



# VIEW*S* & VISIONS

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## Change in the American Coal Industry

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Murray Energy Corporation

Robert E. Murray is the founder, Chairman, President and Chief Executive Officer of Murray Energy Corporation and subsidiaries, a group of privately held coal mining, sales and transloading companies which, together, currently produce approximately 75 million tons of bituminous coal annually and employ about 6,500 persons in six states and Colombia, South America. These facilities comprise one of the largest groups of underground coal mining and river and ocean shipment operations in the world.

Mr. Murray was formerly President and Chief Executive Officer of The North American Coal Corporation, where he served for 31 years at all levels of management.

During his 60-year career in the mining industry, Mr. Murray has received numerous safety, educational, engineering, leadership, professional and philanthropic awards. He is a past President of the major worldwide mining, metallurgical, and petroleum engineering institutes and societies. He serves on the board of directors of many national and state coal trade associations.

Mr. Murray holds a bachelor of engineering degree in mining from The Ohio State University and has completed the Advanced Management Program at Harvard Business School. He is a licensed Professional Engineer and private pilot.

Do you remember the song “What a Difference a Day Makes”? Well, what a difference a year makes. In 2016, I appeared on national television news programs, which I have always detested, 51 times. Each time, I explained the regulatory rampage which was being waged by the Obama Administration and its political supporters and the destruction it had wrought on the United States coal industry, coal mining families and reliable, low cost electricity in America.

The situation today in our country is quite different. We finally have a President who has vowed to preserve coal jobs and low-cost, reliable electricity for all Americans. I am pleased to report to you that President Donald J. Trump is following through on his promises.

On February 16, 2017, President Trump signed a repeal of the Obama Administration’s illegal and job killing so-called Stream Protection Rule, which banned the utilization of longwall and other mining system beneath dry ditches, which are often 1,000 feet below the surface, for no environmental benefit whatsoever. This unlawful and destructive Rule, as promulgated by the Obama Administration, was nothing but a thinly-veiled attempt to destroy our Nation’s underground coal mines and put our nation’s coal miners out of work. Indeed, this Rule was illegally taken from the Surface Mining Control and Reclamation Act of 1977, in which Congress specifically said, at least three (3) times, that the law applies only to surface coal mining. President Trump saw through this and, with 10 of my coal miners standing with him, he repealed the law in its entirety.



On February 28, 2017, President Trump signed an executive order directing the U.S. Environmental Protection Agency (USEPA) and the United States Army Corps of Engineers to begin the rulemaking process required to fully repeal the illegal Waters of the United States Rule.

On March 28, 2017, President Trump signed an Executive Order rescinding the Obama Administration’s illegal and destructive so-called Clean Power Plan (CPP), and certain other anti-coal regulations, which threatened to completely destroy the United States coal industry, and unconstitutionally usurp the rights of the States, for no environmental benefit whatsoever. This action alone stopped 56 more coal-fired power plant closures and the layoff of 25,000 more coal miners, on top of the 63,000 families laid off under Barack Obama. Murray Energy was the first party to file a lawsuit challenging the CPP, in the case styled *Murray Energy Corporation v. U.S. Environmental Protection Agency*, which is currently pending before the United States Court of Appeals for the District of Columbia Circuit. The attorneys general from twenty-nine (29) states also determined that this CPP is illegal, and joined us in this litigation. On February 9, 2016, the Supreme Court of the United States agreed with our arguments and issued a Nationwide stay of the CPP, in the lawsuit led by Murray Energy. Once again, President Trump’s leadership and initiative have protected our coal jobs and affordable electricity for all Americans.



*Founded in 1988, Murray Energy Corporation is the largest privately owned coal company in the United States, producing approximately 65 million tons of high quality bituminous coal each year, and employing over 6,000 people in six states*

On April 12, the Trump USEPA suspended their Effluent Limitations Guidelines on coal-fired power plant scrubbers, which illegally are currently closing the generating stations.

On April 14, 2017, Secretary of Energy Rick Perry ordered his staff to closely study the fuel security and resiliency of our Nation's electric power grids, and the impact of the closures of further coal-fired power plants with sufficiently available fuel supply.

On June 1, 2017, President Trump announced that the United States will completely withdraw from the illegal United Nation's COP 21 Paris Climate Accord, toward which Mr. Obama had already sent \$1 billion of our taxpayers' money.

Even with these successes, there is still much more which must be done in order to preserve coal mining jobs in the United States. We are working with President Trump's Administration, every day, to ensure that these actions are taken as quickly and effectively as possible.

