

American Water Works Association
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AWWA WEBINAR

OCTOBER 16, 2020 | 11:00 A.M. – 12:30 P.M. MT

Getting the Lead Out:
Legal Issues in EPA's Lead & Copper Rule
An AWWA Legal Community Virtual Roundtable Dialogue

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Webinar Moderator



Ron Tenpas
Partner
Vinson & Elkins, LLP

Ron Tenpas is a partner in Vinson & Elkins' Washington office, and is recognized as one of the country's preeminent environmental litigators. He is a former Assistant Attorney General (AAG) for the Environment and Natural Resources Division of the U.S. Department of Justice. Ron currently represents clients in civil and criminal investigations related to alleged environmental violations, in addition to representing companies and trade associations in commenting on proposed regulations and in litigation challenging new regulatory provisions. Before he was appointed AAG, Ron served as an Associate Deputy Attorney General, as the U.S. Attorney in the Southern District of Illinois, and as an Assistant U.S. Attorney in the District of Maryland and the Middle District of Florida.


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Panel of Experts




Ron Tenpas
Partner
Vinson & Elkins,
LLP



Corrine Snow
Counsel
Vinson & Elkins,
LLP




Spencer Bruce
President and CEO
Louisville Water
Company



Shawn Bunting
Vice President &
Deputy General
Counsel
American Water

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Agenda


I. Round Table – all presenters

II. Question and Answer – all presenters

Enter your **question** into the **question pane** at the lower right-hand side of the screen.

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Lead and Copper Rule Overview

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Rule Timeline

- **1991:** Original Lead and Copper Rule
- **December 2018:** Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts
- **November 13, 2019:** EPA proposed changes to Lead and Copper Rule
- Final Rule: **TBD**
- Effective Date: **TBD** (~30-60 days after Final Rule)



FEDERAL ACTION PLAN
To Reduce Childhood Lead Exposures and Associated Health Impacts

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New Requirements

10 ppb Trigger Level: Corrosion Control and Line Replacements

Corrosion Control

- If already treating must “re-optimize” treatment
- If NOT already treating, must conduct corrosion control study
- “Find and fix” requirements



Line Replacements

- Water systems to replace the water system-owned portion of a lead service line (LSL) when a customer chooses to replace their customer-owned portion of the line
- All systems with known or possible LSLs must develop a lead service line replacement plan
- Conduct outreach and initiate line replacement
- Above 15 ppb: fully replace a minimum 3% of the number of known or potential LSLs annually
- Above 10 ppb: work with state to set an annual goal for replacing LSLs

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New Requirements


LSL Inventories

Before

- Only required to conduct a materials inventory for the purposes of identifying enough sites for tap sampling
- These inventories were not of the entire system and were not public
- Systems only had to take action if more than 10% of tap samples are greater than the action level (15 ppb)
- No requirements for systems to take follow-up samples at sites with individual tap samples greater than 15 ppb

After

- Public inventory required unless system can demonstrate absence of LSLs within first 3 years of final rule publication
- Must be updated annually



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New Requirements

Sampling and Notification

Sampling

- No flushing before sampling, remove and/or clean faucet aerators, and no use narrow-necked collection bottles
- Changes priorities for collection of samples with a greater focus on LSLs
- Frequency of testing will depend on trigger levels rather than system size



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Notification

- Must notify customers of an action level exceedance (15 ppb) within 24 hours, 30 days for all other results
- Make the LSL inventory publicly available and conduct regular outreach to homeowners with LSLs
- Inform consumers annually that they are served by LSL or service line of unknown material
- Additional public education and outreach


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New Requirements

Schools and Daycares

- Community Water Systems must conduct lead in drinking water testing at 20% of K–12 schools and licensed child care in service area every year
 - Excludes facilities built after January 1, 2014
- Sample results must be provided to each sampled school / child care, Primacy Agency and local or State health department

