

Environmental justice is not for show or for sale! Heads up about the Environmental Defense Fund (EDF) and lead in water

4.22.20 - Earth Day

We write this post at this time of sorrow, distress, uncertainty, and hardship for so many of us in this country and around the world, in the interest of protecting life and speaking out in defense of humanity. It is precisely the gravity of this moment that has convinced us to bring to light disturbing developments in our fight for lead-free water.

We all know that, when it comes to matters of life and death, knowing whom to trust for reliable information, help, and protection is of utmost importance. We also know that, when it comes to lead in water, many of those responsible for informing us, helping us, and protecting us have failed us. Lead in our pipes abounds and continues to be added to our brand-new plumbing fixtures. The weak and scientifically outdated federal [Lead and Copper Rule](#) is often neither [correctly implemented by our water utilities nor properly enforced by our state regulators](#). Widespread lead-in-water contamination keeps popping up from one city to the next and one school district after another. And our surveillance mechanisms – for detecting lead in water and in blood – are designed to routinely miss worst-case exposures from the tap. It’s hard not to recognize that the problem has existed and persisted well over a century and that our national response to it is leaving future generations of fetuses, infants, and young children largely unprotected from chronic and acute exposures as well as sometimes a lifetime of compromised health.

In this context of unnecessary health risk and irreversible health harm, we believe that there is no place for actors who parade our streets holding the banner of environmental justice, while behind the scenes working against a science-based and justice-centered federal policy that would mandate immediate short-term protections and methodical long-term solutions for all, especially the most marginalized, discriminated, and neglected among us. There is also no place for actors who claim to prioritize equity and justice, while systematically ignoring and undermining the longstanding work, knowledge, experiences, and demands of affected communities. Sadly, we fear that, in this case, the national environmental organization Environmental Defense Fund (EDF) might be such an actor.

As a coalition with an almost two-decade-long history of work on lead in water, we post this message to alert you to our concerns about developments that may seem forward-thinking on the surface but, in our view, mislead, distract, and are likely to contribute to significant – if not permanent – delays in the health-protective interventions we are fighting for and urgently need.

Here’s what you should know:

1. The way most water utilities are replacing lead service lines is causing harm

Last month, in partnership with American University, EDF published an important study titled “[Lead Pipes and Environmental Justice](#).” Based on data from Washington, DC, this study corroborates a longstanding concern of DC residents and affected communities across the US: that water utilities’ existing approaches to lead service line replacement routinely place low-income residents and people of color at serious risk.

To be sure, lead service lines were rarely chosen by homeowners and, in the case of many jurisdictions, were mandated by law. Municipal codes requiring their use were commonplace, starting in the mid-1800s. In jurisdictions that were forcing these lines on our communities, homeowners could not request alternative materials, even if they were aware of and concerned about lead's toxicity ([Rabin 2008](#)). Erroneous understandings about the safety of lead service lines were widespread not only among plumbers, but also among several groups of trusted professionals, including public officials and medical experts. Yet these understandings were often used to “educate” consumers and even dispel public fears about lead in plumbing ([Troesken 2008](#)).

The water utility industry has vehemently opposed spending ratepayer funds for full lead service line replacement. In 1994, the powerful water utility trade group American Water Works Association (AWWA) went so far as to [sue](#) EPA so as not to have to conduct such replacements under the Lead and Copper Rule. As a result, in the last two decades, standard water utility practice has been the replacement of *only* the portion of a lead service line in public space, unless residents agree to pay for private-side replacement. This, of course, disproportionately neglects residents who cannot afford such replacement. What's worse, partially replaced lead service lines tend to place people at *increased* health risk both in the short- and long-term. A [2011 study](#) by the Centers for Disease Control and Prevention (CDC) found that children in a home with a partially replaced lead service line are twice as likely to have elevated blood lead levels as children in a home with an intact lead service line, and four times as likely to have elevated blood lead levels as children in a home with no lead service line at all (the study was conducted in Washington, DC; it controlled for confounding factors and found this association to stand even when the water met all regulatory requirements).

Simply put, lead service line replacement – as the water utility industry has insisted on conducting it and as EPA has allowed it – inflicts environmental injustice and must stop.

2. Over the years, EPA has received numerous requests for a justice-centered lead service line replacement requirement (that it has ignored)

Precisely because of the health risks associated with lead service lines – both when they are intact and partially replaced – grassroots environmental justice groups (including our own coalition), national environmental organizations who are prioritizing equity and justice, and lead corrosion experts have made multiple calls to EPA for:

- *A national ban* on partial lead service line replacement, and
- *A federally mandated, water-utility-funded, proactive, enforceable, full* lead service line replacement requirement that includes a *clear deadline* for prompt and complete elimination of all lead service lines in every community (e.g., [grassroots coalition 2020](#), [Natural Resources Defense Council 2020](#), [Earthjustice 2020](#), [Safe Water Engineering 2020](#)).

