

Transit Equity and Environmental Vulnerability Matters

The Moral Hazards of Neoliberal Regulatory Regimes

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Abstract. In the aftermath of Hurricane Katrina, in 2005, it was reported that 1-in-4 households were without automobiles in the largely African American lower 9th Ward of New Orleans. The nexus between social vulnerability and natural disasters became a pivotal moment in the nation's political discourse when then-U.S. Senator Barack Obama chided Bush Administration disaster relief officials for criticizing black residents for not heeding calls to evacuate. Senator Obama responded sardonically, What does the Administration expect them to evacuate in – their SUVs! Environmental Justice Index is an indicator of areas with high concentrations of minority (non-white and/or Hispanic) and low-income populations (earning below 80% of Area Median Income) which have greater social needs at the regional level and are priority areas for locating transit investments because high proportions of low-income and minority populations tend to be transit users. Minority and low-income populations are more likely to require transit to access jobs and other resources, as well as to evade the impact of natural disasters and social stress. Livable Community Index is an indicator of areas with high concentrations of unhealthy economic, housing and environmental conditions that are in greater need regionally and should be prioritized for locating transportation investments. This paper examines the intersection of social vulnerability, environmental (in)equity and transportation resources on the far South Side of Chicago where the same ratio of poor households without automobiles reside as found in New Orleans' 9th Ward on the day that Hurricane Katrina made landfall.

Transit Equity and Environmental Vulnerability Matters: The Moral Hazards of Neoliberal Regulatory Regimes

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In the aftermath of the devastation wrought by Hurricane Katrina, in 2005, it was reported that one-out-of-four households in New Orleans' largely African American lower 9th Ward were without automobiles. The nexus of social vulnerability and natural disasters became a pivotal moment in the nation's political discourse when then-Senator Barack Obama chided Bush Administration disaster relief officials for criticizing black residents for not heeding calls to evacuate. Senator Obama responded, "What does the administration expect them to evacuate in – their SUVs!" In this paper, I look at the intersection of social vulnerability, environmental racism and transportation resources on the far South Side of Chicago where the same ratio of poor households without automobiles exists as found in New Orleans' 9th Ward on the day that Hurricane Katrina made landfall. Several indexes are used to measure the structural components of social vulnerability in poor, underserved communities.

This paper has a two-fold purpose. First, I summarize the methods and results of a regional transit equity research project I worked on, in 2008-09, which grew out of my policy research for Barack Obama's old community organization, Developing Communities Project, on the far South Side of Chicago, particularly in the Riverdale community area which was one of the original sites from which the environmental justice movement (EJM) emerged in the mid-1980s. The second purpose of this paper is more argumentative in that I unpack the structural constraints embedded in environmental regulatory policy that give the appearance of change in order that nothing changes.

In 2008-09, I was part of a project team that conducted a regional transportation analysis to measure the transit equity disparities across northeastern Illinois. The study was called *Transit Equity Matters: An Equity Index and Regional Analysis of the Red Line and Two Other Proposed CTA Transit Extensions*.¹ The study compared three proposed mass transit extensions, which are part of the Chicago Metropolitan Agency for Planning (CMAP) 2030 Shared Path Regional Transportation Plan for northeastern Illinois: Red Line Extension, Orange Line Extension, and the Yellow Line Extension. The transit extensions were three of six or seven transportation projects for northeastern Illinois that were being fast-tracked under the Federal Transportation Administration (FTA) New Starts program.

¹ See <http://www.uic.edu/cuppa/voorheesctr/Publications/Transit%20Equity%20Matters%2012.09.pdf>. For Developing Communities Project go to: <http://www.dcpchicago.org/>. The Transit Equity Matters project was funded by a \$150,000 grant from the Regional Transportation of Authority of Illinois as part of its Moving Beyond Congestion initiative. I served as principal grant-writer.

The three New Starts extensions were proposed for very different demographic areas. The Orange Line extension would extend beyond the line's terminus at Midway Airport to Ford City Mall through a rapidly changing working to middle class area. The Yellow Line extension would expand beyond its terminus at Howard Street on the north side of Chicago through a middle and upper-middle class enclave to Old Orchard Mall. The Red Line extension would continue beyond the line's terminus at 95th Street and the Dan Ryan Expressway through a demographic of over 90% African American, working class and poor neighborhoods to 130th Street adjacent to Altgeld Gardens, the most isolated public housing project in Chicago, which is also surrounded by multiple toxic waste sites principally operated by Waste Management, Inc.

