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"War on Coal": The Effects of Divisive Political Rhetoric on the Public Policy Process in West Virginia

Matthew Henry Burns

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“WAR ON COAL”: THE EFFECTS OF DIVISIVE POLITICAL RHETORIC
ON THE PUBLIC POLICY PROCESS IN WEST VIRGINIA

A Master Thesis

Submitted to the Faculty

of

American Public University

by

Matthew Henry Burns

In Partial Fulfillment of the

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of

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Charles Town, WV

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ABSTRACT OF THE THESIS

“WAR ON COAL”: THE EFFECTS OF DIVISIVE POLITICAL RHETORIC
ON THE PUBLIC POLICY PROCESS IN WEST VIRGINIA

by

Matthew Henry Burns

American Public University System, December 21, 2014

Charles Town, West Virginia

Professor Christi Bartman, Thesis Professor

Multiple influences can be utilized to shape the public policy process such as special interest groups, public opinion and industry. Looking at the issue through the lens of the Public Choice Theory, this thesis examines how divisive rhetoric is employed by these influences to shape the public policy process in West Virginia. In highlighting the political positions of individual political candidates as well as political party agendas in promoting divisive War on Coal political rhetoric during the West Virginia mid-term elections of 2014, three distinct public policies impacted by this divisive rhetoric are examined. The examination of these three public policies, one from each level of government (local, state and federal), was used to determine whether divisive rhetoric can exact change on public policies. Through the use of public statements made by public officials and other politicians, it was determined divisive rhetoric does, in fact, influence the public policy process. However, marked differences were identified between policies at each governmental level, particularly in regards to the sphere of influence divisive rhetoric had on the design and implementation of public policies.

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Introduction

The public policy process can often be a long and confusing struggle. The efficiency and effectiveness of this process hinges on many variables. LeMay (2006) identified six stages in the public policy process – identification, formulation, development, budgeting, implementation and feedback. The success or failure of any given public policy can be attributed to any of the variables pertaining to an issue. All levels of the process have various players with distinct personalities and, frequently, each of them possesses a different agenda. Therefore, it is impossible for those responsible for crafting public policy to please all stakeholders in the process. This thesis focuses on the State of West Virginia and how divisive rhetoric, specifically “War on Coal” propaganda, has impacted the public policy process with federal, state and local governments. In fact, within the state, the “War on Coal” rhetoric has become so pervasive that other industries have co-opted the effective, albeit divisive, language of “War on Coal” for their own use. In order to understand the effectiveness of this divisive “War on Coal” rhetoric, it is imperative to understand the evolution of a state where such a phrase could not only be uttered, but be effectively used by a coalition of policy makers, politicians, business executives and private citizens to move forward an agenda that favors private interests over those of the public interest. There are historic reasons, some dating back more than 100 years, which explain how the divisive “War on Coal” rhetoric is so easily embraced by West Virginia’s policy makers.

The United States’ industrial revolution that began in the nineteenth century owes much to the abundant natural resource known as coal, which not only powered the industrial revolution but changed the way the United States – and the world – would evolve in the 20th century and beyond. For more than 120 years, coal has been the go-to resource that powers the average American’s daily life. As one of the primary centers of coal extraction, this significance was

amplified in West Virginia. Historian Ronald Lewis (1998) expertly describes how the rise in natural resource extraction and its favor amongst the early leaders of the state occurred in his work *Transforming the Appalachian Countryside: Railroads, Deforestation and Social Change in West Virginia, 1880-1920*. Seceding from a state that favored agrarian rights over corporate rights, it was not until the pivotal change of the Supreme Court of Appeals in 1889-1890 that saw the end of this long held tradition and the beginning of a new one. In this new political climate, industrial uses for land would be favored over the interests of residents (Lewis, pp. 110-111, 114). Soon, the widespread emphasis on natural resources replaced the largely agrarian economy that existed prior to these industrial pursuits. However, this newly emergent industrial and political economy failed to benefit the public interest since the majority of the natural resources were owned by out-of-state interests, a fact which remains the same as of this writing. According to the seminal work *Who Owns West Virginia* (Miller, 1974) as well as a recent follow-up study of the same name by the West Virginia Center on Budget & Policy & American Friends Service Committee (2013), out-of-state interests continue to dominate the ownership of West Virginia’s land and natural resources. In public policies that impact how land is to be utilized, frequently those who own the land dictate what will be done with the land, and whether that is in the public interest or not, is entirely coincidental.

The early and continued use of coal to grow this country is due to the cost effectiveness of the resource and the relative abundance of it in close proximity to urban centers around the country. The impact that extraction has had on the public policy process on the state and national level cannot be understated. An increasing number of scientific literature confirms that all aspects of coal – from its extraction to its transportation to its burning and the after effects such as coal ash and slurry/sludge impoundments -- have negative impacts to not only global

climate change, but also to public health especially in regions where this extraction takes place. One public health expert, Michael Hendryx, has produced, along with other experts in the field, numerous studies verifying these negative impacts. Hendryx’s studies and co-authored studies span nearly a decade and include numerous peer-reviewed journal articles. Among other findings, Hendryx’s studies have found a higher rate of heart disease, lung disease and kidney disease in West Virginia communities next to mining -- even after controlling for all other measures (Hendryx, 2008); higher cancer mortality rates in West Virginia and central Appalachia after controlling for other covariates (Hendryx, 2010) and higher poverty and mortality rates in areas where mountaintop removal mining (MTM) occurs (Hendryx, 2011). Study after study was ignored by the politicians who create public policy. The majority of elected officials refused to publicly acknowledge the studies, even though each study was published in peer reviewed journals, and despite widespread public outcry by residents who are directly impacted by coal mining. Although Hendryx is no longer with West Virginia University, his research regarding the impact of coal continues in his new position at Indiana University.

As more environmental and public health studies are conducted and various forms of other energy sources are used, it is apparent that coal’s time in the spotlight is beginning to dim. Where once coal supplied nearly 90% of America’s energy needs, that number is now merely 39% (U.S. Energy Information Administration, 2014). As this has happened, more citizens in the coalfields of central Appalachia have lost their jobs. Especially in areas with little to no economic diversification, such as southern West Virginia, this is especially hard hitting. As the jobs decline, an increase in divisive rhetoric became more prevalent in the political arena. In an effort to become more palatable to voters who were experiencing these job losses first hand,

local, state and federal politicians adopted this rhetoric. Representative Nick Rahall (D-WV) was instrumental in crafting a proposed piece of public policy nicknamed “Stop the War on Coal Act” that would rein in the Environmental Protection Agency from political overreach. On the floor of the House of Representatives, Congressman Rahall, when introducing the bill in 2012 remarked, “I rise today in support of the ‘Stop the War on Coal Act,’ or as I prefer to call it the ‘Defense of Coal Miners’ Jobs Act’” (Rahall, 2012). Rahall’s official website referenced the Clean Air Act regulations “that threaten to shutdown coal-burning power plants and force others to stop using coal as a fuel source” (Rahall, 2012).

The coal industry had been given more than two decades to comply with the Clean Air Act of 1990. Still, rather than recognizing this fact, the decline of the industry, or the decreased demand for coal, coal industry officials and their political affiliates began a war of words that would rally the proverbial troops while simultaneously silencing opposition coming from community and environmental groups who sought to ensure the enforcement of federal and state public policies designed to protect the public interest. Industry leaders, beholden politicians and the moneyed interest groups possessed the resources that ensured the capability to continually reframe public discourse regarding coal related issues in the state. The arguments changed from being about public concerns over safe drinking water and the high mortality rates of children in the coalfields, to one that promoted the belief that people from out of state were trying to challenge “our way of life.” Essentially, with the influx of resources originating from industry-backed interest groups, the public discourse was framed in such a way that most residents were placed on one of two categories: those who supported the protection of the environment, and those who supported the protection of jobs. In West Virginia, whenever public discourse is pigeonholed into viewing an issue as being about jobs versus the environment, jobs always

comes out the winner. This type of rhetoric is continually used to promote the interests of industry over the public (Bell & York, 2010; Goodell, 2006).

Over the past two decades, the coal industry in West Virginia has experienced a steady decline (Plumer, 2013; Reiss, 2013; West Virginia State Journal, 2012). This decline has wrought considerable upheaval in both local and state governments as political institutions long dependent on coal revenues are forced to consider other economic options. However, most political figures in the state have rejected the notion that the decline of the coal industry amounts to anything more than a federal regulatory “War on Coal.” Rather than use their political influence to begin a transition to a post-coal economy, the majority of West Virginia public officials continue to uphold a political system that promotes a near total economic reliance on the coal industry. Many of the elected officials view coal as not only the lifeblood of the West Virginia economy, but as a means to maintain, and even increase, political capital in state and local governments. Through the promotion of divisive political rhetoric rooted squarely in industry backed propaganda, West Virginia’s elected officials continue to support a political system that favors the interests of the coal industry over the public good. This study examines the effects of the pervasive “War on Coal” rhetoric on the public policy process in West Virginia.

Literature Review

The literature on the impact of divisive political rhetoric on the public policy process confirms that this issue is neither unique to West Virginia (or even the United States), nor is it confined to one particular sector of the economy. Nelson (2004) examined how political rhetoric influences the public policy process through three primary channels: goal ranking, issue categorization and institutional assignment. He found those who initiate political rhetoric utilize

these three channels to emphasize the importance of a policy goal. To maximize the effectiveness of this rhetoric, the source of the rhetoric attempts to narrow an argument's position rather than focusing on a larger issue. By focusing the rhetoric, which appeals to already held assumptions and beliefs of the average citizen, it becomes widely accepted among the masses. It is then used to inform politicians about the perceived will of their constituents. Purveyors of political rhetoric understand the relationship between public opinion and cognitive psychological function. That is to say, public opinion is ever-changing as the populace receives and processes new information. However, those who promote political rhetoric also understand that public opinion tends to be swayed, not only by recent information, but also by messages that have been repeatedly promulgated among the populace. In this way, partisan factions with enough resources can effectively shape public opinion (and thus political will) in a way that best serves their interests.

In order to most effectively shape public opinion, special interest groups must utilize the media to get their rhetoric to the people. Kurz, Augoustinos & Crabb (2010) examined the role the media played in shaping public discourse, and subsequent political opinion, in Australia following a 2007 United Nations report detailing the need to reduce global carbon emissions. They pointed out how special interests bought media resources to sell the argument that it was in the “national interest” to reject the global emission proposals set forth by the United Nations.

Firmly rooted in political rhetoric, the argument that coal mining is in the national interest, by way of making the United States more energy independent, is a recurrent theme among media outlets, special interest groups and politicians in West Virginia (e.g., West Virginia Metro News, 2014; West Virginia Coal Association, 2008; Manchin, 2014). Reicher & Hopkins (2001) explored the phenomenon of national identity and “national interest” rhetoric in their

book, *Self and Nation*. In examining the issue, they found that by using “national interest” rhetoric, politicians were able to mobilize a population by appealing to the egos, social constructs, and collective identities of the general populace. The “national interest” concept is especially applicable when examining the “War on Coal” rhetoric in West Virginia. One of the primary talking points of this rhetoric is how coal powers the nation and without coal, the standard of living in the United States would be impossible to achieve. This has been equated to if someone does not support coal, they must hate America. In conjunction with the increase in “national interest” rhetoric, special interest groups, industry leaders and political figures have effectively tied the American flag and other patriotic symbols in coal rhetoric.

Perhaps the most effective media campaign concerning “War on Coal” propaganda is illustrated in the industry catchphrase, “Coal Keeps the Lights On.” Originally, the phrase appeared on interstate highway billboards in the state, and then progressed to bumper stickers for coal supporters. The media blitz following the success of “Coal Keeps the Lights On” has resulted in a popular song title of the same name being showcased on a national primetime singing competition. After the song appeared on the television program, United States Congressman John Shimkus (R-IL) referenced the song during a speech on the floor of the United States House of Representatives saying the song was “an impassioned ballad for areas of our country that feel left behind and attacked by [the Obama] administration” (United States Energy & Commerce Committee, 2013). In West Virginia, public officials as well as industry advocates widely appeal to the egos and identities within the mining culture to further their agendas. Common themes prevalent in West Virginia political rhetoric revolve around coal. Rhetoric statements such as “coal miners are a special breed,” “coal puts food on the family’s table,” as well as “American coal powers the world” permeate West Virginia political culture.

In examining this type of political manipulation, Tullock (2002) found there is a correlation between populist rhetoric (albeit fabricated populist rhetoric) and political positions of elected officials. However, he pointed out while individual citizens are primarily concerned with their own interests, political actors must be concerned with the public interest rather than the interests of a small segment of the population and special interest groups. After an individual becomes a politician, a metamorphosis is expected of that individual. Their perspectives are expected to broaden; their decisions should become more comprehensive; and they should develop and support policies that are in the best interests of the public. Noting this supposition takes a rather myopic view of modern politics, Tullock made the more realistic assertion that a politician makes a living by winning elections. To maximize his or her chances of success, a politician seeks to appeal to voters by effectively telling them what they want to hear, and pointing out past accomplishments and achievements that support this message. In this way, effective politicians capitalize on the ignorance of voters about issues the voters do not fully understand, and seek to shape public discourse in a manner that will be the most effective in attracting voters. In fact, Tullock asserted voters are often so misinformed about individual politicians and policies that they support those who hold positions directly contrary to their interests. An ill-informed electorate coupled with a seemingly innate desire for politicians to win elections has led to a union between special interest groups and politicians. As Tullock pointed out, an “asymmetrical information bias leads to the emergence of special-interest groups and encourages politicians to pay attention to them” (Tullock, 2002, p. 8).

In our current democratic system, politicians and special interest groups go hand-in-hand. A review of campaign donations made to the political war chests of any politician in the state reveal the influence of special interest donations and political campaigns. Congleton (1989)

concluded in a realistic view of current politics, effective political campaigns tend to be those which are most successful in obtaining contributions. Likewise, the campaigns which tend to garner the largest amounts of contributions are those which share associations with special interest groups. In West Virginia, the moneyed interests are generally those affiliated with natural resource extraction; therefore, to run a successful political campaign in the State of West Virginia, candidates must have industry ties. Ultimately, this resulted in instances where citizen complaints to their elected officials about coal-related issues were met with reluctance or silence.

This scenario is not merely a recent occurrence in West Virginia. In fact, Williams (2003) postulated the political economy of the state has been held hostage since 19th century venture capitalists made investments in the extractive industries of the state and ensured these industries would long be the driving force behind the state's economy. By tying their personal interests to the public welfare, these venture capitalists then proceeded to further their interests by political means, the ramifications of which are still being reverberated throughout the halls of the statehouse. Brisbin, Dilger, Hammock & Plein (2008) stated even as other interest groups and industries increase their sphere of influence in state government, it is the “exploitative character” and “economic influence” of the coal industry that shapes the political image of West Virginia (p. 55). In fact, the Brisbin et al. (2008) goes on to outline five distinct ways the coal industry accomplishes this. First is the impact that historic out-of-state landownership resulted in industry-built and operated company towns where the coal industry effectively ruled every aspect of the personal and political lives of residents. Second is the coal industry has enjoyed considerable success in the past at thwarting government regulation of the industry. In fact, the only example of public policies being enacted that were negative to the coal industry were those that immediately followed events, directly attributable to the coal industry, which resulted in the

loss of life. Third, the coal industry had long enjoyed tax benefits for having operations in West Virginia. The industry had fought off public demands for a coal severance tax since 1953, but eventually a modest severance tax was implemented in 1987, though the industry protested it on grounds that it violated “the interstate and foreign commerce clause of the U.S. Constitution” (p. 56). This resistance continued until 2006 when the U.S. Supreme Court refused to hear the case. Fourth, both political parties in West Virginia are heavily influenced by the coal and other extractive industries. Often, former coal executives become elected officials and vice versa. Fifth, over the past 100 years, the only major voice effective in limiting the power of the coal industry in West Virginia was the United Mine Workers of America (UMWA). However, since the 1980s the UMWA has experienced declining membership and hence, a reduced effectiveness. In recent years, the UMWA and the coal industry share many common goals, and tend to be very comfortable with each other. In this way, in regards to its role as a watchdog of the coal industry, the UMWA has effectively been neutered (Brisbin et al., 2008, pp. 55-57).

