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⦿ Apr 20, 2007 7:32 pm US/Eastern

## Outrage! Ruling Stings 9/11 First Responders

### Court Says Whitman Wasn't Wrong To Say Air Quality Safe



Marcia Kramer ([http://wcbstv.com/bios/local\\_bio\\_203134125.html](http://wcbstv.com/bios/local_bio_203134125.html))  
Reporting

*(CBS) NEW YORK* A major ruling could stop some ground zero workers and lower Manhattan residents suffering from 9/11-related illnesses from suing the city.

CBS 2 has learned the reasons why.

There was shock on Friday as city residents were stunned over a federal appeals court ruling that it was OK for the head of the Environmental Protection Agency to have reassured New Yorkers after 9/11 that the air was safe -- even if it was toxic.

"I'm horrified, not only for the residents down there, but also for the workers who got the worst of it," one resident said. "We can't have a government that lies to us."

Added another New Yorker: "It certainly wasn't OK. People need to be protected."

"That was unethical to do because it disarmed the people and had people believe they were safe from fallout," said another.

The Second U.S. Circuit of Appeals in Manhattan saw it differently:

"When great harm is likely to befall someone no matter what a government official does, the allocation of risk may be a burden on the conscience of the one who must make such decisions, but does not shock the contemporary conscience..."

The court's decision to throw out a suit brought against then-EPA head Christie Whitman, infuriated lawyer David Worby, who represents thousands of first responders and construction workers who are suing the city.

"There was 400,000 pounds of asbestos, 91,000 liters of burning jet fuels, 125,000 gallons of burning Con Ed transformer oils with PCBs in it, 500,000 units of mercury 200,000 pounds of lead, among other things," Worby said. "Should she be let off the hook for saying that was safe? I don't think so."

The decision will have varying effects. Residents who sued Whitman may not have a leg to stand on, but ground zero workers who have charged labor law violations still have a case -- at least for now.

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