

Testimony of Mr. Mike Carey
President, Ohio Coal Association
Before the
House Committee on Transportation and Infrastructure,
Subcommittee on Water Resources and Environment
Hearing Entitled: "*EPA Mining Policies: Assault on Appalachian Jobs Part II*"
May 11, 2011

Chairman Gibbs, Ranking Member Bishop, Members of the Committee, good morning.

Thank you for inviting me to testify at this important hearing regarding the litany of new regulations being put forth by the U.S. Environmental Protection Agency (EPA) and their effects on Appalachian jobs. My name is Mike Carey, and I am President of the Ohio Coal Association. The Association provides a voice for the many thousands of citizens working in Ohio's coal sector. I also serve on the National Coal Council, an advisory committee to the Secretary of Energy on energy resource issues.

Cheap, abundant coal is what powers the manufacturing base and provides affordable energy for families across the Midwest and in other regions of America. The companies we represent, both large and small, directly employ over 3,000 individuals in Ohio alone, with over 30,000 secondary jobs that are dependent upon our industry. In fact, an independent analysis shows that for every primary job, our industry supports up to 11 secondary jobs.

The Obama Administration and its allies have declared war on coal across all of Appalachia. We are ground zero for the fundamental overreach of the Obama regulatory agenda. They appear to be hell-bent on hurting those who work in the coal mining industry. The rural regions of Ohio, Kentucky, West Virginia, Tennessee, Illinois, Indiana, and Pennsylvania would be devastated from losing major employers such as coal companies. That's because in so many cases, all that these families have are their homes, and they can't simply pick up and move elsewhere. In a rare statement of honesty bordering on hubris, last year the Office of Surface Mining stated in the justification for the Stream Protection Rule that 7,000 thousand jobs would be lost in Appalachia, but that was okay because some jobs would be created out West.

Mr. Chairman, that's not acceptable. The Obama Administration is picking winners and losers by regulatory proclamation. That's not okay with the people I represent in Appalachia, and I

hope it's not okay with this Committee. The Eastern coal-fired power plants are not necessarily designed to burn Western coal. What this tells me is that the Obama Administration wants to shut down Eastern coal, forcing our power plants to either be redesigned or shut down. What this would lead to is a massive increase in utility prices across the Midwest. Nevermind all of the coal miners put out of work – we are talking about thousands of more workers across the manufacturing sector losing their jobs, too. This will cause a massive relocation of our citizens to other states with those left behind becoming totally dependent on the federal government through unemployment insurance, Medicaid, and vast new expenditures in LIHEAP.

Some may think that I am exaggerating, but one need only look at the host of new regulatory programs aimed at the Appalachian coal industry:

- The EPA Greenhouse Gas Regulations
- The EPA Utility MACT Regulations
- The EPA Transport Rule
- The EPA Coal Fly Ash Regulations
- The MSHA Mine Dust Standards
- The OSM Streamwater Regulations
- The EPA PM and Ozone Standards

Just to name a few, and I haven't even tried to list all of the permitting problems, guidance documents, interim and draft policies, and the most aggressive enforcement actions anyone has seen in years. I'm not complaining about enforcement actions that protect miners' safety or the environment, but the increase in minor infractions across the board by multiple agencies.

Mr. Chairman, we need to do four things to stop the abusive assault by the Obama Administration across Appalachia:

- 1) Declare a regulatory time-out. We are still recovering from a recession, and the Obama Administration seems to forget that compared to 30 years ago, our air is cleaner, our miners are safer, and our water resources are better protected.
- 2) Re-assert the primary role of the States in the permitting decisions. We need legislation clarifying that our States continue to have primacy in interpreting the relevant portions of the Clean Water Act.
- 3) End the abusive use of regulatory guidance documents. If it's important enough to issue a guidance document, then it's important enough to go through the normal public notice and comment period.
- 4) Provide certainty in permitting decisions. Unfortunately, we need Congress to tell the Administration to live up to its permitting promises. We also need the

permits to be processed in a timely fashion. The months of permitting delays amount to a federal takings of private property. Months and sometimes years of permitting delays deny property owners the use of their land.