Goodell (2007) asserts the primary reason why the state’s economy continues to revolve around extractive industries is due to the continued perpetuation of an economic system that has its foundation in out-of-state interests. By allowing this to continue, state leaders sit idly by and watch the majority of the wealth of the state flow out of the state’s borders. Legacy costs, such as environmental, health and social ills are the true costs of this type of economic system. This system has allowed the perpetuation of a hostage political environment where the majority of policies being made are those that directly benefit extractive industries, much to the detriment of public policies needed in other areas of the state. However, as the long-time economic engine of West Virginia entered its economic decline, voices of discontent with public policies which supported the coal industry began to be heard by elected officials. Bell & York (2010)

ascertained as the coal industry in West Virginia began to wane and lose political capital, industry-funded support groups were formed to promote the merits of coal not only as a historically significant economic engine in the state, but also to develop propaganda intended to manipulate the public into adhering to an “economic and cultural identity” that required the continuation of coal mining in order to maintain this identity (p. 111). In its attempts to construct a post-coal ideology that would solidify coal’s continued significance as an economic powerhouse in the state, the coal industry has effectively created a subculture that feeds upon divisive political rhetoric, coal-sponsored propaganda and an intense loathing of those who would seek economic alternatives to the extraction of coal.

This study builds upon these foundations to examine the specific instance of the “War on Coal” divisive rhetoric and adds to the understanding of how such divisive rhetoric and political machinations can impact the public policy process of an entire state, many areas of which are *not* dependent on coal.

Theoretical Framework

Modern political philosophies and subsequent theories attempt to explain how public policies are created and transformed during the public policy process. Policy makers adhere to decision-making approaches that permit them to maintain their respective political philosophies while still shaping policies that meet the demands of their constituents. Kraft & Furlong (2012) identified three primary decision-making approaches necessary for political actors to be successful in shaping public policy process: the Elite Theory, the Group Theory and the Rational Choice Theory.

Through multiple governmental connections, the Elite Theory maintains that business leaders, socialites, political insiders and other influential personalities possess more influence in

the public policy process than average citizens. The Group Theory states that public policies are the culmination of the back and forth of conflicting interest groups. Lastly, the Rational Choice Theory utilizes complex mathematical models to make projections on what direction public policies must take in order to meet the needs of the general public (Kraft & Furlong, 2012, pp. 78- 83).

While these approaches can be applied to a myriad of situations, the particular focus of this thesis builds upon an offshoot of the Rational Choice Theory. This thesis requires a theory that can provide a nuanced, comprehensive approach to the phenomenon of the power of partisan political rhetoric presently occurring in West Virginia, and how the power of those words has impacted all aspects and levels of the public policy process in the state. While the Rational Choice Theory can be applicable in a large variety of situations (including the scope of this thesis), the conventional theory fails to accurately predict human behavior. While the theory rests on the assumption that all relevant actors in the public policy process act in a rational manner, it fails to differentiate between relevant actors who act in the public interest and those who make rational decisions based solely on their own self interests. Therefore, a modified version of the Rational Choice Theory is a better fit for the purposes of this thesis. The theoretical framework of this thesis will use the Public Choice Theory, which asserts that public policy makers and other stakeholders make rational decisions solely for their own self interests rather than those which would best serve the public interest. This theory is most applicable to how the “War on Coal” divisive political rhetoric impacts the public policy process in West Virginia. Historically, this theory was the first to challenge long held theories of public administration such as classical public administration and neoclassical public administration theories (Gruening, 2001, pp. 3-5).

This thesis relies heavily on qualitative analysis; however, due to an absence of academic literature applying the Public Choice Theory to the public policy process in West Virginia, this work will be the first of its kind to examine this relationship. In the most similar scholarly work to this thesis, Bell & York (2010) utilize neo-Marxist theory to examine how the coal industry solidified economic and cultural control in the state. While complementary to the Bell & York (2010) sociological study, this thesis will apply the lens of Public Choice Theory to the public policy process in West Virginia to determine the effect that divisive political rhetoric may have on shaping public policies. Previous studies using Public Choice Theory largely focused on the macro level implications (Shughart & McChesney, 2010; Pitts, 2012; Larkin, 2013). This study will add to the existing literature by providing a timely micro level study of the Public Choice Theory aimed specifically at examining the ongoing public policy process in West Virginia.

By adhering to the Public Choice Theory, politicians and other bureaucrats capitalize on public support (and ultimately votes) by wielding their political influence to shape public policy and regulatory controls in a way that best serves interest groups, and to an extent, the voting public. In subscribing to the core tenets of the Public Choice Theory, groups emerged where “voters are guided by economic self-interest, interest groups are rent seeking, politicians are entrepreneurs interested in power and perks, and bureaucrats believe in budget maximization and bureau expansion” (Haque, 2007, p. 180). In essence, politicians and bureaucrats maximize the amount of political capital to be gained through their influence. Ultimately, despite any perceived increase in efficiency in the public sector, under the Public Choice Theory, government devolves into a cyclical system of “you scratch my back, and I’ll scratch yours.”

While the Public Choice Theory is widely used in economics, it exhibits applications that are applicable to the field of Public Administration as well (Russell, 1979) and as indicated

above was the first theory to truly challenge the existing theories of public administration. The underlying premise of using the Public Choice Theory, when applied to Public Administration, is that public administration professionals cannot effectively do their jobs when elected Administrative leaders promote policy agendas that are counterintuitive to a public administrator's efforts in the successful implementation of public policy. Specifically for the purpose of this thesis, the Public Choice Theory will be used to examine the extent of political corruption in state government and its elected officials, and how this corruption affects the overall public policy process. One particular component of the Public Choice Theory to be explored is the concept of regulatory capture, and whether or not regulatory agencies in West Virginia exhibit traits associated with regulatory capture.

When used in conjunction with Public Choice Theory, regulatory capture represents a failure of government to implement public policies due to political corruption. Regulatory capture is a process that “occurs when government bureaucrats, regulators, and public sector agencies” skew the intent of a public policy in favor of a regulated industry rather than in favor of the public interest (Wexler, 2011, p. 278). However, Engstrom (2013) questioned whether accusations of the regulatory capture of government agencies were, no matter how widely perceived to be, skewed against the public interest when what is in the public interest is a major point of contention. In outlining his argument, Engstrom (2013) identified three key components involved in situations perceived to be instances of regulatory capture: industry, government and the public interest. In this scenario, industry is termed “the regulated” whereas government is coined “the regulator” (Engstrom, 2013, p. 295). In each of their respective pursuits to garner public support for their claims, the regulated and the regulators develop rhetoric to support their positions that they operate in the best interests of the public. However, the regulated, since they

are in the business of making money, are ultimately going to serve their own interests first, and any benefit to the public interest is purely coincidental. To illustrate this point in the public dialogue, Figure 1 shows how the industry employs special interest groups to shape public opinion to ensure the belief that actions of industry are serving in the public good.

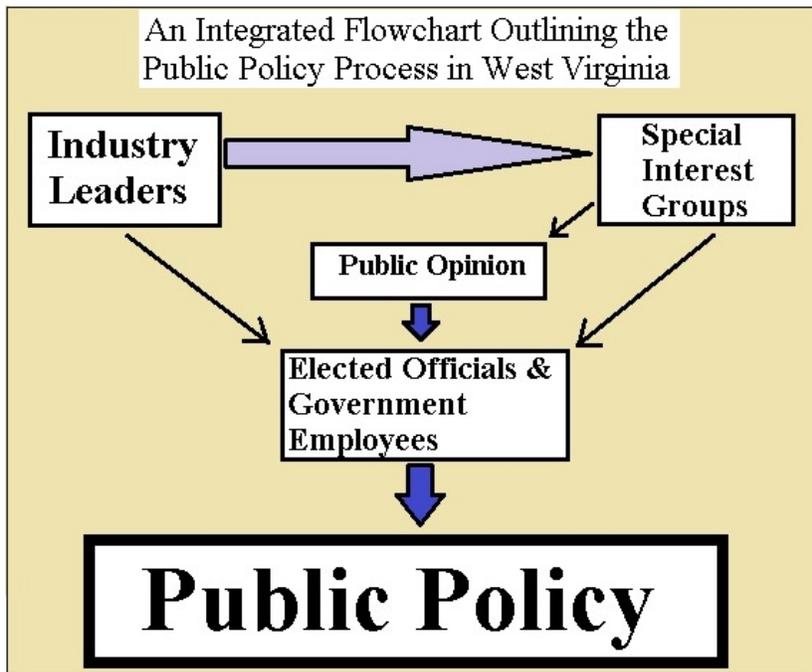


Figure 1. Integrated flowchart outlining the public policy process in West Virginia. Prepared by Matthew Burns.

Thomas, Soule & Davis (2010) assert private interests are most successful in capturing government agencies that regulate one or few industries, or agencies who share professional beliefs with the industries they are charged with regulating. It is this commonality of goals that bonds the “regulated” and “regulators” in collusion for their own interests over that of the general public. In order to successfully advance their own agendas both the “regulators” and the “regulated” must convince the public that any actions that either make is in the public interest and, typically, that it is a “balance” and that neither faction has more influence on the decision

making process than the other. In this way, the public is caught between the two sectors much like a bone between two hungry dogs.

The self interests of politicians as outlined by the Public Choice Theory can be highlighted by exploring the rhetoric and responses of political actors in relation to a specific public policy. Although LeMay (2010) also identified his interpretation of the stages of the policy cycle model, this thesis will utilize the Policy Cycle model as outlined by Kraft & Furlong (2012). While similar in scope to LeMay’s (2010) model, Kraft & Furlong’s (2012) model provides a more comprehensive yet simplistic approach to outlining the logical sequence of events affecting the development of public policies in each stage. By examining the individual components of the Policy Cycle model in relation to an individual public policy, a measurement of how divisive rhetoric may impact the public policy process can be obtained.

When used in conjunction, the Public Choice Theory and the Policy Cycle model lend themselves well in exploring whether the divisive rhetoric in the “War on Coal” propaganda has gained such a stranglehold on West Virginia’s public policy process. Through the lens of the Public Choice Theory and the Policy Cycle model, this thesis will conduct qualitative research to examine a myriad of resources detailing how this divisive rhetoric shapes the public policy process. This research will include review and analysis of an existing local, state and federal public policy where the public interest is placed at odds with industry interests. Additionally, the official positions and public statements of state and local political office holders will be included to highlight the primary interests held by these public officials. By conclusively linking the divisive rhetoric espoused by industry-backed special interest groups to the official positions of political candidates and public officials, this thesis will show how this propaganda has subverted the public policy process to favor industry rather than the general public. By the end of this

study, the reader will be able to answer the following questions: Is there divisive political rhetoric in West Virginia? If so, is it effective? If yes, is any of this divisive political rhetoric coming from industry backed groups? Is there a connection between divisive political rhetoric and the public policy process? Are politicians doing all they can do to stand up for the public interest? What are the public policy repercussions if politicians are working for industry interests rather than the public interest? What options are available moving forward to advance the idea that public policy must first uphold the public’s interests above all else?

Methodology

In this thesis, the effects of divisive political rhetoric on the public policy process in West Virginia will be examined. While there are certainly a myriad of influences on public policy formulation and implementation (Grossmann, 2012; Grossman & Helpman, 2002), these influences will be identified only as they relate to the use of divisive rhetoric to justify their ends. However, the use of divisive rhetoric differs from other public policy influences in that it attempts to circumvent the public policy process to favor private enterprise over the public interest. In order to understand how divisive rhetoric and special interest group propaganda in West Virginia has stymied the public policy process, there must first be an understanding of how and why special interests seek to redefine existing public policy parameters.

This research will utilize two management approaches: the Public Choice Theory and the Policy Cycle model. The qualitative analysis of this thesis will be viewed through the lens of each of these management approaches. There are three objectives of this analysis. First, to determine whether, in fact, there is divisive rhetoric being used by special interest groups in order to shape public policy to best suit their interests. Secondly, to analyze whether this perceived divisive rhetoric has a role in the outcome of West Virginia politics. Third, if it does

play a role, then whether this divisive rhetoric is effective in circumventing the public policy process by either redefining what is in the public interest, or whether elected officials and other policy makers shape policy to favor private interests over public interests, irrespective of the rationale behind these decisions.

This research will establish whether a relationship between special interest propaganda and the shaping of public policy in West Virginia impacts any aspect of the public policy process. In doing this, this thesis will examine three current public policies at all stages of each policy's development. This will determine if these public policies, in effect, favor private enterprise over public interest. Of the three public policies, a public policy from the local level, the state level and the federal level, will be examined. The study must define what is actually in the public interest. This will be established in discussing each of the three public policies by identifying relevant academic literature surrounding the policy formulation, as well as government and non-partisan recommendations pertaining to the public interest in each example. Additional public policies, and the divisive special interest rhetoric that shaped them, also will be identified and discussed. Throughout the analysis provided on these public policies, multiple resources will be examined. These include existing academic literature, government documents, relevant media sources and special interest group propaganda. Campaign messages of local, state and federal political candidates as well as the official public positions of current officeholders and other public policy makers also will be examined. Due to the recent enactment of the selected public policies, a potential weakness of this study may be that it provides inconclusive assessments of the implementation phase of the public policy process. However, this project shall provide a solid foundation regarding the impact of divisive rhetoric on the

public policy process in West Virginia as well as establishing the groundwork for continued research on the topic.

The local level public policy to be examined is the Morgantown Heavy Truck Traffic Ordinance (City of Morgantown, 2014b). The public policy process surrounding this newly forged ordinance encompasses heavy truck traffic, largely associated with the coal industry’s handmaiden limestone business, and its impact on Morgantown’s residential and downtown businesses. As the public policy process progressed in city council, a significant amount of misinformation and divisive rhetoric effectively split the Morgantown community into two factions, those who supported the ban and those who opposed it.

The state level public policy to be explored is the Aboveground Storage Tank Program (ASTP) (West Virginia Legislature, 2014a). In early January 2014, the primary water supply for the Charleston, West Virginia, region was contaminated with 4-Methylcyclohexanemethanol (MCHM), a chemical used in processing coal. The public responded with immediate demands to safeguard their health and safety. Political leaders were left with little recourse but to draft a public policy which addressed the contamination of the drinking water that served more than 300,000 people in nine counties (West Virginia Office of the Governor, 2014). In response to widespread public demands, legislation was drafted in the form of WV Senate Bill 373, the Aboveground Storage Tank bill. Though significantly altered by outside influences, the final version of the bill was enacted in March 2014.

The public policy identified as a federal level public policy is the Clean Power Plan of 2014 (Federal Register, 2014). Implemented by the United States Environmental Protection Agency (EPA) to address increasing concern about carbon emissions from aging coal-fired power plants in the United States, the plan was met with considerable hostility from

representatives of coal-producing states. The intent behind the rule was to bring the aging infrastructure of the American power grid into compliance with the Clean Air Act of 1990. Opposition to the ruling is the cornerstone for the “War on Coal” argument due to industry fears that the rule will effectively end coal usage in the United States.

The three examples of public policies in all levels of government exhibit striking similarities. In all public policies, there are going to be perceived winners and losers. The public policy process is designed to bring all parties to the table and arrive at a workable solution that addresses a problem. Through the thorough examination of the public policies selected for the purposes of this thesis, it will be determined if these public policies were created with the public interest in mind or whether the public policy process for these three policies was hijacked by the divisive rhetoric of special interest groups into creating policies that serve private interests.

In depth analysis of these three public policies will demonstrate whether or not there is a correlation between divisive political rhetoric and policy outcomes. Do the interest groups stoke battle cries about government overreach impact the public policy process in West Virginia? Are campaign donations to political leaders directly attributable to policy outcomes that favor campaign donors? Do interest groups shape the discussion of policies intended to be in the public interest? These are logical questions that will be answered by the conclusion of this thesis.

Since the industrial revolution, coal has been at the center of the development and evolution of the United States as a dominant world power. For more than 150 years, coal has been the go-to resource that powers the average American’s daily life. As one of the primary centers of coal extraction, the importance of coal is amplified in West Virginia. This is primarily due to the abundance of coal and the cost effectiveness of exploiting the resource. Additionally,

the close proximity of West Virginia to urban centers in the eastern United States led to the state becoming known as an extractive state. The impact coal has had on historical public policy development and implementation on the state and national level cannot be understated.

Throughout the lifespan of coal extraction in West Virginia, the coal economy has exhibited a significant impact on the quality of life of the average citizen. Primary among these improvements is the increase in public works, such as municipal water expansion, numerous sewage treatment facilities and a comprehensive grid, which brought affordable electricity to average citizens in all regions of the state. Additionally, for more than a century, coal provided the foundation of the state’s economy, both through taxation of the industry and through the employment of state residents. In fact, in 1948, the height of coal employment in the state, the coal industry provided employment to 125,669 workers. However, as the industry mechanized, it required fewer workers and thus the proportion of state residents directly employed by the coal industry experienced a significant decrease. In 2013, the coal industry in West Virginia employed 19,427 workers (West Virginia Coal Association, 2014a).