Once surrounded by manufacturing plants, including steel mills, the 190-acre housing project is one of the sites where the environmental justice movement emerged in the early 1980s. Constructed right after World War II as temporary housing for returning GIs, developers used asbestos in insulation, tiles and other materials in the housing project. As a community organizer and first executive director of Developing Communities Project, the community organization that I worked for as public policy director from 1999 to 2014, Barack Obama participated in the early environmental justice campaigns at Altgeld Gardens.

Altgeld Gardens is located in one of the most hazardous toxic environments in North America. The project is built a liquid sludge dump in the vicinity of about 50 landfills, many of them still active. More than two hundred companies and four incinerators jostle the landscape around Altgeld, while miles of Calumet River waterway borders the project to the south as a water source that is unfit for human consumption and recreation. With all of the polluting facilities in the area, the petcoke storage facilities owned by the Koch brothers has recently drawn the most intense opposition from organizations like the environmental justice organization, People for Community Recovery (PCR).²

Environmental Justice and Livability Principles

Although the first environmental justice principles were drafted by the delegates at the First National People of Color Environmental Leadership Summit, in October 1991, the original 17 principles were modified by the federal government as three principles based on Title VI of the 1964 Civil Rights

Environment Justice Principles

The Department of Transportation's three environmental justice principles:

- Avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations.
- Prevent denial, reduction or delay of benefits to minority and low-income populations.
- Ensure full participation by all potentially affected communities.

² See the People for Community Recovery Archives in Woodson Regional Library of the Chicago Public Library, <http://www.chipublic.org/fa-people-for-community-recovery-archives/>. Also see "Vice" news' documentary "Petcoke: Toxic Waste in the Windy City," at <https://www.youtube.com/watch?v=PUJvtUZkoOw>.

Act, which were later extended by President's Clinton's 1994 Executive Order on Environmental Justice. Environmental justice principles have been embodied in various laws and regulations,

Livability Principles

Along with promoting equitable development and climate change issues, the following livability principles address transportation, housing and environmental challenges:

Provide more transportation choices.

- Promote equitable affordable housing.
- Enhance economic competitiveness.
- Support existing communities.
- Coordinate policies and leverage investment.
- Value communities and neighborhoods.

e.g., National Environmental Policy Act of 1969 and in the Clinton-era Transportation Equity Act for the 21st Century, or TEA,³ among others. My project team operationalized federal environmental justice principles by developing a regional equity index with 19 indicators against documentation of existing conditions, disclosing the intersection between environmental justice and transportation equity. As a synopsis of conditions in the region, the indicators were clustered in three groups, viz., transportation equity, environmental justice and community livability potentials. The combined equity index captures the degrees of need of the areas under comparison for the purpose of making the policy case for equalizing conditions across the region. In a regional framework, the vulnerability of communities is a function of measurable comparisons of their conditions, resources and development potential. Measuring their disparities is necessary but not sufficient to direct resources according to need and for the purpose of mitigating their vulnerability. (I will engage the problem of insufficiency of policy responses in the second part of this paper on the moral hazard of neoliberal

environmental regulation.) Advancing regional equity makes individual communities and the region as a whole less vulnerable.

In addition to environmental justice principles, federal agencies like the Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA), along with the Department of Transportation (DOT) formed the Interagency Partnership for Sustainable Communities to promote policies and community development investments to enhance the livability of underserved communities, ascribing six guiding livability principles to the decision-making process of policymakers seeking federal funding.⁴

Equity Index

Based on environmental justice and livability principles, the regional equity index is comprised of 19 indicators for the greater metropolitan Chicago region of northeastern Illinois. As an assessment instrument to highlight regional equity shortfalls, the equity index provides urban

³ US Department of Transportation Environmental Justice, <http://www.dotcr.ost.dot.gov/asp/ej.asp>.