Just two weeks ago, the Energy Information Administration released its 2011 Energy Outlook. Unfortunately, it paints a frustrating picture for those living in Appalachia. If Congress or the EPA puts a cap-and-trade inspired price on carbon, EIA estimates that by 2035, electricity generation from coal will be approximately 54 percent below the 2009 level. These are numbers that we cannot ignore.

I briefly mentioned earlier just a few of the burdensome regulations targeting coal operators and coal-fired power plants. Nobody across the multitude of agencies has evaluated the cumulative impacts of these draconian measures. We need, at a minimum, a regulatory time-out so that our country and those businesses and residents who rely on affordable energy resources like coal have the time to recover.

Members of this Committee will certainly appreciate that State primacy in permitting decisions was the clear intent of Congress in passing the original Clean Water Act. The Obama Administration is ignoring the law and is instead using interim guidance, interim rules, and draft policies to attack coal mining operations through coercion. Holding up permit applications and overriding state decisions is an inconsistent and dangerous approach.

By ignoring the law and shutting out the public from the process, we are seeing yet another attempt by the EPA to regulate what they have been unable to legislate on Capitol Hill. With the "train wreck" policies they are attempting to use the Clean Air Act, and here the Obama Administration's allies are using the Clean Water Act to go after American employers.

As I stated before, the delay in permits is almost a federal takings of private property. Coal miners have waited months for even the simplest of permits. For example, EPA is holding up Section 404 permits. The Senate Environment and Public Works Committee has identified 190 permits, with 154 submitted by small businesses. These permits represent operations that could support over 17,000 jobs. Meanwhile, EPA has also retroactively revoked a permit in West Virginia that had already been issued. This unprecedented action by the Federal government is like tearing up a contract after both parties agreed to the rules of the game.

For years the bureaucracy in Washington, DC has been pushing guidance documents instead of issuing regulations. The Obama Administration has elevated this to an art form. The EPA is working with the Army Corps of Engineers on the "Clean Water Protection Guidance" that the Office of Management and Budget is reviewing. Holding states to a new set of policies like these that are not legally binding violates the spirit of the law authored by this Committee.

Has the EPA done any formal examination of the job impacts of these guidance documents? Do these interim rules get a thorough review by the Office of Management and Budget or the Small

Business Administration and their Office of Advocacy? They do not, which may be precisely the reason why the EPA is using this sinister means with which to halt coal mining in our country.

An average-sized mine requires about \$350 million just to get to the point of resource production. Certainly, the smaller mining companies across Appalachia are taking on an enormous risk in a situation where new rules are being placed on them. You can imagine that this type of governmental overreach into our private businesses could very well lead to major companies simply choosing to move their operations overseas. The thousands of workers affected in Appalachia deserve the right to earn a livelihood without being subject to the whims of a bureaucracy. Unfortunately, today we have an Administration that is pushing the bureaucracy to advance the most extreme anti-coal agenda in our nation's history.

How do we know this? They are simply following through on their campaign promises:

- In January 2008, President Barack Obama stated in reference to coal, "If somebody wants to build a coal-powered plant, they can. It's just that it will bankrupt them, because they're going to be charged a huge sum for all that greenhouse gas that's being emitted."
- Vice President Joe Biden also declared in 2008, "No coal plants here in America."
- As Commissioner of the New Jersey Department of Environmental Protection, current EPA Administrator Lisa Jackson issued New Jersey's Global Warming Plan calling for a moratorium on all new coal-fired power plants. She may not be calling for a moratorium today at EPA, but her regulatory policies are certainly creating one.

Every day goes by with hard-working coal miners across our country wondering what their futures will be as the EPA takes hold of unilaterally attempting to regulate our air and water policies in an attempt to put coal miners out of work. Americans working in related industries that depend on low-cost electricity made from coal are asking what America is doing to ensure their livelihood. These same individuals, living in many states throughout the nation, rely on coal as an affordable, reliable source of energy. They are vociferously rejecting this attempted overreach by Mr. Obama's EPA.