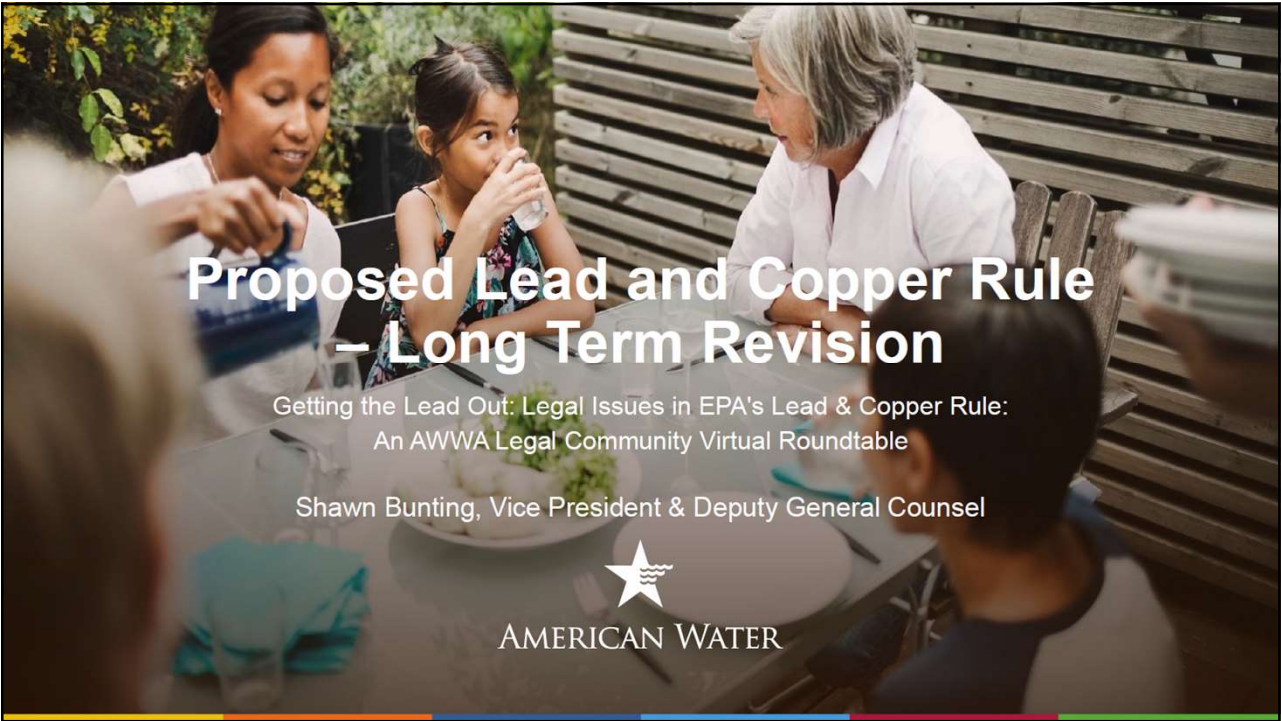


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OUR REGULATED BUSINESS

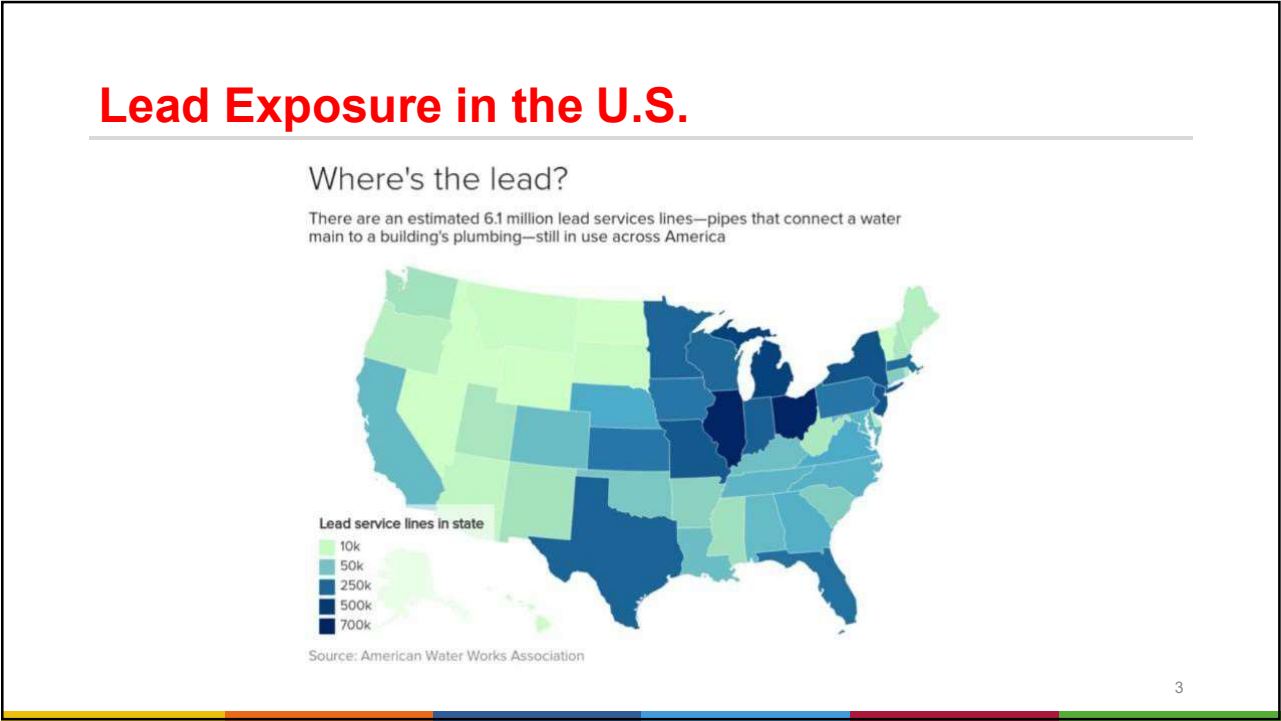
We manage more than 500 individual water and wastewater systems across the country.

Every day, we operate and manage:

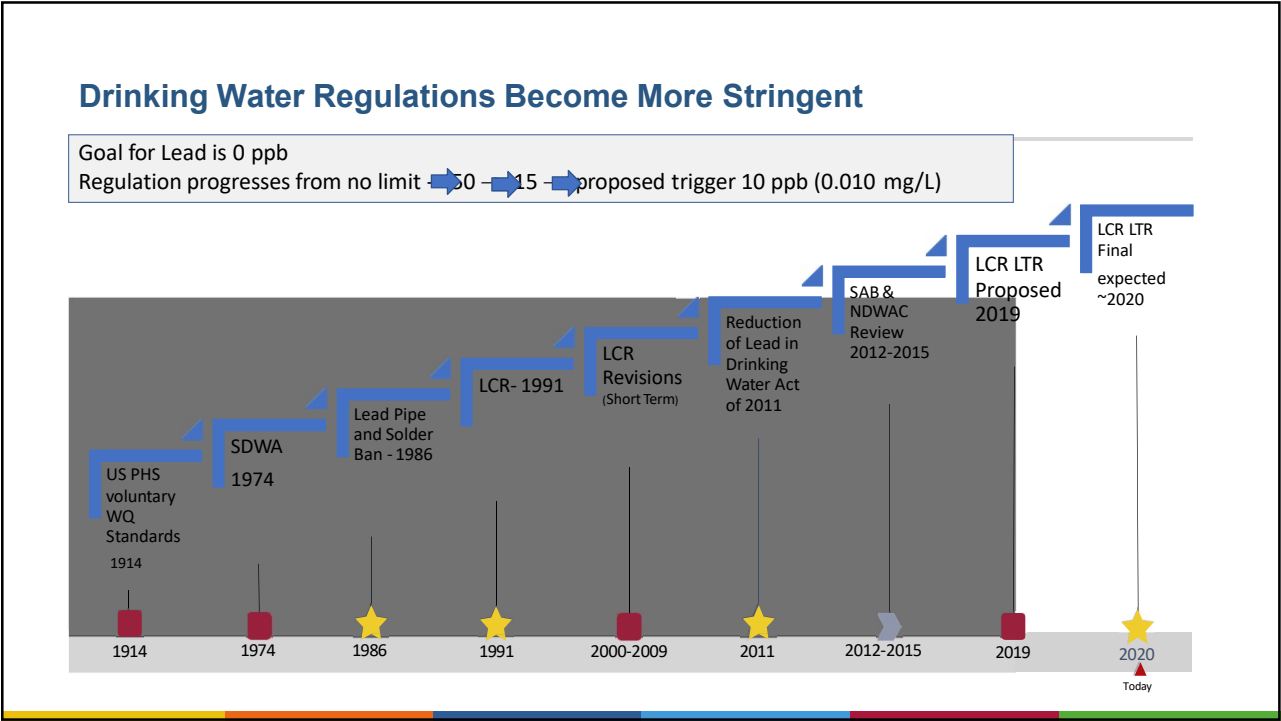
- ★ **51,000** miles of transmission, distribution and collection mains and pipes
- ★ **81** surface water treatment plants
- ★ **530** groundwater treatment plants
- ★ **1,000** groundwater wells
- ★ **130** wastewater treatment facilities

