

Testimony of Robert Gabbard  
President and Chief Executive Officer  
U.S. Coal Corporation to the  
House Rural America Solutions Working Group

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Mr. Chairman and Members of the House Rural America Solutions Working Group:

My name is Bob Gabbard and I am the President and Chief Executive Officer of U.S. Coal Corporation, a small business with operations in the central Appalachian Coalfields, specifically eastern Kentucky. I want to thank you for the opportunity to be here today, to comment on some of the issues confronting U.S. Coal Corporation and the coal industry at large. I want to especially thank Congressman Rogers for being here today. His leadership has been crucial to the development of eastern Kentucky and his support of the coal industry has been invaluable.

The establishment of this Working Group and the forum you are holding today come at a crucial time for America's small businesses and, in particular, America's energy producers. With businesses trying to survive some of the worst economic conditions since the Great Depression, any action by Congress to help remove the blockades to small business job-creation is certainly welcomed.

Across Appalachia, the coal industry provides thousands of jobs and is, in fact, the economic "lifeblood of the region." There are approximately 80,000 direct jobs provided by the coal industry in Appalachia and another estimated 250,000 indirect jobs (vendors, suppliers, manufacturers and transportation businesses that are dependent upon coal) and that doesn't even include the countless businesses that have located in Kentucky due to our state's low energy costs made possible by coal. As an example of the importance of coal to the region, over 1,000 people from the Appalachian Coalfields came to Washington, DC two weeks ago for a rally in support of the coal industry.

U.S. Coal Corporation owns and operates 4 surface mines, two contractor-operated underground mines and two highwall miners, producing high BTU, low-sulfur steam coal from our properties. Presently, we employ 295 men and women in eastern Kentucky with an average compensation, including benefits, of \$78,500 per employee. U.S. Coal marketed approximately 1.9 million tons of coal in 2009 and we expect to market 2.1 million tons in 2010.

Our employees are some of the hardest working men and women that can be found anywhere. They ask for nothing more than a safe working environment, fair compensation and benefits for their families. The wages and benefits provided by U.S. Coal are crucial to the economies of these eastern Kentucky communities.

Year-to-date, U.S. Coal has provided approximately \$12,000,000 in salaries and benefits to its workforce. The direct economic impact to eastern Kentucky from all the services and products we buy and use at our mines totals approximately \$69,000,000. Those are significant numbers for one small business in one small part of Appalachia. They are especially important when you understand that the area we serve has a long history of poverty and high un-employment. For instance, our Licking River operation,

employs 108 men and women in Magoffin County, Kentucky. Those 108 jobs support another approximately 300 jobs. And that's crucial in a county that has an unemployment rate of 18.1 percent.

Coal has long been the primary source of electricity generation for our country. Approximately half of the electricity generated in the United States comes from coal, and coal represents an inexpensive and reliable domestic source of energy. Coal is an important part of the overall economy of this country. From the trucks and railcars that move our coal, to the fuel that we buy to the mining equipment we use, to coal supports thousands of jobs in other industries. According to a recent U.S. Senate Environment and Public Works Committee report, EPA actions have put nearly 160,000 of these jobs in dire jeopardy.

Beginning in 2009, the EPA established a moratorium on coal permitting in Appalachia. Last year, the EPA and the Corps of Engineers issued a Memorandum of Agreement outlining a new review process under the Clean Water Act's Section 404 permitting program. A 404 permit is required for any mining operation where rock and dirt need to be disturbed. Also last year, the Corps of Engineers targeted Appalachia by eliminating a long-standing program, the Nationwide Permit 21 program (NWP 21), that allows for the expedient consideration of non-controversial permits. On April 1, 2010, the EPA issued a "guidance" document that laid out new procedures and requirements for Section 404 permits being reviewed in only the five states where coal is mined in Appalachia. This rule (EPA says it is "guidance") established new water discharge requirements that are only applicable to coal mining operations in Appalachia. In particular, they have said that coal operations cannot discharge water with a conductivity level greater than 500  $\mu\text{m}$ . This guidance was established without peer-review of the science, without public discussion or comment and with no regard, so it seems, for the severe economic impacts such "guidance" would have on the coal industry and the residents of Appalachia. As an example, a bottle of Fiji water that can be purchased at a convenience store has a conductivity level of approximately 1500  $\mu\text{m}$ , and the tap water at Reagan National Airport has a conductivity level of 437  $\mu\text{m}$ . The EPA stated very clearly the reason for establishing this guidance – a coal operation that utilizes valley fills and impacts streams through their operations cannot meet this criterion. In other words, the EPA has created a standard that is virtually impossible to meet.