⁴ Department of Transportation (DOT) Secretary, U.S. Department of Housing and Urban Development (HUD) Secretary and Environmental Protection Agency (EPA) Administrator announce interagency partnership for sustainable communities. News Release. June 16, 2009 www.hud.gov.

and regional planners and decision-makers with an evaluative instrument with which to make rational decisions on infrastructure investments in the region that reflect a more equitable allocation of resources than has been the case. While transit planning and funding has historically by-passed black underserved communities, instead going to revitalize transportation infrastructures in predominantly white neighborhoods and suburbs, thereby providing the material basis for economic development and job growth in the north, northwestern and western areas of the region, Chicago's black South and West Side communities became the most job inaccessible areas of the region. So, whereas entry-level job growth in the City's central business districts and collar county suburbs saw growth in the 1990s, an employment spatial mismatch developed for black communities due to the lack of adequate public transportation to high growth job centers in other parts of the region.

Historically, inner-city communities have been the victims of regional transportation planning as the construction of urban expressway systems displaced families and cut right through poor communities, leaving them to wither on the vine. Our transit equity study made the case that transportation disadvantaged communities now have the opportunity to use transportation planning and infrastructure development to provide a sorely needed economic stimulus to parts of northeastern Illinois that planners and decision-maker previously neglected.

The regional scope of the transit equity index relies on indicators for social equity, as well as economic, environmental, housing, health and educational equity. The 19 indicators of the transit equity index provide a layered diagnosis of the community health of the region. These are clustered into three groups identified for their potential as high priority assessments to govern decision-making for allocation of infrastructure investments.

Equity Index Indicators

The data used to score the three proposed extensions for equity potential using the 19 indicators was derived from the geographical data in Public Use Microdata Area (PUMA) and the 2005-07 Public Use Microdata Sample (PUMS) data from the U.S. Census and were calculated by the research staff at the Natalie P. Voorhees Center for Neighborhood and Community Improvement (Voorhees Center) in the College of Urban Planning and Public Affairs at the University of Illinois at Chicago, in 2008-09. The Voorhees research team used standardized scores to compare conditions of (in)equity across the region of northeastern Illinois by tracking the distribution of values, comparing them and designating their distance from mean values.⁵ A standardized score is calculated as a z statistical score for a geographical area using the formula

$$z = (x - \mu) / \sigma,$$

where:

- x is the raw score to be standardized;
- μ is the mean of the population; and
- σ is the standard deviation of the population.

⁵ Standardized values indicate how many standard deviations from the mean a value is for a specific area

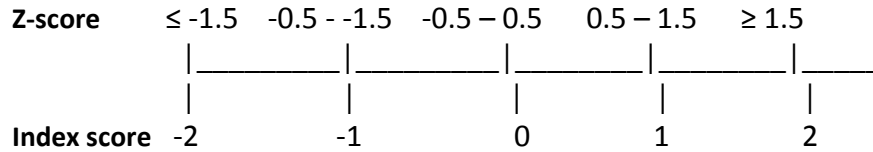


Diagram 1

| | | | | |
|------|----------|---------|---------|-----|
| | | | | |
| High | Med High | Neutral | Med Low | Low |
| +2 | +1 | 0 | -1 | -2 |

Table 1

Index Categories

| Transit Equity | Environmental Justice | Livability |
|----------------------------|---|---|
| 1 Disabled population | 6 Low-income pop. (80% area median income) | Economic 8 Unemployed pop. |
| 2 Households with 0 cars | 7 Minority as measured by pop. of non-white | 9 Business vacancies |
| 3 Elderly population | | 10 High cost loans |
| 4 High school student pop. | | Housing 11 Household costs |
| 5 Travel times to work | | 12 Rent costs |
| | | 13 Foreclosure risks |
| | | 14 Vacancy rate |
| | | 15 Housing choice vouchers |
| | | Education 16 High school dropout rate |
| | | 17 School mobility |
| | | Environment & Health 18 Park space per capita |
| | | 19 Lead risk in housing |

Table 2

We assumed that areas had greater need based on the following equity assumption: **Transportation equity** assumes that significant concentrations of transit dependent populations living in areas with long travel times to work are in greater need of transportation and as a result should be prioritized as areas for increased investments in transit because more transit dependent residents will effectively benefit from such transit investments than residents living in less transit dependent areas. Compared to people living in the Yellow and Orange Line extension areas, the residents in the Red Line extension area have had a greater historical need which has characterized their communities as vastly underserved “transportation deserts.”

- One quarter of the households in the impact area of the Red Line Extension is without cars compared to 12 percent for the region.
- 17 percent of the working population travel more than one hour to work, one way, compared to regional mean of 5 percent.
- 14 percent of the Red Line Extension impact area is comprised of an elderly population (65 and older) compared to regional mean of 11 percent.
- 19 percent of the population is disabled compared to 12 percent regionally.
- 72 percent of the population on the far South Side of Chicago is low-income in comparison to 45 percent for the regional mean.

