

News
From _____

CONGRESSMAN

Nick Rahall

WEST VIRGINIA-4th DISTRICT

EDITORS AND NEWS DIRECTORS:

FOR YOUR INFORMATION

THE ENCLOSED ARTICLE RECENTLY APPEARED IN THE COAL
INDUSTRY NEWS. THE INTERVIEW WITH CONGRESSMAN RAHALL IS A GOOD
SUMMATION OF THE PRESENT STATUS OF COAL LEGISLATION IN CONGRESS
AND ITS OUTLOOK FOR THE FUTURE.

SPECIAL UTILITIES REPORT

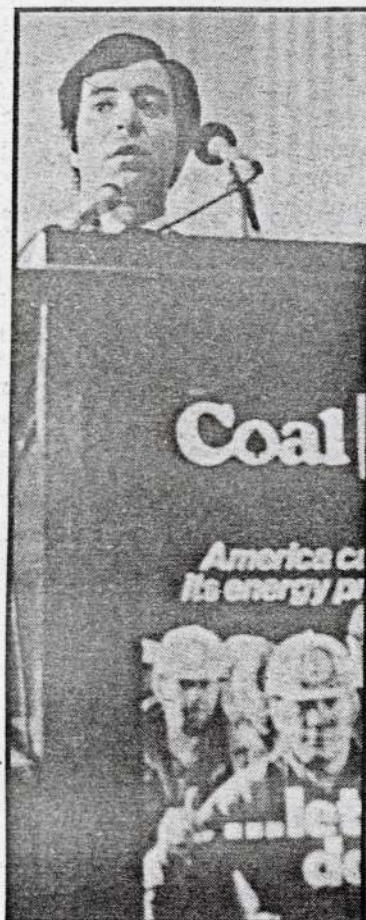
Coal Industry News

COAL'S
NATIONAL
NEWSPAPER

1980 SEP -8 AM 9

Bi-weekly \$2.00

September 8, 1980



A Hard Look at Coal From Nick Joe Rahall

As the 96th Congress rushed headlong toward election-year adjournment, Rep. Nick Joe Rahall, II, Democrat of West Virginia's 4th District, and the founder and leader of the Congressional Coal Group, took time a week ago to discuss with CInews publisher Owen Kean and Washington correspondent Paul Feine his views on the current state of pending legislation with massive potential impact on the coal industry, and his observations on the industry's future. The following article sums up the results of that interview.

By PAUL FEINE

At first glance, Nick Rahall comes across as a bright, energetic, enthusiastic young Congressman not unlikely many other new members of

A CInews Exclusive

Congress elected in the past decade. After listening to him discuss a wide range of national issues for a few minutes with a knowledge and insight not often found in far more senior members of Congress, the casual observer begins to realize what led the National Education Associa-

(Continued on Page 19)

tion to award Rahall one of the group's few "100 percent" ratings for his Congressional record.

It is when he deals with the issue of coal, though, that Rahall's zeal to protect, defend, and enhance the interests of his West Virginia constituents, and his encyclopedic knowledge of all coal issues comes to the fore.

In Rahall's view, at least three major critically important issues affecting the coal industry remain to be resolved by this Congress, along with a host of lesser, but nonetheless important, matters. The "big three" are: proposed amendments to the Surface Mining Control and Reclamation Act, the long-delayed oil backout legislation to convert utility power plants to coal use, and the rail deregulation legislation.

On the first issue, the debate in Congress over whether to amend the Surface Mining Act to permit individual states to establish their own sets of implementing regulations under the act, rather than adhering to nationwide Federally-dictated standards which may or may not suit all state's needs, Rahall is bluntly pessimistic: "It definitely does not look good the way the conference committee is stacked against us."

Rahall noted that Rep. Morris Udall (D-Arizona), chairman of the House Interior Committee, had been responsible for naming majority conference committee members from the House, and observed that "of the 10 Democrats Mo (Udall) has appointed, it looks like two are favorable to the Senate bill as it is."

