H-Net Reviews
in the Humanities & Social Sciences

Duncan Maysilles. *Ducktown Smoke: The Fight over One of the South's Greatest Environmental Disasters.* Chapel Hill: University of North Carolina Press, 2011. x + 333 pp. Illustrations. $39.95 (cloth), ISBN 978-0-8078-3459-6.

Reviewed by Erica Morin (Purdue University)
Published on H-Environment (October, 2011)
Commissioned by David T. Benac

Far-Sighted Legal Precedents and Ineffective Implementation: The Maintenance of the Ducktown Desert in the Appalachian Region

Coal is usually the first natural resource associated with environmental degradation and property disputes in the Appalachian region, but Duncan Maysilles presents an absorbing story of copper mining, ore smelting, and interstate air pollution in *Ducktown Smoke*. The narrative describes overlapping aspects of legal, environmental, southern, and Appalachian history to provide a complicated tale of unfortunate topography, environmental damage, state sovereignty, legal jurisdiction, corporate arrogance, and disregard for the concerns of local residents. Ducktown is a classic case of antecedent environmental legislation, and economic motivations yielding environmental protection by coincidence.

In the 1840s, a rich vein of copper was discovered near the tristate border of Tennessee, Georgia, and North Carolina in the low-lying, fertile bottomlands known as the Ducktown Basin. At this time, copper mining required open heap roasting of large chunks of ore to extract the metal. Ore smelting was incredibly slow and inefficient. Roast heaps needed to burn for one to three months and continuously emitted thick black clouds of noxious smoke. Tennessee copper also had high sulfur content and the main byproduct of the roasting process was sulfur dioxide. Given the bowl-like characteristics of the area, the toxic air settled in the basin and resisted dispersal downwind. Further, when the polluted air mixed with water and precipitation, which was common given the presence of rivers and the humid climate of the region, it transformed into sulfuric acid. The airborne chemicals settled on foliage, soil, property, animals, and people throughout the area. The emissions scorched and poisoned the land, water, and crops in the Ducktown Basin. In addition, the roasting method required huge quantities of firewood and fuel. Initially, the copper companies had a seemingly endless supply of Appalachian forests to use in the fires, but their faith in abundance was misguided and the ravenous demand for firewood quickly turned to deforestation. Coupled with plentiful rainfall, soil erosion was catastrophic and the area surrounding the copper mines transformed into a "desolate barren waste" known as the Ducktown Desert (pp. 3-4).

The air and water pollution might have gone unchecked if it were not for the location of the mining and smelting facilities. Maysilles remarks, "It was the failure of Ducktown smoke to obey the lines on a map that eventually created an interstate crisis of constitutional law" (p. 17). Thanks to a detailed map, the reader sees how the sulfur-laden air easily wafted across the state borders. Local residents began to petition the courts to receive compensation for crop loss and property devaluation starting in the mid-to-late 1800s. Individually, these litigants had little to no luck. The mining companies argued that smoke and gasses "had always been the case" and litigants were simply "malcontents fraudulently confederated and combined to vex, harass, and annoy" (p. 54). The companies employed many clever and evasive legal strategies to avoid jury trials and almost certain awarding of damages in rural Tennessee courts.

Since the plant was officially based in the state of Tennessee, Georgia landowners located directly downwind of the smelting zones had no legal recourse against the copper companies. The state of Georgia therefore received all the harmful side effects of copper production, but no accompanying financial benefits or tax revenues. As a result, the state of Georgia requested "permission to file its smoke suit as an original jurisdiction action" and the Supreme Court granted the right (p. 116). This action was extremely significant in the post-Civil War South when states strongly guarded their sovereignty. Georgia sought out federal intervention and used it to exert jurisdiction over another state. The decision is significant

and exciting in terms of legal history, but the outcome was disappointing and anticlimactic.

From 1903 to 1916, Georgia and Tennessee worked, often halfheartedly, to limit Ducktown smoke, force the construction of sulfur capture systems, and compel accountability without actually enacting an injunction or halting business. The copper companies exploited their important place in the local economy and took advantage of multiple accommodation attempts and the patience of local leaders. Ultimately, the copper companies were able to increase production, increase profit, and increase pollution with no repercussions while the residents and ecosystem of the basin continued to choke. The region did not experience wide-scale protection and restoration until the late twentieth century, but by then, copper mining had already become unprofitable and the companies relocated overseas to cut costs. Despite the growth of a booming recreation industry in the area, parts of the Ducktown Basin remain desiccated and contaminated.

