

# MOUNTAINTOP MINING IN APPALACHIA

Understanding Stakeholders  
and Change in Environmental Conflict

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# ONE

## Introduction

### *The Bands Play On*

*As the band finished its last song on Labor Day 2009, couples reluctantly turned toward their cars. Many families had already returned home to put tired kids to bed. Rock-legend-turned-hunter-and-conservative-icon Ted Nugent and his band had blasted familiar music as the final act of an all-day concert on a large field—once the site of a surface mine—in southwestern West Virginia. The free concert, which had also featured Hank Williams Jr., provided welcome entertainment for the crowd of mostly coal miners and their families. Despite the blistering heat of the late summer day, they had rocked to the music and enjoyed eating barbecue and drinking cold beer and soft drinks from the food stands. Some wore shirts bearing the name of their mining company or the increasingly popular Friends of Coal logo. Concert organizers called the afternoon of performances and speeches the Friends of America rally, and it proved to be a welcome diversion for these working people.*

*Mining coal in Appalachia is not an easy way to make a living. Miners daily face the threat of injury or worse, and the mining industry's apparently increasing vulnerability to economic competition and environmental concerns in an unstable economy creates anxiety for everyone. Many people attending the concert came from families in which men had proudly made their living mining coal for several generations. By sponsoring the rally, the coal companies were not only demonstrating their generosity but also showing miners that they counted on their loyalty, and many miners believed in the message—shouted out by Ted Nugent—that the coal industry would provide them with jobs for a long time (Cooper 2009).*

*Earlier that same summer, a different group of people gathered not far away, in North Carolina, to enjoy music. In coming together, their goal was to support the movement against a type of surface coal mining sometimes known as mountaintop removal mining (MTR). Concert attendees came from across the United States and included young people who had traveled to the region for the summer to support local anti-MTR activists. Many in the audience were Appalachians of diverse ages and backgrounds who had concerns about the impacts to their communities from MTR. Together, they danced and sang to the strains of country music, folk, and rock interspersed with speeches designed to fire them up for more action against the MTR side of the coal industry.*

Country music star Kathy Mattea not only wowed the crowd with her vocals but urged those present to work against MTR. Banners and T-shirts displayed names of the many organizations that had long sought to draw attention to controversial coal-mining practices, including Ohio Valley Environmental Coalition, Kentuckians for the Commonwealth, Sierra Club, and Southern Appalachian Mountain Stewards. Everyone enjoyed socializing that day, and organizers hoped to raise enough money to help relocate a West Virginia school sitting directly downstream from an earthen dam holding back millions of gallons of mine waste. Although the fight against MTR had been going on for years, and mining had consumed ever larger areas of West Virginia, Virginia, and Kentucky, those who opposed MTR sensed that their issue was on the verge of gaining the attention and sympathy of a national audience (HuntingtonNews 2009).

Before and after both concerts, individuals representing these starkly distinct perspectives—those who support MTR and those who oppose it—had confronted one another face to face on many different occasions. Whenever they did, tensions ran high. Many times violence threatened to break out and sometimes it did. In some instances—for example, at a hearing over whether a coal company should receive a permit for MTR—those attending were well aware not only of the tension but also that the future of coal mining in the region was at stake (Ward 2009).



Coal miners and anti-MTR activists are two major categories of stakeholder in the large and complex conflict over mining in Appalachia. In describing them and the many other stakeholders from the perspective of the conflict field, this book offers a window into the conflict over a form of surface mining that gives rise to one of the most significant environmental conflicts in the United States.

Before we can begin to write about stakeholders and the conflict over mining practices, we need to explore the use of language in writing about these issues. Our intent in this book is not to favor any particular perspective but to present those divergent perspectives in ways that help the reader understand what is at stake for different people and why they act as they do. But the use of language is itself an element of the conflict, and our choice of vocabulary may attract or alienate different stakeholders despite our intentions.

For instance, *coalfields* is a common term for the location in Appalachia where coal mining has historically taken place. Some residents use that

term with pride. But other residents reject the term, arguing that it implies that coal mining is the only activity worth featuring in a region with many other dimensions. In this book, we generally use the term *coalfields* only in referencing situations where the stakeholders themselves do so. We refer instead to Appalachia, knowing too that this geographic reference also has a contested history (see, e.g., Biggers 2006).

Until now we have called the conflict a conflict over mountaintop removal mining, but even the name of the practice is controversial. Coal producers and some community advocates reject the label MTR, as it focuses on the negative idea of removal rather than on mining, which has economic and other, more favorable, connotations. They prefer the more general phrase *surface mining*. Other environmental advocates believe that *surface mining* is a deceptive term because it fails to mention one of its most significant problems: the destruction of mountaintops. From this point forward, while acknowledging that others prefer different terms, we use the phrase *mountaintop mining* (MTM) because we believe it is both descriptive of the practice and less tainted by the perception of partiality.

