect their drinking water to be safe" and "to provide for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking water systems and drinking water testing."

OSDWA, Section 19 – coming into effect on January 1, 2013 – imposes broader standard of care for municipal drinking water systems to include every person who, on behalf of the municipality, oversees the accredited operating authority of the system or exercises decision-making authority over the system. That, of course, includes Ontario municipal councillors and mayors. Moreover, ***every person governed under that standard of reasonable care, who fails to carry out their duty, may be found guilty of an offence.*** As such, Ontario councils are now going to be held accountable and answerable for what they allow into the municipal drinking water supply, regardless of what Health Canada, public health and/or dental promoters of fluoridation might want or recommend. In the end, it is Ontario councillors and mayors who are most on the hook. Much about water fluoridation remains unregulated, yet by January 1, 2013 Ontario councils will be left holding this burden – all while Health Canada, Ontario public health, local public health, and/or dental promoters of water fluoridation remain merely advisors, and are not being asked to shoulder any of the liability. The ensuing legal onslaught, resulting in legal defence for Ontario municipal councils, will likely cost municipal tax payers, in whole or in part.

vii. Ontario's Safe Drinking Water Act, (OSDWA) Section 20 (2)(b) is often cited by Ontario municipalities to suggest that their water fluoridation practice somehow falls **"under a statutory authority or for the purposes of complying with a statutory requirement"**, thereby specifically claiming municipal empowerment to fluoridate pursuant to the Ontario Fluoridation Act (OFA). **Such municipalities tend to overlook that the OSDWA is an Act specifically set out to 'treat municipal water' so that the water is safer for people to drink, it is not an Act which sets out to 'treat people' through the water supply. Such municipalities also tend to forget that under OSDWA Section 20 (1) "no person shall cause or permit any thing to enter a drinking water system if it could result in, a drinking water health hazard; a contravention of a prescribed standard; or interference with the normal operation of the system." Moreover, such municipalities forget that OSDWA Section 20(3) clearly states, "For the purposes of prosecuting the offence of contravening subsection (1), it is not necessary to prove that the thing, if it was diluted when or after it entered the system, continued to result in or could have resulted in a drinking water health hazard,"** – which translates to mean dilution of hydrofluorosilicic acid is no defense, under this section of the OSDWA titled "Dilution No Defence".

Recognize that when your medical officer of health and/or dental officer of health speaks in terms like 'optimal level' or 'optimal concentration' in drinking water – these are 'dilution defence' arguments which are not permitted under the OSDWA.

Moreover, the OSDWA resolves how such 'conflict' between Acts must be handled. **OSDWA Section 166(1) titled "Exception To Conflict" states, "The provisions of this Act and the regulations prevail over the provisions of any other Act and any regulation made under any other Act, irrespective of when the other Act is enacted or the regulation is made under the other Act. The OSDWA goes on in Section 166(2) to state, "Subsection (1) does not apply if the other Act referred to in subsection (1) expressly states that a provision of that Act or of a regulation made under it prevails over the provisions of this Act."** Therefore, the OSDWA withstands all other Acts irrespective of when they are enacted, unless the other Act expressly states it prevails over the OSDWA. **The Ontario Fluoridation Act (OFA) does not expressly state that it prevails over the OSDWA.** As such, the OSDWA overrides the OFA, despite municipal argument made to the contrary. In fact, the wording within the OSDWA anticipates such conflict between Acts, and handles it so clearly and completely, that there is no need to formally repeal any conflicting Act, such as the OFA.

The OSDWA exists to protect all of Ontario's people consuming municipal drinking water from drinking water contaminants. Putting an untested, unregulated contaminant known as hydrofluorosilicic acid, containing silicofluorides/fluorosilicates plus trace co-contaminants of arsenic, lead, mercury and radionuclides into municipal drinking water is not permitted. The OSDWA applies in its entirety, not selectively. Ask the Ontario Ministry of the Environment what they approved in London; was it your fluoridation equipment, your choice of fluoridating chemical compound, or both. You will soon find out that they only approved the fluoridation equipment as installed – and London, alone, must ensure what they fluoridate with fully complies and conforms to the OSDWA, as well as other Acts/regulations.

