

'War On Coal' Came From Congress, Not From President Obama

By Richard Gordon - 10/24/2012

As the general election enters its stretch run, Mitt Romney's campaign is pounding away at President Obama's alleged "War on Coal" in hopes of turning blue states, like Pennsylvania, red.

How true is the charge? Less than claimed. If there's overstatement, blame the president, and if there's complaint, blame the Congress.

Romney's arguments are hard to swallow whole because low-cost natural gas (courtesy of hydraulic fracking) is a far bigger economic problem for the coal industry than are President Obama's various coal policies.

Since the president thrives on his image as the visionary green-energy crusader and the Republicans thrive on their image as defenders of industrial America, don't expect that truth to infect the political debate.

While Romney is right to decry the president's environmental regulations for the coal industry, the fact remains those regulations remain unimplemented and all phase in slowly.

Most current mining shutdowns, power-plant retrofits from coal to gas, and canceled orders for coal-generating facilities have little to do with the president's regulatory policies.

Moreover, the environmental regulations that are supposedly bringing the coal sector to its knees did not emerge as part of some grand, premeditated administrative offensive; they were the product of third-party lawsuits that forced the EPA to act.

For example, the centerpiece of the president's alleged "War on Coal" is an EPA rule issued last December that requires coal-fired power generators to retrofit their plants to reduce emissions of mercury, particulate matter, sulfur dioxide, nitrogen oxides and hydrochloric acid. It will cost \$9.6 billion to \$20 billion annually, depending on the estimate, and will kick in three or four years from now.

But the rule was dictated not by President Obama but by the D.C. Circuit Court in February 2008 and in a consent decree signed by the EPA to settle a separate lawsuit in April 2010. That's the main reason, by the way, Romney hasn't vowed to reverse those EPA rules if he wins; he can't.

Accordingly, if one wants to find blame for these regulations, one can put some blame on the EPA, which chose the terms of its surrender in the consent decree, but one should look primarily to Congress, which drafted the Clean Air Act in the first place.

The Clean Air Act gives the EPA responsibility for identifying emissions that might harm human health, establishing acceptable thresholds for those risks, and dictating exactly how polluters meet the standards.

To ensure that the EPA does not act too arbitrarily in meeting its loosely defined goal, the law affords both industry and environmentalists the opportunity to go to court to challenge findings and rules they don't like.

While this allows those who are regulated to secure delays, it also allows environmental and health organizations to litigate for stricter rules.

It's difficult to know whether these new rules are justified because pollution impacts are intrinsically difficult to measure. A mix of matter circulates on earth, and serious damage is probably due to many years of exposure to the dangerous components.

The key problems are determining (1) which components are dangerous, (2) what harm is done, (3) the time required for effects to occur and (4) the exposures actually experienced.

Those issues are functionally impossible to settle because of the short history and limited scope of emissions monitoring. The EPA alleges 11,000 premature deaths will be saved annually, but in reality, satisfactory research hasn't emerged after 40 years of effort.

While it's common — and understandable — for government to act out of sense of danger, it is a suspect response because there's no end to the dangers that can be plausibly ginned-up by those interested in expanding the boundaries of the state or in securing special favors from government.

Those who disagree might recall that the so-called "precautionary principle" was the driving force behind America's invasion of Iraq; a mere "sense of danger" is not enough when the costs of acting are potentially large.

In truth, the regulatory "War on Coal" was made inevitable by a Clean Air Act that Republicans have done little to reform over the past three decades, even when they controlled both chambers of Congress.

That war is an economic sideshow.

As long as hydraulic fracking is producing low-cost natural gas, the coal industry will continue its economic slide. Telling politically convenient fairy tales to the contrary does the country no favors.

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