Cash on the Table

Markets, Values and Moral Economies

Edited by Edward F. Fischer

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Mining Industry Responses to Criticism

Stuart Kirsch

The relationship between corporations and their critics plays an important role in contemporary capitalism. The popularity of neoliberal economic policies has led the state to neglect its regulatory responsibilities, and the task of monitoring international capital has consequently shifted from the state to NGOs and social movements. Corporations employ a variety of "corporate social technologies" (Rogers 2012) designed to manage these relationships, including discursive forms that borrow or co-opt the language of their critics. Studying these interactions provides a different perspective on markets and morality than tracking commodity and supply chains (Tsing, chapter 4, this volume) or conducting ethnographic research on stockbrokers (Zaloom 2006).

Consider the mining industry. For decades, mining companies managed to maintain a low profile. The industry's lack of visibility is related to the way that most metals are sold to other companies rather than directly to consumers. This practice can be contrasted with branding in the petroleum industry in which consumers engage directly with corporations at the pump.[1] The remote location of most mining projects also historically afforded them relative freedom from oversight or interference.

But during the 1990s, sustained critical attention from NGOs and increasingly effective strategies and tactics of resistance by indigenous

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peoples took the industry by surprise. The widespread nature of these conflicts is another consequence of the spread of neoliberal economic policies, including the promotion of foreign direct investment, which opened up new regions of the world to minerals extraction. Many of these new projects are located in marginal areas in which indigenous peoples have retained control over lands not previously seen to have economic value and where development has historically been limited or absent. Suzana Sawyer (2004) argues that the neoliberal dismantling of the state ironically transforms corporations operating in rural areas into new sites of governmentality and indigenous peoples into transgressive subjects. Activists and NGOs now regularly collaborate with indigenous political movements, exploiting new technologies ranging from the Internet and cell phones to satellite imaging that enable them to monitor corporate activity in approximately real time wherever it occurs (Kirsch 2007).

The unexpected rise of indigenous opposition provoked a "crisis of confidence" in the mining industry (Danielson 2006:7). At the 1999 World Economic Forum in Davos, and in subsequent meetings in London, executives from the world's largest mining companies met to discuss these issues. They identified their strained relationship with indigenous peoples as their greatest challenge (Mining Journal 2001:268). They acknowledged that "non-governmental organizations were becoming more powerful and vocal" and that "the rapid transfer of information [about] impacts and regulatory developments" had facilitated NGOs "in driving the agendas… of concern to the mining industry" (Mining Journal 2001:267, 268). They were forced to concede that "despite the industry's best efforts…[their] message had failed to get through, leaving them 'too often on the defensive'" (Mining Journal 2001:267).

Since the 1990s, the mining industry has devoted increasing attention to its critics. This chapter examines some of the industry's primary strategies in responding to its critics, including discussion of the three phases of corporate response to critique (Benson and Kirsch 2010a). One of the key strategies of corporations is to co-opt the discourse of their critics. For example, mining companies increasingly draw on the language of corporate social responsibility to represent their practices (Rajak 2011). This chapter focuses on how the mining industry promotes itself as sustainable. The corporate oxymoron *sustainable mining* represents the industry's response to criticism of its environmental impacts (Benson and Kirsch 2010b; Kirsch 2010). I show how the concept of sustainability has undergone a progressive shift in definition from its original emphasis on the environment to current use of the term in which profits and development have become paramount,

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all but obscuring reference to the environment. Corporations benefit from strategies that persuade or neutralize their critics, but investigation and analysis of these strategies reveals new opportunities for political activism and reform.

