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Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on “EPA Enforcement Priorities and Practices”
Subcommittee on Energy and Power
June 6, 2012

In May 2010, then-EPA Regional Administrator Al Armendariz was in Dish, Texas, talking to citizens concerned about oil and gas pollution. When he started describing his philosophy of enforcement, he used a poor analogy involving Romans and crucifixion. Everyone agrees that it was an inappropriate comment.

But those who oppose strong enforcement of the nation’s environmental laws have exaggerated what was said in order to make absurd attacks on EPA and the Obama Administration. They claim that Dr. Armendariz intended to take enforcement actions against innocent companies and that his comments are representative of EPA’s overall enforcement philosophy.

This smear attack ignores most of what Dr. Armendariz said that day, and it ignores the facts.

Dr. Armendariz has apologized for his controversial comments, and he has resigned. He has made it very clear that those comments were an inaccurate way to describe EPA’s enforcement efforts. And it is important to realize that no enforcement action has been taken in Dish, Texas.

EPA Administrator Lisa Jackson and the White House have reiterated that the comments do not reflect any EPA policies or the agency’s actions.

Despite these clear statements, EPA’s critics claim that the controversial Armendariz comments must represent EPA’s true enforcement policy. This is just more of the same fact-free, anti-EPA rhetoric from the Republicans.

Here are the facts. The Clean Air Act, Clean Water Act, Safe Drinking Water Act, and other cornerstone environmental laws allow states to implement and administer the statutes’ requirements.

It is EPA's job to ensure that the states implement nationally consistent programs that meet federal standards.

The states do not always meet these expectations. In fact, the EPA IG recently found that "state enforcement programs frequently do not meet national goals and states do not always take necessary enforcement actions. State enforcement programs are underperforming...noncompliance is high and the level of enforcement is low."

And in these situations, EPA has the authority to step in to take the action needed to enforce the law.

For decades, these enforcement decisions have been made by career EPA enforcement professionals, not political appointees. That has not changed under this Administration. Since the agency was formed during the Nixon Administration, EPA has employed a philosophy of deterrence. EPA punishes violations of the law fairly and openly in order to deter others from breaking the law. And EPA focuses its limited enforcement resources on the highest priorities that represent the most serious pollution problems. There's nothing unique about this approach. In fact, I would be surprised if we could find a well-run law enforcement agency or civil enforcement program in the country that worked differently.

The data tells the true story. This first chart shows the number of EPA enforcement actions nationwide over the last eleven years. As you can see, the number of enforcement actions during the first three years of the Obama Administration has actually dropped off slightly compared with the Bush Administration years. I see no evidence of an overzealous enforcement policy here.

Let's look at just EPA region six. That's the region that Dr. Armendariz led. If his controversial remarks reflected a radical enforcement policy, then surely we would find evidence of that in region six. But as you can see from the chart, that's simply not the case. Again, the number of civil enforcement actions is actually lower during the past three years than during the Bush years.

The third chart shows that the total civil penalties collected under the Obama Administration are not much different than under the previous administration. You can see that the totals go up and down each year depending on when bigger cases are resolved. In fact, the average amount of civil penalties collected during the Bush Administration is actually slightly higher than so far under the Obama Administration.

Those are the facts. One comment from two years ago cannot change the facts.

Environmental laws that protect our air and water are important to the health and wellbeing of Americans. The only way to ensure those protections are real is to enforce them. Career employees at EPA have been doing that enforcement work for forty years.

And they should keep doing so to protect American families from toxic chemicals and other pollutants.