viii. The Ontario Fluoridation Act (OFA) only makes reference to voting for a “ fluoridation system ... comprising equipment and materials for the addition of a chemical compound to release fluoride ions into a public water supply.” *The OFA remains silent on what fluoridation chemical compound(s) a municipality decides upon. However, of utmost importance, the OFA does not in any way, empower under its legislated statutory authority, an Ontario municipality to command and operate a municipal public water supply for the purpose of treating dental caries disease in humans, by chemically or otherwise artificially altering the municipal drinking water supply. The OFA remains silent about "compulsory preventive medication of the inhabitants of the area."*

ix. While municipalities might like to believe the Ontario Fluoridation Act (OFA) confers upon them authority for treating dental caries through the municipal water supply, it does not. In the Supreme Court of Canada case, Metropolitan Toronto v. Forest Hill (Village), [1957] S.C.R. 569, it was concluded, *"The question is as to the power of the council to enact the impugned by-law, and the answer depends upon the nature of the subject-matter to which it relates. If, on the evidence in the record, it could properly be regarded as action by the council to provide a supply of pure and wholesome water or to render more pure and wholesome a supply of water already possessing those characteristics I would hold it to be valid. But, in my opinion, it cannot be so regarded. Its purpose and effect are to cause the inhabitants of the metropolitan area, whether or not they wish to do so, to ingest daily small quantities of fluoride, in the expectation ... that this will render great numbers of them less susceptible to tooth decay. The water supply is made use of as a convenient means of effecting this purpose. In pith and substance the by-law relates not to the provision of a water supply but to the compulsory preventive medication of the inhabitants of the area. In my opinion the*

words of the statutory provisions on which the appellant relies do not confer upon the council the power to make by-laws in relation to matters of this sort. In view of the difference of opinion in the Courts below and in this Court, it is fortunate that this is a case in which if we have failed to discern the true intention of the Legislature the matter can be dealt with by an amendment of the statute."

To this day, in Ontario, no legislated Act or other statutory authority exists which confers upon any municipality a legal authority to treat people via the municipal water supply, through compulsory preventive medication of the inhabitants. Such was the case in 1957 Ontario, such is the case today. Ontario's Fluoridation Act has forever remained silent on precisely why we ought to release fluoride ions into the public water supply, and clearly that purpose is compulsory preventive medication of the inhabitants. The Supreme Court of Canada, Metropolitan Toronto v. Forest Hill (Village), [1957] S.C.R. 569 position has never been complied with. Therefore, it appears the higher Court decision prevails, and intentional fluoridation of the municipal water supply for the purpose of reducing dental caries disease/dental cavities disease remains unlawful to this day, regardless of the Ontario Fluoridation Act (OFA).

Moreover, whereas the Supreme Court of Canada views water fluoridation as "compulsory preventive medication of the inhabitants of the area" – it is entirely inappropriate and reckless to add anything into Canada's municipal drinking water supplies, for the purpose of medicating the people in anticipation of reducing dental caries disease/dental cavities disease, without first having subjected such additive(s) to long-term, rigorous, toxicology studies in order to determine good/bad health effects in humans; and without having first conducted double-blinded, randomized, variable/placebo controlled, clinical trials to conclusively prove effectiveness in reducing dental caries/dental cavities disease – all in order to then form the proper basis for a new drug classification and drug identification numbering, under Canada's Food & Drug Act.

- x. Council thought it was free to choose whether or not to artificially fluoridate the municipal water supply. Council thought it was free to choose what to use to fluoridate with. Council thought promoters of water fluoridation shared the accountability and liability that came with water fluoridation recommendations, implementation, practice and choice of chemical compound(s) used. **Council now has the information it needs, and knows what it must do.**

xI. Your public expects and requires all London Board of Health members, and all London Council members, to ask very tough questions and to secure very real answers with tangible records of proof, concerning the purported benefits, purported safety, and legal implications concerning water fluoridation and use of unregulated, untested fluoridating agents such hydrofluorosilicic acid chemical compound containing silicofluorides/ fluorosilicates. The calibre of your undertakings in this regard will be all that protects your citizens, and all that protects London Council. Municipal council holds the decision making authority to turn London's fluoridation off. Municipal council is the last thin line of protection between harm and their citizens. Much about municipal water fluoridation and fluoridation chemicals has remained unregulated/unlegislated; while council and municipal obligations/responsibilities remain clearly regulated/legislated as to what can and must be done. Is London municipal council willing to do what is required?

See: <http://cof-cof.ca/2011/12/canadas-growing-list-of-communities-rejecting-fluoridation-of-their-drinking-water/>

Sincerely and respectfully,



Robert J. Fleming (President)

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