PHASES OF CORPORATE RESPONSE

The initial phase of how corporations respond to critique entails denial that the criticism is valid or that legitimate problems exist (Benson and Kirsch 2010a). The objective is to limit corporate liability for negative externalities, those costs for the environment, society, or human health that are not taken into account by the project. For example, mining companies rarely pay the full costs of the water they use, including opportunity costs for other users, such as farmers. Mining companies also fail to pay the total economic costs of the pollution that results from mineral extraction. In the United States alone, more than 156 abandoned hard-rock mining sites have been targeted for federal cleanup. This intervention will cost the US government an estimated $15 billion, which is more than ten times the annual Superfund budget for all large-scale environmental problems (Office of the Inspector General 2004).[2] Requiring payment for the externalized costs of mining would not only erode profitability but would also mean that many existing mining projects are no longer economically viable. Full disclosure of the environmental legacies of mining could also erode the industry's legitimacy. The desire to avoid accountability for the negative externalities of mining means that the denial that serious problems exist and the refusal to engage with critics is the status quo for the industry.

A key strategy of the phase 1 corporate response to critique is the sowing of doubt about the extent or severity of the negative impacts. This approach was pioneered by the tobacco industry, which for many years argued that the link between smoking and disease had not been scientifically established (Brandt 2007). Until recently, the petroleum industry continued to deny the link between fossil fuel consumption, the accumulation of carbon dioxide, and global climate change. The artificial promotion of uncertainty has become standard practice across a wide range of industries (Davis 2002; Michaels 2008).[3] This frequently includes promotion of counter-science that supports the interests and claims of industry (see Beck 1992:32).

Consider the following example of a phase 1 response to criticism by Ok Tedi Mining Ltd., which operates a large gold and copper mine in Papua New Guinea. Since the mid-1980s, the mine has discharged more than 1 billion metric tons of tailings, the finely ground material that remains after

Figure 15.1
Ok Tedi Mining public relations poster from the late 1980s.

the valuable metal has been extracted, and waste rock into the Ok Tedi and Fly Rivers. Pollution from the Ok Tedi Mine has caused extensive deforestation downstream, the collapse of local fisheries, loss of biodiversity, and potential threats to human health (Kirsch 2006, 2007, 2008). Yet in response to early concerns about the environmental impacts of the project, in the late 1980s the mining company distributed a public relations poster that denied that the mine posed a threat to the environment (fig. 15.1).

The Melanesian Tok Pisin text for the poster reads "Environment: The company protects the river, forest, and wildlife. No harm will come to you when the waste material from the gold and copper is discharged into the river." A blue sky soars over green fields, an orange butterfly, and an orange and red flower, suggesting that all is well. This reassuring message

Figure 15.2
Deforestation along the Ok Tedi River.

is contradicted by the following photograph of deforestation on the Ok Tedi River taken by the author in 1996, in which the problems caused by the Ok Tedi Mine are abundantly clear (fig. 15.2).

When problems become too great to deny and the opposition too effective to ignore, companies may shift to a phase 2 corporate response, which involves acknowledgment that problems exist, that something is harmful or defective, and that the critique has some scientific validity or ethical merit. Until the people living downstream from the Ok Tedi Mine filed a lawsuit against the parent company BHP (Broken Hill Proprietary Ltd.), the company actively promoted its image as a responsible steward of the environment. Consider the following advertisement published by BHP in the *Mining Environmental Journal* in February 1997, shortly after the lawsuit against the company was settled out of court, which has the caption "Leaving Our Environment the Same Way We Found It" (fig. 15.3). The advertisement depicts BHP's Island Copper Mine in British Columbia, Canada, after mine closure.[4] Like the optimistic cartoon produced by the Ok Tedi Mine (see fig. 15.1), this image is also deceptive. Although the ad appears to depict a healthy freshwater lake, the mining pit has been filled with ocean water to prevent the development of acid mine drainage (Poling 2002). Like other salt lakes, the water in the mining pit at the Island Copper

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Figure 15.3
"Leaving Our Environment the Same Way We Found It" (BHP ad, 1997).

Mine does not provide support for organic life. The advertisement reflects BHP's pursuit of a phase 1 corporate response to critique that seeks to conceal the company's impact on the environment.