### *Mountaintop Mining and Environmental Conflicts*

The issues related to mountaintop mining have their own particular origins and dynamics and their own sets of stakeholders. But similar issues characterize other environmental conflicts, and similarities also exist in the interactions among stakeholders. Environmental conflicts are ubiquitous, complex, and enduring. They represent a considerable financial and social drain on communities. These conflicts also help shape, and in turn are shaped by, foundational issues such as human well-being, ecosystem health, and the viability of human communities.

Conflicts in the environmental arena invoke passion and controversy throughout the world, partly because they involve competition between the provision of fundamental human needs for clean air and water and uncontaminated land, on the one hand, and economic sustenance and development, on the other. But the intensity of many environmental conflicts also derives from competing visions of, and claims to, individual and community identity.

Those identity issues are significant in MTM, and we explore them throughout this book. But the sheer scale of environmental and economic considerations related to MTM are also staggering. Hundreds of thousands of acres of land are being altered dramatically, with the tops of mountains literally blown away, and hundreds of miles of streams filled or contaminated. At the same time, hundreds of millions of dollars and thousands of jobs are at stake in a region where poverty and unemployment are endemic. For those seeking slogans, the competing calls to “Protect the environment” versus “Protect jobs” are simple ways to depict the conflict. But, as we will show, the reality of the MTM conflict is much more complex than any slogans might suggest.

The practice of MTM has deeply divided Appalachian communities. While community and environmental activists fight to end it, mining companies, miners, and other community activists fight to keep it going. This book is about that fight and, in particular, the efforts and experiences of the stakeholders directly and indirectly involved in it.

### *Why Is It Important to Understand MTM?*

For those stakeholders who are directly involved in the conflict, nothing is more important than MTM. For those who have raised alarms about the practice of MTM, at stake are the safety and security of their homes, schools, and communities, as well as the heritage represented by the region’s natural resources and mountain beauty. For those who work in the mining industry, at stake are employment, income, and identity as coal producers. For public officials in the region, at stake are concerns about economic development, a shrinking tax base, and potential hard times to come. And for all stakeholders, at stake is their identity: who gets to claim to be the people who care for their community, who work hard, who support their families, who protect their children, who prepare for the future, and who preserve their heritage.

For those who have little connection to MTM directly, or for whom questions of energy policy may not be of much interest, this issue nonetheless provides a compelling case study of challenges to democracy and governance. Who decides the future of a community, a region, a landscape,

a river, a mine? Who benefits from any gain, and who is left out? What say does a community have when it faces irrevocable change, whether through MTM, efforts to outlaw MTM, or changes in the energy economy? Whose voices should be heard on this issue? What does it take for the voices of stakeholders to have an impact?

### *Organization of the Book*

This book presents a complex conflict along with key concepts and theories from the field of conflict analysis and resolution. Analyzing any conflict may identify deep-rooted causes, which often go well beyond the surface issues that parties to a conflict articulate. Looking deeper can reveal causes that stand in the way of resolution, such as structural impediments in the form of institutions, politics, and inequality or the strongly held values of parties that find it difficult to resolve their differences. These causes are present in the conflict over MTM.

In this book we focus particularly on stakeholders, a central concept in the conflict field, and ask: Who considers themselves stakeholders in the MTM conflict? Who has not yet realized that they have a connection to MTM? What happens when people become aware that they have a stake in a conflict? What are stakeholders doing to overcome the impasse between supporters and opponents of MTM? Also of interest is that some people get involved in the MTM conflict out of concern for the environmental effects of mining, even though their own stake is less immediate than that of individuals who depend on mining for a job or who suffer its environmental impact directly. In this way the conflict over MTM is similar to other environmental conflicts, and thus the lessons learned about stakeholders in the MTM conflict are relevant to understanding many other conflicts over environmental issues.

Through the chapters that follow you will read about how this conflict has come to a head, assess the actions of some of the key stakeholders, and ponder the future of coal mining in two areas of southern Appalachia: southwestern West Virginia and southwestern Virginia (see Map). You'll find out that you, too, are a stakeholder in the conflict over mining in Appalachia. You might be challenged to consider whether you

have a say in the conflict over MTM or whether you may have an impact on its future.

Chapter 2 provides a broad look at the conflict over mountaintop mining and maps out its central components. What are the actual practices of MTM, and why do they generate such conflict? What role do efforts to regulate MTM through state and federal branches of government play in the conflict? In fact, much of the MTM conflict centers on attempts by mining companies to acquire permits to mine and on efforts to prevent permits from being issued. These struggles over the regulation of coal mining involve institutions with home bases outside the coal-producing region, such as the US Army Corps of Engineers (USACE), the Environmental Protection Agency (EPA), and the Sierra Club, as well as other national environmental organizations.