The story of Ducktown resembles many instances in U.S. environmental history, but the book's greatest contribution is to legal history. A lawyer by trade, Maysilles is well versed in legalese and quite captivated by the nuances of legal strategies and precedents. Maysilles argues that the plaintiffs in the Ducktown cases were forced to rely upon nuisance law in the absence of any official legislation against pollution. The Supreme Court's decision to grant Georgia the right to implement an injunction against a Tennessee business is truly monumental. The case facilitated environmental conservation, in theory, but the state's motives were more closely tied to sovereign rights and the need to protect property and economic interests. Maysilles romanticizes the state's desire to protect natural resources–environmental protection was really just coincidental and cost effective, at times (pp. 165-166). Further, the legal precedents related to Ducktown were ineffectual for the environment, and the copper companies continued to prosper at the expense of nature and local inhabitants.

Ducktown Smoke would benefit from the inclusion of more social and cultural history. The residents of the Ducktown Basin are featured sporadically in the narrative, but the extent of impoverishment and subjugation in the region is glossed over. Local farmers and landowners in the region received little justice and were unable to influence the courts until larger interests like timber companies and the National Farmer's Union joined the battle. The copper companies and the state government ignored average citizens in favor of profits and tax revenue. Simultaneously, Appalachian residents are not known for being passive victims, and it seems unlikely that local people simply sat back and accepted inadequate compensation and blatant disregard for so long.[1]

While Maysilles ties the story of Ducktown to important events and factors in U.S. history, many of these comparisons are anecdotal and tangential. For example, he makes an excellent link between the unsustainable farming methods that led to soil depletion and westward expansion in the South and the insatiable demand for fertilizer in the region, which required sulfuric acid from Ducktown, but this is not central to his narrative (p. 174). Maysilles seems hesitant to compare coal and copper mining, perhaps in order to distinguish his research, but he missed several opportunities to discuss parallels between business interests, mining practices, political leaders, and local Appalachian residents. Instead, Maysilles references clichés and draws specious connections, such as comparing the prolonged litigation debates over Ducktown to the battle against Hetch-Hetchy Dam (pp. 190-191).

With degrees in English, history, and law, Maysilles discusses the topic with a high degree of elegance, knowledge, and thoughtful consideration. At times, Maysilles is almost psychic in his narration–anticipating the reader's next question or conclusion with uncanny precision. At other times, the narrative wanders from topic to topic, leaving the reader confused and distracted. There is no doubt, Maysilles can turn a phrase. For example, he remarks, "The recent settlement was beginning to shrivel and curl like the smoke-burnt leaves of the Ducktown apple orchards" (p. 141). More often, though, his purple prose borders on ultraviolet and metaphors feel lengthy and unnecessary. The story of Ducktown is complex and multifaceted, which presents challenges in the telling, but the text is oddly organized and inconsistent.

Nevertheless, the case of Ducktown was an exceptionally advanced and far-sighted legal precedent with respect to interstate air pollution. The Supreme Court confronted difficult questions of state sovereignty in the postbellum era and awarded the state of Georgia legal rights that would not be federally recognized until more than sixty years later with the onset of the modern environmental movement. Unfortunately, even with the force of law, local leaders were unable or unwilling to challenge the powerful and profitable copper companies, and allowed the environmental and local residents to pay the price.

Note

[1]. For example, see Chad Montrie, *To Save the Land and People: A History of Opposition to Surface Coal Mining in Appalachia* (Chapel Hill: University of North Carolina Press, 2003).

If there is additional discussion of this review, you may access it through the list discussion logs at:
http://h-net.msu.edu/cgi-bin/logbrowse.pl.

Citation: Erica Morin. Review of Maysilles, Duncan, *Ducktown Smoke: The Fight over One of the South's Greatest Environmental Disasters.* H-Environment, H-Net Reviews. October, 2011.
URL: http://www.h-net.org/reviews/showrev.php?id=33404

This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.