After the out of court settlement of the lawsuit against BHP and the Ok Tedi mine, the company was forced to acknowledge its impacts on the environment. The settlement was initially valued at $500 million in compensation and commitments to tailings containment (Tait 1996:19; see Banks and Ballard 1997). After the settlement, Ok Tedi Mining Ltd. admitted that the environmental impacts of the project were "far greater and more damaging than predicted" (OTML 1999:1), leading BHP to conclude that the project was "not compatible with our environmental values" (Economist 1999:58). The cover of BHP's environment and community report for 1999 conveyed a very different message than the Island Copper advertisement

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FIGURE 15.4
"There's No Question Our Business Has An Impact" (BHP report, 1999).

published two years earlier (fig 15.4). Instead of attempting to reassure the public that the company would restore the environment to its original state, BHP acknowledged its impact on the landscape with an image of a coal seam being exploded by dynamite. The caption "There's No Question Our Business Has an Impact" illustrates BHP's shift to a phase 2 corporate response to critique.

Despite acknowledging that problems exist, phase 2 responses to corporate critique are generally limited to symbolic gestures such as the payment of compensation or small-scale improvements. The goal of these responses is to avoid paying the full cost of eliminating negative impacts. In the Ok Tedi case, the mining company installed a dredge in the lower Ok Tedi River, which lowers the riverbed and reduces flooding and deforestation but removes only 40 percent of the tailings discharged into the river system

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and 20 percent of the waste material produced by the mine. Meanwhile, deforestation along the river corridor continues to spread downstream and now affects more than 2,000 square kilometers.

Whereas in phase 2 the threats posed to the corporation are limited, a phase 3 corporate response is characterized by crisis management. Phase 3 is defined by the risk that the problems facing a particular corporation or industry will become financially and socially too great to manage. The threat of catastrophic loss, bankruptcy, industry collapse, or the complete loss of legitimacy motivates corporations to shift to a phase 3 response. These problems force the corporation to actively engage with its critics and participate in the shaping of politics that lead to the regulation and management of industry-related problems. For example, after it was established that exposure to asbestos causes lung cancer and other respiratory ailments, legal action against the industry led to bankruptcy proceedings. Paint manufacturers faced similarly catastrophic costs due to the effects of lead on children's nervous systems. However, the threat of financial insolvency posed by the costs of cleanup and compensation resulted in the negotiation of novel agreements that allowed corporations to continue operating so that they can make partial restitution for the harms they caused. Other costs from asbestos and lead were socialized by their transfer to the government or the individuals affected, including consumers made responsible for cleaning up properties affected by these toxic materials (Brodeur 1985; Warren 2001).

The phase 3 corporate response to critique takes many forms. It can involve the development of certification programs that provide problematic processes of production and consumption with the stamp of public approval (Szablowski 2007). Corporations may also attempt to assimilate their critics within corporate structures by forming partnerships with NGOs or recruiting activists to join corporate boards of directors, reducing their ability and motivation to bring about radical restructuring and change. Conversely, other critics may be portrayed as radical and impractical, a strategy of divide-and-rule that can have disruptive consequences for NGOs and civil society. Another form taken by phase 3 corporate response to criticism is the institution of what has been called "audit culture" (Power 1994; Strathern 2002), the development of regimes of monitoring and accountability that avoid the imposition of significant structural change (Szablowski 2007).

The core of phase 3 corporate response is the strategic management of critique and the establishment of a new status quo. Corporations may also envision the possibility of competitive advantage and the achievement of a

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new kind of legitimacy through their participation in regulatory processes. For example, support for the Kimberly Process that restricts the trade of "blood diamonds" from conflict zones in Africa was financially beneficial to De Beers, which controls the lion's share of the world's diamond trade and benefits from the reduction in supply, keeping prices high.