EPA has sent new requirements to the Corps of Engineers – actions that they're demanding be followed, criteria they're saying must be met – but they haven't gone through the rule-making process that Congress laid out for all agencies to follow. They're moving to do the same thing with greenhouse gas emissions and other environmental issues. Secondly, the EPA is continuing to change the rules we in the industry must follow. Earlier this year, EPA officials from Atlanta came to Martin County, Kentucky to conduct a site visit. During that meeting, the coal company representatives spoke of the need for EPA to be consistent regarding its' rules and regulations. The statement from the EPA official was telling – she stated that "we (the EPA) have been waiting eight years to do these things", meaning the implementation of the new rules ("guidance"). That statement tells the whole story of how the EPA has

put together a well-coordinated plan to eliminate coal mining in the Appalachian region. Furthermore, it leads those in the coal industry to ask why only one industry and only five states have been targeted in this manner.

Our industry wants to do things correctly and we want to follow the laws and regulations that govern us. U.S. Coal's record for safety and reclamation attests to that. Those laws and regulations require that we have both state and federal permits to mine coal. And, today, we simply cannot obtain federal permits.

404 permitting is just one example of the regulatory assault this agency is taking against coal. On any given day, the EPA is publishing something in the Federal Register that is detrimental to the coal industry. Examples would include: declaring coal ash as a hazardous waste, developing new bonding requirements for utilities, re-evaluating a long-standing stream buffer zone rule developed by the Office of Surface Mining after a 10-year period of extensive review, and on and on.

At the same time the EPA's assault on the coal industry began, the debates on climate change and greenhouse gas emissions were continuing. The entire debate surrounding climate change has ignored the most obvious questions: how can we consider the restructuring of the nation's energy production model during these challenging economic times, especially when the science associated with climate change is still uncertain? How can our businesses absorb the huge costs associated with this initiative? The answer is quite simple – we can't. For example, the cap and trade bill and other legislative initiatives related to climate change would have devastating economic effects. Americans would have to pay a 'carbon tax' for turning on the lights, driving to work, heating their home throughout the winter and 2.3 to 2.7 million jobs would be lost over the next 20 years under Cap and Trade. In Kentucky, more than 95% of our electricity comes from coal. This legislation places an enormous tax on coal-burning utilities in an attempt to lower emissions, but the reality is these costs will necessarily be passed onto consumers – costing Kentucky electric consumers an estimated \$561 million in 2012. Taking into consideration increased costs of gasoline, diesel, food and goods, some studies show this legislation would cost each Kentucky family an additional \$4600 a year when fully implemented.

As I noted earlier, I've been a part of the coal industry for over 30 years. The industry has changed over the years and we're producing coal in a manner that is safer and more environmentally responsible than ever before. We in the coal industry provide thousands of jobs to the communities of rural Appalachia and are providing many more thousands of jobs through the vendors and suppliers that we utilize. Yet, the EPA and other federal regulatory agencies seek to regulate us out of business.

In conclusion, I hope that this forum can look into these issues. Furthermore, I hope that the following questions can be answered: Why is the EPA working so hard to put Appalachian coal producers out of business? Why are they applying rules and regulations to only one industry in five states of Appalachia? Why are they willing to sacrifice 80,000 jobs in this economically depressed region? Why are they

attempting to eliminate coal as an energy source at a time when America needs inexpensive and reliable domestic sources of energy more than ever?

I hope that each of you, through this new group and through your role as a Member of the United States House of Representatives, can resolve these issues. U.S. Coal Corporation and its 295 employees need your help now more than ever before.

Thank you again for the opportunity to be here today and I will attempt to answer any questions that you may have.