That Senate bill, actually legislation regarding commercial vessel tonnage which had already been passed by the House after originating in its Merchant Marine Subcommittee, was amended in its Senate version by Rahall's fellow West Virginian, Senate Majority Leader Robert Byrd, to include the Surface Mining Act revisions.

The fact that the vessel tonnage bills — basically non-controversial issues — are now different in their House and Senate versions requires the establishment of a conference committee. The surface mining provision in the Senate bill faces both the likelihood of prolonged attacks in conference and the possibility that House Speaker Thomas "Tip" O'Neill (D-Mass.) could rule the mining amendment "non-germane" to the shipping bill if the surface mining provisions survive the conference. Even if the legislation makes it through the House intact, a Presidential veto is a near-certainty.

Byrd's intent in introducing the amendment in the Senate was both to fulfill his commitment to the National Coal Association to attempt revisions to the Surface Mining Act of 1977, and to raise the issue that the 115 performance standards in the 1977 law and the 500-plus pages of implementing regulations issued since then by the Interior Department's Office of Surface Mining (OSM) should be scrapped in favor of rules developed independently by the country's 24 coal-mining states since the law's passage. Byrd and others contend that the state laws go farther than the Federal standards, and that arbitrary insistence on compliance with duplicative Federal regulations is wasteful and complicated.

"West Virginia's program, for example," says Rahall, "was rejected and sent back to the state with modifications and 28 changes promulgated by OSM."

Interior Secretary Cecil Andrus has no fewer than 20 state surface mining reclamation plans on his desk, and was scheduled to make decisions on them late last week. Rahall expressed hope that the pending legislation "might put pressure on him to approve some of the Eastern states especially. I hope we'll be successful in that regard, if not in the actual passage of the bill itself."

Rahall feels that allowing a state to write its own regulations, instead of preventing it from being more stringent than the Federal guidelines, defeats the purpose of the 1977 Surface Mining Law. More stringent standards "could come about in some states" under the proposed amendment, he said, "but in any case they would have to meet minimum Federal guidelines. This was my interpretation of the original bill, and I think it does help to restore integrity to the Congressional law."

Rahall would have preferred avoiding a conference entirely by having the House accept the Senate version as passed in lieu of the original House shipping bill, but even as he spoke he acknowledged the unlikelihood of that resolution of the issue.

"Our number one priority," says Rahall, "is the utility oil-gas backout legislation — the so-called coal conversion bill."

"It wouldn't put every miner back to work," he admits, "but it would be an important first step toward solving unemployment problems in Appalachian coal fields, and toward resolving our nation's reliance on foreign oil. It's a national security problem, not just a regional problem."

Rahall's considered opinion is that several proposed compromises now in the works leave the door open for possible action on the oil backout bill during the current session of Congress.

"I've talked with Chairman Dingell (Rep. John Dingell (D-Mich.), chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce) on it many times, and he wants to move the bill out of his subcommittee," says Rahall, but he notes that Dingell "hasn't had the votes."

The most significant environmental compromise Rahall has seen involves going back to the Environmental Protection Agency (EPA) original proposals turned down by the White House in favor of Department of Energy language for the Administration oil backout bill.

"It is basically the constant emission proposal of the EPA," Rahall said, under which states would receive Federal grants only if coal emission levels met all aspects of state implementation plans. Trade-offs between different pollution sources would not be allowed under the compromise, a situation Rahall calls "detrimental to the bill."

"All sides agree that it would cut down the number of conversions that would be able to take place," he said, adding that the language could prevent 20 of 80 plants proposed for conversion from shifting to coal use.

Dingell's substitute bill is drafted in such a way that any new "off-gas" language introduced as amendments in the House would be ruled out of order by the Parliamentarian, since they would be amendments to the Fuel Use Act., while the substitute bill does not refer to that prior legislation.

"If we went to conference with the Senate off-gas language and possible House environmental language that I think would be even more stringent than the laws already on the books, then I think we could come out with a disastrous bill — worse than what we have today," Rahall said.