However, these advances have come at a cost to the State of West Virginia. Despite being a primary center of coal extraction in the United States -- and the world -- for more than half of a century, the current economy, quality of life, and per capita income of West Virginia does not reflect that wealth. These symptoms are not indicative of a prosperous economy, and are not merely representative of the recent downturn in coal industry. The persistent poverty in West Virginia can be traced back to the dependence on a one resource economy (Burns, 2007). Regardless of the reasons behind the persistent poverty, the majority of elected officials and other policy makers in the state fail to enact effective public policies to combat the causes of this poverty, due to the negative impacts such public policies might exhibit on the coal industry.

Results

The Political Realm of Coal

Historically, supporting coal was the price to be paid to gain entry into politics in the State of West Virginia. This translated into elected officials being obligated to support legislation and policies that would be in the interest of the coal industry, regardless of personal and/or political beliefs. The effectiveness of the coal industry’s approach to political dominance led other major industries in the state to co-opt the coal industry’s political tactics in shaping public policies. Ironically, this often placed the two primary extractive industries, coal and gas, at odds with each other. As the coal industry experienced its decline, the natural gas industry experienced exponential growth. However, the political capital to be gained from supporting the natural gas industry could not fill the void of the waning political power of the coal industry. This can be attributed to the fundamental differences between the two industries. While coal extraction is labor intensive, the natural gas industry requires far fewer workers, and direct employment tends to be a hallmark for political support by elected officials (Junkins, 2014).

The Decline of King Coal

Despite the message of multimillion dollar media campaigns to the contrary, King Coal’s time in the spotlight, both in the United States and in West Virginia, is beginning to dim. In the past, coal supplied up to 90% of America’s energy needs. In 2013, the percentage of electricity generated by coal fell to under 40% (United States Energy Information Administration, 2014b). Additional statistics from the United States Energy Information Administration (2014b) stated that in the decade of 2004-2014, nationwide coal production remained fairly constant, but coal consumption in the United States exhibited moderate fluctuations as other forms of energy increased in popularity. Nationwide coal employment, according to the National Mining

Association (2012), had fluctuated over the previous decade. These statistics indicate that although coal employment is directly linked to coal production, and coal production is inextricably linked to global market conditions. Statistics detailed how regional coal production in the United States, including the central Appalachian coalfields, experienced dramatic changes during this time.

Reasons behind the Decline

The cost of coal extraction in central Appalachia increased to the point where most coal producers in the region could no longer economically compete with other coal producing areas such as the Powder River basin (Consadine, 2013; Tincher, 2014a). In fact, providing a cost comparison of coal prices by regions for August 2014, Tincher (2014a) pointed out northern Appalachian coal sold for \$63 per ton, Illinois Basin coal could be purchased for \$44 per ton, whereas coal from the Powder River Basin was selling for \$12 per ton. This cost comparison detailed why, from a simple economic standpoint, certain regions were more attractive to potential investors than others.

Additionally, in recent years emerging technologies in natural gas extraction have led to an increase in natural gas production. According to Eric Bowen of the West Virginia University Bureau for Business and Economic Research, the “competitive pressure between natural gas and coal mining is probably one of the primary drivers of [the] recent slump in the coal industry...As natural gas prices fall, coal is not as competitive” (Tincher, 2014a).

While the decrease in coal employment presents a troubling socio-economic situation in the coal dependent economies of central Appalachia, specifically West Virginia, it is consistent with federal agency estimates, which have warned of a marked decrease in coal production and coal employment in the region for many years (Appalachian Regional Commission, 2001, pp. 2-

3). Cleaner alternatives in electricity generation resulted in a reduced demand for coal by American power plants. For the economy of West Virginia, this translated into a regionally depressed job market, due to reduced coal prices and widespread coal industry lay-offs. This economic reality is especially hard-hitting in coal-producing regions of the state, such as the southern West Virginia coalfields, with little to no economic diversification (Burns, 2007; West Virginia Center on Budget & Policy, 2014). National coal production and employment trends are illustrated in Figure 2.

The modest decrease in nationwide coal production in 2012-2013 has been attributed to economically weak global markets coupled with an increase in natural gas production. Even though statistics show a decrease in coal production over the past five years, analysts predict coal production will rebound. They predict technological advances in the natural gas industry will result in a glut of natural gas which will reduce demand and make it uneconomical for gas companies to maintain production levels (Parker & Malik, 2014).

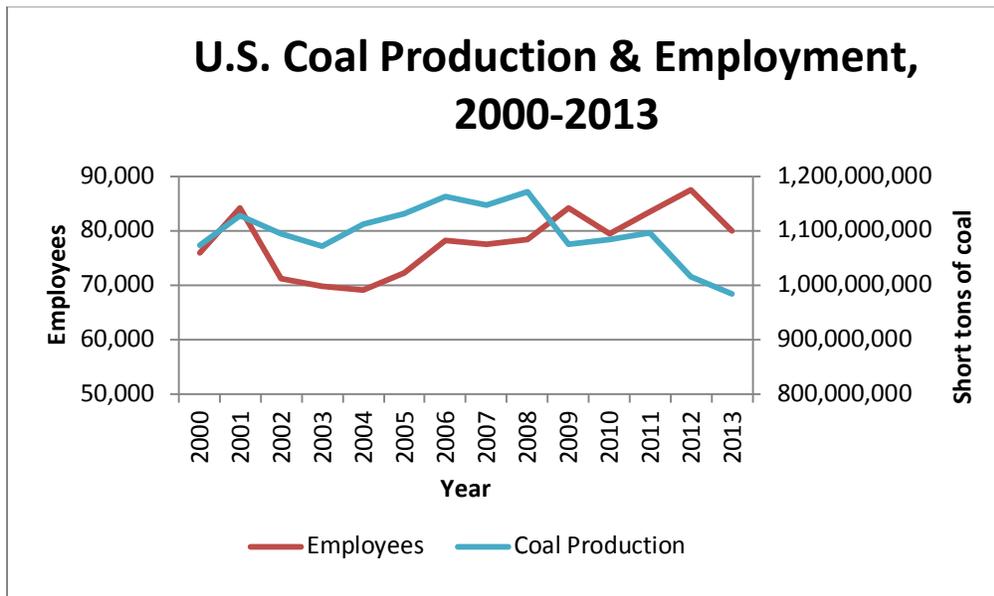


Figure 2. U.S. Coal Production & Employment, 2000-2013. Created by Matthew H. Burns. Employment data obtained from the United States Bureau of Labor Statistics (2014). Coal production data obtained from the U.S. Energy Information Administration (2014a).

National coal employment during this same period of time exhibited a similar trend. Despite the ongoing divisive rhetoric from the coal industry, total nationwide coal employment actually increased under the Obama Administration.

The Severance Tax

An examination of West Virginia coal severance tax collection since 1990, when the Clean Air Act was enacted, demonstrated a marked increase in coal severance taxes in the state. The increase in severance tax collection in West Virginia is illustrated in Figure 3. A “War on Coal” argument holds that a decrease in statewide coal severance taxes negatively impacts every corner of the state. However, a review of the facts shows any reduction in coal severance taxes due to increased regulation of coal emissions is more than offset by an increase in severance taxes from the increased production of natural gas, the preferred fuel for a transition from coal. In fact, O’Leary (2014) pointed out in 2013, natural gas production increased 211% from the previous year. Likewise, this production increase equated to an increase in severance tax collection on natural gas. “Even as the coal industry struggled, severance tax revenue took off” and increased to an annual average of 10.2% between 2004 and 2014 (O’Leary, 2014). Additionally, West Virginia State Auditor said of severance taxes, “...there's a lot of talk about coal and the coal industry right now. Production and coal taxes are down almost 30 percent compared to last year. However, taxes from oil and gas are up 200 percent. Overall, the state is in a pretty strong financial position” (Dalrymple, 2014).

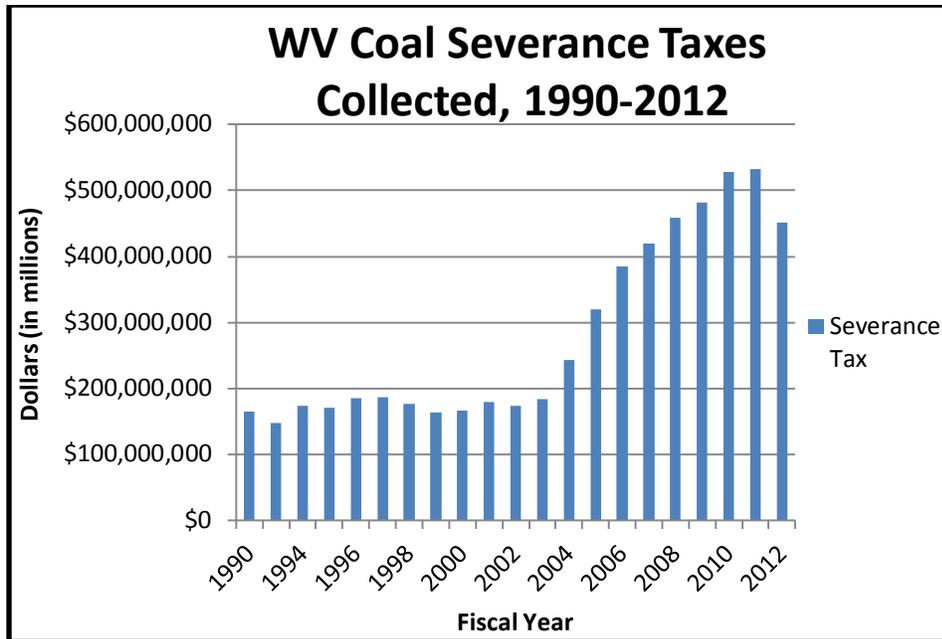


Figure 3. West Virginia Coal Severance Taxes Collected, 1990-2012. Prepared by author using data from the West Virginia Coal Association (2014a).

As power plants retrofitted aging infrastructure to meet the requirement of the Clean Air Act to reduce sulfur emissions, expensive coal from central Appalachia became less appealing in the marketplace. In fact, West Virginia is a microcosm of this economic reality. As the low-sulfur coalfields of southern West Virginia experienced a significant decline, the high-sulfur coal mines in northern West Virginia expanded production and employment. This current trend was reversed immediately following the 1990 amendments to the Clean Air Act when northern West Virginia coal experienced decline while low-sulfur coal from the southern West Virginia coalfields garnered the lion share of the states coal production.

Political Response to the Decline of Coal

Rather than accepting the economic realities of a changing marketplace, political leaders in the state maintained a position of denial about the state’s declining coal industry. As part of this denial, instead of promoting economic diversification to capitalize on the changing economy, they adhered to coal industry-group funded propaganda subscribing to the notion that

the majority of West Virginia’s coal woes are the result of federal government intervention, specifically linked to the Obama administration’s “War on Coal”. As the coal industry continued to decline, divisive rhetoric became more prevalent in the political arena. In maximizing the political capital from this divisive rhetoric, local, state and federal politicians not only accepted the premise behind War on Coal propaganda, but effectively worked the electorate into a fever pitch with the divisive rhetoric. This divisive rhetoric not only showed up on the campaign trail, but also worked its way into the public policy process. While certainly the use of divisive rhetoric in political campaigns is not unique to West Virginia, the state’s political environment became symptomatic of experiencing divisive rhetoric on steroids. The entire political discussion became consumed with one issue: The War on Coal.

Baumgartner & Jones (2009) stated political rhetoric can be based on a particular policy image, and depending on the political constituency, this rhetoric can lead to emotionally charged political campaigns. If these campaigns prove successful, elected officials can shape public policies going forward. In this way, political rhetoric can ultimately shape public policy. The examination of specific public policies from each level of government found later in this thesis highlights any effect divisive War on Coal rhetoric may have had on the public policy process in West Virginia.

The Role of Divisive Rhetoric

Historically, as the major economic engine in the state, supporting coal was the price to be paid to gain entry into politics in the State of West Virginia. Part of this support is backing legislation and policies that would be in the interest of the coal industry, whether or not such legislation may be counter to personal and/or political beliefs. The effectiveness of the coal industry’s approach to political dominance has led other major industries in the state to co-opt

the coal industry’s political tactics in shaping public policies. Ironically, this often places the two primary extractive industries, coal and gas, at odds with each other.

While media polarization has certainly impacted the ongoing discussion and public perception of issues depending on individual political beliefs, when it comes to the coal industry, The Party of Coal appears to be the only political party in the state of West Virginia. This attribute is consistent with the Public Choice Theory insomuch as, in promoting individual self interests, political campaigns push to the center of the ideological spectrum to maximize voting support. In this way, political parties and their candidates do not promote recognizable differences in ideologies, and become, as Anderson (2010) put it, “as much alike as possible, thereby providing an echo rather than a choice” (Anderson, 2010, p. 25). While on a national level, marked differences may exist between political ideologies, in West Virginia when it comes to coal, both Democratic and Republican elected officials tend to hold similar political positions and support the same policies. In the current political environment associated with War on Coal rhetoric, many statewide political candidates neglected to establish their record and outline plans for the future, but rather chose to run negative campaign ads that marginalized the accomplishments and plans of their opponent.

The coal-backed rhetoric machine is not new to the state. Divisive rhetoric became increasingly vitriolic in the aftermath of the landmark ruling in *Bragg v. Robertson* (1999), which held mountaintop removal coal mining operations in West Virginia were subject not only to regulations outlined in the Clean Water Act (CWA) and the Federal Water Pollution Control Act (FWCPA), but also to the Surface Mine Control and Reclamation Act (SMCRA). Additionally, the ruling found state and regulatory agencies had erroneously issued mine permits in violation of the Buffer Zone Rule, designed to protect nearby streams, outlined in SMCRA

(Justia, 2014). The *Bragg* decision also provided the impetus for multiple federally-backed environmental studies on the practice of mountaintop removal surface coal mining, the findings of which were not favorable to the standard operating procedures of the coal industry. The coal industry’s backlash over this ruling was swift and loud. Large protests were held on the grounds of the West Virginia State Capitol with nearly every state and federal elected official in attendance. Working the crowd into near fever-pitch, speakers at the rally coined now-popular catchphrases in the current War on Coal such as “federal overreach,” “coal keeps the lights on,” as well as promoting the fear that with the new environmental regulations, the coal industry would cease to be and everyone would be out of a job.

In the aftermath of the *Bragg* ruling, industry claims of increased federal scrutiny in the coal permitting process led to the formation of multiple industry-funded, tax-exempt special interest groups. Most notable among these groups was Friends of Coal, a group founded in 2003 by the West Virginia Coal Association as an “independent organization of industry supporters” (West Virginia Encyclopedia, 2014). The group bills itself as a multi-state volunteer organization “dedicated to inform and educate West Virginia citizens about the coal industry...to provide a united voice for an industry that has been and remains a critical economic contributor to West Virginia” (Friends of Coal, 2014). With a heavy media presence, the Friends of Coal was successful in forming an alliance of citizens, businesses and political leaders to promote its interests. Through media campaigns, political rallies, community events, promotion of industry-friendly curriculum for public schools in the state, and other activities, Friends of Coal rapidly garnered a significant voice in West Virginia politics. It created its own brand, complete with a “Friends of Coal” decal that resembles a Nike check mark with the words “Friends of Coal” above it. The group even managed to get enough signatures to have a special license plate made

in the form of its decal. All over the state, vehicles proudly display both the decal and license plate. In the Court of Public Opinion, the Friends of Coal was making a great impact and even included actual coal miners and others associated with the coal industry in spite of the fact that the Friends of Coal is an industry strong, not labor oriented, program.

Many of the talking points that comprise the basis for the coal-based divisive rhetoric originated from industry support groups, such as the Friends of Coal. The overall concept of a federal “War on Coal” saw its beginnings in such groups, as did its supporting catchphrases of “coal keeps the lights on,” “clean, carbon neutral coal,” “coal for a cleaner, greener future,” “if you don’t like coal, sit in the dark” and a plethora of others. The use of catchphrases and rhetoric are commonly used by special interest groups as a means to gather support and to build a coalition of the willing (Kirby, 2013). However, few instances exist where this rhetoric, when taken out of context and/or has been proven demonstrably false, has progressed to the point where it became part of the common lexicon. In the political climate of West Virginia during the 2014 mid-term elections, it was apparent whenever special interest groups began promoting a specific example or catchphrase associated with the War on Coal, little time would pass before these talking points found their way into political speeches and campaign rhetoric. The perceived decline of the coal industry in West Virginia opened the door to an increase in divisive political rhetoric against not only the Obama Administration, but the federal government in general. Although widely characterized as “Obama’s War on Coal,” claims of federal overreach and industry-killing regulation date back decades. In both private and political circles, the War on Coal rhetoric has bloated to the point that it has superseded all discussion on other pressing, and often more relevant, issues of the current time.

