

# Rachel's Environment & Health News

## #442 - The Right To Pollute

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Washington is buzzing. Old-style environmental protection--in which people expected government to protect their clean air and clean water-- is out. A new "third wave" of environmentalism is coming into vogue. This "third wave" relies less on confrontation between polluters and their victims and more on cooperation between polluters and the big environmental groups. The key concept of the "third wave" is market-based incentives for polluters to clean up, rather than demands by government to clean up. What are market-based incentives?

The only working example of a market-based incentive that we know of is the trading of "emission reduction credits," also known as buying and selling "pollution rights." This concept was invented by lawyer Fred Krupp and economist Dan Dudeck, both with the Environmental Defense Fund (EDF) in the late 1980s.[1] EDF's "pollution rights" scheme was written into the Clean Air Act of 1990. ("Pollution rights" is our phrase for what EDF calls "emission reduction credits.") The idea is basically simple: U.S. Environmental Protection Agency (EPA) sets a nationwide "cap" on the total amount of a pollutant, such as sulfur dioxide, that can be released. Then EPA gives out "pollution rights" in the form of permits to companies that are emitting sulfur dioxide. The amount of each permit is based on a company's past history of pollution; the biggest polluters are given the biggest "pollution rights." The polluters do not pay for these permits; they are handed out free by the government. If a polluter manages to reduce his or her pollution below the amount allowed by the permit, then a portion of his or her "pollution right" is unused and can be sold for money to another polluter. By allowing companies to "bank" the permitted pollution they are NOT pumping into the atmosphere and sell it to other companies that are unable to meet emissions standards, the government hopes to lower toxic emissions nationwide without driving undercapitalized electric utilities out of business. In practice, the concept is so popular among polluters that the Chicago Board of Trade now conducts a brisk business in "pollution rights," buying and selling the right to pollute. Companies that need to comply with their "pollution-right" permit can either install control equipment to comply, or they can buy someone else's "pollution right" and continue polluting, whichever is cheaper. According to economists like Dan Dudeck, the result is the "least cost" way of keeping total pollution at or below the "cap" level.

According to Alice LeBlanc, an economist with EDF, since passage of the Clean Air Act of 1990, other "emission trading schemes" have come into use.[2] She points to South Coast Air Quality Management District (AQMD) in southern California which has adopted the RECLAIM program (Regional Clean Air Incentives Market) which now gives out permits to polluters giving them the right to release nitrogen oxides and sulfur oxides into the air.[3] The AQMD is now considering issuing "pollution rights" for volatile organic toxics. Ms. LeBlanc mentions other existing uses of the "pollution-rights" concept: "the trading of lead rights among gasoline refiners" and "an allowance for the transfer of production entitlement for CFCs." (CFCs are the chemicals that are depleting the Earth's ozone shield). And lastly, Ms. LeBlanc mentions that EDF is actively promoting the use of emission trading internationally for carbon dioxide, the main "greenhouse gas" driving the planet toward global warming. It seems evident that EDF's original concept of buying and selling the right to pollute is becoming more popular among polluters. In recognition of the usefulness of this invention by EDF, President George Bush called Fred Krupp "my kind of environmentalist." [4]

In his new book, *LOSING GROUND*, author Mark Dowie examines this concept of "pollution rights" in some detail. Dowie and others are critical of the underlying philosophy.

For example, lawyer Richard Ayres, one of the founders of the Natural Resources Defense Council (NRDC) says, "There was no mention from environmental leaders of the fact that the 1990 Clean Air Act was giving people the right to pollute. The air is a public resource. It should not have been given away to private operatives.

Congress, with the cooperation of environmentalists, was giving away a public resource. The morality of that was never discussed." [5] Elsewhere Dowie notes that Congress [which was controlled by Democrats at the time, we note] gave away the nation's air quality for free, so the public got nothing but pollution in the bargain. Polluters on the other hand got a valuable "right to pollute" which they are now buying and selling profitably among themselves. [6] Furthermore, because "pollution rights" are allotted on the basis of previous fuel use and past emission rates, the biggest polluters have been rewarded most. [7]

Trading "pollution rights" does nothing to reduce pollution. The amount of pollution is established by the "cap," which is set by EPA in an old-style "command and control" decision. The buying and selling of "pollution rights" ("trading under a cap") actually works AGAINST pollution reduction because it reduces the incentive to search out, and adopt, less-polluting technical innovations; at some point it becomes cheaper to purchase the right to pollute than to prevent pollution.

Instead of reducing pollution, the market in "pollution rights" simply moves pollution from one region to another, or from one neighborhood to another. Since technically inferior, highly-polluting facilities are often located in poor neighborhoods, those are the facilities most likely to purchase "pollution rights," thus increasing the relative pollution burden falling on the poor, and people of color. The buying and selling of "pollution rights" changes the discussion from one of fairness and public health to one of economics and high finance --thus moving the discussion into the realm of monetary experts, masking the ethical issues and removing them from public debate.