"I still strongly support the original Administration proposal," the Congressman said. "The Senate-passed bill would be better than nothing at all," he added, but he cautioned that "I fear that we're getting divided. Various groups interested in coal have come out against the Senate bill merely because of the off-gas provisions. You have to be a realist, realizing the time constraints we are under."

As CInews interviewed Rahall, the third major legislative activity of major significance to coal — the rail deregulation issue — was in the throes of compromises being worked out between Rep. James Florio (D-New Jersey), the sponsor of the overall railroad deregulation bill, and Reps. Bob Eckhardt (D-Texas) and Rahall, who had co-sponsored an amendment to the legislation designed to protect "captive shippers," largely coal and agricultural firms, from abrupt large increases in freight rates under deregulation.

The Florio bill, similar to legislation already passed by the Senate, would permit intervention by a watchdog Interstate Commerce Commission only if rail freight rates went above 200 percent of the "variable" costs of transportation under deregulation. The original Eckhardt-Rahall amendment would have lowered that threshold for ICC action on rates to 160 percent.

As subsequently modified, the amendment calls for a benchmark ratio of 160 percent of out-

of-pocket costs during the first year of deregulation, 165 in the second year, 170 in the third, and a "floating" level permitting ICC action at the 170-180 percent level after four years of deregulation of rail rates. Rates up to the threshold level could not be contested; those over the level could be appealed to the ICC at the option of the shipper.

Though Florio said, after the basic bill had been "pulled" from the House action calendar for further consideration, that "this bill is dead," Rahall is not as pessimistic. During the past two weeks, according to Rahall staff members working hard for the captive shipper protection amendment, such major shippers as General Motors, Allied Chemical, DuPont, Dow, and others have "come on board" in favor of the compromise hammered out behind the scenes at Rahall's behest.

"Coal shippers got a good deal," said Rahall of the new amendment language. "Under any deregulation deal, costs will go up, but captive shippers got their protection. I believe we are very close to a compromise at this point with which the large shippers, the coal producers, and the railroads can live."

On the burgeoning issue of coal slurry pipeline jurisdiction, Rahall pointed out that there are currently two House bills under consideration — one drafted in the Public Works Committee and one in the Interior Committee. Rahall sits on both committees, and reports that the House Rules Committee has made in order the Public Works bill as the "vehicle" for House voting, but that Interior Committee Chairman Mo Udall may introduce his group's bill as a substitute on the House floor.

Rahall does not expect the coal slurry pipeline issue to be addressed by the House until after the conclusion of debate on rail deregulation, and this could push the issue off the House calendar entirely for this session of the Congress. Still, Rahall feels the chances for coal slurry legislation this year are "the best they've ever been, and certainly if deregulation is passed first, that will make the climate that much better."

Asked whether coal gasification plants have a place in the East, and whether economic, environmental, and political problems can be resolved, Rahall responded: "Sure . . . they have a very important place, and I think all the problems can be solved." He added that Southern West Virginia has been under DOE consideration as a location for a large-scale coal gasification facility.

Rahall was asked by the CInews interviewers whether the Democratic platform plank calling for solar energy funding to match synfuels expenditures would preclude some synthetic fuels plants, and he answered that the priorities established by the Congress in the Synthetic Fuels Act this year should not be altered, and should be followed through, but that this would by no means rule out solar investment with supplemental funding.

Rahall feels that the essential first step in securing Government action to support projects needed to expand coal exports — such as port upgrading or mine-to-port transportation projects — is for coal industry representatives to state a forceful case to the Congress specifying what is needed and how the Government can and should help.

Perhaps most importantly, Rahall feels that funding for port improvements and transportation facilities designed to improve coal export capabilities is "not outside the jurisdiction" of the Synthetic Fuels Corporation, once it is established.

Summing up his attitude toward the coal industry, Rahall concluded:

"I'm bullish on coal . . . perhaps not in the remainder of this year, and maybe not in 1981, but certainly early in the 80's, I would expect the financial analysis to become more bullish on coal — not only the steam market but also the metallurgical market.

"Everybody's going to have to become bullish on coal."