In the early years of President Barack Obama’s administration, West Virginia’s senators recognized the rise of divisive political rhetoric. They both understood how this rhetoric could have potentially negative impacts on public issues facing their state. At this time, United States Senators Robert C. Byrd (D-WV) and Jay Rockefeller (D-WV) attempted to temper this dangerous increase in inflammatory rhetoric. Ironically, both Senator Byrd (D-WV) and Senator Rockefeller (D-WV) also played a role in stoking this divisive rhetoric earlier in their careers. In the aftermath of the landmark *Bragg* decision, which opined a then prevalent coal industry practice violated The Clean Water Act, Senator Byrd railed from the steps of the West Virginia State Capitol building, “Fie on the White House. Fie for attempting to mislead the people” and calling out those who supported the decision as, “head-in-the-clouds individuals [who] peddle dreams of an idyllic life among old growth trees” (Burns, 2007, pp. 91-92). Byrd obviously equated the *Bragg* decision as an example of government overreach that was unfairly targeting the West Virginia coal industry. Burns (2007) pointed out Byrd’s fiery speech also propagated an “*us versus them*” mentality that was effectively pitting coal-loving West Virginians against the wishy-washy environmentalists and other instigators who were obviously not from the state. Byrd’s remarks garnered such attention the leading newspaper in the state, *The Charleston Gazette*, composed an editorial response regarding Byrd’s comments stating the speech, “contained misinformation and divisive rhetoric that cast opponents of [coal] as heartless, mindless individuals” (The Charleston Gazette, 1999).

As their political careers began to come to an end, both Byrd and Rockefeller spoke out about the necessity for the divisive rhetoric to stop and for the coal industry to accept it was now part of a changing world. In outlining the necessity of the coal industry to “*adapt or die*,” Rockefeller stated the current coal industry strategy of denying the preponderance of scientific

evidence surrounding the negative effects of coal, attempting to block new legislation that could be shaped to mitigate unnecessary burdens on the coal industry and utilizing divisive rhetoric and scare tactics to build public support for the dying industry “moves us backward, not forward” (Ward, 2012). In a June 20, 2012, speech on the floor of the United States Senate, Senator Rockefeller derided the perception of a War on Coal (*see Appendix 1 for full speech*), and called for an end to the unnecessary, and politically harmful divisive rhetoric:

This is a critical and contentious time in the Mountain State. The dialogue on coal, its impacts, and the federal government’s role has reached a fevered pitch. Carefully orchestrated messages that strike fear in the hearts of West Virginians and feed uncertainty about coal’s future are the subject of paid television ads, billboards, break room bulletin boards, public meetings, letters and lobbying campaigns.

A daily onslaught declares that coal is under siege from harmful outside forces, and that the future of the state is bleak unless we somehow turn back the clock, ignore the present and block the future...The reality is that many who run the coal industry today would rather attack false enemies and deny real problems than find solutions...Scare tactics are a cynical waste of time, money and worst of all coal miners’ hopes. (Rockefeller, 2012).

Similarly, in 2009, even the venerable U.S. Senator Robert C. Byrd (D-WV), perhaps the staunchest supporter of coal in the modern era of politics, imparted similar words of frustration with the coal industry, “the time has come to have an open and honest dialogue about coal’s future in West Virginia. Let’s speak the truth...scapegoating and stoking fear among workers...is counter-productive...when coal industry representatives stir up public anger toward

federal regulatory agencies, it can damage the state’s ability to work with those agencies to West Virginia’s benefit” (Ward, 2009).

During the 2014 mid-term elections in West Virginia, the divisive political rhetoric originating out of industry-affiliated special interest groups progressed to the point where it consumed all political discussion in the state. In many cases, an individual candidate’s political fealty to coal provided the basis for success or failure of their political career. Any personal or political affiliation with the Obama Administration provided an impetus for an increase in divisive political rhetoric aimed at marginalizing that candidate. Even being in the same political party as the sitting President was widely perceived as being a toxic relationship and posed a threat to the success of even the most established political candidates.

Ironically, in reviewing this divisive rhetoric, the Obama Administration was often characterized as being anti-coal by the coal industry whereas the Bush Administration was widely championed by the coal industry. However, statistics do not support the rhetorical argument of there being a drastic change in the overall national coal policy between the Bush Administration and the Obama Administration. This statement is supported by historical and current national coal production and employment statistics, as well as the official national energy policy of the Obama Administration. In fact, the Obama Administration readily touts coal as an integral component of its “All-of-the-Above Energy Strategy” (The White House, 2014). Additionally, since taking office the Obama Administration has provided more than \$6 billion to carbon capture and sequestration technology as well as an \$8 billion federal loan guarantee program to assist in bringing aging coal-fired power plants into compliance with the Clean Air Act of 1990 (U.S. Department of Energy, 2013; Snyder, 2013).

Perhaps the increase in divisive political rhetoric in the state can be attributed to an overall change in political outlook. For example, in 2014, West Virginia was at a political crossroads. Coal, the primary industry in the state, had declined at a rapid rate and fewer residents are employed by the coal industry. The United Mine Workers of America (UMWA), a longtime voice in State politics, had been effectively neutered as declining membership had resulted in the least amount of political capital since its rise to power in the 1940s (Burns, 2007). The decline of coal has been widely attributed to an increased awareness over destructive mining practices, the decline of the manufacturing sector in the United States, as well as mounting evidence supporting anthropogenic climate change which resulted in reduced demand for coal both domestically and internationally. As the political power of coal continued to wane, a political power vacuum became increasingly prevalent as special interest groups and fringe political movement sought to fill the void with candidates who would uphold their political agendas.

The 2014 Mid-Term Elections

In a typical election cycle, mid-term elections garner very little attention. This is especially true in a relatively small, politically insignificant state such as West Virginia. However, the 2014 mid-term elections in West Virginia were of national significance primarily due to the ever present political back and forth of national politics. Changing demographics, economic uncertainty, anger toward the current administration and an increase in divisive political rhetoric made the state ripe for political harvest. Conservative interest groups sought to limit the power of the Executive by making President Obama a lame duck President. More moderate and liberal agendas sought to prevent conservative candidates from taking over the House and the Senate. In this way, the 2014 West Virginia mid-term elections provided a

microcosm not only of national politics, but also of how divisive political rhetoric ultimately shaped the outcome of the political landscape.

Political composition of West Virginia

On the federal political level, West Virginia is represented by two Senators and three members of Congress. Of course, the two senators are selected by the statewide electorate, whereas the congresspersons are selected one from each of the three Congressional districts. Of the three Congressional districts, District One includes northern West Virginia, and arguably contains the most diversified economy. The incumbent, David McKinley (R-WV), is a vocal supporter of coal. As such, it should come as no surprise that he promotes the rhetoric of a federal War on Coal and pinpoints federal overregulation as the culprit in the decline of coal. District One also contains the majority of natural gas extraction in the State. District Two includes the majority of central West Virginia and its eastern panhandle, including the region of the State closest to Washington, D.C. District Two also includes the State capitol of Charleston, also the largest city in the State. Prior to the 2014 mid-term elections, District Two was represented by Congresswoman Shelley Moore Capito (R-WV), who left the House to seek the position of retiring U.S. Senator Jay Rockefeller (D-WV). District Three includes the southernmost portion of the State and includes the southern West Virginia coalfields. District Three has the least diversified economy and contains the highest level of poverty out of the three Congressional districts. The incumbent in District Three is longtime House of Representatives member Nick Joe Rahall (D-WV), who has served 38 years in the House.

The changing political landscape of West Virginia proved a breeding ground of discontent as the wane of the coal industry opened the door for divisive political discourse. Though the state had been trending Republican over the past few election cycles, the majority of

statewide political offices continued to be held by Democratic candidates. In fact, until recent years, West Virginia was widely known as a Democratic stronghold. However, the 2014 mid-term elections solidified the State of West Virginia as a Republican state despite the majority of registered voters still identifying as Democratic. The 2014 mid-term election witnessed the effective end of the State as a Democratic stronghold as all three Congressional Districts were filled by Republican candidates, the state elected its first republican United States Senator in more than five decades and the West Virginia House of Delegates and State Senate became controlled by a Republican majority for the first time in 83 years (Kabler, 2014).

Divisive Rhetoric Alters Political Responses

Of particular interest to public policy researchers is how current political rhetoric has created a fundamental shift away from historical response to similar situations in policy discussions. In the 1950s and 1960s, the West Virginia coal industry experienced a massive decline in employment with upwards of 100,000 workers losing their jobs. Elected officials at that time sought governmental remedies to alleviate the situation through relief programs, such as direct assistance and job retraining. The job losses throughout the central Appalachian coalfields provided the impetus for the federal War on Poverty.

One of the first major supporters for a substantive antipoverty program was the Democratic West Virginia Senator Jennings Randolph (Hartman, 2014). President John F. Kennedy, when campaigning for office in West Virginia, witnessed the impoverished region first hand and rallied behind Randolph's call for federal intervention, thus adding anti-poverty rhetoric to the Kennedy Administration's platform. This rhetoric, along with tireless support from local, state and federal politicians, ushered in a marked increase in liberal politics in the Appalachian region; particularly, in West Virginia, that finally culminated in President Lyndon

B. Johnson’s War on Poverty. The current downsizing of the Appalachian coal industry, however, elicits nearly the opposite response. Local, state and federal politicians are hostile to federal intervention, regardless of its overall purpose, and the State continues to trend more toward conservative politics and the policies that accompany the conservative political agenda, identifying more with the social wedge issues of the political right than the fiscal response of the left to the numerous, tangible financial problems that these areas experience. Also, rather than subscribing to a War on Poverty, a series of programs aimed at the public interest, current political leaders and policy makers subscribe to a War on Coal, which is aimed at promoting private enterprise at the expense of the public interest.

The influx of millions of dollars of out-of-state campaign donations provided for an especially vitriolic campaign cycle as individual candidates increasingly pushed negative campaign ads with near impunity from untruths and outright mischaracterizations of political opponents. Despite the statistics and factual basis to the contrary, political candidates in West Virginia continued to promote their agenda by repeating claims of a War on Coal. The 2014 mid-term elections saw a marked increase in this rhetoric as nearly every political office in West Virginia, regardless of party affiliation, included War on Coal rhetoric in their official campaign platforms. The common thread between the individual campaigns was predicated on the assumption that Republican candidates supported coal; whereas, Democratic candidates (regardless of the person’s political record) supported President Obama and, therefore, were anti-coal. In fact, Dr. John Kilwein, associate professor of political science and law at West Virginia University, provided excellent analysis of the 2014 political trends in the Mountain State where democratic candidates became synonymous with the perceived anti-coal policies of the President regardless of the positions of the individual candidates. “This is the year of antipathy toward

Obama,” he stated, though pointing out the widespread public acceptance to attribute this antipathy to Obama’s War on Coal was erroneous. “There is no war on coal,” Kilwein added, “The real threat to coal is not President Obama but the booming natural gas industry and the very real pollution concerns about coal” (Stroud, 2014, p.1).

Additionally, there appeared to be a bias against incumbent politicians except when those incumbents were members of the Republican Party, in which case they seemed to be exempted from this bias. Preying on the fears of a largely undereducated, impoverished, and aging populace in an economically depressed state, candidates of both parties vilified President Obama as an anti-coal boogeyman and attempted to equate coal with prosperity.

The 2014 West Virginia Congressional Races

However, despite an across-the-board increase in divisive political rhetoric, few political campaigns in the 2014 mid-term elections were as vitriolic as that of the 3rd Congressional District. The incumbent, seeking his 20th term in office, was Democrat Nick J. Rahall. Rahall, a longtime vocal supporter of the coal industry faced challenger Evan Jenkins, a former member of the West Virginia House of Delegates. Of note, while serving in the West Virginia House of Delegates, Jenkins was a member of the Democratic Party.

In illustrating the tone of the 2014 Congressional campaign in the 3rd District, an October 28 political rally in Kenova, West Virginia, exemplified the overall campaign message of both Jenkins and Rahall. At this particular campaign rally, Jenkins was joined by United States Speaker of the House John Boehner (R-OH), other local candidates and several coal industry leaders. Jenkins, wearing a Friends of Coal vest, announced to the audience, “This race is about coal” (Gutman, 2014). Neither Jenkins nor any of the other candidates spoke about any issue other than coal during the campaign stop.

Perhaps most unique about the 3rd Congressional District race was how a relatively unknown candidate, Jenkins, was able to successfully malign a well-known candidate, Rahall, by questioning Rahall’s commitment to coal. This is of special interest considering Rahall’s well-established 38-year long Congressional record of sponsoring and supporting numerous coal-friendly pieces of legislation. However, through the use of divisive rhetoric, Jenkins attempted to paint Rahall as an Obama supporter, and therefore anti-coal.

The Rahall campaign addressed Jenkins’ criticism by providing Rahall’s 38-year long voting record in the U.S. House of Representatives as proof of his loyalty to coal. In what could nearly be construed as a humorous attempt at twisted logic if not for the seriousness of the situation, the Jenkins campaign countered by attempting to turn Rahall’s asset of having a well-established congressional record as head of the House Natural Resources Committee into a liability, “So he’s one of 199 Democrats in the House, trying to influence the other 198. He’s going to lose that fight. He has lost that fight. I want to be part of a winning team. A team that recognizes the role for coal in an all-of-the-above energy portfolio” (Fields, 2014).

The ongoing dialogue between the two campaigns eventually devolved into each candidate attempting to “out coal” the other. Jenkins spoke about how a dying coal industry had an economic ripple effect throughout the congressional district, and advocated for an alliance among coal, oil and natural gas since the coal industry was only the first fossil fuel targeted by the EPA and questioned Rahall’s commitment to coal. Rahall was vehement in his response to Jenkins mention of a War on Coal, “This EPA has been overreaching, it’s overzealous. Is there a war on coal? Yes, there’s a war on coal! Have I fought the Obama administration on it? Yes!” (Fields, 2014).

The back and forth divisive rhetoric attempted to pigeonhole each candidate into a political party (democratic or republican), an ideology (pro-Obama or anti-Obama) and an economic outlook (pro-coal or anti-coal), all of which marginalized the need for public policies that benefitted the public interest. “Nick Rahall has been a tireless champion for coal miners. Evan Jenkins is putting the agenda of his out-of-state puppet masters over West Virginians,” the Rahall campaign manager, Samuel Raymond, wrote to the Herald Dispatch, in an obvious attempt to solidify this message in the media (Johnson, 2014). Rather than outlining each candidate’s respective plans for improving the quality of life for the average citizen in one of the most economically depressed regions in the country, both candidates chose to focus almost entirely on which of the two would be better at fighting an imagined federal War on Coal.

Other mid-term races in West Virginia incorporated divisive rhetoric in their campaigns as well. As outlined earlier in this thesis, despite a preponderance of evidence to the contrary, nearly every candidate seeking Congressional office includes War on Coal rhetoric as a cornerstone of their political message.

In the Second Congressional District, candidates sought to fill the open Congressional seat formerly held by Congresswoman Shelley Moore Capito. Nick Casey, a former party chairman for the West Virginia Democratic Party, sought to reclaim the congressional seat for the Democratic Party while Alex Mooney, a former Maryland state senator as well as the former Party Chairman for the Republican Party of Maryland, fought to retain the seat for the current Republican majority in the House of Representatives (Schleifer, 2014). Aside from expected accusations from the Casey campaign about Mooney’s motives for moving to West Virginia expressly to run for the soon to be vacant congressional seat, the primary talking point of the two

campaigns focused on coal related topics, such as government overreach and Obama’s War on Coal.

