

# The Dirty Coal Caper:

## Creating the "Old Zone" Hole in the Waxman-Markey Climate Bill

By Scott Thompson

"You can summarize the problem and prove that the bill is inadequate in a very simple way...you just have to look at the proposed policy and see if it allows coal to continue to be used and emit the CO<sub>2</sub> in the atmosphere." – NASA scientist James Hansen

In the summer of 1986 I drove to Gillette, Wyoming, from Colorado for a job interview as a counselor. To get there you go north through Cheyenne and Wheatland, past the forested mass of Laramie Peak, and into the open space of the Powder River Basin. The vast sky there brightens the flat infinity of dried-out prairie grass, and even in July you can sense the winter fridity of the northern plains, like a cold finger touching your skin.

On Highway 59, still eight miles south of Gillette, I spotted a plain metal coal company sign hanging on a gate in a barbed-wire fence. I glanced up and saw the faint outline of a huge open pit coal mine out east.

I didn't get the job.

Wyoming coal is booming. Union Pacific and Burlington Northern trains, pulling over a hundred coal cars each, lumber across the sun-burnt grasslands of South Dakota and Nebraska toward markets as far away as Massachusetts and Georgia – to old but massively profitable coal-fired power plants.

Wyoming is by far the most productive coal state. For every coal train of equal size curving and creaking through second place West Virginia, there are three lumbering out of Wyoming.

The market for Wyoming coal was created by the 1970 amendments to the Clean Air Act, which set limits on the sulfur content of coal in an effort to reduce acid rain. Although Wyoming coal is sub-bituminous, meaning that it has lower heat value than the bituminous coal of the Appalachian Basin, it is also lower in sulfur content.

A sweet deal for Wyoming coal producers.

And the dirty old coal-fired power plants that buy so much of that Wyoming coal became cash cows for power companies thanks to the 1977 amendments to the Clean Air Act. These amendments made 1974 Environmental Protection Agency regulations – termed "New Source Review" – into federal law. New Source Review requires power plants beginning construction after June 1, 1975 to have scrubbers installed to reduce emissions of sulfur dioxide and nitrogen oxides.

From the power companies' point of view, the solution in this situation was simple: don't build new power plants. Just keep the dirty old ones cranking along because under the law the toxic chemicals they spew out don't count. Besides, a lot of the old power plants were already paid for. (See Jeff Goodell's *Big Coal: the Dirty Secret Behind America's Energy Future* for much of the foregoing).

But a new threat to those dirty coal plants has emerged, now that the good old days of Bush administration suppression and bullying of climate scientists have ended. Vital research on the imminent dangers of global warming has hit the streets, as well as the specter of meaningful climate legislation.

From the climate scientists' viewpoint, there are two fundamental problems with coal. First, it emits 25% more CO<sub>2</sub> than petroleum per equivalent dose of energy and almost twice as much as natural gas, making it by far the dirtiest fossil fuel, even ignoring its other toxic emissions. Second, the world's coal reserves are far greater than its remaining reserves of petroleum and natural gas.

There is broad agreement among climate scientists on the cutting edge of the research that if all of the remaining fossil fuel reserves are burned, or anything remotely close to that, the planet will pass "tipping points" that will hurl it into an unstoppable and catastrophic process of global warming. This will be fed in large part by escalating feedback loops of ice sheet and glacier melts and releases of methane gas from warming ocean sediments and melting permafrost. (See Fred Pearce's *With Speed and Violence* for concise descriptions of the tipping points).

According to James Hansen, the consequences will likely be disintegration of the West Antarctic and Greenland ice sheets, with possible sea level rises of six or more feet by the end of this century and 50-100 feet or more overall. This will devastate human coastal civilization and cause massive species extinctions from collapsing ecosystems. And deprive millions of people of water when the glaciers feeding their rivers have melted.

Hansen's agenda is basic: first, humanity must not pass these tipping points, and second, the concentration of CO<sub>2</sub> in the atmosphere, now 387 parts per million and rising by 2 ppm each year, is already dangerously high and must be lowered to 350 ppm or less fast.

To Hansen this means phasing out all coal not subject to CO<sub>2</sub> capture and storage

by about 2030 – no exceptions – beginning with a moratorium on new coal-fired power plants. And not using unconventional fossil fuels such as tar sands. (See his website on global warming, [www.columbia.edu/~jeh1](http://www.columbia.edu/~jeh1)).

Well, this is pretty strong stuff. There are many, many millions of lives at stake in the future. The stability of civilization itself is on the line, as well as the very existence of countless other species that we humans have no right to destroy.

