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THE FUTURE OF THE COAL INDUSTRY AND THE ROLE OF THE LEGAL PROFESSION

U.S. SENATOR ROBERT C. BYRD

Coal is one of the fundamental building blocks of the American economy. It has played a vital role in the birth, growth, and development of the United States as an economic power. In addition, the American coal industry provides jobs for thousands of miners in hundreds of communities throughout the coal fields in the United States. Coal makes a significant contribution to the economies of states and localities in Appalachia, the Southeast, the Mountain West, the Great Plains, and the Southwest.

Today, while world energy markets have been plagued by uncertainties surrounding the supply of oil, and safety concerns over the use of nuclear energy, coal has remained a relatively stable, moderately priced and dependable energy source.

Because of a major drop in price, in the mid-1980's, the United States experienced a surge in the consumption of imported oil. According to the U.S. Energy Information Administration (EIA), through the third quarter of 1987, these cheap imports reached a level of 39.5 percent of our total petroleum consumption, and they continue to rise.¹ However, concern over the volatility of the supply of oil from the Persian Gulf and the need for the U.S. to reduce its dependence on this unstable source of energy, is increasing. In addition, a recent report by the U.S. Geological Survey finds a 40

1. U.S. Energy Information Administration, *Monthly Energy Review* (November 1987).

percent reduction in the estimated oil and natural gas reserves in the United States.²

By contrast, coal continues to offer an attractive and secure energy alternative. Consequently, achieving any degree of energy self-sufficiency is most logically tied to coal. I strongly believe that coal should be the cornerstone of our nation's energy policy.

The Energy Information Administration estimates that America's recoverable reserves of coal are estimated to be 478.2 billion tons—coal potentially mineable on an economic basis using existing technology.³ These deposits are sufficient to meet the current demand for coal for 300 years, and are equivalent to about 2 trillion barrels of oil, or more than triple the world's known petroleum reserves.⁴

Today, 60 percent of our electric energy is generated from coal.⁵ Experts disagree over the amount of new electricity the country will require in the future, but, at a 2.5 percent growth rate, the U.S. will require 100,000 to 200,000 megawatts of additional new capacity in this century.⁶ Coal should be the energy source for most of this capacity.

Coal is the crown jewel in our goal of becoming energy independent. Appropriate public policies are vital to ensure that we are able to utilize this vast resource, and that the coal industry is prepared to meet the challenge of the future.

Environmental concerns have been raised regarding the increased use of coal. However, sulphur dioxide emissions from 1980-1986 decreased 5.4 percent, while coal use increased 21.6 percent.⁷ Rather than impose unwarranted, stringent, and expensive emission controls on electric utilities and other coal users, we should be aggressively pursuing the commercial application of clean coal technologies. Such technologies are more efficient, and are less expensive, than current

2. *U.S. Estimates of Oil and Gas Reserves Are Cut Forty Percent*, Wash. Post, March 10, 1988, at A-3.

3. See *supra* note 1.

4. *Id.*

5. *Id.*

6. *Id.*

7. Purvis, *SO₂ Emissions: the Downward Trend Continues*, LANDMARC, Summer 1987, at 5.

pollution-control technologies. The use of clean coal technologies at powerplants and major industrial facilities throughout the nation will achieve emission reductions far more efficiently, and in a more cost effective manner than will conventional pollution-control equipment.

My Clean Coal Technology Program, administered by the U.S. Department of Energy, represents a positive non-regulatory approach to the achievement of emission reductions without causing the disruptions and economic dislocations consequent to enactment of the acid rain proposals currently before the Congress. This program, for which \$975 million has been appropriated, is a cost-sharing program between private industry and the government. Commercial-scale demonstrations of clean coal technologies will enable our nation to advance to even more efficient and environmentally acceptable use of our coal reserves.

Now more than ever, the coal industry is faced with an increasingly complicated market place. Consequently, the legal profession's role in the industry has also increased.

As a result, many attorneys function in a role that can be likened to an "Assistant to the President." Today's legal professionals will find that nearly every field of study has a place in the coal industry: corporate law, environmental law, tax law, and labor law, for example, are all important to the industry. Every facet of the operation of a coal company is influenced by legal decisions of some kind, somewhere along the way. The acquisition of land, the incorporation of a company, the financing of equipment, the compliance with health, safety, and environmental regulations, and the marketing of the product — all these and more have legal implications that must be addressed.

Changes in federal and state laws must be understood to ensure that any coal operation is properly functioning within the law. Changes in tax law must be interpreted so that a company is in the financial position to continue operations. Many and sundry contracts must be negotiated for many aspects of an operation: labor, insurance, transportation, for example, as well contracts to sell the product.

As every aspect of the coal industry, from the granting of permits to final use, is affected by law and regulations, the industry must

also be involved in the legislative process. The legal profession fulfills an intricate role in the drafting and enactment of legislation that affects the coal industry.

The legal profession will continue to be of vital importance to the successful operation of the coal industry — an importance that will grow with the increased use of our coal resources. For example, efforts to expand our exports of coal will open more doors for legal professionals interested in international law.

It is a pivotal time for the future of our nation's coal industry. The legal profession will play an important part in what lies ahead for coal.