In an official campaign posting on his website, Alex Mooney accused Nick Casey of having a track record of supporting Obama’s War on Coal, including Rahall’s 2008 support for returning to the cap-and-trade protocols of the Kyoto Treaty (which were widely vilified as a harbinger of death to the West Virginia coal industry). “We must fight back against President Obama’s War on Coal and these job-killing EPA regulations,” stated Mooney, “Unlike my opponent who has supported Obama’s War on Coal, I will spend every day fighting for our coal jobs and conservative values in Congress” (Mooney for Congress, 2014a). In response, the Nick Casey for Congress campaign countered by accusing that it was Mooney who proposed a 2009 amendment and tried to expand the cap-and-trade bill (Nick Casey for Congress, 2014). In making a dual attempt at establishing his commitment to the coal industry while distancing himself to the perceived toxicity of President Obama, Nick Casey stated, “We’ve got to get a coalition going of the coal states, the people who understand coal, understand that it can be done and mined successfully, that it can be used efficiently and as cleanly as possible, and build that coalition...I am disappointed in the President. That guy came along selling hope and the only hope he sold West Virginia, particularly people in the coal business, was no hope, hopelessness” (Johnson, 2013).

As the campaign cycle progressed, the negative political ads continued, and divisive coal rhetoric took center stage. In September 2014, Mooney’s poll numbers began to slip and his commanding lead began to shrink. In an attempt to staunch the flow of support, Mooney again ramped up his attacks on Casey for being anti-coal. When a high-profile yet floundering mine in the 3rd Congressional District announced potential layoffs, Mooney saw his chance to strike.

“The potential layoffs at the Hobet 21 Mine and Beth Station preparation plant [are] a direct result of President Obama’s War on Coal,” Mooney accused, “Nick Casey supported and campaigned for President Obama in 2008 and again in 2012, even after Obama declared his War on Coal.” In continuing in his efforts to effectively tie Casey to President Obama, thus tying Casey to the mine layoffs, Mooney continued, “I am calling on Nick Casey to apologize to West Virginia and our coal mining families for every layoff that has occurred since his War on Coal began” (Mooney for Congress, 2014b). Regardless of the fact that the official statement from Bennett Hatfield, President and CEO of Patriot Coal, the company that owns both Hobet 21 and the Beth Station preparation plant, attributed the potential layoffs to “The combination of increasing EPA regulations, mild summer weather and low natural gas prices has resulted in thermal coal pricing at levels below operating costs at many Appalachian mines” (Tincher, 2014c). The timing of the legally mandated 60-day WARN (Worker Adjustment and Retraining Notification) notice was of special interest considering the close proximity of the 60 days to the upcoming mid-term election to be held on November 4. Sixty days from the September 9th announcement would slate the potential layoffs to occur November 8, 2014. What better way to substantiate War on Coal rhetoric than to stoke fears of job losses, and to get the public to vote for coal friendly candidates in an effort to prevent these layoffs?

This revving up of divisive rhetoric consumed the campaigns of both candidates and thus effectively resulted in other issues facing the public being overlooked. Although this rhetoric apparently resonated with many voters, it stifled public discourse and hindered an open forum for candidates to outline their plans for the future. However, perhaps more importantly to the Mooney and Casey campaigns was the fact these negative ads attracted the attention of the

national media as well as the out-of-state campaign contributions that come with the increased national publicity.

The race in the First Congressional district garnered less interest than the other two congressional races in the state. This is ironic considering the First District is arguably the most progressive region of the state as well as the most educated and economically diverse. The voting record of incumbent Congressman David McKinley (R-WV), solidified his public perception of being against progressive social reforms, against increased regulation of industry, and against government sponsored health and economic programs. McKinley was, however, a very vocal proponent of War on Coal rhetoric, and even sponsored an amendment to the Defense budget that limited the use of federal funds to explore the potential effects of global climate change on national security (Congress.gov, 2014). In highlighting his commitment to coal, McKinley’s biography on his official Congressional website stated, the “coal industry is the backbone of West Virginia’s economy and the attacks on coal from Washington must be stopped” (McKinley, 2014).

The challenger in the 1st Congressional district race was longtime West Virginia auditor Glen Gainer. Gainer, having served as State Auditor since 1992, credited his past political successes to bipartisanship and commonsense solutions (Glen Gainer for Congress, 2014). However, upon entering the congressional race, Gainer appeared to find it difficult to compete with the well-funded political machine of the McKinley campaign. According to Federal Election Commission filings, the McKinley campaign enjoyed general election campaign funds of nearly \$1.5 million in cash on hand, with a little over 50% of donations reported in quarterly filings for the March-June 2014 time period coming from Political Action Committees (PACs). The Gainer campaign, in required FEC filings, reported its cash in hand at \$187,820 as it entered

the general election campaign season in July 2014. Required FEC quarterly filings showed 13.2% of Gainer campaign funds for the March-June 2014 quarter originated from PAC’s (Beard, 2014b).

Early in its campaign, the Gainer campaign conducted an initial tour of the Congressional district hoping to promote its platform of helping working families, ending tax loopholes that allow corporations to relocate out of the country, and revitalizing the local economy (Burdette, 2014). One of the primary attacks by the Gainer campaign was to capitalize on the anti-incumbent movement sweeping through the state. If Gainer was successful in linking McKinley’s association with the widely perceived “do-nothing Congress” it was assumed he would have a real chance of unseating the incumbent. To this effect, Gainer stated, “We have a divided government,” making a dig at McKinley’s support in the more than 50 unsuccessful Republican attempts to repeal or defund the Affordable Care Act, “continuing to pass legislation over and over and over again that you know is not going to go any farther is not getting your job done” (Gutman, 2014b). The Gainer campaigns attempt at setting the tone of the campaign was met with resistance from the McKinley camp who continued to promote the idea that stopping the War on Coal was the primary issue of the 2014 Congressional race. Gainer took the McKinley campaigns bait in making the race about the War on Coal by attacking McKinley’s amendment to the 2015 Defense budget which prohibited federal funds from being used to research global climate change and how it may impact national security interests. “That amendment was absurd,” Gainer railed, saying it was bad policy to prevent the military from taking necessary precautions “to deal with the effects of global warming” (Gutman, 2014b).

In using bait and switch tactics to shape the congressional race, the McKinley campaign was able to focus on the issue that would be most favorable to its interests: Obama’s War on

Coal. While both McKinley and Gainer promoted nearly identical positions on coal, McKinley held the upper hand since he had a standing congressional voting record to support his loyalty to coal. Gainer, on the other hand, was at a distinct disadvantage, not only due to lack of campaign funds, but also from the lack of a voting record attacking the Obama Administration. Perhaps most significantly, he was running as the democratic candidate, a damaged party brand due to a preponderance of divisive rhetoric which effectively connected the Democratic brand to the policies of the much vilified Obama Administration.

The 2014 West Virginia Senate Race

Of significance in the 2014 mid-term elections is the changing political landscape of West Virginia. The repercussions of losing the last of two longtime United States Senators who had determined the political discourse in the State over the past half-century created a political vacuum that continues to draw in political players who have long awaited a turn at shaping West Virginia politics. In 2014, the retirement of United States Senator Jay Rockefeller (D-WV) left a much sought after vacancy in the United States Senate. Also of importance nearly a half decade after his passing, the death of longtime Senator Robert C. Byrd (D-WV) in 2010 reduced the federal clout the State had enjoyed for more than a half century, the repercussions of which continue to take a heavy toll throughout the Mountain State. The death of Senator Byrd and the retirement of Senator Rockefeller represented a fundamental shift in the political landscape of the state, a void that more conservative politicians hoped to fill.

In 2014, the retirement of Senator Rockefeller again created a race for the United States Senate without an incumbent candidate. This political opening led sitting Congresswoman Shelley Moore Capito (R-WV), daughter of popular, albeit criminally disgraced, former West Virginia Governor Arch Moore, to seek the senatorial position. The Democratic challenger was

West Virginia’s current Secretary of State Natalie Tennant (D-WV), whose office oversaw the multiple special elections necessary to fill the political void left by the death of Senator Byrd.

As Congresswoman, Capito was a vocal supporter of the coal industry. She was a founding member of the national coal caucus, a voting bloc comprised of representatives from coal states whose goal, stated Capito, is “to raise awareness about the benefits of coal to communities nationwide” (Capito, 2013). Additionally, Capito supported numerous pieces of legislation that promoted the interests of the coal industry, such as the Stop the War on Coal Act, Clean Coal-Derived Fuels for Energy Security Act, as well as 46 other pieces of legislation, as she put it, “intended to stimulate our economy, protect our energy jobs and create the new jobs of the future” (Capito for West Virginia, 2014). In the same biography on the official Capito campaign website, it stated the 2014 senate race was for the future of West Virginia. Capito’s campaign biography went on to highlight Capito’s convictions in fighting against the EPA’s war on coal while serving in the U.S. House of Representative, actions which garnered the Capito campaign the prestigious endorsement of the West Virginia Coal Association (Capito for West Virginia, 2014). With her standing congressional record, protectionist positions for the coal industry and vocal promotion of War on Coal political rhetoric, it leaves little doubt as to the kind of future Capito envisions for the State of West Virginia.

Likewise, Natalie Tennant, the Democratic candidate hoping to succeed Rockefeller in the U.S. Senate also professed her belief in the rhetoric of a War on Coal in her first Senatorial Campaign ad in which she symbolically shuts off the power to the White House. The ad depicts Tennant, a first term West Virginia Secretary of State, as “an independent leader who will buck her party and stand up to President Obama to fight for West Virginia coal jobs” (Cardosi, 2014). Reading Tennant’s official agenda on “Coal and Other Energy Jobs,” she depicts government

overreach, implementation of bills that will kill coal jobs and blocking the President’s regulations that would impact West Virginia’s mining industry and its workers. She uses all the trappings of the War on Coal without using that exact catchphrase. Still, it is clear that Tennant’s loyalties rest with Big Coal and to a lesser extent, other energy sources (Natalie Tennant for U.S. Senate, 2014).

Early on in the senatorial race, both campaigns took a decidedly negative turn. Tennant attacked Capito’s policies as being more in favor of coal companies than coal miners, and Capito responded with accusations of Tennant being an Obama supporter and funded by “anti-coal extremists” (Smydo, 2014). However, both candidates were quick to promote their views on the apparent wonders of the coal industry. In an August 2014 forum hosted by the West Virginia Chamber of Congress, Tennant’s opening remarks were, “In West Virginia, we know that jobs start with energy and we know that energy jobs start with coal” (Marra, 2014). Not to be outdone by Tennant’s obvious attempts to paint herself as the coal candidate of choice, Capito quickly stated her position on coal, and called to point her congressional record of standing up to the Obama Administration’s agenda to destroy coal jobs, “I have fought to stop the President’s war on coal, and it is a war on coal” (Marra, 2014).

As the campaign season progressed, the rhetoric emanating from both campaigns became increasingly malicious. In an October 2014 senatorial debate, Tennant attempted to deflect criticism of her Democratic Party brand by stating she supported the coal industry and had requested that Department of Energy monies be used to retrofit coal-fired power plants, which would create direct jobs as well as increase the need for coal. Capito quickly responded the Obama Administration’s policies were destroying West Virginia and that under the previous six years of the Obama presidency the state had been devastated. Tennant, apparently sensing

Capito’s attempt to link the Tennant campaign to Obama retorted that Capito had been in Congress for 14 years and in that time she had voted against the interests of coal miners stating, “[Capito] voted against coal mine safety [and] she voted to cut funding (for) black lung benefits” (Pritt, 2014). Claims Capito immediately denied.

While both candidates attempted to affirm their fealty to coal, they appeared to equate coal with jobs. However, statistics point out coal jobs and production is decreasing in many regions of West Virginia due to increased costs associated with coal extraction. When outlining their economic platforms, both candidates seemingly overlooked this fact and attributed the downturn in the state’s coal industry solely on federal regulatory intervention. In a state that is consistently ranked among the top in level of poverty, it is disingenuous for either candidate to outline an economic platform on a dying industry. While it would have been realistic for either campaign to promote coal as part of their economic platform, shaping an entire political campaign by promoting War on Coal rhetoric failed, in any way, to serve the public interest. It would appear both Capito and Tennant chose to overlook factual evidence detailing the obvious decline in the coal industry. Instead of taking a more rational and responsible role in discussing potential economic alternatives that could mitigate the effects of joblessness in an already poverty-stricken state, both candidates promoted their own self-interests by using divisive rhetoric to maximize the political capital to be gained through stoking public fear and misinformation.

Having established the role divisive rhetoric plays in determining political campaigns, the role divisive rhetoric has on the public policy process will be examined. The most fundamental means to accomplishing this is by looking at individual public policies through the lens of the Policy Cycle Process. Kraft & Furlong (2012) outlined a version of the Policy Cycle Process that

detailed the logical progression of public policies through each step of the public policy process. Therefore, each step of this process will be examined in relation to a recent public policy that is relevant to the scope of the West Virginia political landscape. A public policy from each level of government (federal, state and local) will be examined through the lens of the Policy Cycle Process.

Federal Policy: The Clean Power Plan of 2014

Perhaps the most singled out public policy used in War on Coal rhetoric is the Clean Power Plan of 2014 (Federal Register, 2014). Therefore, it was selected as the relevant federal policy to be examined through Kraft & Furlong’s (2012) Policy Cycle Process, which was broken into six distinct stages: agenda setting, policy formulation, policy legitimation, policy implementation, policy evaluation and policy change (Kraft & Furlong, 2012, pp. 85-103).

Agenda Setting

In the agenda setting stage of the Policy Cycle Process, an issue is identified and defined so that it merits governmental intervention to ensure the public interest is being met. In response to the plethora of scientific evidence as well as increasing public concern, the United States Environmental Protection Agency (EPA) forged a plan to reduce carbon emissions emanating from the aging infrastructure of the American power grid. In this manner, scientific evidence and governmental regulatory agencies charged with protecting the environment defined the Clean Power Plan as necessary for the public interest. Undoubtedly, the government regulatory agencies were prompted and informed by environmentally-oriented special interest groups in defining the problem.

Policy Formulation

Policy formulation is the stage in the Policy Cycle Process where different proposals are made to determine the best course of action in meeting the needs outlined in the agenda setting phase. Among the factors to be considered during this stage are “economic costs, social and political acceptability, and likely effectiveness in addressing the problem” (Kraft & Furlong, 2012, p. 94). The Clean Power Plan of 2014, was determined to be the best available alternative in taking steps to mitigate the effects of anthropogenic climate change. To adequately grasp the concept of the Clean Power Plan of 2014 being a continuation of the EPA’s efforts to fully realize the potential of the Clean Air Act, the 1990 amendments to the Clean Air Act must be examined.

The Significance of the 1990 Amendments to the Clean Air Act

The Clean Power Plan of 2014 represents the logical progression of the Environmental Protection Agency’s efforts to curb airborne emissions that pose a threat to the health, safety and well-being of the American public. Though provided this oversight by the Clean Air Act, political repercussions have prevented the EPA from fully achieving the overall goals of the Act.

Ironically, as a landmark piece of environmental legislation, the Clean Air Act’s 1990 amendments made commonplace one of the most destructive environmental practices in the history of the central Appalachian region. In fact, as Burns (2007) pointed out, in meeting the reduced sulfur emission standards set forth by the 1990 amendments to the Clean Air Act, the low-sulfur coal reserves of central Appalachia became a heavily-sought and valuable commodity. From an economic perspective, the 1990 amendments to the Clean Air Act provided central Appalachian coal a competitive advantage since it allowed power generators to meet the sulfur requirements of the Act. However, in many cases, mountaintop removal surface

coal mining proved to be one of the most cost-effective, and therefore preferred, methods of coal extraction in the region.

Mountaintop removal surface coal mining is an incredibly efficient means of coal extraction. It is primarily conducted in regions where multiple thin coal seams in close proximity to the surface prevent other mining methods from being economically and/or technically feasible. The rugged topography and thin, low-sulfur coal seams present in central Appalachia led the region to becoming ground-zero for mountaintop removal operations. During the mountaintop removal process, heavy machinery is used to remove up to 500 feet of a mountaintop, scrape up the now-exposed coal, and dispose of the former mountaintop (referred to as overburden) in adjacent valleys. However efficient the method may be, the mountaintop removal method of coal extraction is very environmentally damaging (Burns, 2007). In fact, the increase in mountaintop removal mining in central Appalachia led to a marked increase in community and environmental groups calling for not only an end to the destructive practice, but for an overall reduction in coal usage around the world. In this way, the 1990 amendments to the Clean Air Act created a rapid increase in anti-coal activism in West Virginia, a reality that has shaped public policy (and industry-backed rhetoric) in the state for the last quarter century.