On the other hand, executives in the tripartite coal industry – coal producers, railroads, and power companies – have fat piles of shareholder money for which they're responsible. As well as their own golden parachutes. For them, what to do was a no-brainer: they deployed their expensively clad lobbyists to protect that nest egg of dirty old coal plants.

This much they accomplished in the Waxman-Markey climate bill, which passed the House of Representatives 219-212 on June 26, 2009 (obviously the coal industry prefers no climate legislation).

In that bill the coal lobbyists and their allies in Congress protected the dirty old coal plants with three deft strokes:

First, by utilizing the same strategy as in New Source Review: leave out the old coal plants from the new, rigorous requirements. And that's exactly what the Waxman-Markey bill does; it places no specific CO<sub>2</sub> emission limits on any old coal plants as long as the power company meets its yearly generic cap for CO<sub>2</sub> emissions, which it can expand like an accordion by (a) also using its yearly quota of "tree-planting" offsets, and (b) snagging extra offsets under safety valve provisions (if the market price for carbon permits spikes too high), and (c) simply buying more permits on the carbon market.

Second, by prohibiting the Environmental Protection Agency from conducting any New Source Review of any coal plants for CO<sub>2</sub> emissions. And indeed, a few sentences in the mass of pages in the bill stripped the EPA of this vital power.

Third, by making the carbon emission permits free. And guess what, 80% of the initial permits will be given away at no cost; they will provide cover for those dirty old coal plants for an additional 15 years at least. Waxman-Markey is yet another free ride, allowing the old plants to keep belching out CO<sub>2</sub> at the same rate as always, without

raising the power companies' overhead even a cent.

And the party isn't over yet. New coal plants on the boards with construction permits dated 1/1/09 or earlier will get the same free ride as the dirty old coal plants (James Hansen is burning blue over this; rightfully so). (See Carl Pope, Trip Van Noppen, and Eric Schaefer, "No More Loopholes for King Coal," 8/19/09, [www.sierraclub.org](http://www.sierraclub.org)).

On the other hand, maybe those deft strokes came a little too easily, even for the coal industry. Could there be a bigger picture here?

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In October, 2002, I attended a media conference at Albuquerque Academy, sponsored by the New Mexico Media Literacy Project. Brilliant yellow leaves hung from the slender trees around the large, adobe-style buildings; people from college faculties all over the country chatted and hobnobbed. I attended an afternoon presentation in a second floor classroom by Sheldon Rampton, co-author of *Toxic Sludge is Good for You*, a classic on the public relations industry.

Sheldon doesn't have an effusive personality, but he knows how to unpack a narrative. Soon he had us riveted on the story of Edward Bernays.

Widely regarded as the father of the modern public relations industry, Bernays was a nephew of Sigmund Freud and pioneered the use of psychological principles in the art of public persuasion. In particular, he fostered the "third party principle," which remains a fundamental strategy.

It was brilliantly exemplified in the "torch of liberty" parade that Bernays engineered in the 1920s. His client, American Tobacco Company, sought to expand its market by torching the longstanding taboo against "respectable" women smoking. A psychoanalyst advised Bernays that smoking is a sublimation of oral eroticism and for this reason cigarettes are a "symbol of freedom" for some women. Bernays then arranged for attractive debutantes to march in New York's prominent Easter parade, each waving a lit cigarette and proclaiming it a "torch of liberty." He made sure publicity photos covered this event world-wide. Afterwards, socially respectable women smoked and smoked (*Toxic Sludge is Good for You*, pp. 22-26).

Here is the lesson for neophyte public relations students. The smoking debutantes served as "third party experts" on behalf of American Tobacco Company because their credibility as social trend-setters was persuasive to the target audience of American wom-



en. What is significant for boosting profits is that the company had been unable to persuade these women on its own.

The third party principle remains massively effective in the business of public and political persuasion; powerful people are in deadly earnest about cultivating credible but compliant experts to advocate for them.

Flash forward to January, 2009, when the 24 page USCAP Blueprint for global warming climate legislation was released by the U.S. Climate Action Partnership, a consortium of 26 honcho corporations, including two power companies. And also three environmental organizations: The National Resources Defense Council, The Nature Conservancy, and the Environmental Defense Fund.

Getting major environmental groups to advocate, even indirectly, for dirty old coal plants was a masterful recruitment of expert opinion; every bit as snazzy as persuading the debutantes to light up their torches of liberty. The irony is that it's unlikely that any of the environmental groups signed onto USCAP out of a desire to support dirty old coal, any more than the torch of liberty debutantes wanted millions of upscale women firing up Pall Malls.

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A further irony is that while the supporters of USCAP and many in the greater corporate world are willing to publicly acknowledge the dangers of global warming, most of the leaders of the coal industry, in sync with the right wing, thump their chests in defiance.