American Water's Regulated Presence

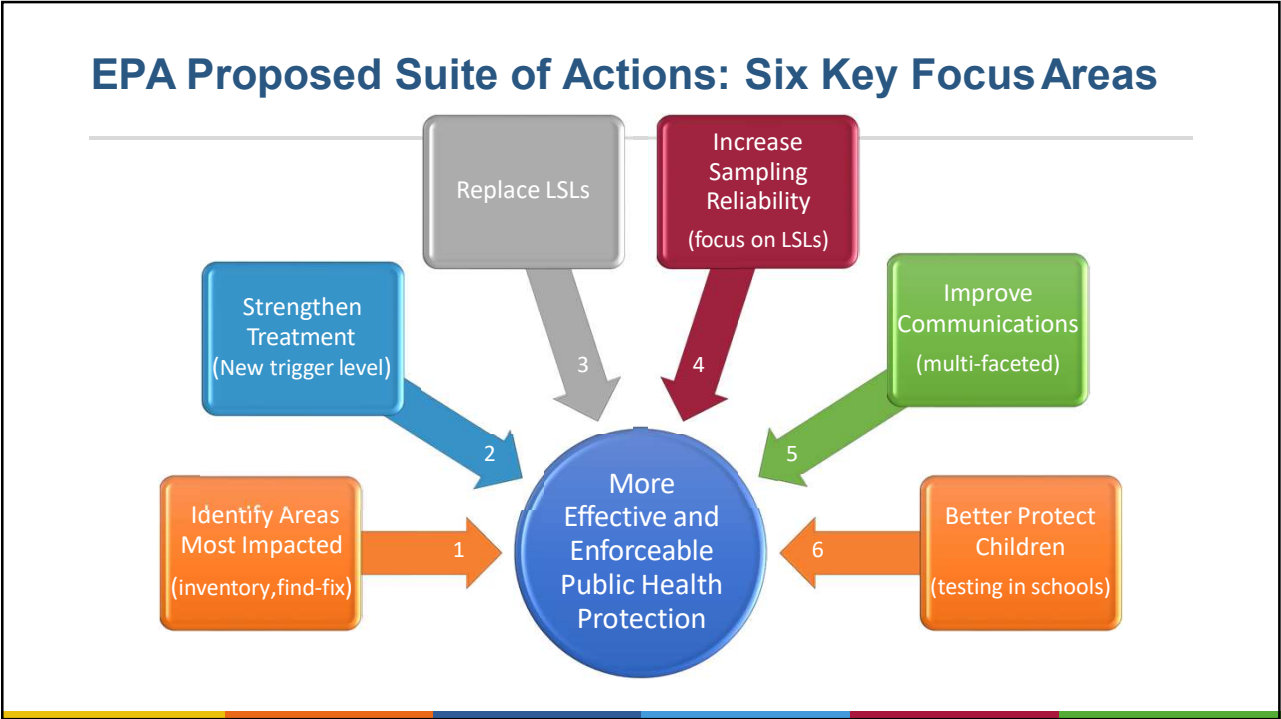
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Mitigation Strategy