Still, despite providing an unintentional hand-out to the coal industry, the 1990 amendments to the Clean Air Act have yet to achieve full implementation due to coal industry arguments, and subsequent political rhetoric, regarding the economic feasibility of these provisions. The primary features of the 1990 amendments to the Clean Air Act were to utilize “market-based principles and other innovative approaches” to develop a pollutant trading plan that would reduce the total amount of emissions. It promoted the use of low-sulfur resources in order to reduce sulfur emissions and acid rain, created a market for alternative fuels, and

promoted energy efficiency and conservation (United States Environmental Protection Agency, 2013). While most components of the 1990 amendments were implemented without an inordinate amount of pain, the “market-based principles and other innovative approaches” provided the industry with an excuse to kick the proverbial can of full implementation down the road. However, throughout the 1990s, many older coal burning power plants were either retrofitted to meet the new requirements or taken off-line altogether. To make the amendments more palatable to industry, since 2008, Congress has appropriated more than \$8 billion to assist in retrofitting aging power plants and in carbon capture and sequestration technology (Bernton, 2014). In this way, the Clean Air Act provided the groundwork for all subsequent attempts to strengthen or weaken, depending on political motivation, the EPA’s authority to set and regulate emission standards.

Legal Wranglings Resulting from The Clean Air Act.

While the 1990 amendments certainly led to a reduction of sulfur emissions and an ultimate reduction in acid rain, it inadvertently contributed to an increase in fine particulate matter in the air as well as in greenhouse gas emissions, primarily carbon. With increasing evidence and growing public concern over greenhouse gas emissions and its role in increased global climate change, the United States EPA sought to clarify whether or not the CAA gave it the right to govern greenhouse gas emissions as an air pollutant; thus, placing the control of these emissions to the EPA under the powers provided by the Clean Air Act. It was the EPA’s stance that the CAA did *not* give it the right to control any emissions that deal with climate change. In 2007, the Supreme Court ruling in *Massachusetts v. Environmental Protection Agency* (2007) clarified the EPA’s role when the majority opinion stated “greenhouse gases fit well within the Act’s capacious definition of air pollutant” and the EPA had statutory authority to regulate any

airborne emission as long as there was a reasonable expectation that the airborne emission posed a credible threat to public health or welfare (*Massachusetts v. Environmental Protection Agency*, 2007, p. 5). However, under the ruling, the burden to establish whether any specific greenhouse gas emission posed a threat to public health and welfare fell to the EPA.

In 2010, the EPA proposed plans to strengthen the regulation of fine particulate matter as outlined in the 2007 Clean Air Fine Particle Implementation Rule (CAFPiR), as well as developing comprehensive plans to limit greenhouse gas emissions (Federal Register, 2010; United States Environmental Protection Agency, 2010). Both plans, as written, would have negative consequences for coal fired power plants and, hence, the coal industry.

While both plans were met with considerable hostility, the EPA plan to limit greenhouse gas emissions evoked the loudest opposition and ultimately died in the halls of Congress as opponents of the proposed rules argued government overreach (Nordhaus, 2012). The hostility surrounding the 2010 proposed rules solidified the Obama Administration’s belief that Congressional legislation designed at combating greenhouse gas emissions was not forthcoming. However, in 2012, a federal appeals court found the EPA’s claims that greenhouse gas emissions posed a threat to public health and welfare were substantiated, and the EPA had the power to regulate greenhouse gas emissions under powers provided by the Clean Air Act. In fact, in the Court ruling, it was pointed out the premise “requiring that EPA find ‘certain’ endangerment of public health or welfare before regulating greenhouse gases would effectively prevent EPA from doing the job” it was charged to do under the Clean Air Act (*Coalition for Responsible Regulation, Inc., et al., v. Environmental Protection Agency*, 2012, p. 31).

Policy Legitimation

After the formulation stage in the Policy Cycle, relevant parties must be convinced the proposed governmental response to an issue is justified. Kraft & Furlong (2012) characterized this step of the cycle as policy legitimation. During this phase, elected officials, special interest groups and the public must be convinced the proposed policy not only best meets the needs of the public, but also that the scope of the proposed policy falls within the recognized parameters of government.

In respect to the Clean Power Plan of 2014, the subsequent court rulings, coupled with the legislative realities that exist when dealing with greenhouse gas emissions, necessitated the Obama Administration utilize its executive authority in constructing a piecemeal approach to taking action on greenhouse gas emissions. When announcing the necessity and expediency of using executive authority to meet the eminent threats of climate change, President Obama stated, “I refuse to condemn...[this]...and future generations to a planet that’s beyond fixing. We don’t have time for a meeting of the Flat Earth Society” (Eilperin, 2013).

Ultimately, an obstructionist Congress and continued litigation paved the way for the EPA directive known as the Clean Power Plan of 2014. In fact, Fraas & Richardson (2012) discussed how the EPA response to court rulings and political opposition tends to be increased regulation that is less lenient to industry albeit more akin to the rule of law. In this way, the coal industry, through fighting implementation of former Cap-and-Trade legislation and emissions trading programs, have effectively shot themselves in the proverbial foot, and have brought about the more stringent regulations as proposed by the Clean Power Plan of 2014.

Policy Implementation

Policy implementation is the stage in the Policy Cycle Process where proposals are put into effect. The implementation phase, according to Kraft & Furlong (2012), is when you see the

full scope of government intervention and the real impacts the policy has on the public. Furthermore, for implementation of a policy to be effective, those charged with implementing a policy must organize, interpret and apply the true intent of the policy in a way that can be understood by those who will be impacted by the policy (Kraft & Furlong, 2012, p. 99).

While the Clean Power Plan of 2014 represents a more economically harsh set of regulations for the coal industry than what would have potentially come out of a legislative setting, it also represents the political reality of the “Congress versus the President” mentality that has existed throughout the Obama Administration. When speaking about the Clean Power Plan of 2014, West Virginia University law professor James Van Nostrand postulated, “Using the authority granted under the Clean Air Act to regulate greenhouse gas emissions is not an ideal solution. A legislative solution would likely have included measures to provide some relief to regions of the country that are hit particularly hard by the rules. EPA lacks the resources and authority to provide that relief” (Tincher, 2014b). By continually seeking to delay the implementation of the Clean Air Act amendments, the coal lobby helped force the hand of the Obama Administration into formulating an executive remedy rather than focusing on common ground in a legislative setting to craft public policy. Hampered by its own obstructionist activities, the coal lobby is left with little recourse but to shape public opinion against the Clean Power Plan. The coal lobby has found its most effective means of accomplishing this goal is to ramp up the divisive rhetoric and propaganda campaigns, ensuring the depiction of President Obama calling to arms rogue government agencies with the sole goal of obliterating the coal industry.

Coal industry advocates readily pointed to the United States Environmental Protection Agency when promoting its rhetoric about government over reach, but few actions by the EPA

were as maligned by industry advocates as the Clean Power Plan of 2014. Interest group talking points maintained the Clean Power Plan was the latest attempt by the Obama Administration to escalate its war on coal. In fact, in a 2013 article in *The Washington Post*, Senator Joe Manchin (D-WV) was quoted as saying President Obama’s use of executive authority to limit greenhouse gas emissions was an outright declaration of war against the coal industry. “It’s clear now that the President has declared a war on coal,” Senator Manchin stated, “it’s simply unacceptable that one of the key elements of his climate change proposal places regulations on coal that are completely impossible to meet with existing technology” (Weiner, 2013). Senator Manchin’s statement made headlines, not because it was a new concept, but due to Manchin publicly promoting a talking point, which until that time, had been primarily utilized by the opposing political party. Manchin’s statement represented a political break between the party faithful and the President over the issue of coal. However, this should not have come as a shock to many considering how Manchin, in a 2010 television campaign advertisement, was portrayed as shooting a copy of the proposed cap-and-trade bill (a significantly weaker bill than the Clean Power Plan of 2014) designed to limit greenhouse gas emissions (Cillizza, 2010).

The increase in divisive rhetoric delayed implementation of the Clean Power Plan of 2014. As the EPA delegated its rules to the individual states, negative feedback and lawsuits were filed on behalf of the States to fight implementation. In August 2014, twelve state Attorney Generals, led by West Virginia Attorney General Patrick Morrisey (R-WV), filed a lawsuit against the U.S. Environmental Protection Agency citing the EPA lacks the legal authority to force states into designing and submitting a realistic plan to cut carbon emissions in their individual states (Davenport, 2014). Likewise, industry-backed rhetoric pointed to EPA emissions standards as the cornerstone of the Obama Administration’s War on Coal. This

rhetoric, when worked to fever pitch during the 2014 mid-term elections, had a very real impact on changing the power structure of both West Virginia state government as well as the United States congress. The political repercussions from the new class of elected officials will undoubtedly weigh heavily upon the implementation of the Clean Power Plan going forward.

Policy Evaluation & Policy Change

The last two stages of the Policy Cycle method are policy evaluation and policy change. According to Kraft & Furlong (2012) policy evaluation is conducted at certain intervals to determine if the policy, as formulated and implemented, is achieving the desired effect. If analysis, after conducting a policy evaluation, deems a current policy is failing to meet the needs of the public, a policy change might be ordered. A policy change is conducted simply by reverting back to the formulation stage of the Policy Cycle process and determining a more realistic and effective course of action. Policy makers may go through the stages of the Policy Cycle process when determining if a policy, in whole or in part, meets the needs of the public. However, a well-defined problem and a thorough analysis of each policy alternative in the policy formulation phase can minimize the failure of ill-designed policies in the implementation phase.

In regards to the Clean Power Plan of 2014, the policy remains in the Policy Implementation phase of the Policy Cycle and therefore it would be speculative to conduct a policy evaluation on it. The changing political current following the mid-term elections of 2014 will likely exact, to some extent, a policy change regarding emissions standards. However, the preponderance of scientific evidence, increasing global economic and political uncertainty and societal changes ensure the issue of climate change is not going to vanish, regardless of the current political leanings of government. Therefore, any policy evaluation and policy change that may occur will take those factors into account.

State Policy: The Aboveground Storage Tank Program

In the afternoon of January 2014, the primary water supply for the Charleston, West Virginia, region was contaminated by a leaking chemical tank situated upstream from the primary intake of the municipal water plant. Over 10,000 gallons of 4-Methylcyclohexanemethanol (MCHM), a chemical used in processing coal, was later determined to have contaminated the water supply which served a nine county region home to more than 300,000 citizens. The owner of the leaking chemical tank, Freedom Industries, filed for bankruptcy protection shortly after the chemical leak (White, 2014).

Agenda Setting

The public responded with immediate demands for state regulatory agencies to safeguard their health and safety by determining how and why the leak occurred, monitoring the clean-up and developing public policies that would ensure such events would not occur in the future. Elected officials, hearing these public demands, began drafting a public policy which addressed the issue (West Virginia Office of the Governor, 2014). West Virginia has a history of opposing government regulation of industry, a fact highlighted by the federal War on Coal rhetoric that was on the lips of nearly every state politician at this time. However, few instances in the state could compare to the events surrounding the contamination of the municipal water supply, a fact not lost on the usually anti-regulation leanings of West Virginia’s elected officials. This point was expertly illustrated by the comments of Democratic House of Delegates member, Barbara Evans Fleischauer, “I don’t think people want the government to get out of the way right now. What we’re supposed to do in state government is protect the health and welfare of our citizens” (Gabriel, Wines & Davenport, 2014). Within weeks of the water contamination, proposals were put forth to address public concerns. One of the problems with the state policy being examined

was its rushed nature due to public outrage and anger led to a policy that would necessitate a great deal of discussion and fleshing out in subsequent phases of the public policy process.

Policy Formulation

In response to massive public outcry over the contamination of the municipal water supply, legislation was rapidly drafted. Initial proposals aimed at addressing public concerns were put forth by Governor Earl Ray Tomblin (D-WV) in the form of the West Virginia Source Water Protection Act (SWPA). As Tomblin proposed the bill, he emphatically stated, “The discharge of chemicals or other contaminants into our water supply is unacceptable and will not be tolerated” (Tomblin, 2014). Tomblin, therefore, touted a “reasonable, common sense” proposal, which included measures to regulate aboveground tanks in areas of critical concern; especially those in the vicinity of municipal water supplies. To accomplish this, Tomblin proposed the industry would be best if it were left to self-regulation, and required industry operations with aboveground tanks to submit reports with the location, condition and construction material or aboveground tanks. This, Tomblin stated, was to ensure aboveground storage tanks were constructed and maintained consistent with established safety and regulatory codes. Also, Governor Tomblin’s plan outlined a requirement for public water systems to establish an appropriate emergency response plan in the event of water contamination, and required tank facilities to submit its emergency response plans to the West Virginia Division of Environmental Protection (WVDEP). Tomblin asserted his proposal was ultimately aimed at protecting human health and the environment from the dangers of regulated materials in aboveground storage tanks (Tomblin, 2014).

However, once Tomblin’s proposal entered the hallways of the legislature, legislative realities were inflicted on the bill. As the proposed bill progressed through established channels

of the public policy process, outside influences significantly altered the original intent of the bill. By the time Tomblin’s proposal exited the process, it possessed many changes including a new name, the Aboveground Storage Tank bill (West Virginia Senate Bill 373).

While the Aboveground Storage Tank bill came about as a result of contamination of a municipal water supply, opposition to the bill originated out of concern for how it might fiscally negatively impact extractive industries. The West Virginia Coal Association called for coal operations to be exempted from the Aboveground Storage Tank bill since, as it advocated, aboveground storage tanks (ASTs) were already regulated under other existing federal and state laws, and Senate Bill 373 would pose an “unnecessary regulatory burden” upon the coal industry (West Virginia Coal Association, 2014b). The Independent Oil & Gas Association of West Virginia, Inc. (IOGA) also requested to be exempted from the bill using similar rationale. Aside from stating that existing regulations on the oil and gas industry in West Virginia already covered ASTs, the IOGA asserted its established record for “avoiding and minimizing impacts to the State’s waters” should be taken into account when considering the requested exemption (Independent Oil & Gas Association of West Virginia, Inc.). Additionally, the IOGA also proposed the “WVDEP should consider and minimize the adverse economic impact on oil and gas operators so that the increased compliance costs do not cause the loss of oil and gas production through regulatory” intervention (Independent Oil & Gas Association of West Virginia, Inc.).

In West Virginia, residents had long become accustomed to corruption and collusion of special interest groups and public officials (Brisbin, Dilger, Hammock & Plein, 2009). Therefore throughout the crafting of the Aboveground Tank bill, public skepticism over how much elected officials were looking out for the public interest was elevated. As the bill was altered throughout

the policy process, many perceived it to be business as usual. When calls were being made for a special legislative session to “fix” the proposed Aboveground Tank bill, such as including exemptions to the bill and delaying the bills implementation, criticism from citizen groups was immediate and loud. “A change in [the implementation] date could be problematic, but changes in the bill itself could be a problem for the public,” said Maya Nye, Executive Director for People Concerned About Chemical Safety, a community action group that played a critical role in the ongoing discussion following the chemical spill (Ali, 2014).

As the bill became law, special interest and industry groups began to utilize divisive political rhetoric when complaining about the additional regulatory burdens set forth by the proposed bill. They maintained the increased cost of doing business would impact the economic future of the state. In response to these complaints, Senate President Jeff Kessler advocated for the increased regulation on the grounds that it was in the public interest to have the new rules, stating “Regulation, we hear from time to time, folks don't want regulation, government keep their hands off; government stay away. I'm here to tell you that no person, no industry, no company will be able to go without knowing that there is somebody looking over their shoulder” (Boucher, 2014). Additionally, House of Delegates Speaker Tim Miley echoed Kessler’s sentiments on the increased regulation, “Often times when someone mentions regulating something that's in the business world, everyone wants to fear monger and say that it's going to cost jobs. But I'd rather save lives than be worried about saving a few jobs.... [S]aving lives always has to come first, saving jobs second” (Boucher, 2014).

As the bill progressed through committee, it was significantly weakened. According to *The Charleston Gazette* investigative reporter, Ken Ward, Jr., the House Finance Committee removed multiple provisions of the bill including early warning sensor requirements for West

Virginia American Water’s Elk River plant (the sole intake location of the municipal water supply), tougher permitting requirements for water pollution sources near municipal water systems, and the provision of the bill which included state-funded long-term health studies. The long-term medical monitoring study provision was removed, according to Republican Delegate Marty Gearheart because it opened the door “to an almost unlimited liability” for the state (Ward, 2014). The final version of the bill was passed in March 2014, with full implementation set for September 2014.

