

## THE FEDERAL PAGE

## Whistle-Blower Clears the Air

*EPA Reinstatement of Fluoride Critic Seen as Change in Wind*

By Gary Lee

Washington Post Staff Writer

To federal employees contemplating blowing the whistle on a controversial government policy, the saga of William L. Marcus offers two messages: victory is within your grasp, but wear a heavy set of armor, as the battle could become a protracted war.

Marcus, now 58, was a senior toxicologist at the Environmental Protection Agency and in May 1990 questioned the EPA-backed practice of adding fluoride to the nation's drinking water supplies.

After Marcus wrote memos suggesting that fluoride may cause cancer in humans, Margaret Stasikowski, his supervisor in the Office of Drinking Water, ordered him to stop writing about the chemical. In May 1992, Marcus was fired, allegedly for pursuing outside work that conflicted with his EPA work. At the time, Marcus had a second job as an expert trial witness in legal cases.

Last month, Labor Secretary Robert B. Reich ordered the EPA to reinstate Marcus, to compensate him for legal costs he incurred fighting his firing, and to pay him \$50,000 in damages. The reason for the firing, Reich determined, was "retaliation" for Marcus's criticism of fluoride.

EPA officials, initially believed to be preparing an appeal, yesterday had further good news for Marcus. "He will be reinstated," said agency spokesman John J. Kasper. "We will comply with the Department of Labor decision."

The victory was not easily won. It involved two legal hearings over the course of two years. Faced with the sudden loss of his \$87,000 EPA job, Marcus dipped into private savings and borrowed from friends. During the process, Marcus gained a lot of weight, and, friends say, fell into occasional periods of depression.

In the initial grievance hearing in 1992, EPA officials charged Marcus with three offenses, including using working hours for his private activities as a trial witness, engaging without approval in outside employment and improperly using EPA information for private gain.

In his defense, Marcus argued that the charges were unfair and that he was really ousted because of his critical views of EPA's fluoride policy. He enlisted the help of the National Whistleblower's Center, a



Toxicologist William L. Marcus won reinstatement after a two-year battle.

nonprofit Washington-based organization, which offers legal assistance to whistle-blowers.

"One big complication in this case," said David Colapinto, a lawyer for the organization, "is that the whistle-blower laws were established to protect private citizens and Marcus was appealing as a federal employee."

Under the 1989 Whistleblower Protection Act, federal employees who want to blow the whistle can appeal to the Office of Special Counsel, but many still complain that they face retaliation from supervisors.

In the end, the judge sided with Marcus. It turned out that EPA officials had falsified Marcus's time cards to show that he was pursuing outside work when he should have been working and that the EPA made false statements about how Marcus represented himself when he appeared as a court witness.

EPA officials appealed the decision. To keep the case from falling into the black hole of appeals cases, some of which drag on for years, Marcus appealed to lawmakers, including Sen. Barbara A. Mikulski (D-Md.). She, in turn, asked Reich to give the case priority. Labor Department officials reviewed the appeal early this year and made their ruling Feb. 7.

Different individuals found solace in the decision.

For Marcus, more than a chance to get his job back, it represented a

victory for his profession. "It is my hope," he said, "that my vindication here will serve as the first, albeit small step in bringing responsible science, undaunted by fears about job security or other reprisals, back to the EPA."

For whistle-blower advocates, the decision means an expansion of the protection offered by federal whistle-blower laws. "With this case, the laws can now be used to protect federal employees who are whistle-blowers," Colapinto said. "It may encourage other government workers to come forward now."

For critics of fluoride, the ruling also was good news. They say that besides the risks the chemical poses of causing bone cancer, it causes mottled teeth, crippling bone disease and may cause kidney disease.

Fluoride proponents flatly disagree, arguing that the chemical, which occurs naturally in some drinking water supplies, helps to fight tooth decay.

"We have been fighting the use of fluoride since the mid-1980s, and we have been opposed by federal officials all along the way," said Robert Carton, a former senior EPA official, a friend of Marcus and now a leader in the anti-fluoride movement nationwide. "I hope that the decision in Marcus's case will lead to a rethinking of the official fluoride policy."