American Water's Program to
Reduce Potential Lead Exposure
in Drinking Water

- Treat**
- Monitor**
- Find**
- Replace**
- Flush**
- Educate**

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Customer Lead Education & Communication Program

IMPORTANT NOTICE ABOUT YOUR WATER SERVICE AND LEAD

Indiana American Water will be upgrading the water infrastructure along our system in the near future. While we're there, if the replacement or maintenance work involves the service line (the pipe that runs from the main to the house), we'll be working with you to replace it. And if we can't, we'll cover a portion, and in some cases all, of the costs to replace your water service line.

REPLACING ANY LEAD SERVICE LINES NOW HELPS MANAGE THE RISK OF POTENTIAL EXPOSURE TO LEAD IN DRINKING WATER.

UTILITY-OWNED VS. CUSTOMER-OWNED PORTION OF THE SERVICE LINE

Water Main | Shut Off Valve | Customer-Owned Service Line and Meter | Water Meter

Please note: This diagram is a general representation. Variations may apply.

INFRASTRUCTURE. ONE HOME WAY WE KEEP LIFE FLOWING.

- Explains project & timing
- Conveys rationale for full service line replacement
- Explains utility work
- Explains customer actions needed
- Obtains permission to work on private property
- Uses multiple languages

WATER SAMPLING FOLLOWING LEAD SERVICE LINE REPLACEMENT

FILL WITH COLD

FILL OUT LABEL

NOTE: If a water treatment unit or filter is attached to the plumbing system or faucet, please remove the filter or bypass the unit before sampling.

SAMPLE 1: AFTER WHOLE HOUSE FLUSH

Who takes the sample? ☐ Customer ☐ Company/Plumber

1. Carefully open the indoor cold water tap and fill the bottle to the top.
2. Turn off water and tightly cap the sample bottle.
3. If you're using a lead-free faucet, please use the sample bottle to fill the tap. This can be done first thing in the morning, before you use the tap.
4. Contact us at the phone number or email address below, and we'll arrange to pick up the sample.

IM 8 TO 72 HOURS AFTER NEW SERVICE

Who takes the sample? ☐ Customer ☐ Company/Plumber

On a second water sample for lead. This sample should be collected within 8 to 72 hours of service. Please open the tap for 10 seconds, then fill the sample bottle to the top. This can be done first thing in the morning, before you use the tap.

NOTE: If you're using a lead-free faucet, please use the sample bottle to fill the tap. This can be done first thing in the morning, before you use the tap.

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What will utilities need?

1. Stakeholder Engagement in Solutions
2. Additional Costs for Compliance Recognized
3. Funding Solutions to Eliminate LSLs

- Through September 2020, we have eliminated over 20,000 LSLs during water main replacement / rehabilitation
- Constructive LSL legislative or regulatory environment in multiple jurisdictions including Indiana, Pennsylvania, Illinois & West Virginia

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WE KEEP LIFE FLOWING™

Contact Info

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Louisville Water Company

Proposed Lead Copper Rule

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Louisville Water Company




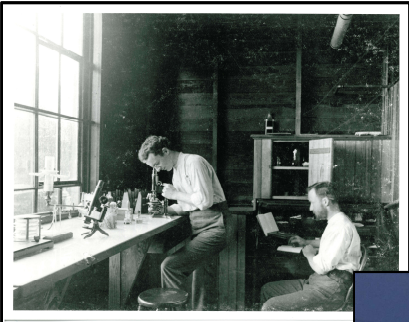
Drinking water to nearly one million people in Louisville, Kentucky region. Kentucky's first public water provider
October 16, 1860