They (and we) have also provided compelling arguments making the case that EPA *can* and *must mandate* full lead service line replacement because a regulation without *enforceable* requirements is little more than a suggestion (e.g., [Earthjustice 2014](#), [Parents for Nontoxic Alternatives 2015](#), [Northeast-Midwest Institute 2015](#), [Earthjustice-led national coalition 2016](#)).

Astonishingly, EPA's [proposed revisions](#) to the Lead and Copper Rule, released in November 2019, satisfy neither of these demands.

3. In contrast to its rhetoric about the importance of equitable and just lead service line replacement, EDF has worked consistently in opposition to the above requests

Although the EDF/American University study is important, it fails to disclose that, since its entrance into the lead-in-water problem six years ago, EDF has worked in opposition to the above requests. As one of the most influential members of EPA's 2014-2015 National Drinking Water Advisory Council (NDWAC) Lead and Copper Rule working group, EDF helped craft and endorsed NDWAC's [recommendations](#) to EPA, which promoted the water utility industry's priorities and included neither a ban on partial lead service line replacement nor a mandated, water-utility-funded, proactive, enforceable, full lead service line replacement requirement (judging from its 2019 [comments](#) to EPA, EDF has not changed its position).

In our view, one cannot overstate the centrality of EDF's role in ignoring or dismissing affected community perspectives and supporting the water utility industry's interest to keep regulatory requirements to a minimum. One also cannot overstate the centrality of EDF's role in providing cover for NDWAC's scientifically unsupported and morally indefensible recommendations to EPA (see critiques of these recommendations by [Parents for Nontoxic Alternatives 2015](#), [Northeast-Midwest Institute 2015](#), [Earthjustice-led national coalition 2016](#)).

Disturbingly, NDWAC's 2015 recommendations have now become the cornerstone of EPA's proposed revisions to the Lead and Copper Rule, which preserve fundamental flaws in the regulation's very foundation; leave unaddressed pressing environmental justice questions; and, in some cases, significantly undermine an already weak rule. For example, EPA's proposed lead service line replacement requirement includes a) a proactive full lead service line replacement program that *does not* enforce full lead service line replacement, and b) a reactive full lead service line replacement program that raises serious concerns about regulatory backsliding (see our coalition's recent in-depth [analysis](#) of the agency's proposal).

Against this backdrop, EDF's recent public [criticism](#) of EPA's proposed revisions as amplifying "the financial burden on low-income communities of color by continuing the existing replacement paradigm, where utilities are only responsible for paying for lead pipe replacements on public property" rings hollow. Moreover, EDF's appropriation of the environmental justice banner, which obscures the organization's opposition to a scientifically robust and justice-centered Lead and Copper Rule, seems not only self-serving but also immoral.

4. Aligned with the water utility industry, EDF is working over and against our communities

After delivering 'the goods' for the water utility industry through NDWAC's 2015 recommendations to EPA, EDF took on the task of documenting *self-initiated* and *voluntary* steps that individual water utilities are taking toward full lead service line replacement. Catalogued on EDF's [website](#), these steps are lauded as "commendable" or marking "important progress." The water utilities implementing them are described as working "diligently" on lead service line replacement, even in those cases when "they may not yet be ready or willing to set a goal of full replacement."

EDF's seeming celebration of a wide patchwork of initiatives that have been rolled out:

- Independently of regulatory requirements,
- In the absence of assessment, oversight, enforcement, or accountability mechanisms, and
- With no mandated justice-centered principles,

is based on the organization's analysis of official documents. In other words, it appears to be divorced from residents' lived experiences of these initiatives, which can often expose deficiencies even in the most ideal-looking programs. This superficial examination, however, doesn't prevent EDF from making authoritative proclamations about the success of individual programs.

For example, in a March 12 [article](#) about the EDF/American University study, the environmental online magazine *Grist* presents Washington DC's approach to lead service line replacement through the eyes of EDF, which – while it has an office in the District and in 2001-2004 watched from its supercilious perch the worst-recorded lead-in-water [poisoning](#) in US history – has never once participated in the 16 years of grassroots activism concerning the city's lead service line problem. Not surprisingly, the piece is replete with simplistic, inaccurate, and misleading claims. For brevity, we will focus on just two:

Grist claims that DC's 2018 law “bans partial lead service line replacements during infrastructure projects and emergency repairs.” In reality, DC's law bans partial lead service line replacements during infrastructure projects and emergency repairs *only as long as the city government annually appropriates funds for the law's implementation*. Financial support is insecure (and contested at the moment) and will have to be reassessed *every year* and balanced against other priorities, pressures, and needs. It will also require sustained activism by DC residents, many of whom are volunteers and might not be around for the decades it will take for the city to remove all its lead service lines at the snail's pace set by the law.