On our transit equity index, the Red Line Extension scored a high 8 out of 10 in the number of positive indicators reflecting need. Transportation dependent residents in the Red Line Extension impact area would benefit demonstrably more from transit investments than residents in the area of the Yellow and Orange lines.

On the **environmental justice index**, areas with high concentrations of black and low-income residents (earning below 80 percent of Area Median Income⁶) have a greater need for public transit, they tend to be more frequent users of mass transit, and therefore from an equity standpoint, their areas of the region should be prioritized for transit investments. The Red Line Extension scored 4 out of 4 on the environmental justice index, much higher than the Yellow and Orange lines, because the impact area had more minority and low-income residents in need of public transit access to jobs and other resources.

Finally, the **livability index**, which has the most indicators (12), measures the equity potential of areas with high concentrations of unhealthy economic, housing, educational and environmental conditions. High scoring areas on the livability index demonstrate greater need regionally which should prioritize them for smart infrastructure and development investments. The Red Line Extension scored higher than the other transportation projects with 20 out of 24 points. In sum,

⁶ The area median divides the income distribution into two equal parts: one-half of the cases falling below the median income and one-half above the median. HUD uses the median income for families in metropolitan and non-metropolitan areas to calculate income limits for eligibility in a variety of housing programs. HUD estimates the median family income for an area in the current year and adjusts that amount for different family sizes so that family incomes may be expressed as a percentage of the area median income. For example, a family's income may equal 80 percent of the area median income, a common maximum income level for participation in HUD programs. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/glossary/l.

the total equity score for the Red Line Extension was 32 out of a possible 38 points across 19 indicators, demonstrating both an undeniable need and an efficient use of public resources to advance the equity and sustainability goals of the region.

The myriad environmental stresses on underserved communities on the far South Side of Chicago have fostered an understanding among residents about environmental issues, including around such issues as energy efficiency, lead poisoning risks in homes, green space and gardening, air quality conditions and toxic pollutants in the community. These environmental stresses expose community residents to poor air, water, soil and indoor environmental qualities. **Air:** Long travel times to work due to lack of accessible regional public transportation increase poor air quality due to the use of more automobile congestion. **Water:** High levels of contaminants have been found in water reservoirs and landfills throughout the area, while adjacent wetlands are the home of 14 different endangered or threatened species. **Soil:** Slag deposits from abandoned industrial works and active sites like the petcoke piles run by a subsidiary of Koch Industries in the Calumet area threaten human health and safety, as well as plant and animal life. **Indoor Environments:** The majority of the housing in the area was built before 1970, when lead exposure and energy efficiency in homes began to be viewed as important health and environmental issues. As recently as 2007, nearly half (48 percent) of homes on the far South Side of Chicago were estimated to have risks of lead exposure. One community area, Riverdale, is ranked as the poorest, most geographically isolated and underserved area in the region. Two dozen of the top polluters in northeastern Illinois are within 8 miles of Riverdale's Altgeld Gardens public housing project.

Data collection analyzing baseline environmental conditions, energy efficiency, lead risks, green spaces and gardening, toxic pollutants from landfills and to waterways provides some understanding of both the problems and the potentials of the area. Data analysis does not tell the whole story, nor does it operationalize a realistic understanding of the structural impediments to equitable policy choices.

Environmental Waves

How must we think strategically about the issues of environmental equity? The problems associated with environmental inequity do not only affect vulnerable communities, they have begun to affect those communities that until now thought of themselves as "protected." Protected communities may no longer take for granted that security = sustainability. While issues of environmental justice previously concerned vulnerable communities, they now involve so-called protected communities that may be potential environmental justice (EJ) allies in a social movement that has spanned U.S. history in four waves.

1st Wave: Environmentalism dates back to the turn of the 20th century when Americans (re)discovered the sublime beauty of the natural environment of the continental USA and recognized a need for government action to conserve it as a natural treasure.