Corporations and industries move back and forth through the different phases of response. Particular corporations within a given industry may respond differently to critique and thus may be located in a different phase than their competitors, and all three phases exist across capitalism at the same moment. In general, phase 1 is the most profitable position for corporations to occupy because they are able to avoid financial liability for costly externalities. Corporations generally resist the move to phase 2 because of the costs added by negotiation with their critics. However, in some cases it may be strategically advantageous for corporations to move preemptively into a phase 2 posture in order to manage their critics. This strategy is promoted by the public relations industry, which encourages corporations to meet and educate their critics before conflict arises or even the public recognition that a problem exists (see Deegan 2001; Hance, Chess, and Sandman 1990). Corporations can then achieve positive recognition for being responsible corporate citizens without engaging in more confrontational relationships that might require them to modify production or undertake other actions that might reduce their profitability. The phase 3 corporate response to critique is typically the last resort for corporations in which the possibility of collapse, bankruptcy, or illegitimacy threatens the future of the corporation or the industry.

CORPORATE OXYMORONS

One strategy for neutralizing critical discourse is the deployment of corporate oxymorons (Benson and Kirsch 2010b). Such figures of speech seek to disable the critical facilities of the consumer or shareholder with claims that require one to simultaneously subscribe to two contradictory beliefs, what George Orwell (2003) called "doublethink" in his novel *Nineteen Eighty-Four*. A prominent example of a corporate oxymoron is *clean coal*, which is promoted as the solution to the energy crisis even though it does not exist (fig. 15.5). Although there are technologies that scrub sulfuric acid from the emissions of power plants that burn coal, no one has devised an economical means of preventing the resulting carbon dioxide, the greenhouse gas most responsible for global climate change, from being released into the atmosphere. Yet the reassuring sound of the corporate oxymoron *clean coal* implies that such technology is already available or at

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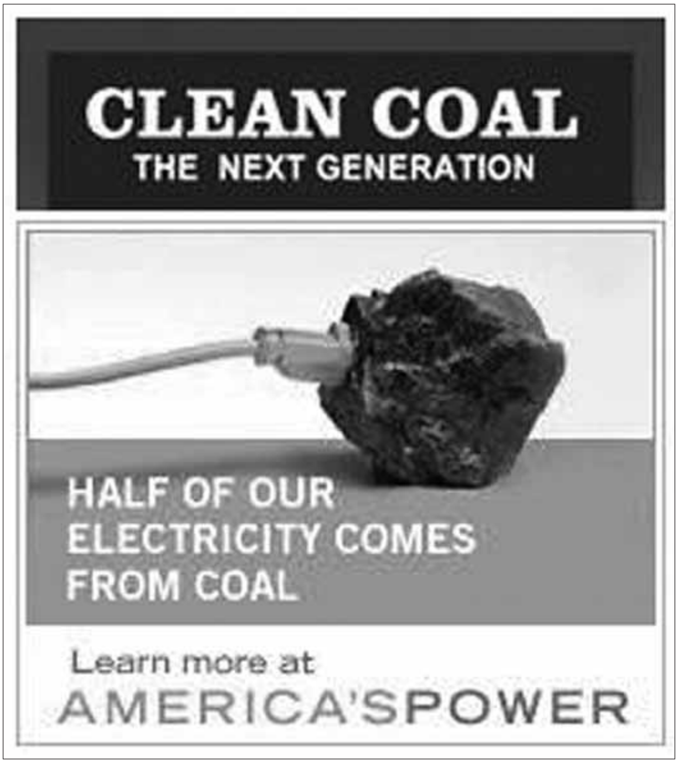

Figure 15.5
"Clean Coal: The Next Generation" (Cleancoalusa.org, 2008).

least within reach. The objective is to limit criticism of the coal industry by promoting an illusion: that coal can be used to generate electricity without exacerbating the problems caused by global climate change.[5] The example of clean coal shows how corporate oxymorons seek to conceal harmful practices.