The target audience was Congress, especially the relevant members of Congressional committees considering the bill and policy wonks in the White House. The basic sell was that we can have our growth economy and deal with climate change as well; even environmental groups agree with us! It was an appealing strategy backed by an array of plausible experts.

Evidence of the Blueprint's success appears in following language from the House of Representatives' Discussion Draft Summary of the Waxman-Markey bill, issued in the spring of 2009: "The global warming provisions in the discussion draft are modeled closely on the recommendations of the U.S. Climate Action Partnership (USCAP), a coalition of electric utilities, oil companies, chemical companies, automobile manufacturers, other manufacturers and energy companies, and environmental organizations." The House of Representatives could hardly have taken the Blueprint more seriously.

It's worth noting, however, that as far as the nitty-gritty is concerned, the general public was not the intended audience; the spidery, disingenuous language of the Blueprint is far too difficult for that. I doubt that the USCAP corporations were eager for a wide array of readers to focus on all the wiggle room for carbon emissions in their cap and trade plan - carefully placed there to protect profit margins - nor on the huge taxpayer subsidies to relevant corporations. And certainly not on their permissiveness toward old coal.

Here are three passages relevant to those dirty old coal plants:

"Electricity and Natural Gas Consumers: Because cost-of-service Local Distribution Companies (LDCs) are regulated, unlike other impacted sectors they will be required to pass through the entire value of allocated allowances to their end-use consumers...facilitating the transition for consumers and businesses as consumers of electricity. Consequently, USCAP recommends allocating a significant portion (e.g., 40%) of emission allowance value directly to these entities specifically to dampen the price impact of climate policy on electricity and small natural gas customers, particularly in the early years of the emission constraint." (p.13).

What this means in English is that it's OK for Congress to shovel out truck loads of free carbon permits for the benefit of dirty old coal plants because in theory the state gas and electric commissions or other regulatory agencies will keep power rates low to protect electricity customers. A splendid rationalization; there should be an award.

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And the Blueprint did all that permit shoveling without even mentioning those dirty old coal plants. Superb covert lingo; better make that two awards.

This passage ably set up the free carbon permits to cover dirty old coal in Waxman-Markey; all the legislative staffs had to do was follow the directions on the box.

More from the Blueprint:

"Specifically, USCAP recommends Congress immediately:

...  
"Ensure no free allowances are provided for power generation that is associated with facilities that are initially permitted after January 1, 2009.

...  
"Promote replacement of existing coal-fired generating units and early reductions of CO2 emissions by adopting additional incentives to replace high-emitting units with low and zero-emitting resources with similar availability and dispatchability."

The first passage here means that if you have a new power plant permitted before 1/1/09 it will be treated as if it were a dirty old coal plant, even if you ain't built it yet. The second says that if an old coal plant is phased out under Waxman-Markey, it's the taxpayers who will - in some way - foot the bill to build a new and very expensive plant to replace it (which in theory will capture and store CO2).

Bottom line for our purposes: under USCAP no financial or other pressure is placed upon power companies to phase out dirty old coal plants.

Thanks to the wiles of USCAP, by the time the other coal industry lobbyists marched into Congress with their hatchets held high, about 85% of the work that was necessary to protect those dirty old coal plants had already been done.

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The smooth tone and slippery lingo of the USCAP Blueprint, as well as its carefully arranged spectrum of prestigious backers, appears to have little in common with the flamboyant right wing rants on Fox News. But they do have a link: they're both effective engines of public and political influence and they both have crisply targeted audiences that they each understand well and influence in a precise, effectual manner.

More than anything else, they both rely on third party "experts" regarded as credible by their respective target audiences (for example, millions of die-hard Fox News fans believe they're watching a news channel).

When it comes to global warming, the major American engines of public influence, whatever their diverse aims, share another trait: so far none of their owners have been willing to surmount the wall of their own financial self-interest in order to deal with the climate crisis. The continuing saga of the dirty old coal plants is a prime example.

Unfortunately, avoiding the global warming tipping points will require each of us to surmount that very wall of self-interest. This will mean enduring stark economic upheaval, analogous to Allied efforts in World War II. It will mean living simply; possibly it will mean privation.

Waxman-Markey is a textbook example of an ineffective climate bill because its primary focus is protecting the financial hides of its proponents and beyond that the stability of the globalized growth economy. It is not focused on a no-bullshit phasing out of CO2 emissions from coal, which will be necessary to avoid the tipping points, unless leaving huge reserves of oil and gas in the ground is somehow feasible (I can't imagine how).

As James Hansen says, "Again, you have to go back to this basic test. Are you continuing coal emissions?" (See "James Hansen on Obama, Climate Legislation, and the Scourge of Coal," 9/28/09 at www.grist.org).

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