2nd Wave: The 2nd phase saw another rediscovery of the natural resources of continental America, but greatly expanded to include more than those places designated by the government for preservation. 1960s environmentalism was part of a spiritual awakening among the post-World War II generation of youth to the quality of human life as inextricably tied to the quality of natural life. The quality of natural life influences the quality of human life, including our immediate social ecology as a natural resource of human habitation. This represents the *sustainability paradigm*. As a result of this paradigm shift in environmentalism, the focus shifted to the industrial impact on the natural quality of our living environment. The industrial impact on natural environments had also been a major concern of 1st wave environmentalism. Then, however, the conservation of natural sites against industrial incursions was handled covertly by a “gentlemen’s agreement” between industrialists and government leaders. 2nd wave environmentalism democratized the issues and the roles of stakeholders, predicated on the new paradigm that encompassed the quality of human life and individual health. Rachel Carson’s book, *Silent Spring*, on DDT pollution of the food chain and the 1969 Santa Barbara oil spill exposed the threat of unregulated industrialism to human life. The first Earth Day, April 22, 1970, in which some 20 million people participated, was a high point of 2nd wave environmentalism.

3rd Wave: The 1978 Love Canal toxic waste exposé signaled 3rd wave environmentalism. It made “toxic waste” an environmental *icon or brand*. The media awakened the public to the dangers of toxic pollutants that we live with daily. As producers and as consumers, the American people come into daily contact with industrial substances that are toxic or carcinogenic (i.e., cancer producing). Not only could industries not be trusted to regulate their polluting and toxic forming activities, governments could not be trusted to regulate industries and ensure the public’s environmental protection.

4th Wave: From 3rd wave environmentalism of the late 1970s was born the 4th movement, in 1982, called *environmental justice*. 3rd wave environmentalism exposed the widespread impact of industrial polluting and toxic activities on the general population. The ascriptive factors of race, class and gender revealed the *knowing negligence* of industry and government in siting polluting industries in black, Latino, Native American and poor white communities.

Moral Hazards of Neoliberalism in Environmental Equity Matters

I believe that the period after liberalism is a period of major political struggle more consequential than any other of the past five hundred years. I see forces of privilege who know very well that ‘everything must change in order that nothing change,’ and are working skillfully and intelligently to bring that about.

– Immanuel Wallerstein, *After Liberalism* (1995)⁷

The policy response of the government to the environmental threats exposed by the successive waves of the environmental movement was codified over time in the regulatory regimes of the

⁷ Immanuel Wallerstein, *After Liberalism* (New York: New Press, 1995), 3.

liberal welfare state. The regulatory law governing corporate and industrial behavior focuses on the harmful effects of business practices on the public. The industrial life of corporations is however one area in which law violations often go unsanctioned or unpunished. This is not necessarily due to lack of will but to the very structure of the law itself. The ethical problem of the laws governing corporations is that the equality guaranteed by the law results in social inequality and in the distribution of illegal outcomes. This is especially the case with sanctioning, or lack of sanctioning, industries for their pollution of the environment.⁸

To understand the favorable inequality that corporations enjoy before the law, we must look at how our culture constrains regulatory law in two fundamental ways. First, we as a society privilege private sector costs (which are measurable by cost-benefit analysis) over public stakeholder interests (e.g., clean environment) which are more difficult to measure. The second ethical norm or value in regulatory law that favors corporations is the material resources norm or value of goods and jobs. Corporations produce and control two public resources: goods, commodities or services and the jobs that produce them. It is this second ethical value that informs our laws and makes government regulation of corporations morally suspect.

The moral structure of the law that favors corporations begins with the fact that the law is the legal comprehension of different types of criminality. The technical, legal and financial complexity of corporate (criminal) activities, plus their legal ambiguities, makes corporate crime different than street crime. Complexity creates problems of detection of criminal behavior by corporations. Problems of definition and criminal intent in commercial transactions also favor corporations. Industries, including toxic polluting industries, are intimately involved in shaping the definitions of crime that are applied to their behavior and activities by the law and by regulatory enforcement agencies.

Regulatory definitions or rulemaking occur *after* regulatory legislation has been debated in the “bright light of day” and has been decreed. The rulemaking process, however, takes place out of sight of public scrutiny and after regulatory legislation has passed. Regulatory law contrasts sharply with conventional criminal law where defendants stand passively before the law. Conventional defendants don’t get to write the laws that govern their behavior.