Corporation oxymorons represent a particular type of branding that conveys a political message intended to ease the minds of otherwise critical observers. Pairing a positive cover term with the description of a harmful product or process, such as *clean coal* or *sustainable mining*, is a tacit acknowledgment that a problem exists. Corporate oxymorons seek to limit critique through repetition of the conjoined phase, making the terms seem familiar and plausible despite the inherent contradiction. Analysis of corporate oxymorons helps to reveal how corporations seek to manage critique. In the final section of the chapter, I describe how the mining industry promotes the corporate oxymoron *sustainable mining* (Kirsch 2010).

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SUSTAINABLE MINING

In 1999 the nine largest mining companies decided to respond collectively to the threat from their indigenous and NGO critics (Danielson 2002:7), resulting in unprecedented collaboration between companies that previously regarded each other as fierce competitors.[6] According to one NGO observer of the process, their goal was to "divert attention away from specific corporate misdeeds by involving the industry…in civil discourse about sustainability and corporate social responsibility" (Moody 2007:257). The resulting campaign created and promoted the corporate oxymoron of *sustainable mining*.

The concept of sustainability has been publically shaped through a series of multilateral conferences. Pressure from different constituencies has progressively redefined the term so that a key component of its original formulation, the need to protect the environment, has been almost completely obscured. This redefinition permits the concept of sustainability to circulate widely by increasing the number of contexts in which it can be applied, although the resulting changes should not be seen as politically innocent. Contemporary use of the term *sustainability* has its origins in the 1972 United Nations Conference on the Human Environment in Stockholm, which focused on what was needed "to maintain the earth as a place suitable for human life not only now but for future generations" (Ward and Dubos 1972, cited in Danielson 2002:19). The emphasis was on human activities that cause environmental degradation, especially pollution due to industrialization (Adam 2001:55). When the International Union for the Conservation of Nature (IUCN 1980:1) published the World Conservation Strategy in 1980, it linked concerns about sustainability to the concept of development: "For development to be sustainable, it must take account of social and ecological factors, as well as economic ones; of the living and nonliving resource base; and of the long term as well as short term advantages and disadvantages of alternative actions." This "conservation-centered" approach to development sought to balance economic and environmental concerns (Reed 2002:206).

The 1987 World Commission on Environment and Development, now known as the Brundtland Commission, adopted a more "human-centered" approach to these questions (Reed 2002:206). Responding to concerns that imposing environmental restrictions on southern countries would impede their ability to catch up to the North, the commission placed greater emphasis on meeting the needs of people living in developing countries, including the needs of future generations. The resulting definition of sustainability has been described as "equity-centered" (Reed 2002:206). The

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Brundtland Commission formulated the definition that remains in popular parlance, that sustainable development "meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland 1987:15).

In the 1990s, the discourse of sustainable development underwent further modification. The 1992 UN Conference on Environment and Development in Rio de Janeiro, commonly known as the Earth Summit, promoted a "growth-centered" approach to development while setting aside prior concerns about equity (Reed 2002:206). It favored the preservation of biodiversity through the protection of small, relatively pristine sites as conservation areas. This trade-off opened the remainder of the world to virtually unimpeded development. The mining industry capitalized on the new consensus by funding conservation projects that offset the environmental impacts of new mining projects (BBOP 2009; Shankleman 2010). The mining industry regularly collaborates with many of the world's largest and most influential conservation organizations, including the World Wild Fund for Nature (WWF), Conservation International, and the International Union for the Conservation of Nature (IUCN), displacing earlier alliances between conservationists and indigenous peoples (Kirsch 1997; West 2005).[7]