Specifically regarding the United States coal industry, actions that must be taken by the Trump Administration must be:

- Eliminating the Coal Combustion Residuals Rule, which threaten to close numerous coal-fired power plants.
- Seeing that the USEPA complies with Section 321(a) of the Clean Air Act of 1971 regarding job losses and shifts of employment caused by their regulations. On October 17, 2016 and January 11, 2017, Murray Energy achieved victories by which the Federal Court has ordered the USEPA to comply with this law, but this decision was overturned by three (3) liberal, Obama-appointed judges in the Fourth Circuit. We are now appealing this matter to the U.S. Supreme Court.
- Eliminate the four cent (4¢) per kilowatt hour (kWh), thirty percent (30%) production tax credit, subsidy from our taxpayers for windmills and solar panels in the generation of electricity.
- Obtain legislation to fund both the retiree medical care and pensions for all of America's UMWA-represented, retired coal miners, not just those recently orphaned through company bankruptcies and mine closures, as the Senate leadership proposes.
- End the electric utility Maximum Achievable Technology and Ozone regulations.
- Overhaul the bloated Federal Mine Safety and Health Administration, which over the past eight years has not been focused on coal miner safety, but on politics, bureaucracy, waste and violation quotas.
- Drastically cut the staff of the USEPA. Tens of thousands of government bureaucrats have issued more than 82,000 pages of regulations under Obama, many of them regarding coal mining and utilization. The USEPA alone has written over 25,000 pages of rules, 38 times the words in our Holy Bible.
- Reduce the size of the costly and wasteful Department of Energy. It serves no meaningful purpose, and any essential functions can be transferred to other Departments.
- Overturn or modify the recently enacted Cross-State Air Pollution Rule.
- Develop clean coal combustion technologies, but not carbon capture and sequestration, which is neither practical nor economic. High energy, low emission, coal-fired combined cycle and other technology deserve government support of their development.
- Revise the arbitrary Coal Mine Dust Regulation of the Mine Safety and Health Administration of the Department of Labor that provides no health benefit to our coal miners.
- Overturn the Mine Safety and Health Administration, Department of Labor, Pattern of Violations Rule.

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## Change in the American Coal Industry

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- Restaff the National Labor Relations Board with Commissioners that will interpret and follow the law, not a radical labor agenda.
- Eliminate the Fair Labor Standards Act Overtime Rule.
- Enact new legislation to overturn the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
- Change some of the appointees on the Federal Election Commission.
- Continue to appoint Justices to the United States Supreme Court, such as Judge Neil Gorsuch, who will follow our United States Constitution and our laws rather than attempt to redefine them, as have the Obama-appointed Justices.

In early 2016, the total value of the American coal industry had dropped over five years from \$68.8 billion to \$4.08 billion, a 94 percent reduction in valuation. A total of 52 coal companies were in bankruptcy proceedings, with only four major ones financially solvent. While the coal company valuation has returned to about \$11 billion, there is currently much uncertainty by investors relative to coal.

Capital markets are fairly strong, but most potential coal investors are currently still forming their coal investment theses under

the new Trump Administration. But, there is more positive capital market activity at this time versus a year ago.

But the thermal coal industry continues to be too fragmented, and much consolidation is needed. The industry may never be healthy, but it can survive.

The many coal companies' bankruptcies have added to this conundrum. Through the bankruptcy process, these companies have much improved cost structures, but they do not close a single coal mine, electing not to deal with the cost of liability and surety performance bonds or the physical reclamation itself. The laws of supply and demand do not work in the coal industry as, in these bankruptcies, the supply remains and there continues to be a glut of coal in a declining marketplace. This circumstance has continued to make potential investors wary about coal and in participating in companies that have not gone through the bankruptcy process.

Remember, natural gas-fired electricity generation has historically cost fifteen cents (15¢) per kWh, notwithstanding that gas prices are about \$3.25 per million BTU today. With the construction of needed pipelines and LNG ocean ports under the Trump Administration, volatile natural gas prices will rise, and coal will be able to economically compete with that natural gas production. It already can in most areas at \$3.00 per million BTU.

We must continue to fight for fair treatment of the coal industry by the United States government and a level, unsubsidized playing field for our coal in electric power generation. ❧

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During an awards ceremony in New York City earlier this year, Benchmark Litigation named Bowles Rice its 2017 West Virginia Firm of the Year.

