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Editor's Note

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EDITOR'S NOTE

Our gasoline has been unleaded for years, but for many of us, our drinking water has not. The recent disclosure of widespread lead contamination in Washington D.C.'s drinking water unveiled a massive breakdown in environmental compliance and enforcement. Area residents have been unknowingly contaminating themselves with potentially dangerous concentrations of lead for years, despite awareness of the problem by local health officials.

The story broke in late January 2004 and was immediately met with outrage, confusion, and fear. According to the WASHINGTON POST, the D.C. Water and Sewer Authority ("WASA") and the D.C. Health Department knew about the problem for at least fifteen months before the public was informed. Amazingly, it took the D.C. Health Department nearly a month from the time the problem was first reported to issue a health advisory. Responding to increasing public concern, the Environmental Protection Agency ("EPA") recently stepped up the pressure on those responsible, charging WASA with violating six requirements of the Federal Lead and Copper Rule for failing to properly notify city residents of the problem and, more generally, for failing to adequately protect public health.

Ironically, as EPA begins cracking down on the Washington D.C. government to ensure compliance and enforcement of drinking water laws in the nation's capital, the Agency continues to reduce environmental enforcement across the country. Since coming into office in 2001, the Bush administration has significantly decreased enforcement of federal environmental laws. For example, a recent review of fifteen years of enforcement records by the PHILADELPHIA INQUIRER showed that the monthly average of violation notices has dropped 58 percent since the Bush administration took office compared to the monthly average under President Clinton. In comparison to the Clinton and Bush I administrations, which issued an average of 183 and 195 citations per month, respectively, the current administration has issued a much lower average of just 77 citations per month.

The precipitous decline in environmental enforcement under President Bush is often justified by the administration as a necessary component of economic growth. However, this strategy of trading off environmental protection for economic gain has been debunked repeatedly, including in a recent report by the White House's Office of Management and Budget, as reported in this issue of SUSTAINABLE DEVELOPMENT LAW & POLICY.

Whether the result of industry influence (as in the Bush administration's lax environmental policy) or bureaucratic malaise (like we have seen in the D.C. lead case) diminished compliance and enforcement will inevitably result in widespread environmental degradation and continuing public health crises.

Fortunately, the administration's policy of reduced enforcement is not the entire story. Indeed, there are many hard-working government officials who tirelessly work to ensure environmental compliance despite the clear change in policy at the top of the administration. The article by Jim Rubin, the head of the international environmental enforcement division at the U.S. Department of Justice ("DOJ"), discussing the DOJ's efforts to combat transnational environmental crime, exemplifies an area where significant progress continues to be made.

However, as Marsha Mulkey's terrific feature article discusses, achieving high rates of compliance depends as much on clear legislative drafting and consistent judicial interpretation, than on diligent enforcement. Transparency, public disclosure of accurate environmental indicators, and informed public participation are all essential components to effective environmental governance. Even the most far-reaching laws and policies will fail absent vigorous and consistent compliance and enforcement.

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Dave Newman
Editor-in-Chief

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