The corporate oxymoron *sustainable mining* follows the growth-centered approach advanced by the Rio Earth Summit. The concept of sustainability has undergone progressive redefinition that obscures the original reference to ecology, so that the mining industry's use of the term *sustainability* refers primarily to economic variables. The contribution made by particular mining projects to sustainable development is presented in terms of royalties and taxes that can be used to support development and business opportunities projected to continue after mine closure (Crook 2004; Welker 2009). One of the first mining companies to integrate sustainability into corporate audit culture was the Canadian firm Placer Dome, which in 1999 began to issue annual sustainability reports for all of its major projects (fig. 15.6).[8] These reports identify the primary objective of sustainability as the capacity "to maintain profitability for the shareholders," although they also seek to "develop closer integration as a partner and contributor to community development" and "to leave an environment that offers no loss of opportunities to future generations after mine closure" (Placer Dome Asia Pacific 2000). Less than a decade later, all of the major mining companies had enacted similar policies on sustainability.

The original definition of *sustainability* focused on the relationship between economy and ecology, although the balance between the two has shifted over time, culminating in the complete elision of references

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FIGURE 15.6
Placer Dome Asia Pacific sustainability reports, 1999.

to ecology or biology in the way that the term is now deployed by the mining industry. This process was facilitated by a conceptual shift from strong to weak sustainability (Daly 1996:76–77; see Danielson 2002:22). The two competing notions of sustainability differ with respect to the relationship between natural capital and human or manufactured capital. The concept of weak sustainability refers to the argument that natural capital and manufactured capital are interchangeable and that sustainability is achieved when the total value of capital remains constant or increases. According to this formula, a mine that pollutes a river and causes extensive deforestation may be regarded as sustainable if the profits from the project are successfully converted into manufactured capital with an economic value that equals or exceeds the value of what has been consumed or destroyed in the process. From this perspective, a mine is considered sustainable as long as the "total stock" of capital remains the same or increases. In contrast, strong sustainability acknowledges the interdependence of human economies and the environment without treating them as interchangeable. From this perspective, weak sustainability, to which the mining industry subscribes, is a category error (Daly 1996:78). The economist Herman Daly (1996:77) illustrates his critique of weak sustainability by pointing out that the complete replacement of fishing stock (natural capital) with fishing boats (manufactured capital) is a recipe for a tragedy of the commons.

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FIGURE 15.7
BHP Billiton logo on University of Michigan solar car.

Although the concept of sustainability may previously have been used to critique the environmental impacts of the mining industry, it has now become a means to promote mining. For BHP Billiton (2009), "sustainable development is about ensuring our business remains viable and contributes lasting benefits to society." Despite its responsibility for the environmental disaster downstream from the Ok Tedi Mine, BHP Billiton was appointed to the external advisory board at the University of Michigan's new institute for environmental sustainability (Blumenstyk 2007). The interim director of the institute, a professor of business administration, defended his rationale in inviting BHP Billiton to participate: "'There's no pure company out there', he says. 'I have no reason to doubt that this company has really screwed a lot of people', just as nearly every other company is 'unjust to people' at one point or another. 'These organizations are part of the problem, and they're also part of the solution'" (Blumenstyk 2007:A22). Ironically, the logo for the mining company responsible for the Ok Tedi mining disaster is now prominently displayed on the University of Michigan's solar car (fig. 15.7).

Similarly, the Anglo-Australian mining company Rio Tinto asserts that its "contribution to sustainable development is not just the right thing to do. We also understand that it gives us business reputational benefits that

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result in greater access to land, human and financial resources" (Rio Tinto 2009). Rio Tinto subsidiary Alcan also sponsors an annual US$1 million prize for NGOs working to "advance the goals of economic, environment, and social sustainability" (Rio Tinto 2009). The meaning of *sustainability* increasingly depends on how it is deployed and by whom and no longer has any necessary relationship to the environment.

The mining industry's appropriation of the discourse of sustainability seeks to cover up the fact that there have been few significant reforms in how mining is practiced, or overall reduction of its harmful impacts, as the term *sustainable* might seem to imply.[9] The promotion of mining as a form of sustainable development also makes it more difficult for critics of the industry to increase public recognition of its externalized costs.[10] The appropriation of the discourse of their critics is one of the key strategies used by corporations to conceal harm and neutralize critique.