However, the Committee has the authority to address these problems. We need the following four actions in order to save Appalachian coal jobs:

- 1) Declare a regulatory time-out.
- 2) Re-assert the primary role of the States in the permitting decisions.
- 3) End the abusive use of regulatory guidance documents.
- 4) Provide certainty in permitting decisions.

I thank you for this opportunity to testify, Mr. Chairman, and stand ready to answer any questions the Committee may have about the job impacts of what is a directed attack on coal by the current Administration. I must also say, Chairman Gibbs, the people of Ohio are proud to see you serving as the Chairman of this distinguished Subcommittee.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:

Mike Carey

(2) Other than yourself, name of entity you are representing:

Ohio Coal Association

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES

If yes, please provide the information requested below and attach your curriculum vitae.

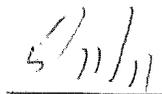
NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

N/A



Signature



Date

PROFILE – MICHAEL T.W. CAREY



Michael (“Mike”) T.W. Carey is a driven, experienced, results-oriented leader. He has a diverse background that includes military service, political campaign strategy, trade association management, legislative relations and public policy advocacy in both energy and natural resources.

An Advocate for Coal and Mining

As Ohio’s chief advocate for Ohio’s coal industry, Mr. Carey represents the interests of the state’s coal producers before the Ohio General Assembly, the Ohio Executive Branch, the United States Congress and Federal Agencies, sets and implements the Ohio Coal Association’s legislative agenda and serves as a key spokesperson on behalf of the coal industry.

Mr. Carey’s commitment to the coal industry goes well beyond his work with the Ohio Coal Association. He has dedicated himself to advocating for the production and use of coal across the nation’s major coal-mining states. Most recently, Mr. Carey served as Founder and President of Americans for Coal Jobs, a federal 527 multi-state campaign working to make the essential connection between coal and the economy and between affordable energy and jobs.

Mr. Carey also served as the lead spokesperson for the American Coal Coalition, a group formed to oppose mandatory caps on CO₂ emissions.

Committed to the Industry

Mr. Carey has been a sought-after voice for the coal industry, serving in key volunteer roles as a member of:

- Ohio Energy Task Force; Appointed by Gov. Taft
- the Ohio FutureGen Task Force;
- the National Coal Council, appointed by President Clinton;
- the Regulatory Assistance Program of the National Mining Association, for which he served as vice-chair;
- Americans for Balanced Energy Choices, for which he occasionally served as an Ohio spokesperson; and
- the Ohio Coal Technical Advisory Committee, for which he served as chairman.
- the National Mining Association

Mr. Carey has enjoyed specific successes in his work with the Coal industry, including:

- Being named “Coal Man of the Year” by the Ohio Coal Association in 2003 – the first sitting association president on whom this honor was bestowed;
- Increasing the percentage of contributions to the Ohio Coal PAC by nearly 25 percent; and
- Ensuring the continuation of the Ohio Coal Tax Credit, an essential funding resource to help Ohio coal remain competitive.

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A History of Service

Recognizing the role elected officials hold in shaping the future of the coal industry, Mr. Carey has served both as a staff member and as a volunteer for several officials. Mr. Carey held several positions over eight years in Congressional and State Senate offices.

As a ROTC scholarship winner, Mr. Carey attended the Marion Military Institute in Marion, Alabama and served in the Alabama Army National Guard. Mr. Carey received his commission to the U.S. Army Reserve / National Guard in 1991 and served until 1999. His service included an active duty tour in 1993 in Honduras. He is a recipient of the Joint Service Achievement, Humanitarian Service and the National Defense Medals.

Mr. Carey received an Associate of Science degree in economics from Marion Military Institute and his Bachelor of Arts degree in history from The Ohio State University.

He is a resident of Granville, Ohio, where he lives with his wife Kristin and his son Prescott.

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