

# Globalizing Corporate Social Irresponsibility: A Tale of Two Toxic Cities

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**Abstract.** La Oroya, Peru, and Herculaneum, Missouri, USA, are two cities 4,000 miles apart but beset with common health and environmental risk: high levels of lead contamination. A key participant in this unfolding tale of environmental disaster has been The Renco Group, a privately held investment holding company based in New York. This case study sheds light on The Renco Group's Corporate Social Responsibility (CSR) in a developing country (Peru) as distinct from CSR in a developed country (USA) by presenting the distinctive set of formal and informal forces that shape the ethical outcome. The question – one which animates much of this case – is what mechanisms exist that work either collectively or individually to encourage or even require a privately-owned firm to act in a socially responsible manner or, more modestly, to cease activities that are deemed to harm society or the general welfare in a multi-country context?

**Keywords:** corporate social responsibility, environmental harm, business ethics, formal institutions, informal institutions, global business ethics.

“The difference is that the US EPA has forced Doe Run to take action in the U.S. while no strong government authority exists to advocate for environmental and health protections in Peru”- *Peruvian Times*, 2009

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## **1. La Oroya and Herculaneum: Poisoned Communities**

La Oroya, Peru, and Herculaneum, Missouri, USA are two cities 4,000 miles apart but beset with common health and environmental risk: high levels of lead contamination. A key participant in this unfolding tale of environmental disaster has been The Renco Group, a privately held investment holding company based in New York. But the story has had many players and has extended across three centuries: during the late 1800s, across all of the 20th century, and then on into the 21st century. In this sense, the unfolding tale of environmental disaster is representative of a larger societal struggle to come to terms with industrial pollution and to deal appropriately with the various stakeholders that have both reaped economic gains and suffered grievous losses.

Renco was founded in 1975 by U.S. billionaire Ira Rennert, who built a business empire with a global footprint. In 1994, Renco acquired the Doe Run Resources Corporation from the California-based Fluor Corporation. Based in St. Louis, Missouri, the Doe Run Company has far-flung operations engaged in extracting lead ore and other minerals, the purification or smelting of lead, and even the recycling of lead from used products like automotive batteries.

In Peru, Renco lost the operating permit for the La Oroya smelting facility in July 2010 because the company had failed to meet its environmental obligations. In response, the Renco Group has filed a claim against the state of Peru under the 2006 US-Peru Trade Promotion Agreement (PTPA), demanding \$800 million in compensation from the government for putting the environmental cleanup burden on Renco's subsidiary Doe Run Peru, forcing it to liquidate its national operation and file for bankruptcy. The Peruvian government prevailed in the arbitration case, and Renco's claims were ultimately dismissed in July 2016.

In Herculaneum, Missouri, the Doe Run Company was ordered to pay millions of dollars in compensatory and punitive damages for exposing residents to lead contamination between 1986 and 1994. In 2013, after approximately 120 years of operation, the smelter in Herculaneum closed, ending a long battle between "angry parents, government regulators, environmentalists and the largest lead producer in North America."<sup>2</sup>

This tale of the two cities is an opportunity to shed light on CSR in developing countries as distinct from CSR in developed countries. Although the corporate offender is the same, Renco's operations in La Oroya, Peru, present a distinctive set of legal and social challenges together with other circumstances that are quite different from those confronted in Herculaneum, Missouri, USA.

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2. <https://www.kbia.org/science-and-technology/2012-08-08/the-end-of-a-lead-laced-era-polluting-smelter-to-close-after-120-years>

## 2. The U.S. Context: Doe Run in Herculaneum

The case study on which we build our analysis centers upon a lead smelter that began operation in Missouri – where a great vein of lead ore deposits is located (also known as the Old Lead Belt) – in the late 19th century. A small town, Herculaneum, located twenty-five miles south of St. Louis along the Mississippi River, took root and grew up in the shadow of this lead smelting operation.