Corporate crime is different from conventional crime in one other way. Because corporate crime is governed by the highly technical nature of corporate or industrial operations, there is a built-in ambiguity when it comes to detecting criminal activity. It is easy to blur the line between crime and compliance. Corporations are believed to operate in the public good by producing goods, services and jobs. What constitutes corporate “crime” is therefore open to ethical debate. Where moral ambiguity is prevalent, and where scientific demonstration of the toxic effects of corporate polluting is contested or debated, corporate “crime” is encouraged because of the repertoire of justifications available to corporations and government agencies.

⁸ The following argument is a modification of version of Peter Yeager’s perspicacious treatment of environmental law in Peter C. Yeager, “Law, Crime, and Inequality: The Regulatory State,” John Hagan and Ruth D. Peterson (eds.), *Crime and Inequality* (Stanford: Stanford University Press, 1995), 247-276.

Where corporations break regulatory laws, they are said to be “out of compliance” with regulations. Sanctions (“punishment”) are minimal and often involve nothing more than a decree to take steps to come back into compliance with regulation rather than imprisonment. Corporations are shielded from strict sanctions or punishment because enforcement agencies bargain away strict punishment in exchange for compliance over time:

- Due to the threat of industry closure and loss of jobs, or
- Because of costly legal procedures.

The multi-level complexity of corporate hierarchies makes it difficult to detect or charge individual responsibility for criminal behavior. High-level corporate officers are therefore shielded from prosecution because of the legal requirements of proving that they had knowledge of and intent to engage in criminal activity. The larger and more complex a corporation is, the less likely that it or its executives will be prosecuted. Chronic shortages of technical, scientific and legal resources available to government regulatory agencies force them to overlook, ignore and soft sanction corporations for their criminal polluting of the environment. Guarding bureaucratic turf by regulatory and enforcement agencies also reduces regulatory enforcement.

The legal structures and processes that produce the systemic failures to enforce public policy regulation result in *legal inequality* favoring industry polluters. The most organized are more favorably treated before the law. Because the public is always forced to trade-off the public good of a healthy environment in exchange for a “healthy economy,” the public through social movements like the environmental justice movement are often the only “agency” left to prevent regulatory capture of good public policy by corporations. When regulatory statutes are new and threaten established ways of doing business, and when the law is complex, enforcement allows for wide discretionary judgment by government agencies. Despite public input into legislative decision-making, the law is biased in favor of corporate interests instead of the public interest.

The content of regulatory law unequally distributes points of access to the decision-making and enforcement processes among opposing interests. Because complex technical knowledge shapes the distribution of access to decision-making, thus limiting the success of policy in the public interest, corporate interests are favored over the public interest. Corporations control the technical knowledge that goes into the regulations that govern them; and government agencies depend on that knowledge for complex regulatory rulings.

The moral tone of the law shifts with corporate regulation. Because regulatory law concentrates on the limits of technology instead of on the harm to the environment and to human health, the law favors industry. This leads to demoralization of the public’s attitude toward regulatory law and the government in general. Environmental demoralization of the public in turn leads to cost considerations being privileged over environmental and human health benefits. Regulatory agencies like the EPA then resort to making exceptions to the law

for industry, which get upheld by the courts against environmentalists. Courts often favor industry arguments for cost considerations of technology fixes to pollution problems using such criteria as BPT (Best Practicable Technology), and BAT (Best Available Technology) as a hedge on compliance schedules.

The more decision points provided by regulatory law to compromise it, the more the law can be undermined by industry, further demoralizing the public attitude toward environmentalism. The moral force of environmental law is undermined by industry's knowledge advantage when it negotiates with enforcement agencies in low media visibility settings that depend heavily on industry-supplied information to agencies already sympathetic to the industry's "plight." Laws are transformed into rules that are applied to industries. Once the regulatory burden of laws like the Clean Water Act is shifted onto agencies like the EPA, the agency is forced to expand its discretionary considerations, i.e., to take into account a number of industry considerations like cost.

While this allows for and makes more necessary the expansion of public inputs into the process, the proliferation of decision points also increases industry inputs that undermine the input of the public, and the policy as well. Law becomes less moral and more rational, i.e., it becomes more a rational calculation of technology costs and less a concern of protecting the natural environment, human life and health. This leads to public disenchantment with the law. Polluting becomes legal as government agencies become reluctant to intrude on the prerogatives of industry and as enforcement becomes discretionary. With full knowledge of how environmental regulatory law shields industry's violation of our environment and our health, we can now organize for environmental equity with our eyes wide open.