Policy Legitimation

A finalized version of the Aboveground Tank law exhibited many differences from the bill as originally proposed bill. Political realities, special interest group input and passing time all played a role in shaping the final rule. While public outcry still existed during the implementation stage of the policy, scientific testing concluded MCHM levels in the water were either not detectible or were within established limits. Calls for public health studies continued. The general public was again using the municipal water supply without reported incident. As time continued to pass, the public sense of urgency waned as well. The Aboveground Tank bill became less about punitive measures for the chemical industry and more about regulating aboveground tanks, in a number of industries, around the state. The bill was promoted as the best available legislative remedy to address public concerns. While perceived by environmental and community groups as being a weak, watered down version of the original bill, industry and industry advocates called the bill overreaching and punitive to business. The long-lasting effects and potential repercussions of the bill, however, were yet to be determined as the West Virginia Department of Environmental Protection continued to set protocols and guidance regarding the most effective and realistic means of fully implementing the law.

Policy Implementation

Upon enactment, policy implementation of the Aboveground Storage Tank Program was placed under the jurisdiction of the West Virginia Department of Environmental Protection. While certain aspects of the program were mandated by the legislature, how these elements would be realistically implemented remained subject to forthcoming West Virginia Department of Environmental Protection guidance. According to the Charleston, West Virginia, law firm of Dinsmore & Shohl, the prevailing legal outlook was understood to mean many aspects of the bill would be forthcoming and dependent on the realistic execution of the bill as it would be implemented by the West Virginia Department of Environmental Protection (Dinsmore & Shohl, 2014). While the program was legally mandated, its full execution fell short of alleviating public concerns about water contamination and chemical safety.

Policy Evaluation & Policy Change

Due to the recent nature of the Aboveground Storage Tank law, it remains to be seen what impacts the policy will have on West Virginia. However, based on concerns voiced by industry groups, it is entirely possible any future evaluation of the law will demonstrate a hardship being placed upon coal, oil and gas operations in the state. Along with the lobbying presence of these industries, it is likely changes in the policy will address their concerns. As the events that transpired in the wake of the January 9, 2014, chemical contamination of the Charleston, WV, municipal water supply fade into the past, it is also likely public demands for regulatory safeguards for chemical safety will diminish. This could result in a future weakening of the Aboveground Storage Tank bill to the point where it may cease to serve any aspect of the public interest.

Local Policy: The Morgantown Heavy Truck Ban

Morgantown, West Virginia, is a city of approximately 30,666 year round residents located in Monongalia County (United States Census Bureau, 2014). It also is the home to West Virginia University, the flagship public University of the State. Every August, the city experiences an influx of an additional 30,000 students, effectively doubling the population (West Virginia University, 2014). The area known as Morgantown was originally settled in 1771, and in 1785, “the Virginia General Assembly established Morgan’s Town” (Howe, 2013).

Agenda Setting

The city developed along what would become narrow streets meandering along the river and valleys. The current realities of the city do not easily accommodate more than 60,000 people. While road enhancements have occurred over time, at least partially funded by West Virginia Division of Highways assistance, the city roadways remain much the same as they were in the 1900s with many of its important, historic houses still intact (Rasmussen, 1995) and roads remain sized for an earlier time and grossly inadequate for the traffic that rolls through and around the town today.

Limestone quarries and coal operations in neighboring Preston County, West Virginia, provide aggregate products for power plants, construction and road building substrate as well as the direct and indirect employment of hundreds of regional workers. However, in transporting their products to market, these extractive operations travel through the Morgantown, West Virginia, metropolitan region. Trucking companies, charged with the job of transporting these products, instruct their truck drivers to deliver the product as quickly and efficiently as possible to their customers. In the heavily congested area in and around Morgantown, the shortest route often does not equate to the shortest amount of time or to the most convenient route. Most trucking companies insist their drivers utilize West Virginia State Route 7 in delivering the

products to market. Historically, Route 7 was a preferred transportation artery not only to deliver goods to the city, but also as the most direct route to a loading dock utilized in river transport.

However, urban growth and changing population demographics have resulted in the heavy trucks using Route 7 traversing residential neighborhoods and the heavily congested downtown area. The Morgantown Comprehensive Plan (MCP) of 2013 in Chapter four, Objective 2 addressed these concerns under the heading *Reduce presence of freight trucks within city limits*. The fourth point listed states:

Establish agreements with local trucking companies on preferred truck routes, which could include increasing weight limit on Interstate 68 between exist 1 (US 119) and 4 (WV 7), improvements to Greenbag Road as a designated truck route, reducing permitted weight on Walnut Street Bridge, etc. (City of Morgantown, 2013, p. 65).

The combined growth of the city and the university resulted in increased vehicular traffic. This increased traffic, in conjunction with the heavy trucks, resulted in compounding the traffic congestion in the downtown area, making it, at times, a very tenuous place for commuters and pedestrians alike. The heavy truck traffic through downtown Morgantown resulted in complaints to the City Council regarding noise and air pollution, traffic congestion and decreased property values for residences and businesses along Route 7 (City of Morgantown, 2014a). In response to these community concerns, in June 2014, a coalition of community residents and businesses calling itself Safe Streets Morgantown was formed. With the primary goal of the group being to limit the number of heavy trucks traversing the residential and downtown streets of Morgantown, Safe Streets Morgantown drafted a proposal to limit heavy truck traffic in the heavily congested

downtown area of the city. If heavy trucks could be banned from entering the downtown area, then the residential neighborhood adjacent to downtown would also be spared the onslaught of heavy truck traffic. Safe Streets Morgantown, led by Attorney Brian McAllister, maintained a visible social media presence, primarily through a Facebook community page where it posted City Council documents and kept groups members apprised of upcoming City Council meetings and agendas.

The MCP had previously addressed traffic congestion in the downtown area, and made recommendations to alleviate the problem by determining alternate routes for heavy trucks and other commercial traffic (City of Morgantown, 2013). When these recommendations were considered in conjunction with the Safe Streets Morgantown proposal, the City Council recognized the time had arrived to address the contentious issue of traffic congestion in the downtown area. Perhaps most important to the City Council were health and safety concerns of residents as the area of the city being travelled by the heavy trucks was also an area with perhaps the highest concentration of pedestrian traffic in the state. The most logical and realistic solution to address increasing concerns over traffic congestion, complaints of local businesses, and public health and safety concerns was to limit the movement of heavy trucks through downtown.

According to resident complaints to City Council, on average the heavy trucks begin using the streets at approximately 2:30-3am and continue a constant stream of traffic for the following 12 hour period. The heavy trucks run six days a week and, according to residents, tend to occur about once every 35 seconds. The trucks do not run on Sundays. Over the years, multiple attempts have been made to rein in, what many perceived to be, the growing inconvenience and public health risks associated with the heavy truck traffic. However, attempts to limit heavy truck traffic through residential and downtown areas were met with hostility.

An additional problem with the increase in heavy truck traffic through the downtown area can be attributed to the infrastructural origins of the city. The narrow streets of the city are not wide enough to provide adequate safe passageway to heavy trucks, nor are the streets able to be widened without considerable damage being done to the downtown business district. Proponents of a heavy truck ban pointed to a real, tangible risk for life and safety as the trucks would, out of necessity, frequently take up two lanes in order to make a turn on the narrow downtown streets. Also pointed out was an increase in traffic congestion, for which the heavy trucks were wholly responsible or to which they certainly contribute to, in the downtown area. Heavy trucks were frequently found to be blocking intersections, which prevented proper flow of traffic when the traffic lights changed. This often resulted in a traffic standstill for multiple cycles of a traffic signal. Proponents of City Council actions pointed out the streets of the downtown area were never constructed for, nor have they been reconfigured to accommodate heavy truck traffic, the primary cause, they attribute, of downtown traffic congestion.

Policy Formulation

Between 2006 and 2014, the greater Morgantown area continued to experience exponential growth, spurred on by the expansion of West Virginia University. Along with the growth, the subsequent increase in traffic further compounded downtown traffic congestion. Safe Streets Morgantown, the community coalition responsible for drafting the heavy truck ordinance, noted the same problems continued as in 2006 -- excessive noise, air pollution, and most of all, trucks too large to safely travel the narrow roads of the area. The group noted suggestions such as an alternative truck route, Greenbag Road, which has far less traffic, and suggested working with the West Virginia Division of Highways for improvements to this road. Most importantly, the group prepared a city ordinance that would effectively ban heavy truck

traffic along State Route 7, the residential and downtown areas experiencing the brunt of the problems associated with these trucks. Unlike 2006, the current City Council was ready to listen and act on the ordinance.

Throughout the summer of 2014, a proposed ban on heavy truck traffic through downtown Morgantown consumed the dialogue of the comment portion of City Council meetings. Though many residents, business owners and other interested parties provided comments, the majority of the public response was in favor of the proposed ordinance (City of Morgantown, 2014a, pp. 4-6). There were, however, some vocal opponents at the first Council meeting regarding the proposed ordinance. John Raese, President and CEO of Greer Industries, Inc., submitted a letter that would be entered into the official record at the upcoming City Council meeting held on July 15, 2014. In this letter, Mr. Raese makes clear his opposition to the ordinance stating that its passage would have “broad ramifications throughout the coal, limestone, oil and gas, trucking, and other industries.” He further opined that it would adversely affect jobs in these industries as well and that his own company may be left unable “to compete with mine operators” in other states that do not use trucks to move their product (Raese, 2014).

In addition, detractors of the overweight coal ban cite another example of how the coal industry in southern West Virginia was getting preferential treatment for their particular truck loads. West Virginia Senate Bill 585, which was known as the overweight truck bill, called for the implementation of the Coal Resource Transportation System (CRTS), which effectively altered uniform weight limits for large coal hauling trucks traversing state highways (West Virginia Legislature, 2014b). Under the new law, large trucks hauling coal on state maintained highways designated as part of the CRTS were allowed to increase their maximum gross weight up to 120,000 pounds, depending on the number of axles in the truck. However, the new weight

limits only apply to the 15-county area designated as part of the CRTS, whereas coal trucks on other state maintained highways were obligated to keep gross weight limits under 80,000 pounds (West Virginia Public Service Commission, 2004). From a public viewpoint, this public policy was most certainly against the best interests of the public, but to the businesses impacted by the law in the northern part of West Virginia, it was creating an unfair advantage. Thus, their frustration with what they saw as yet another obstacle to getting their product to market.

Changes were made to the proposed ordinance as the issue was discussed, including exemptions and other regulatory matters. Despite questions regarding the legality of a city ordinance limiting traffic on a state maintained road, the proposed ordinance kept advancing through the channels of city government and inched ever closer to becoming law. Finally, after the three readings of the ordinance as required by law, a final vote was taken and the ordinance to regulate heavy truck traffic in downtown Morgantown was approved.

Policy Legitimation

In 2006, City Council discussed an ordinance to limit heavy truck traffic through Morgantown. At that time, the Council decided to, instead, “negotiate with the Department of Highways and local industry” to come to an amenable solution to all parties (Board, 2014). Once the proposed 2006 truck ban was removed off the table, negotiations broke down and no meaningful changes occurred to address public safety and health concerns widely perceived to be a direct result of the heavy truck traffic. In the meantime, heavy truck traffic on Route 7 continued and public demands calling for City Council action on regulating truck traffic through the residential and downtown area increased exponentially. Therefore, when Safe Streets Morgantown petitioned the City Council to again take up the issue of a heavy truck ban, the

Council was not only receptive to the petition, but became committed to finding a lasting solution for the problem.

However, throughout the policy process, lingering questions as to the legality of such an ordinance remained. For example, on July 29, 2014, Director of the Legal Division of the West Virginia Division of Highways Anthony Halkias, indicated in a letter to the Morgantown City Council that it is *not legal* for a city to pass an ordinance to permanently limit traffic patterns without the permission of the West Virginia Commissioner of Highways (Halkias, 2014). However, not all parties agreed with position held by the legal division of the Division of Highways. On August 19, 2014, Brian McAllister, the attorney who founded Safe Streets Morgantown, submitted a letter to the Morgantown City Council pointing out the Interstate Commerce Act did not restrict the safety regulatory authority of the City. He also suggested including language in the ordinance that clearly specified the ordinance was within the city’s safety regulatory authority (McAllister, 2014).

The City Council was also encouraged to establish an alternative route for heavy truck traffic. Many residents, city and county officials and Division of Highways explored the possibility of using Greenbag Road, a secondary county road that circumnavigates downtown Morgantown. The Greenbag Road route would add approximately 2.5 miles and four minutes to each trip made by the heavy trucks. However, that estimate was made without taking downtown traffic congestion into account. If time being stopped due to traffic congestion is placed into the equation, then heavy trucks could easily make up that time difference as it commonly takes 10-30 minutes to drive through the downtown area. Any additional expense incurred by the extra mileage would easily be offset by fuel savings from not having to deal with the frequent stops in Morgantown’s heavily congested downtown.

However, since State Route 7, the route being used by the heavy trucks, is a state-owned and maintained road, the City Council first had to establish its authority to regulate traffic through the city, even on state and federal routes. The City Council ascertained it was granted this authority under West Virginia Code Chapter 17c-17-12(c) which states:

Local authorities with respect to highways under their jurisdiction may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways. (West Virginia Code, 2014)

With a certainty of its legal authority to ban heavy trucks through downtown Morgantown, the City Council passed the traffic ordinance. The majority of city residents were in support of the law, and the Council agreed to keep the issue in the forefront of the public agenda as the law entered the implementation phase. Additionally, the City Council laid out plans to improve roadway infrastructure on Greenbag Road to facilitate the truck traffic. Still, trucking companies and truck drivers vocally opposed the plan, calling it an example of government overreach, and eventually lawsuits were filed over the new heavy truck ordinance.

Policy Implementation

On September 2, 2014, the Morgantown City Council voted the Heavy Truck Ordinance would go into effect on December 1, 2014, three months after being adopted by the Council. This time frame was designed to allow the City time to work with the West Virginia Division of Highways regarding the new signage, which was required under state law. Since that time, the West Virginia Division of Highways has not commented and after a lawsuit named it as a

defendant, has refused to comment because of the pending litigation (Beard, 2014a; Wiederspiel, 2014).

Policy Evaluation & Policy Change

As of November 2014, the Heavy Truck ordinance underwent a policy evaluation due to the lack of cooperation from the West Virginia Division of Highways in the matter of obtaining signage informing through truck traffic of the ban. Also, pending litigation against the city has been taken into account when reviewing a realistic date for enforcement of the ordinance. The City Council had approved a December 1, 2014, deadline for the full implementation of the heavy truck ban. However, without DOH approval of signage, the ordinance cannot legally be enforced. Attorneys for the trucking companies filed legal action against the city regarding the ordinance. Then, on November 5, 2014, the attorneys petitioned the City Council to delay the implementation of the ban pending the outcome of the lawsuits. The Council denied the motion and proceeded with the aforementioned date of enforcement for the ban to take effect. Future policy evaluation and changes to the ordinance may be determined via legal action. Additionally, future changes to the ordinance may incorporate more or less exemptions to the policy, to be determined as time goes by and as the needs of the city continue to evolve.

Discussion & Conclusion

In the absence of statistical evidence supporting a War on Coal, it was determined politicians sought to maximize their political capital through promoting an imagined War on Coal. This was accomplished by mobilizing the populace through negative campaigning. In outlining how rhetoric can shape political attitudes, Nelson (2004) stated politicians frame political discussions on controversial issues by prioritizing policy goals. By utilizing distinct rhetorical strategies, politicians maximize the effectiveness of rhetoric to shape public opinion on

the importance of issues. This is also consistent with Goldstein & Friedman’s (2002) arguments of a stimulation effect which result from negative campaigns. This stimulation effect increases voter turnout of the demographic this negative campaigning and divisive rhetoric is directed toward. In the mid-term elections of 2014, West Virginia politicians utilized divisive and inflammatory campaign rhetoric to increase voter turnout of their targeted demographic. Mid-term elections tend to exhibit low voter turnout, and by maximizing political rhetoric to mobilize dissatisfied, disgruntled and wedge-issue voters, candidates with less than stellar reputations and qualification can lead to a reshuffling of the political landscape.

This is precisely the scenario used by West Virginia politicians in the 2014 mid-term. By maximizing divisive political rhetoric based on a presupposed War on Coal, an 80-year minority party was able to unseat multiple incumbent politicians and take control of the state political landscape. While this political restructuring could have utilized any rhetorical message, the War on Coal campaign appealed to the worldview of many West Virginia voters. In West Virginia, the War on Coal propaganda provided the easiest avenue for politicians to utilize divisive rhetoric in distracting voters from other, more relevant issues. In theory, this framework can be applied in any divided political landscape if the political players are committed to taking the necessary actions to substantiate their respective agendas. As long as political capital obtained through the promulgation of unsubstantiated claims resonated with the public and advanced a particular political agenda, the motivation behind the negative campaigning is irrelevant. In this way, the War on Coal might very well have provided the only realistic outlet for a successful culmination of divisive rhetoric and political agendas.

