



April 15th, 2010

Brian T. Moynihan
Chief Executive Officer and President
Bank of America
100 North Tyron Street
Charlotte, NC 28255

Dear Mr. Moynihan:

There is an ecological and human tragedy occurring in the United States. Coal mining companies in Appalachia are engaged in dangerous, reckless, and unnecessary practices known as mountaintop removal coal mining, which involve blowing up entire mountains and dumping the rock and debris into the valleys below, burying streams. These practices are destroying Appalachian communities, the health of coal-field residents, their diverse environment, and any hope for economic growth. Unfortunately, we understand that Bank of America may be contributing to this destruction by providing financial support to these coal mining companies. Financial support for companies engaged in mountaintop removal coal mining is a risky endeavor as people demand an end to the damaging practices and judge their companies and public officials accordingly.

To help people concerned about mountaintop removal coal mining understand which financial institutions are supporting the practices, Rainforest Action Network (RAN), Sierra Club, and BankTrack are planning to publish a Mountaintop Removal Report Card grading financial institutions on their environmental and financial risk management policies and procedures regarding support for companies engaged in mountaintop removal coal mining. We are therefore writing to request information about formal and public policies Bank of America has in place that move the nation toward ending the tragedy that is mountaintop removal coal mining.

To assist in your response to this request we have outlined the grading criteria for the Mountaintop Removal Report Card below, including our current assessment of your policies and what grade they would receive. If we do not receive any additional information from your company by April 30th, this is the basis from which we will proceed. Please respond to astarbuck@ran.org and mark.kresowik@sierraclub.org. Thank you very much, we look forward to hearing from you promptly.

RAINFOREST ACTION NETWORK

221 Pine Street | 5th Floor | San Francisco, CA | 94104 | Tel (415) 398-4404 | Fax (415) 398-2732 | RAN.org

SIERRA CLUB

85 Second Street, 2nd Floor | San Francisco, CA | 94105-3441 | Tel (415) 977-5500 | Fax (415) 977-5792 | www.sierraclub.org

Gold standard (Grade 'A'):

Financial institution has developed its own public policy: complete sector exclusion (all mountaintop removal coal mining companies) in its commercial lending and investment banking services.

Essential elements (Grade 'B')

Financial institution has developed its own policy for its commercial lending and investment banking services, to include all of:

- Enhanced due diligence with a threshold performance standard to the effect that the bank will not lend to or provide investment banking services for companies whose surface mining activities are more than 5% of their total coal extraction activities in KY, TN, VA & WV.
- Due diligence to include a review of legal compliance, potential material legal abilities, and exposure to litigation
- Regular reporting with case studies
- Policy publicly available, alongside other environmental policies

Half the essential elements (Grade 'C')

The bank has developed its own policy for its commercial lending and investment banking services, to include all of:

- Enhanced due diligence with an identified performance standard
- Due diligence to include a review of legal compliance, potential material legal abilities, and exposure to litigation
- Regular reporting with case studies
- Policy publicly available, alongside other environmental policies

Vague policy (Grade 'D')

The bank has developed its own policy, but it is vaguely worded without clear commitments

Fail (Grade 'F')

The bank is active in this sector but has no investment policy for this sector/issue

Current Bank Grade – Bank of America

Policy: http://environment.bankofamerica.com/articles/Energy/COAL_POLICY.pdf

Bank of America is particularly concerned about surface mining conducted through mountain top removal in locations such as central Appalachia. We therefore will phase out financing of companies whose predominant method of extracting coal is through mountain top removal.

Proposed Grade: 'C'

Sincerely,

Mary Anne Hitt

Mary Anne Hitt
Director, Beyond Coal Campaign
Sierra Club

A. Starbuck

Amanda Starbuck
Director, Global Finance Campaign
Rainforest Action Network