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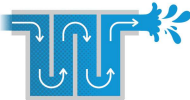
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Louisville Water Company



Producing & Delivering Drinking Water




2 water treatment plants




33 storage tanks

Producing & Delivering Drinking Water



66 booster pumping stations



4,226 miles of water main

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Ask the Experts



Ron Tenpas
Partner
Vinson & Elkins,
LLP



Corrine Snow
Counsel
Vinson & Elkins,
LLP



Spencer Bruce
President and CEO
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Shawn Bunting
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- **October 22**
- **FREE Webinar from Napoli Shkolnik: A Cost Recovery Program: PFAS Water Contamination**
- **11:00 AM - 12:00 PM (Mountain)**

- **November 5**
- **FREE WEBINAR FROM SL ENVIRONMENTAL LAW GROUP: PFAS: LEARN HOW TO NAVIGATE THE EVOLVING REGULATORY AND LEGAL LANDSCAPE**
- **11:00 AM - 12:00 PM (Mountain)**

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- Until next time, keep the water safe and secure.

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Presenter Biography Information

- Ron Tenpas is a partner in Vinson & Elkins' Washington office, and is recognized as one of the country's preeminent environmental litigators. He is a former Assistant Attorney General (AAG) for the Environment and Natural Resources Division of the U.S. Department of Justice. Ron currently represents clients in civil and criminal investigations related to alleged environmental violations, in addition to representing companies and trade associations in commenting on proposed regulations and in litigation challenging new regulatory provisions. Before he was appointed AAG, Ron served as an Associate Deputy Attorney General, as the U.S. Attorney in the Southern District of Illinois, and as an Assistant U.S. Attorney in the District of Maryland and the Middle District of Florida.
- Corinne Snow principally practices in environmental law in Vinson & Elkins' New York office, with an emphasis on litigation, regulatory compliance, internal investigations, and defense against government investigations and enforcement actions. Previously, she served as Senior Counsel in the Office of the Associate Attorney General, which oversees all civil litigation on behalf of the United States, and as Counselor in the Office of the Attorney General. Most recently, Corinne served as Counsel and Chief of Staff in the Environment and Natural Resources Division of the U.S. Department of Justice, where she assisted in managing a 600-person division that included 400 lawyers. In this role she helped manage the Division's civil and criminal litigation arising under more than 150 environmental and natural resources laws.
- Spencer Bruce has served as President and CEO of Louisville Water since 2016 and has over 23 years of engineering and management experience. He joined Louisville Water in 2006, responsible for managing the company's distribution operations and water treatment facilities. He then served as the company's Vice President and Chief Engineer from December 2013 until January 2016. Prior to Louisville Water, Bruce worked for 13 years with Rohm Haas in North Carolina, Texas, and Illinois holding multiple management positions in maintenance, production, engineering, customer service and supply chain. Bruce also currently serves as president of the Louisville Water Foundation.
- Since February 2015, Shawn Bunting has served as vice president and deputy general counsel of American Water. In his role, Mr. Bunting leads a legal and compliance team of more than 50 professionals that provide strategic and day-to-day legal services essential to the company's operations throughout the United States. Mr. Bunting's practice focuses on a wide-range of matters including environmental and class action litigation, complex transactions and crisis response. Mr. Bunting joined American Water in 2008 as vice president and general counsel of American Water's market-based business and led the American Water concession team from 2009 to 2012. Mr. Bunting also has served as the general counsel for American Water's Mid-Atlantic and Eastern Divisions, including the two largest state subsidiaries within the American Water system, Pennsylvania and New Jersey American Water.

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