Chapter 3 explains our approach to stakeholders. A simple definition of *stakeholder* is any person involved in, or affected by, a conflict. Our discussion presents multiple ways of understanding the stakeholder concept and applies that concept to the conflict over MTM. In this chapter you'll learn more about the two camps of stakeholders mentioned above, and you'll find out that a wide variety of other people, groups, and institutions are also stakeholders. Many stakeholders (for instance, politicians, coal operators, and energy consumers) were not present at the two music festivals described in the vignettes at the beginning of this chapter, nor at the tension-filled encounters over the years. In fact, millions of people are stakeholders in the conflict over whether and how to mine coal. If you live on the Eastern Seaboard of the United States, you might be a consumer of electricity from power plants that burn coal mined in Appalachia. If you live in another part of the country, the utility that provides your power may be operating in competition with Appalachian coal interests. If you live outside the United States, particularly in China, you may be using coal imported from the Appalachia region. In any of these cases you are a stakeholder, too.

Chapter 4 takes a closer look at the relationships among stakeholders and how they have shifted over the years as the conflict has developed, escalated, and changed. Different aspects of the stakeholder concept come alive as those involved pursue various strategies and tactics, including lawsuits,

rallies, mediations, public discussions, and lots of behind-the-scenes activities. This chapter also addresses the threats and violence that have been inherent in the MTM conflict from the beginning. While violence, including that between stakeholders, is not new to the region, instances associated with the conflict have shocked residents and outsiders alike and raised fears of potential escalation. Also highlighted in the chapter are attempts to reduce and prevent violence using approaches from the conflict resolution field.

Throughout the conflict over MTM, productive discussions that bring together parties holding divergent perspectives on MTM have been few and far between. The deep divisions in the outlooks of stakeholders in the conflict, and the violence that has sometimes erupted, have stood in the way of dialogues, negotiations, visioning sessions, or just plain talk among stakeholders. Chapter 5 tells the story of one of the few attempts to engage stakeholders in a consensus-building project: the Clinch River Valley Initiative. The stakeholders who participated in the process have had profound experiences and have achieved significant goals, and the chapter concludes with an assessment of how consensus-building processes might be used more broadly in this and other environmental conflicts.

Chapter 6 returns to the struggle over how MTM is regulated, specifically exploring how legal actions ranging from lawsuits to legislation to federal and state regulations are intertwined with local, state, and national politics. For stakeholders, involvement in a highly politicized conflict has multiple consequences. For example, those stakeholders with little political or economic power might find it difficult to be heard or to have an impact. Yet even powerful parties, such as coal companies or national environmental organizations, seek the support of a wide range of stakeholders through advertising campaigns, films, and protests. Stakeholders always play key roles in the transformation of a conflict; however, many factors can lead to lasting and significant change.

The book's concluding chapter reviews the points made about the stakeholder concept and forecasts the future of the MTM conflict. The conclusion challenges you, as a reader, to consider your role as a stakeholder in the conflict and to determine what that might mean for your actions.

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In Appalachia, coal operators are removing the tops of mountains and burying hundreds of miles of streams with rock waste as they mine coal seams hundreds of feet below the mountain top. Mountaintop removal coal mines have changed the shape, altitude, and ecology of large areas of the Appalachian coalfields. This photograph shows part of the Kayford Mountain Mine in West Virginia on October 22, 2006. [© Vivian Stockman, Ohio Valley Environmental Coalition (OVEC).] The most controversial mines are known as mountaintop removal mines because coal companies literally remove the tops of mountains with dynamite and earth-moving machines, called draglines, in order to reach coal seams. Mountaintop mining waste contains chemical compounds that otherwise remain sealed up in coal and rock. Rainwater falling on a valley fill becomes enriched with heavy metals such as lead, aluminum, chromium, manganese and selenium. Typically, coal companies construct filtration ponds to capture sediments and valley-fill runoff. "There is not a legal mountaintop mining operation in Appalachia," he says. "There literally is not one in full compliance with the law." Since 1990, U.S. policy under the Clean Water Act has been "no net loss of wetlands." (2005) Mountaintop Mining/Valley Fills in Appalachia: Final Programmatic Environmental Impact Statement (US Environmental Protection Agency, Philadelphia) EPA 9-03-R-05002. μ. Paybins KS You are going to email the following Cumulative impacts of mountaintop mining on an Appalachian watershed. Message Subject (Your Name) has sent you a message from PNAS. Message Body (Your Name) thought you would like to see the PNAS web site. Trading Mountains for Moonscapes Mountaintop removal and the dumping of wastes and debris into adjacent valleys is the greatest earth-moving activity in the United States.<sup>4</sup> To date, 502 peaks have been leveled throughout Appalachia, including Kentucky (295), West Virginia (135), Virginia (65), and Tennessee (7).<sup>5</sup> These mined mountaintops encompass more than 1.1 million. 48 EPA, 2003, "Draft Programmatic Environmental Impact Statement on Mountaintop Mining/Valley Fills in Appalachia" 2003, p. III.R-5. 49 Ibid., Appendix G, p. 12. 50 OSMRE, 2009, "2008 Kentucky Evaluation Report," p. 53, <http://www.osmre.gov/Reports/EvalInfo/2009/KY09-aml-reg.pdf>.