Grist also claims that DC's law “amends the previous regulations by providing financial support to homeowners who didn't get a chance to replace their pipes under the old policy.” This statement overlooks real challenges on the ground. DC's program gives most residents only *partial* financial assistance, despite evidence of health harm from the city's estimated 11,000+ partial lead service line replacements since 2004 (see the 2011 CDC study mentioned above). Moreover, the poorer the homeowners are, the harder it is for them to receive the maximum amount of assistance to which they are entitled, due to cumbersome bureaucratic hoops they must jump through. Additionally, homeowners are required to find their *own* plumber for the replacement of service lines in private space and are vulnerable to price gouging, which has already been reported to the DC water utility as a serious and prevalent problem. According to a recent email from a longtime DC activist:

“Some neighbors reported that they first have to get an estimate from a plumber—this is where they got sticker shock. There were no plumbers who would do this work and if they did the prices were high because they were taking advantage of people. [...] Many people give up because it is so complicated.”

In the end, there seems to be a delicious irony in EDF's newfound identity as “defender” of water justice: that the organization's uncritical cheerleading for water utilities inflicts an injustice because it routinely overlooks important complexities; ignores relevant histories of betrayal and harm; silences or dismisses the work, knowledge, experiences, and demands of affected communities; and ultimately, ‘speaks’ on behalf of people on the ground without their consent or the necessary depth of understanding.

5. Through the water-utility-industry-centered “Lead Service Line Replacement Collaborative,” EDF is promoting self-initiated lead service line replacement programs under the banner of public health and environmental justice

EDF's alignment with the water utility industry's preference for self-initiated lead service line replacement programs that are largely free of regulatory requirements, oversight, and enforcement lies at the heart of the water-utility-industry-centered [Lead Service Line Replacement Collaborative](#).

Astoundingly, the Collaborative's members include not a single grassroots group that has been pushing for a scientifically sound and justice-centered Lead and Copper Rule, while every single one of its steering committee members come straight out of EPA's NDWAC Lead and Copper Rule working group. They are:

- [RESOLVE](#) (specifically, Ms. Gail Bingham who was the working group's supposedly neutral facilitator)
- [American Water Works Association](#) (the group that in 1994 sued EPA so as not to have to conduct full lead service line replacements under the Lead and Copper Rule)
- [Association of Metropolitan Water Agencies](#) (the organization representing the largest public water utilities in the US)
- [Children's Environmental Health Network](#) (a group that endorsed the working group's recommendations without, to this day, addressing criticisms about their scientific and moral soundness)
- [Clean Water Action](#) (a group that also endorsed the working group's recommendations without, to this day, addressing criticisms about their scientific and moral soundness), and
- [Environmental Defense Fund](#).

This type of endeavor seems to be in keeping with prior criticisms about EDF's neoliberal, market-based approaches to environmental protection (e.g., [Beder 2001](#), [Biocitizen 2014](#), [Aronoff 2017](#)). But it also makes one wonder what potentially unsuspecting followers of the Collaborative understand about the Collaborative's roots and broader agenda.

On this Earth Day 2020, we stand up against EDF and all other Big Green environmental organizations masquerading as environmental justice warriors while undermining the work, goals, and visions of frontline communities, and we join together to say:

Environmental justice is not for show or for sale!

We close this post with three messages for EDF:

1. When community members impacted by your work call you and ask for a meeting, offer them the meeting.
2. If you no longer endorse the 2015 NDWAC Lead and Copper Rule working group recommendations, please make a public statement to let us know.
3. Please disclose all the grants (public and private) and any other funding you have received since 2014 for your work on lead in water, even if those grants are shared with members of the water utility industry or non-governmental organizations like the Children's Environmental Health Network, Clean Water Action, RESOLVE, and/or the National Center for Healthy Housing.

Lastly, three messages for frontline communities fighting for lead-free water:

1. Following the [example](#) of the State of Michigan, we must ensure that federal regulation mandates prompt and full lead service line replacement at no cost to the people lead service lines have placed at risk (and harmed) for over a century.
2. Beware of EDF.
3. Beware of EDF.

Stay safe, stay lead-free!

In solidarity,

[Campaign for Lead Free Water](#)