Additionally, these concepts are consistent with the theoretical framework of this thesis. By adhering to elements of the fundamental rationality of the Public Choice Theory, politicians

did not necessarily manipulate the voting public into believing there was a War on Coal, but rather politicians appealed to the worldview of constituents and hyper focused their negative campaign messages into promoting the concept behind a War on Coal. As outlined by Wittman (2008), the term manipulation implies there is an emotional basis for making decisions, but by appealing to voters already established beliefs and worldviews, West Virginia politicians utilized elements of a rational decision-making process in achieving their goals. The voting public may have been constrained by the irrational fears regarding an imagined War on Coal, and therefore based their decision on emotions, but the successful politicians in the West Virginia 2014 mid-term elections were calculating and made rational decisions. While on the surface these actions certainly appear to exhibit manipulative qualities, true manipulation occurs when decisions are made on irrational and emotional grounds, which the successful politicians in the mid-terms did not make. That is not to say some of these politicians were not themselves manipulated by special interest groups, but that argument is best left open for future examination.

The divisive rhetoric associated with the War on Coal impacted the public policy process on all three levels of government. However, the divisive rhetoric had different effects at each level. For example, on the federal level, divisive rhetoric resulted in the origin of the Clean Power Plan as special interests and industry groups nixed all previous attempts for a comprehensive legislative remedy on the ground of potential economic repercussions. On the state level policy, divisive rhetoric shaped the formulation and implementation phases of the public policy process. It should be noted, however, it is a foregone certainty that without the public health crisis which resulted from the January 2014 chemical leak and subsequent contamination of the municipal water supply, an Aboveground Storage Tank bill would never have seen the light of day. Even so, while massive public demands for punitive measures and

regulatory safeguards on the chemical industry existed in the days, weeks and months following the chemical leak, industry lobbyists and special interest groups shaped the potential bill into being focused entirely on aboveground storage tanks, and even then, merely established a registration and inspection system program for these tanks. During implementation, staffing realities and waning scrutiny from the public ultimately resulted in a state agency classification system for aboveground tanks determining the time between inspections.

On the local level, the intent of divisive rhetoric backfired and strengthened the resolve of the Morgantown City Council to adopt the Heavy Truck Ordinance, which banned heavy trucks in the downtown area. Historically, the City Council was open to suggestions and realistic compromises for alleviating the public health concerns associated with the heavy truck traffic, but when accusations were made about the City Councils “War on Trucks,” government overreach and elitist attitudes, the Council based their decisions on the public will of city residents rather than non-resident business leaders and out-of-county truck drivers. Even with the ever-present threats of legal actions being taken against Council members, both personally and as a governmental body, the Council maintained their positions based on what they perceived to be in the best interests of the public, and what City residents demanded of them.

Attributes of the Public Choice Theory can be witnessed in the policy process on each level of government. On the federal level policy, the self interests of politicians seeking to gain political capital from their decisions effectively killed previous attempts of the Obama Administration to tackle economically difficult issue of emissions standards. Ultimately, the issue came down to public health versus jobs. Since most constituents were not conclusively being impacted by what they perceived to be climate change, they were not lighting a proverbial fire under their elected officials to do something about the issue. Therefore, determining to base

their decisions on the topic around what would gain them the most political capital, elected officials and politicians were against strengthening emissions standards. The decisions also possessed the remarkable coincidence of mirroring the position held by industry-backed special interest groups. Therefore, by towing the line of these special interest groups, elected officials were able to reap the benefits of increased political capital from a disengaged public, as well as the increased campaign donations from the industry and special interest lobby. An unpleasant side effect of adopting the divisive rhetoric and political spin that originated from industry-backed special interest groups was the formerly disengaged public repeatedly heard this divisive rhetoric from elected officials, from media outlets and from industry groups, which resulted in the public adopting this rhetoric as fact. This amounts to a complete lack of foresight on the part of elected officials considering the preponderance of scientific evidence on the issue of climate change. Ultimately, the increasing uncertainty surrounding the global economic and environmental effects of climate change demands elected officials take action on the issue at some point in the near future. By establishing their vocal opposition to climate change, elected officials did themselves a real disservice by boxing themselves into a corner. Any future efforts made by these elected officials concerning any aspects of climate change legislation will likely be met with public skepticism and hostility.

On the State level policy, the Public Choice Theory can be seen in the self-interests of elected officials which led them to listen to the massive public demands for meaningful action that would minimize the likelihood of future contamination of a municipal water supply. Considering the amount of public outrage following the chemical leak, even elected officials who were philosophically opposed to increasing regulation were forced to bend to the public will. However, as public scrutiny began to wane, industry and special interests began to shape

the proposed public policy that was designed to alleviate public concerns. Ultimately, instead of becoming a law that would protect the municipal water supply from chemical contamination, the Aboveground Storage Tank bill would become a law designed to protect against the contamination of municipal water supplies from leaking tanks. Rather than focusing on additional regulations for chemical production and storage facilities, extractive industrial and agricultural operations, and other likely sources of water contamination, elected officials chose to focus on the policy option that would least alienate corporate and special interests while still sating the public demand for action.

On the local policy level, the Public Choice Theory was identified through the self-interests of the City Council. As public involvement in the heavy truck ordinance progressed, it was clear the political will of the people demanded the Council take action. While having to marginalize the potential economic impacts and pending litigation, the City Council remained steadfast in adopting the ordinance. It was clear considering the amount of public interest in the issue that action must be taken, regardless of the repercussions, if the elected officials had any hope of retaining their seat on the Council. Especially in municipal elections, voter turnout is low, and if a constituent is of a mind to attend and speak at a public meeting to voice their concern, then they are also very likely to cast a ballot in municipal elections. In this manner, local government makes its decisions based on the pulse of the people.

In examining the three public policies, there was no evidence to support the hypothesis regarding regulatory capture. In fact, regulatory agencies exhibited actions which appeared to be operating in the public interest despite a preponderance of politically charged divisive rhetoric present within the scope of regulatory agency purview. As stated by Thomas, Soule & Davis (2010), regulatory capture, by definition, occurs when the regulated and the regulator share a

commonality of goals. The examination of the three public policies did not identify any evidence to support collusion between the regulatory agency and the regulated. In fact, quite the opposite was observed. The actions of the regulatory agency were often maligned by industry as being overreaching and unsympathetic to the economic realities of the marketplace. Certainly, regulatory agencies exhibited an association with industry groups when determining a realistic avenue for policy implementation, but the regulatory agencies also met with environmental and community groups to determine their course of action as well. Therefore, a conclusion must be made, due to a lack of evidence to the contrary, that regulatory agencies within the scope of this thesis, did not exhibit characteristics of regulatory capture. This observation was especially surprising considering, as Viscusi & Zeckhauser (2012) pointed out, regulatory agencies are often underpaid and, as such, tend to be underskilled, which often leads to these agencies being undervigilant.

While it is demonstrably true staff at West Virginia regulatory agencies garner lower pay than equivalent positions in surrounding states, the educational level of staff members is more difficult to discern and, in fact, the educational requirements of civil service positions would tend to disprove Viscusi & Zeckhauser's assertion. Also pertinent in examining this conclusion is the observation that agency heads and upper management in West Virginia regulatory agencies serve at the will and pleasure of the Governor. This fact immediately provides a look of impropriety considering the coziness of the Executive to industry interests, as evidenced by multiple public statements and political associations in support of these industries. It would stand to reason these appointed officials, due to the very nature of their employment status, would conduct operations in a way that upheld the personal and political agenda of the Governor. However, no evidence was found to support this supposed likelihood.

Additionally, through the thorough examination of the three governmental policies, it became apparent the physical distance between elected officials and their constituents played a role in policy decisions. On the federal level, where elected officials are often far removed from most constituents, they were more likely to make decisions that are arguably more favorable to special interests and industry than the public. On the State level, while still removed from constituents, but not to the extent where everyday contact is common, elected officials took positions which primarily served their constituents but in a way that also appealed to special interests. On the local level where elected officials were observed to be in direct contact with constituents on a daily basis, policies tend to be crafted with the express interests of the public in mind.

While this thesis is grounded in the Public Choice Theory, and explored the self-interests of politicians in shaping the public policy process, it would be unfair to paint all politicians as uncaring and self-motivated. However, it would appear difficult to conceive a federal politician with a truly altruistic political outlook. The inherent complexities and impersonal decision-making skills required for success in the political landscape, especially in the upper reaches of government, would decrease the likelihood for the existence of such a public servant. On the local level of government, it is far more likely that one could find an elected official or a political candidate with a political agenda being solely based on the public interest. However, even if an elected official possessed an altruistic desire to solely uphold the public interest in spite of the political realities surrounding them, a fundamental issue they would face would be how to design and implement public-minded policies in the face of special interests and industry backlash without alienating those groups and incurring the wrath of the industry-backed rhetoric machine.

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APPENDIX 1:

Senator Jay Rockefeller’s U.S. Senate Speech, “Statement on Inhofe Resolution vote¹.”

Senator Jay Rockefeller

Statement on Inhofe Resolution of Disapproval

As Prepared for Delivery

June 20, 2012

Mr. President, I rise today in the shadow of one seemingly narrow Senate vote -- the Inhofe resolution of disapproval of the Environmental Protection Agency’s rules on mercury and air toxics -- to talk about West Virginia. About our people – our way of life, our health, our state’s economic opportunity – and about our future.

Coal has played an important part in our past and can play an important role in our future but it will only happen if we face reality.

This is a critical and contentious time in the Mountain State. The dialogue on coal, its impacts, and the federal government’s role has reached a fevered pitch.

Carefully orchestrated messages that strike fear in the hearts of West Virginians and feed uncertainty about coal’s future are the subject of paid television ads, billboards, break room bulletin boards, public meetings, letters and lobbying campaigns.

A daily onslaught declares that coal is under siege from harmful outside forces, and that the future of the state is bleak unless we somehow turn back the clock, ignore the present and block the future.

West Virginians understandably worry that a way of life and the dignity of a job is at stake. Change and uncertainty in the coal industry is unsettling. But my fear is that concerns are

¹ “Rockefeller Statement on Inhofe Resolution Vote” retrieved from <http://www.rockefeller.senate.gov/public/index.cfm/2012/6/rockefeller-statement-on-inhofe-resolution-vote>

also being fueled by the narrow view of others with divergent motivations – one that denies the inevitability of change in the energy industry, and unfairly leaves coal miners in the dust.

The reality is that many who run the coal industry today would rather attack false enemies and deny real problems than find solutions.

Instead of facing the challenges and making tough decisions like men of a different era, they are abrogating their responsibilities to lead. Consol’s Bobby Brown, was never timid, especially when he and the United Mine Workers turned around labor management relations in the central coal fields.

Scare tactics are a cynical waste of time, money and worst of all coal miners’ hopes. But sadly, these coal operators have closed themselves off from any other opposing voices and few dared to speak out for change – even though it’s been staring them in the face for years.

This reminds me of the auto industry, which also resisted change for decades. Coal operators should learn from both the mistakes and recent success of the auto industry. I passionately believe coal miners deserve better than they are getting from operators and West Virginia certainly deserves better too.

Let’s start with the truth. Coal today faces real challenges, even threats and we all know what they are:

First, our coal reserves are finite and many coal-fired power plants are aging. The cheap, easy coal seams are diminishing, and production is falling – especially in the Central Appalachian Basin in Southern West Virginia. Production is shifting to lower cost areas like the Illinois and Powder River Basins. The average age of our nation’s 1,100-plus coal fired plants is 42.5 years, with hundreds of plants even older. These plants run less often, are less economic and the least efficient.

Second, natural gas use is on the rise. Power companies are switching to natural gas because of lower prices, cheaper construction costs, lower emissions and vast, steady supplies. Even traditional coal companies like Consol are increasingly investing in natural gas over coal

Third, the shift to a lower carbon economy is not going away and it's a disservice to coal miners and their families to pretend that it is. Coal company operators deny that we need to do anything to address climate change despite the established scientific consensus and mounting national desire for a cleaner, healthier environment.

Despite the barrage of ads, the EPA alone is not going to make or break coal. There are many forces exerting pressure and that agency is just one of them.

We need real world solutions to protect the future of coal.

Two years ago, I offered a "time out" on EPA carbon rules -- a two-year suspension that could have broken the logjam in Congress and given us an opportunity to address carbon issues legislatively.

But instead of supporting this approach, coal operators went for broke when they demanded a complete repeal of all EPA authority to address carbon emissions forever. They demanded all or nothing, turned aside a compromise and in the end got nothing.

Last year, they ran exactly the same play, demanding all or nothing on the cross-state air pollution rule – refusing to entertain any middle ground, and denying even a hint of legitimacy for the views on the other side. And they lost again, badly.

So here we are with another all-or-nothing resolution destined to fail. This foolish action wastes time and money that could have been invested in the future of coal. Instead, with each bad vote they give away more of their leverage and they lock in failure.

This time the issue is whether to block an EPA rule – the Mercury and Air Toxics Standards (MATS or Utility MACT) – that requires coal-fired power plants to reduce mercury and other toxic air pollution.

I oppose this resolution because I care so much about West Virginians.

Without good health it’s difficult to hold down a job or live the American dream. Chronic illness is debilitating and impacts a family’s income, prosperity and ultimately its happiness. The annual health benefits of the rule are enormous. EPA has relied on thousands of studies that established the serious and long term impact of these pollutants on premature deaths, heart attacks, hospitalizations, pregnant women, babies and children.

Moreover, it significantly reduces the largest remaining human-caused emissions of mercury--a potent neurotoxin with fetal impacts.

Maybe some can shrug off the advice of the American Academy of Pediatrics and others but I cannot.

This rule has been in the works through a public process for many years. Some businesses – including some utilities in West Virginia – already have invested in technology and are ready to comply.

Others haven’t prepared – because they have chosen to focus on profits rather than upgrading or investing in these smaller, older and less efficient coal-fired plants that were paid for decades ago and that they’ll tell you would be retired anyway.

That’s right. Every single plant slated for closure in West Virginia was already on the chopping block from their own corporate boards within several years.

It’s important to be truthful to miners that coal plants will close because of decisions made by corporate boards long ago - not just because of EPA regulations, but because the plants are no longer economical as utilities build low-emission natural gas plants.

Natural gas has its challenges, too – with serious questions about water contamination and shortages and other environmental concerns. But while coal executives pine for the past, natural gas looks to the future –investing in technologies to reduce their environmental footprint. And they’re working with others on ways to support the safe development of gas – and we will all be watching.

It’s not too late for the coal industry to step up and lead by embracing the realities of today and creating a sustainable future. Discard the scare tactics. Stop denying science. Listen to what markets are saying about greenhouse gases and other environmental concerns, to what West Virginians are saying about their water and air, their health, and the cost of caring for seniors and children who are most susceptible to pollution.

Stop and listen to West Virginians – miners and families included – who see that the bitterness of the fight has taken on more importance than any potential solutions. Those same miners care deeply about their children’s health and the streams and mountains of West Virginia. They know we can’t keep to the same path.

Miners, their families, and their neighbors are why I came to West Virginia and they are why I made our state my home. I’ve been proud to stand shoulder to shoulder with coal miners and we’ve done a lot of good together over the years.

For more than 20 years, I’ve worked to protect the health and safety of coal miners - everything from the historic Coal Act, to mine safety laws, pensions, and Black Lung benefits – always with miners’ best interest in mind.

And despite what critics contend, I’m standing with coal miners today by voting against this resolution.

I don’t support this Resolution of Disapproval because it does nothing to look to the future of coal. It does nothing to consider the voices of West Virginians. It moves us backward, not forward. And unless this industry aggressively leans into the future, coal miners will lose the most.

Beyond the frenzy over this one EPA rule, we need to focus squarely on the real task of finding a long-term future for coal that addresses legitimate environmental and health concerns. Let me be clear. I’m frustrated with some of the top levels of the coal industry, but I’m not giving up hope for a strong clean coal future. To get there, we’ll need a bold partner, innovation and major public and private investments.

In the meantime, we shouldn’t forget that coal fired power plants provide good jobs for thousands of West Virginians. It remains the underpinning for many small communities and I will always be focused foremost on their future.

Instead of finger pointing, we should commit ourselves to a smart action plan that will help with job transition opportunities, sparking new manufacturing and exploring the next generation of technology.

None of this is impossible. Solving big challenges with American ingenuity is what we do. West Virginia knows energy and West Virginia doesn’t shrink from challenge. We have the chance here to not just grudgingly accept the future – but to boldly embrace it.