CONCLUSION

When corporations are successful in silencing their critics, they are able to promote a sense of resignation about one's ability to make a difference or change the status quo (Benson and Kirsch 2010a). The corporate strategies and tactics described in this chapter and the general feeling of disempowerment and cynicism that pervades contemporary political life are directly linked. Corporations actively cultivate and benefit from the politics of resignation, contributing to the illusion that corporate power is either inevitable or largely immovable. However, it is possible to pierce the veil that conceals these corporate responses to critique; the examination of how corporations seek to achieve legitimacy and contain liability reveals significant vulnerabilities and contingency. The success of these corporate strategies is by no means certain or guaranteed. Showing how corporations work to conceal the harm they produce provides an opportunity for people to rethink their relationships to corporations. Tracking corporate responses to critique can reveal strategic opportunities for calling corporations to account for their actions, mobilizing political discontent around the evasion of corporate responsibility, and forging stronger standards for legitimacy.

Notes

1. The events following the 2010 BP oil spill in the Gulf of Mexico challenged some of these assumptions. Although outrage against BP was high, consumers had limited means of putting pressure on the company. Boycotting BP gas stations had little impact on the company's bottom line because these stations are independent franchises, and given the fungibility of crude oil, they do not necessarily sell BP gas. More

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generally, consumers have limited options when it comes to ethically and environmentally sound choices of petroleum companies: Exxon had its *Valdez*, Shell its Niger Delta, Texaco its Ecuadorian oil spill and Chevron-Texaco its refusal to clean it up, BP its Gulf of Mexico, and so forth. Clearly, petroleum companies do not compete for consumers based on their environmental performance.

2. This figure does not include extensive cleanup at abandoned coal mines in the United States.

3. A recent study attributes public skepticism regarding environmental problems to conservative think tanks that seek to defend corporations against regulation (Jacques, Dunlap, and Freeman 2008). More than 90 percent of conservative think tanks are involved in promoting skepticism about environmental problems, often referring to the scientific research they seek to discredit as "junk science" (Jacques, Dunlap, and Freeman 2008:349).

4. Island Copper used controversial submarine tailings disposal to discharge mine wastes directly into the ocean. Submarine tailings disposal is banned in the United States, and only a small number of mines employ this technology, most of which are located in Southeast Asia and the Pacific.

5. The clean coal campaign has also been the subject of satire (http://greeninc.blogs.nytimes.com/2009/02/26/the-coen-brothers-do-clean-coal/, accessed June 15, 2009); "subvertisements" like this one also challenge corporate oxymorons (Sawyer 2010).

6. Luke Danielson (2006:26) notes that "it is hard to identify any industrial sector (with the possible exception of nuclear power) that features such low levels of trust and such a history of division, strife and anger as the extractive industries."

7. Anthropologist Mac Chapin (2004:18) criticizes these NGOs for "partnering with multinational corporations directly involved in pillaging and destroying forest areas belonging to indigenous peoples."

8. Placer Dome followed the lawsuit against the Ok Tedi Mine very closely and commissioned these reports not long after the case was settled out of court in 1996. Barrick Gold purchased Placer Dome in 2006.

9. Andy Whitmore (2006) aptly compares the mining industry's attempt to represent itself as sustainable to the story of the emperor's new clothes.

10. An interesting example of how corporations manipulate the media can be seen in Chevron's response to the news that the American investigative television program *Sixty Minutes* planned to report on pollution from the oil company's operations in the Ecuadorian Amazon. Chevron hired a former journalist to represent its side of the story and then purchased Google ads to ensure that its website about the lawsuit, including their own fourteen-minute video, would appear at the top of any search as a sponsored link (Stelter 2009).

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