### 2.1. Doe Run: A Tangled Trail of Ownership and Responsibility

This industrial complex in Herculaneum, of which the smelting operation was the centerpiece, has operated under different owners, different corporate structures, and different names. The business originated as a division or holding of the St. Joseph Lead Company (established in 1867 in New York and subsequently named St. Joe Minerals Corporation in the mid-20<sup>th</sup> century to reflect its diversification into zinc, coal, and other metals) and then as an acquisition in 1981 by Fluor Corporation, an engineering and construction company headquartered in California.

Fluor subsequently sold a minority ownership share to Homestake Lead Company of Missouri, with which it operated in a business partnership, calling this new entity The Doe Run Partnership. Eventually, Fluor would re-purchase the minority share from Homestake and then sell Doe Run to a private equity investor, Ira Rennert, with a reputation as a “canny bottom-fisher”<sup>3</sup>.

The Doe Run company (now operating with the name The Doe Run Resources Corporation) was held by The Renco Group, a business entity through which Rennert operated and controlled his collection of troubled assets, many of which were charged with pollution and were the target of various regulatory and legal enforcement actions. Rennert would typically purchase these assets at depressed prices, reflecting their uncertain financial prospects and the requirement to manage their considerable environmental liabilities. Typically, these private equity deals were financed with little of Rennert's own capital at risk but rather used asset-based lending which would then burden the acquisition target with debt in the form of high-yield “junk” bonds.

### 2.2. Herculaneum: The Legacy of Lead

The uses of lead were both diverse and essential to much of the rapid economic expansion we associate with the Industrial Revolution and its aftermath. Lead was a key ingredient for warfare (e.g., bullets and other types of ammunition and

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3. Shnayerson, M. (2003), “Devastating luxury”, *Vanity Fair*, July 2003, <https://archive.vanityfair.com/article/2003/7/devastating-luxury>. Accessed 7 January 2022.

armaments), for construction activities (e.g., paint and plumbing), for manufacturing (e.g., equipment and packaging), for transportation (e.g., an important additive to gasoline) and, of course, power (e.g., batteries).

Whereas lead has been an essential metal for an industrial economy, its underlying toxicity has been a public health issue that has only slowly emerged, gaining increased understanding and urgency in the latter half of the 20<sup>th</sup> century. This heightened awareness arose from the recognition that lead was diffusing into the larger environment and presenting a significant health threat to many. This, in turn, provoked a broad-based public health and regulatory response in the U.S. and other modern economies. These initiatives aimed to remove lead from the supply and production chains associated with the manufacture and sale of common products like paint, gasoline, and piping.

And yet, much lead remained in place in age-old infrastructure, subjecting many – especially children – to a broad range of adverse health outcomes. As a result, public policy has selectively sought the remediation of the soil, air, and water as well as highly contaminated industrial and waste sites together with aging commercial, institutional and residential structures that commonly contained lead-based paint and lead pipes.

Thus, lead has proven capable of widespread and persistent contamination of the air we breathe, the water we drink, and the soil upon which we are variously situated in our daily lives<sup>4</sup>. Essential to progress, lead has nevertheless left a trail of devastating health outcomes. Lead has been diagnosed as a major contributor to the loss of intelligence, attention deficit disorder, hyperactivity, and learning disabilities<sup>4</sup>. So severe are these maladies that the syndrome itself is often characterized as lead poisoning. This health burden has fallen disproportionately on children, even affecting some in utero.

### 2.3. Doe Run and Government Regulators

The story of the Herculaneum lead smelter mirrors this journey. Worker safety was a challenge from the very beginning of the smelter's operation. Employees engaged in the handling of lead ore or smelting lead were exposed to physically demanding and inherently dangerous work that included exposure to lead emissions that could elevate blood lead levels and cause serious and debilitating health consequences. In 1988, the Occupational Safety and Health Administration (OSHA) levied a \$2.78 million fine against the company for violations related to the exposure of workers to dangerous levels of lead. This signaled the onset of a series of labor woes that impacted both Doe Run and the wider community. In 1992, the plant's unionized workforce went on strike, which extended for over two

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4. Markowitz, G. & D. Rosner (2013), *Deceit and Denial: The Deadly Politics of Industrial Pollution*. University of California Press.