At this point, we might ask, are there real consequences from living in a polluted neighborhood? In the medical journal *LANCET* on April 8, 1995, a British researcher, Dick van Steenis, described children in the town of Johnston, England, who live downwind from 3 oil refineries and an oil-burning power plant. [8] Thirty-five percent of the 8-and 9-year-old children in the town have asthma so badly that they carry medically-prescribed inhalers to school. Van Steenis writes, "To localise matters and to reduce the influence of variation in diagnosis and prescribing, it was decided to ascertain the proportions of primary school children (5-11 [years old])... taking inhalers to school for asthma. Some 1 in 5 [20%] took inhalers to school very close to the Pembroke power station/Texaco refinery complex; some 1 in 7 [14%] took inhalers to school directly downwind for about 72 kilometers [45 miles]; some 1 in 15 [7%] took inhalers to the schools receiving outfall [air pollution] 1 to 2 days a week; and only some 1 in 50 took inhalers to schools on the coasts not usually in any downwind [area]. The map is remarkably consistent," van Steenis wrote. He mentioned similar effects observable in the towns of Kent near Richborough and Ince on Merseyside. Thus we must conclude that transferring pollution into particular neighborhoods has serious negative consequences, especially for the children living there.

The sharpest criticisms of the "third wave" scheme for buying and selling "pollution rights" come from the viewpoint of democracy and justice. Peter Bahouth, former executive director of Greenpeace, told the *WALL STREET JOURNAL*, "If you were trying to handle drug problems in your community, you wouldn't be saying: 'Let's try to work this out with the drug dealers.'" [1]

Mark Dowie says, "The worst aspect of third-wave environmentalism is that it is essentially anti-democratic. Environmental protection, to the extent that it is achieved at all, is won through negotiation among the powerful. When Fred Krupp, director of Environmental Defense Fund, cuts a deal with General Motors over automobile emissions there is no public participation. When he enters that board room in Detroit whom does he represent? The 36 members of the EDF Board? The 120,000 passive contributors? The donor foundations? Himself, or some vague principle he believes will benefit the environment? More important

than these questions is whether or not he represents the public. And if he does, where was the public hearing?" Dowie asks.[9]

The intention of third-wave environmentalism is to protect the environment while preserving economic prosperity and price stability. But the hidden costs of cheap lumber, cheap energy, and cheap gasoline are extinct and vanishing species, loss of farmland, an early death for tens of thousands of city dwellers each year (see REHW #440), and future generations of deformed children. Until those "externalities" are dealt with in an open and democratic way, third-wave "market incentives" won't make sense.

To gain support from most environmentalists, free market enthusiasts would have to base their programs on charging the full, true environmental costs for all resources used and all harms done. And it would help if companies were required to seek out (and publicly discuss) least-damaging technical alternatives, including the alternative of doing nothing, thus requiring them to discuss the need for their project.

In sum, we conclude that the free market has a potentially valuable role to play in environmental protection, but that buying and selling "pollution rights" does not.

Objections to the third-wave concept of "pollution rights" come into sharpest focus if we consider that clean air and clean water are fundamental human rights, in the same category as the right to be free from arbitrary incarceration, or the right not to be tortured. It is inconceivable that human rights activists would negotiate the right to torture. ("You may torture 5% of your citizens, a 50% reduction from the 10% you tortured last year.")[10] But something similar is going on when EDF and other third-wave environmentalists negotiate buying and selling of the "right to pollute" and therefore the "right" to make people sick. Such a right never existed until "third-wave" environmentalists created it.

GET: Mark Dowie, LOSING GROUND (Cambridge, Mass.: MIT Press, 1995); \$25.00.

--Peter Montague

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[1] Rose Gutfeld, "Environmental Group Doesn't Always Lick 'Em; It Can Join 'Em and Succeed," WALL STREET JOURNAL August 20, 1992, pg. B1; and Mark Dowie, LOSING GROUND; AMERICAN ENVIRONMENTALISM AT THE CLOSE OF THE TWENTIETH CENTURY (Cambridge, Mass.: MIT Press, 1995), pg. 109.

[2] Alice LeBlanc, "The Third Wave," ENVIRONMENTAL ACTION (Winter, 1994), pgs. 24-26.

[3] Eric Mann, "Trading Delusions," ENVIRONMENTAL ACTION (Winter, 1994), pgs. 22-24.

[4] Dowie, cited above, pg. 117.

[5] Ayres quoted in Dowie, cited above, pg. 123.

[6] Dowie, cited above, pg. 111.

[7] Dowie, cited above, pg. 110.

[8] Dick van Steenis, "Airborne pollutants and acute health effects," LANCET Vol. 345 (April 8, 1995), pg. 923.

[9] Dowie, cited above, pg. 124.

[10] Dowie, cited above, pg. 245.

Descriptor terms: pollution rights; air pollution; electric power; coal; fossil fuels; human health; edf; regional clean air incentives market; chicago board of trade; emission reduction credits; fred krupp; dan dudeck; cfcs; lead; ozone depletion; greenhouse effect; greenhouse gases; global warming; carbon dioxide; losing ground; book reviews; richard ayres; nrdc; mark dowie; asthma; oil refineries; petroleum industry; democracy; human rights;